UNODC
United Nations Office on Drugs and Crime

Country Review Report of Slovenia

Review by Latvia and Djibouti of the implementation by Slovenia of articles 15 - 42 of Chapter III. “Criminalization and law enforcement” and articles 44 - 50 of Chapter IV. “International cooperation” of the United Nations Convention against Corruption for the review cycle 2010 - 2015

I. Introduction

The Conference of the States Parties to the United Nations Convention against Corruption was established pursuant to article 63 of the Convention to, inter alia, promote and review the implementation of the Convention.

In accordance with article 63, paragraph 7, of the Convention, the Conference established at its third session, held in Doha from 9 to 13 November 2009, the Mechanism for the Review of Implementation of the Convention. The Mechanism was established also pursuant to article 4, paragraph 1, of the Convention, which states that States parties shall carry out their obligations under the Convention in a manner consistent with the principles of sovereign equality and territorial integrity of States and of non-intervention in the domestic affairs of other States.

The Review Mechanism is an intergovernmental process whose overall goal is to assist States parties in implementing the Convention.

The review process is based on the terms of reference of the Review Mechanism.

II. Process

The following review of the implementation by Slovenia of the Convention is based on the completed response to the comprehensive self-assessment checklist received from Slovenia, and any supplementary information provided in accordance with paragraph 27 of the terms of reference of the Review Mechanism and the outcome of the constructive dialogue between the governmental experts from Slovenia, Latvia and Dijbouti, by means of telephone conferences and e-mail exchanges.

A joint meeting between Slovenia, Latvia and Djibouti was held at the United Nations Office at Vienna from 8 to 9 October 2013, with the participation of Dace Dubova (Latvia) as well as Ahmed Osman and Nasro Habib Ibrahim (Dijbouti).

III. Executive summary

1. Introduction: Overview of the legal and institutional framework of the Slovenia in the context of implementation of the United Nations Convention against Corruption

The National Assembly of Slovenia ratified the Convention on 6 February 2008 and the President signed it on 14 February 2008. Slovenia deposited its instrument of ratification on 1 April 2008.

According to art. 8 of the Constitution, the Convention forms an integral part of Slovenia's domestic law, ranking below the Constitution but above other laws, and is therefore applicable directly as far as it obliges States to take concrete measures.

With regard to the criminal procedure, the police investigates upon a complaint or ex officio and refers the case to the State prosecutor. The State prosecutor submits a direct accusation or, when required, requests that a judicial investigation be conducted by an investigative judge. In the trial phase, the hearing is public and ends with the pronouncement of the judgment, against which there is the right to appeal.

The most important institutions in the fight against corruption are the Commission for the Prevention of Corruption (hereinafter: Commission), the State Prosecutor's office (comprising the Specialized State Prosecutor's Office for, inter alia, corruption and organized crime), the police (comprising the National Investigation Bureau, a specialized criminal investigation unit for complex crime, including corruption) and the Financial Investigation Unit.

Art. 99 of the Criminal Code (CC) contains a detailed definition of the term

public official, covering a wide range of officials performing official duties with management responsibilities, but not persons in public enterprises. Although the law seems to be interpreted in a way that persons without managerial responsibilities are also considered public officials, the law is not explicit in this regard. Foreign public officials and officials of public international organizations are covered under the concept of public officials (art. 99 CC).

2. Chapter III: Criminalization and law enforcement

2.1. Observations on the implementation of the articles under review

Bribery and trading in influence (arts. 15, 16, 18 and 21)

National and transnational bribery are regulated in arts. 261 CC (passive) and 262 CC (active). The indirect commission of the act is not explicitly covered, but is considered implicitly covered, supported by the fact that indirect bribery is criminalized in the person of the intermediary. Although indirect bribery could be possibly covered by instigation, it was noted that instigation is a very specific concept and possibly limited in application. Transnational bribery is covered under the same provisions because foreign public officials and officials of public international organizations are covered under the concept of public officials (art. 99 CC).

Trading in influence is regulated in arts. 263 CC (passive) and 264 CC (active), which cover most elements except for the indirect commission of the act. Art. 263 CC further does not cover the "soliciting" of an undue advantage.

Bribery in the private sector is criminalized in art. 241 CC (passive) and 242 CC (active bribery). The provision covers most of the elements but is limited to making or retaining a contract or other benefit. Further, the indirect commission is not covered.

Money-laundering, concealment (arts. 23 and 24)

Slovenia has criminalized money-laundering in art. 245 CC.

The term "exchange" in art. 245 paragraph 1 covers the concept of "conversion" in the Convention; further, the "acquisition" is covered by the verb "accept" and the "possession" by the verb "store".

The "transfer", and the "concealment and disguise" of the "true nature, … location, disposition, movement or ownership of or rights with respect to property", are not covered.

The "use" is covered in cases in which it refers to an economic activity or any other manner defined in article 2 of the Act governing the prevention of money-laundering, which contains a general definition of money-laundering.

Slovenia has criminalized all mentioned forms of participation in money-laundering except for conspiracy to commit money-laundering.

Slovenia has adopted an all-crime approach, covering all offences committed both inside and outside the Slovenian jurisdiction. Money-laundering is an independent offence, and charges may be brought for self-laundering.

Concealment is criminalized in art. 217 CC.

Embezzlement, abuse of functions and illicit enrichment (arts. 17, 19, 20 and 22)

Embezzlement is regulated in art. 209 CC, which does not state that the appropriation could be for the benefit of a public official or a third person.

Abuse of functions is regulated in art. 257 CC.

Slovenia has not criminalized illicit enrichment. Slovenia has an asset declaration system and has established the legal consequences of the violation of financial disclosure obligations.

Embezzlement in the private sector is covered by a general provision on diversion of property (art. 209 para. 1).

Obstruction of justice (art. 25)

In art. 286 CC, Slovenia has implemented most of the elements of art. 25 of the Convention; only the "promise" of an undue advantage in the context of art. 25 (a) is not covered.

Liability of legal persons (art. 26)

Slovenia has a comprehensive system of criminal, civil and administrative liability of legal persons. Criminal liability is established in art. 42 CC, independently from the criminal liability of natural persons involved. A broad range of sanctions are foreseen in the Liability of Legal Persons for Criminal Offences Act. Slovenia has brought accusations against legal persons for corruption offences in a number of cases.

Slovenia's legal framework also provides for limited administrative liability in public procurement cases in art. 14 of the Integrity and Corruption Prevention Act. Blacklisting of companies is regulated in art. 77 a) Public Procurement Act, art. 81 a) Act Regulating Public Procurement in Water, Energy, Transport and Postal Services and art. 73 Public Procurement for Defence and Security Act. Civil liability of legal persons for damages inflicted through criminal offences is regulated in arts. 353-354 of the Obligations Code.

Participation and attempt (art. 27)

Slovenia regulates participation and attempt in arts. 36.a-41 and 34-36 CC.

Slovenia has criminalized the preparation of fraud but not of other offences.

Prosecution, adjudication and sanctions; cooperation with law enforcement authorities (arts. 30 and 37)

All corruption offences in Slovenia carry sanctions of deprivation of liberty, whose upper limits vary between one and ten years and lower limits between 30 days and one year. In the Criminal Code there are sentencing provisions ensuring that the gravity of the offence is taken into account. Case practice shows that serious sanctions are enforced in corruption cases.

Functional immunity exists for deputies of the National Assembly (art. 83 Constitution) and the National Council (art. 100 Constitution), as well as for judges in the context of their judicial decisions (art. 134 Constitution). It can be waived by the National Assembly. Such functional immunity does not exclude the initiation of pre-trial proceedings, only the accusation.

Generally, prosecution in Slovenia is mandatory; however, arts. 161, 161 a and 162 of the Criminal Procedure Act (CPA) provide exceptional discretionary powers for prosecutors to decide to not prosecute in *de minimis* cases, in offences with sanctions up to three years, (which covers some corruption offences) in which a settlement can be negotiated, and in cases of active regret by the accused (art. 162). Further, plea bargaining is foreseen in certain limits. It was noted that in corruption cases normally the rule of mandatory prosecution is applied.

Arts. 192-201 CPA regulate provisional detention and other measures to ensure the presence of the accused at criminal proceedings. It was noted that generally the mildest measure is imposed, taking into account the necessity to ensure the presence of the accused.

Early release or parole is regulated in art. 88 CC.

Prosecutors and judges can be suspended after a criminal accusation (art. 93-94, art. 95-98 Judicial Service Act), while no such provisions exist for other public officials, nor for removal and reassignment of public officials.

As an accessary sanction, Slovenia can ban a convicted person from the performance of his/her profession (arts. 69-71 CC). Art. 154 of the Civil Servants Act foresees that the contract of employment of a civil servant may be terminated if the civil servant is lawfully convicted of an offence.

Slovenia has a disciplinary system for each sector; criminal and disciplinary responsibility are independent.

A rehabilitation system for convicted offenders has been established, pursuant to chapter IX of the Criminal Code, which covers UNCAC offences.

Slovenia has adopted provisions about agreements between the accused and the public prosecutor on cooperation with the justice system (Chapter XXV a CPA), and about guilty pleas (art. 51 para. 2 CC). Further, Slovenia has a provision about the "remission", i.e. abolishment or reduction of the punishment of an offender who spontaneously confesses the commission of the offence (art. 52 CC), and a relevant provision in the context of the opportunity principle (art. 163 CPA). For bribery, there is a provision on effective regret (art. 262 para. 3 CC). The Witness Protection Act covers those who cooperate with law enforcement authorities. Slovenia has not entered into any agreements or arrangements with other States parties on substantial cooperation with law enforcement at the international level.

Protection of witnesses and reporting persons (arts. 32 and 33)

Slovenia has relevant provisions in the CPA (art. 141 a, 240 a, 244 a) and the Witness Protection Act, and has a witness protection programme since 2007. Measures include physical protection and relocation as well as evidentiary rules that allow for protection of the identity of protected persons. Victims are eligible for protection insofar as they are witnesses. However, Slovenian authorities highlighted that during the investigation of corruption offences, the problem of witnesses not testifying because of safety concerns was a major problem. Further, experts are not eligible for protection under either the CPA or the Witness Protection Act.

The international exchange of personal data and relocation of persons is foreseen in the Witness Protection Act, and Slovenia is the depository of an agreement on cooperation in the area of witness protection between eight Eastern European States and Austria.

Victims can assume different roles under Slovenian criminal procedure, i.e. as witnesses, injured parties, subsidiary prosecutors or private prosecutors, thus allowing the views and concerns of victims to be presented and considered during criminal proceedings.

Whistleblower protection is regulated in the Integrity and Corruption Prevention Act, which establishes the protection of the identity of reporting persons, the burden of proof on the employer and the right of the employee to claim compensation for reprimands resulting from the reporting of offences, both in the private and public sectors. Provisions against mobbing in the Labor Act are also applicable.

Freezing, seizing and confiscation; bank secrecy (arts. 31 and 40)

Slovenia has regulated both conviction-based and non-conviction based confiscation of proceeds of crime, referring to all criminal offences.

The conviction-based system is regulated in arts. 74-77c CC and arts. 498-503 CPA. Although arts. 498-501, 503 CPA generally regulate a conviction-based system, they also provide for certain exceptional cases in which property can be confiscated in the absence of a conviction, mostly for preventive reasons. The Slovenian confiscation system is a value based system (art. 75 CC). The object, or a link between the offence and the object, do not have to be found or proven. The value is determined in the proceedings by general evidentiary rules. Moreover, extended confiscation is regulated in arts. 77 a-c for proceeds of organized crime.

The non-conviction based forfeiture system is a civil procedure regulated in the Forfeiture of Assets of Illegal Origin Act (ZOPNI), which applies to a number, but not all corruption offences. Given the recent adoption of the law, no cases have been brought yet under its regulations.

Slovenia has also adopted provisions on the conviction-based confiscation of instrumentalities used and destined for use in offences in art. 73 CC, while non-conviction based confiscation only refers to proceeds of crime.

Seizure and freezing are regulated in art. 502-502e CPA and art. 20-21 ZOPNI. They generally require court decisions and are subject to a strict and, given the complexity of corruption proceedings, rather limited maximum duration of three months in the pre-trial procedure and six months in trial procedure. The measures may be extended, but not to longer than one year or two years respectively.

Basic rules for the management of seized and confiscated assets are contained in art. 506 a) of the CPA. Arts. 37-41 ZOPNI also contain relevant regulations. Both include the pre-sale of assets before a final confiscation. Slovenia does not have a central institution to manage seized and confiscated assets, but the Court decides according to the nature of the assets. Slovenia has not yet had experience with the management of complex assets such as companies.

The seizure and confiscation of transformed and converted proceeds of crime, including the confiscation up to the value of proceeds intermingled with property from legitimate sources, are possible in both the conviction-based system due to its value-based nature (art. 75 para 1 CC), as in the non-conviction based system (art. 5 para. 1 ZOPNI). The seizure, freezing and confiscation of income and other benefits derived from such proceeds of crime are not explicitly regulated.

When banks do not cooperate in the lifting of bank secrecy (see below), files can be seized.

Slovenia has regulations on a shift of the burden of proof to demonstrate the lawful origin of proceeds or property liable to confiscation in the ZOPNI. The defendant has to prove the lawful origin of assets, or may face the legal consequence of (non-conviction based) confiscation when lawful origin cannot be established. Further, in non-conviction based and under some circumstances also in conviction-based confiscation procedures, third parties have to demonstrate that they did not receive the asset gratuitously.

Both the Criminal Code (art. 75) and the ZOPNI (art. 30) provide for the protection of bona fide third parties. Their property may only be confiscated if it was transferred for free or a sum lower than its actual value.

Lifting of bank secrecy generally requires an order of the investigating judge upon request of the public prosecutor (Art. 156 para. 1 CPA, art. 8 ZOPNI). The Commission and, in crimes for which the perpetrator is prosecuted ex officio, the

police can request banking information without a judicial order (art. 156 para. 5 CPA).

Statute of limitations; criminal record (arts. 29 and 41)

Arts. 90-95 CC establish a statute of limitations that varies from six to twenty years depending on the gravity of the offences. The statute of limitation can be suspended as long as the alleged offender is evading the administration of justice.

Slovenia can take into consideration previous convictions regardless of where the person was convicted, and the Ministry of Justice holds relevant information in a database.

Jurisdiction (art. 42)

The jurisdiction over offences committed in the territory of Slovenia and on a domestic vessel or aircraft is regulated in art. 10 CC.

Slovenia has also established its jurisdiction over a broad set of offences committed by its citizens abroad as well as by foreigners against its citizens (art. 12-13 CC).

Moreover, Slovenia has established universal jurisdiction for some offences; however, not for corruption offences. Slovenia has not established its jurisdiction over corruption offences when the offence is committed against the State, and when it does not extradite the alleged offender on the ground of nationality or for other reasons.

Consultations for the coordination of actions in cases with multiple jurisdictions are not explicitly regulated, but can be carried according to art. 160 b) CPA.

Consequences of acts of corruption; compensation for damage (arts. 34 and 35)

Art. 14 of the Integrity and Corruption Prevention Act states that acts of public procurement which cause damage to a public sector entity or by which anybody obtains an undue advantage shall be deemed null and void. The provision can be interpreted to the effect that corruption can be considered a relevant factor in legal proceedings to annul such contracts, although no case examples have been provided.

The Code of Obligations contains arts. 100-103, 353 on compensation for damages caused by criminal offences, and art. 354 by corruption specifically.

Specialized authorities and inter-agency coordination (arts. 36, 38 and 39)

Slovenia has a specialized anti-corruption unit in the General Police Directorate and anti-corruption units at the regional level.

The National Bureau of Investigation is a specialized criminal investigation unit at the national level for serious crime, including corruption.

The Specialized State Prosecutor's Office has ten specialized and eleven delegated anti-corruption prosecutors. The Commission is an independent body investigating corruption administratively and often submits its administrative cases to the Prosecutor's Office. These bodies enjoy an appropriate level of independence, resources and training.

The possibility to share information between the Commission and law enforcement authorities is regulated by law and Slovenian authorities confirmed that there are close working relationships between the Commission, the police

(specialized anti-corruption unit) and the specialized anti-corruption prosecutors.

Slovenia has not yet taken measures to encourage cooperation between national investigating and prosecuting authorities and entities of the private sector on corruption.

To encourage the reporting of corruption offences, the Commission and the police accept anonymous and on-line reports. The Commission provides information about whistle-blower protection on its website and carries out numerous trainings for civil servants on whistleblower protection.

2.2. Successes and good practices

Overall, the following successes and good practices in implementing chapter III of the Convention are to be highlighted:

- The existing system of immunities seems to strike an appropriate balance between immunities accorded to public officials for the performance of their functions and the possibility of effectively investigating, prosecuting and adjudicating corruption offences, and Slovenia has provided a number of examples indicating that procedures on waiving immunity of deputies of the National Assembly are a frequent practice (art. 30 para. 2).
- Statistics about confiscated assets have been provided, and a new programme will be in place in order to track the amount of confiscated assets in statistics disaggregated by offence (art. 31 para. 1).
- Slovenia has both a conviction-based and non-conviction based confiscation system for final deprivation of assets that are proceeds and instrumentalities of crime, and related precautionary measures for both systems. It has therefore established a great extent of flexibility for the seizure, freezing and confiscation of proceeds of crime (art. 31 para. 1 and 2).
- The Commission holds regular meetings with the law enforcement authorities and is allowed to share and receive information with and from them (art. 38).
- Access to banking information is granted to the Commission and the Police, additionally to the prosecutor by judicial order. The police can request bank information when there are grounds for suspicion that a crime for which the perpetrator is prosecuted ex officio was committed or is planned, and direct access is provided through the Agency of the Republic of Slovenia for Public Legal Records and Related Services, which holds a central registry of transaction accounts (art. 40).

2.3. Challenges in implementation

Noting the advanced anti-corruption legal system of Slovenia, it was recommended that Slovenia:

- Review its definition of a public official to align it with art. 2 (a) of the Convention, in particular with regard to persons providing services in public agencies or enterprises and consider clarifying that persons without managerial responsibilities are also considered public officials (general part);
- Adapt the legislation on embezzlement to cover third party beneficiaries (art. 17).
- Recognizing that indirect trading in influence and bribery in the private sector could potentially be covered by the provisions on instigation, ensure

that the legislation be applied in this sense. Should case law evolve in a different direction, this could imply legislative clarification (art. 18, 21).

- Consider amending the legislation on passive trading in influence to cover the solicitation of an undue advantage (art. 18 subpara. b).
- Consider establishing illicit enrichment as a criminal offence (art. 20).
- Consider broadening the offence of bribery in the private sector to cover also conduct not related to concluding or retaining a contract or other benefit (art. 21).
- Amend 245 CC to cover the "transfer", and the "concealment and disguise" of the "true nature, … location, disposition, movement or ownership of or rights with respect to property" (art. 23 para. 1 a)); criminalize conspiracy to money-laundering, subject to the concepts of the Slovenian legal system (art. 23 para. 1 b ii);
- Include in the legislation the "promise" of an undue advantage in all forms of obstruction of justice covered by art. 25 subpara. a;
- Introduce broader measures on the administrative liability of legal persons for corruption (art. 26 paras. 1 and 2).
- Slovenia could criminalize the preparation for a corruption offence (art. 27 para. 3).
- Consider taking measures to allow for the suspension of public officials, similar to those already existing for judges and prosecutors, when they are being accused of an offence established in accordance with the Convention, as well as their removal and reassignment (art. 30 para. 6);
- Given the complexity of corruption procedures, extend the strict time limits for seizure and freezing orders (art. 31 para. 2);
- Review the system for the management of assets, with a view to ensuring that complex assets, such as e.g. corporate assets can be effectively managed over time (art. 31 para. 3);
- Explicitly regulate the seizure, freezing and confiscation of income and other benefits derived from proceeds of crime, from property into which such proceeds of crime have been transformed or converted or from property with which such proceeds of crime have been intermingled (art. 31 para. 6);
- Further strengthen witness protection, and include experts into the protection measures of the CPA and the Witness Protection Act (art. 32 para. 1 and 2);
- Consider creating provisions allowing for corruption to be a relevant factor in legal proceedings to withdraw concessions or similar instruments (art. 34);
- Consider entering in agreements or arrangements with other States parties on substantial cooperation with the competent authorities of another State Party (art. 37 para. 5)
- Take measures to encourage cooperation between national investigating and prosecuting authorities and entities of the private sector, in particular financial institutions, relating to corruption matters (art. 39 para. 1).
- Establish jurisdiction over corruption offences when the alleged offender is present in its territory and it does not extradite such person on the ground of nationality (art. 42 para. 3);
- Slovenia could further establish its jurisdiction over offences committed by a stateless person who has his or her habitual residence in Slovenia (art. 42 para. 2 b), all forms of participation in money-laundering offences outside the country (art. 42 para. 2 c), offences committed against the Republic of

Slovenia (art. 42 para. 2 d); and over corruption offences when the alleged offender is present in its territory and it does not extradite him or her (art. 42 para. 4).

3. Chapter IV: International Cooperation

3.1. Observations on the implementation of the articles under review

Extradition; transfer of sentenced person, transfer of criminal proceedings (art. 44, 45 and 47)

Extradition is regulated in arts. 521-573 CPA and the Act on cooperation in criminal matters with Member States of the European Union (ACCMEU-1). The application of national law is subsidiary to the 11 bilateral and seven multilateral treaties Slovenia is party to. Slovenia can also apply the treaties in which it succeeded the former Yugoslavia, but in practice they are rarely used.

Since May 2012, extradition can be afforded in the absence of a treaty on the basis of reciprocity. Slovenia can use the Convention as a legal basis and has used it in at least two cases.

The instruments of the European Union, especially the Council Framework Decision on the European Arrest Warrant, take precedence over other international instruments. Within the European Union, extradition is simplified, inter alia, possible in the absence of dual criminality and for nationals, and with limited grounds for refusal.

Beyond the European Union, dual criminality is a requirement for extradition. Slovenia does not extradite its nationals except within the European Union. The principle aut dedere aut judicare is regulated in art.527 para. 4 CPA.

Slovenia has a mixed judicial-administrative procedure. After receiving the extradition request through diplomatic channels, the courts decide whether conditions for extradition are met. A negative court decision is automatically reviewed by a higher court, whereas a positive court decision is subject to appeal. Afterwards, the Minister of Justice decides whether there are grounds related to asylum, human rights or similar grounds for refusal; this decision can be appealed.

Extraditable offences are those which carry a sanction of one year or more (art. 522 paragraph 1 No. 4 CPA); all Convention offences are extraditable. Extradition for accessory offences is regulated in art.522 para. 2 CPA. Corruption is not considered a political offence; this is ensured in direct application of the Convention.

Simplified extradition is regulated by art. 529 a CPA for cases in which the sought person agrees with the extradition, and is often used in practice. With regards to evidentiary requirements, there must be grounds for reasonable suspicion that the sought person has committed the offence.

Extradition detention is regulated in art.525 CPA, and provisional detention generally in art.201 CPA.

With regard to the transfer of sentenced persons, Slovenia is a party to five bilateral and four multilateral treaties, and applies a relevant European Union Council Framework Decision.

Transfer of criminal proceedings from Slovenia to another country is regulated in arts. 519-520 CPA for cases regarding foreigners committing offences in Slovenia and Slovenians committing offences abroad. Otherwise, Slovenia can apply art. 47 of the Convention directly.

Mutual legal assistance (art. 46)

Mutual legal assistance is regulated in arts. 514-520 CPA, the ACCMEU-1 and the ZOPNI. The application of national law is subsidiary to the 21 bilateral and 10 multilateral treaties Slovenia is party to. Again, Slovenia can additionally apply the treaties in which it succeeded the former Yugoslavia, though it does so rarely in practice. Within the European Union, Council Framework Decisions, inter alia, on the execution of freezing orders and mutual recognition of confiscation orders, take precedence.

The central authority for mutual legal assistance is the Ministry of Justice. Although the law states that incoming requests should be received through diplomatic channels, the central authority receives them directly in practice. Slovenia can accept mutual legal assistance requests that have been transmitted through INTERPOL, in urgent cases. Requests can be submitted in Slovenian, English, French and in practice also in German.

All assistance measures can be provided that are not contrary to national legislation. Art. 516 c CPA specifically regulates spontaneous exchange of information.

Slovenia provides mutual legal assistance in the absence of dual criminality.

The transfer of detained persons to and from Slovenia for a criminal procedure is regulated in art. 516 a) and b) and 517 a), b), c) and č) CPA. The use of videoconferencing is regulated in art. 244 a CPA and is often applied in practice. The specialty and confidentiality principles are not regulated in legislation but applied in practice.

The average duration of passive mutual legal assistance proceedings in Slovenia is 1-2 months.

Law enforcement cooperation; joint investigations; special investigative techniques
(arts. 48, 49 and 50)

Slovenia has concluded more than 25 law enforcement agreements with other countries sand can use the Convention as a legal basis for law enforcement cooperation. Institutional agreements and arrangements with counterparts abroad have been concluded by the Prosecution Office and the Police.

The Slovenian police cooperates with foreign police forces through Europol and Interpol. Slovenia cooperates through the Camden Asset Recovery Inter-agency (CARIN) Network. Slovenian Customs cooperates on the basis of the Naples Convention and the World Customs Organization (WCO), and the Slovenian Financial Intelligence Unit is member of the EGMONT Group.

Slovenia has a Liaison Office at Europol and a number of liaison officers, seconded officials and police attachés deployed to international peacekeeping missions. The Slovenian police is also actively involved in trainings of the European Police College CEPOL.

No specific regulations or measures exist for the provision of necessary items or quantities of substances or the fight against corruption committed through the use of modern technology.

Joint investigative teams are regulated in art. 160 b CPA and, within the European Union, in arts. 55-56 ACCMEU-1. Slovenia has taken part in two joint investigative teams in corruption cases. Both teams were established within the European Union, one of them with four other States.

With regard to special investigative techniques, Slovenia allows the obtaining of

information related to electronic communications (art 149 b CPA), secret surveillance (art 149 a CPA), infiltration operations (art 155 a CPA), control of electronic communications (art 150 CPA), simulated provision of bribes (a 155 CPA), interference and surveillance (art 151), obtaining information on bank transactions (art 156 CPA), and controlled delivery (arts 149 a and 159 CPA). These special investigative techniques refer to some but not all corruption offences. For the use at the international level, Slovenian law has relevant provisions in the ACCMEU-1 and in the Convention established by the Council in accordance with Article 34 of the treaty of the European Union on Mutual assistance in Criminal matters between the Member States of the European Union, as well as in some of the above-mentioned bilateral police cooperation agreements. Slovenia can authorize the use of special investigative techniques at the international level on a case-by-case basis, on the basis of the Convention, and also without a treaty base, and evidence derived therefrom is admissible in court.

3.2. Successes and good practices

- Slovenia can use the Convention as a legal basis for international cooperation and has used it in at least two extradition cases (active and passive) and at least one mutual legal assistance case (art. 44 para. 1, 46 para. 1).
- Slovenian authorities have broad experience in in providing various types of mutual legal assistance, including tracing, freezing, seizure and confiscation of assets (art. 46 para. 3).
- The use of modern communication in international cooperation is regulated by the CPA, especially computer networks and electronic image and voice transmission devices (art. 46 para. 14).
- Slovenia makes efforts to expedite mutual legal assistance proceedings, and the average duration of mutual legal assistance proceedings is 1-2 months (art. 46 para. 24).
- Slovenia has provided many examples of law enforcement cooperation in money-laundering and other cases and is active in law enforcement cooperation (art. 48 para 1).

3.3. Challenges in implementation

- Slovenia could also grant extradition in the absence of dual criminality to States parties that are not European Union Member States (art. 44 para. 2).
- It would be helpful to clarify the law in order to confirm that mutual legal assistance requests can be sent directly to the Ministry of Justice in its capacity as central authority (art. 46 para. 13).
- It is recommended that Slovenia take measures to enable its authorities to cooperate with foreign States to enhance the effectiveness of law enforcement in corruption cases by providing, where appropriate, necessary items or quantities of substances for analytical or investigative purposes (art. 48 para. 1 c).
- Slovenia is encouraged to strengthen its efforts in law enforcement cooperation to respond to offences covered by this Convention committed through the use of modern technology (art. 48 para. 3).
- It is recommended that Slovenia expand the scope of application of the special investigative techniques currently regulated in its legislation to all corruption offences (art. 50 para. 1).

IV. Implementation of the Convention

A. Ratification of the Convention

Ratification of the Convention

The Convention was ratified by the National Assembly of the Republic of Slovenia on 6 February 2008 and signed by the President of the Republic on 14 February 2008. Slovenia deposited its instrument of ratification with the Secretary-General of the United Nations on 1 April 2008.

The Convention and Slovenia's legal system

Article 8 of the Constitution states that generally accepted rules of international law and international conventions when they have been ratified by an Act, were published in the Official Gazette (Uradni list Republike Slovenije) and have come into effect shall form an integral part of Slovenia's domestic law and shall override any other contrary provision of domestic law (monist system). The National Assembly ratifies the international treaties with the majority of votes except where a different type of majority is provided by the Constitution or by law. All laws must conform to the ratified international treaties.

Accordingly, the United Nations Convention against Corruption has become an integral part of Slovenia's domestic law following ratification of the Convention by the National Assembly of the Republic of Slovenia on 6 February 2008, signature by the President of the Republic on 14 February 2008, and entry into force on 1 May 2008 in accordance with Article 68 of the Convention. The Convention therefore is applicable directly, however, this only applies as long as it provides for clear and concrete measures, otherwise it has to be concretely implemented through legislation.

The Convention ranks high among statutory instruments, just below the Constitution but above other laws. The Constitution remains the highest legal document. In Slovenia's relations with Member States of the European Union, the legal acts of the European Union are applicable and may prevail over the regulations of the Convention. For example, the Framework Decision on the European Arrest Warrant replaces all instruments of international law between the Member States of the EU. The Community law has supremacy over the national law.

Slovenia has a Constitution in a formal meaning of a word; it is written in a single document and is the most important Act in the legal system. It regulates the political and legal system of the Republic of Slovenia, human rights and fundamental freedoms, economic and social relations, the organization of the State, local self-government, public finance, legality and the Constitutional Court.

The main general law in the legal system are Acts (zakoni). In the hierarchy they are under the Constitution and the international treaties. The laws are adopted by the National Assembly and enter into force after they are published in the Official Gazette (usually after 15 days).

Case law and judicial decisions are not recognized as a source of law and do not have the same legal force as legislation. However, in practice lower courts often use precedents in judging cases due to the power of argument.

Regulations and other general acts must conform to the constitution, ratified international treaties and Acts. Regulations (individual and general) adopted by the Government must be published in Official Gazette before entering into force (usually 15 days after they are published). Regulations adopted by the local communities are published in the official publication determined by the community.

B. Legal system of Slovenia

Criminal procedure system

The legal system of the Republic of Slovenia is a part of the continental legal systems with strong influence of German law and legal order.

In 1991 Slovenia seceded from Yugoslavia. The Constitution was adopted on December 23, 1991 and thereafter the laws started to pass; until they were put into force, the old Yugoslav Republic and Federal laws and rules remained applicable.

The legislation is still changing, in recent years mostly due to joining the European Union and other

international organizations.

The Criminal Procedure is regulated in the Criminal Procedure Act. Slovenia has an accusatory system.

The pre-trial procedure starts from the report or other suspicion of a criminal conduct. Reports can be made by anybody, mostly to the police, although corruption is also reported to the Anti-Corruption Commission or the State Prosecutor's Office. Also, the Commission is investigating and handing cases over to the police if criminal acts are at stake. All reports have to be filed, even if the investigation shows that they have no merit. The Police is also investigating ex officio, for example on the basis of press reports or tax declarations.

In accordance with Article 148 of the Criminal Procedure Act, if there are grounds for suspicion that a criminal offence has been committed for which the perpetrator is prosecuted ex officio, the police, regularly through the National Investigation Office is bound to take the steps necessary for discovering the perpetrator, ensuring that the perpetrator or his accomplice do not go into hiding or flee, detecting and preserving traces of crime or objects of value as evidence, and collecting all information that may be useful for the successful conducting of criminal proceedings. On the basis of collected information the police draw up a criminal complaint (or a report if no basis is provided for a criminal complaint). The criminal complaint or report is referred to the state prosecutor for further consideration.

Prior to the submission of a criminal complaint or report to the state prosecutor, the police cooperate with the prosecutor on the basis of the Decree on Cooperation between the State Prosecutor's Office and the Police in Investigating and Prosecuting Criminal Offenders (see below article 38 of the Convention), and they notify the state prosecutors of all matters identified where reasonable grounds for suspicion exist that a criminal act has been committed.

Based on these notifications, the prosecutor may decide whether he will direct the case. Irrespective of his decision, the prosecutor can, at any time, obtain the necessary information that he might need. The prosecutor can directly communicate with the police officer dealing with this case, direct him and be fully informed of all activities and measures carried out in a particular case. This means that the established procedure on data exchange in investigating all criminal offences is direct, free of any complications and without hierarchical levels of decision-making, thus enabling a faster and more effective resolution of the case.

After the pre-trial procedure, investigations are instituted against a specific person when a grounded suspicion exists that he has committed a criminal offence (art. 167 CPA). They are conducted at the request of a public prosecutor. The prosecutor decides whether he submits a direct indictment (for offences that carry sanctions of less than three years, and for which a good documentary basis exists), or whether he requests a judicial investigation, conducted by an investigative judge (obligatory for offences that carry sanctions of three years or above, or recommendable for conduct for which more evidence is needed. In cases of judicial investigation, the investigating judge renders a ruling opening the investigation (art. 169). During the investigation phase, all investigative measures can be taken, for example, house and personal search can be carried out, and the accused and witnesses can be interrogated. For these measures the order of the investigative judge is required. The investigation procedure ends with the charge sheet filed by the public prosecutor or by the injured party acting as prosecutor (art. 268).

The main hearing is held in open court and in public. It is conducted in the continuous presence of the presiding judge, members of the panel and the jury (art. 298 CPA). It ends with the pronouncement of the judgment (art. 353 CPA), against which there is the right of appeal (art. 366).

Institutional System

The courts of first instance in Slovenia are the 44 local courts (okrajna sodišča) and the 11 district courts (okrožna sodišèč), which have general competence over civil and criminal cases. The courts of second instance are the 4 high courts (višja sodišča), while the Supreme Court (Vrhovno sodišče) generally decides on extraordinary legal remedies and is the court of third instance in some cases. Next to these general courts, there are also 4 other courts of first instance - 3 labor courts (delovna sodišča) and 1 social court (socialno sodišče). The high labor and social court (višje delovno in socialno sodišče) is competent to deal with individual and collective labor and social cases at the second instance and the Supreme Court is the last instance court for such cases as well.

State Prosecutors file and present criminal charges and have other powers provided by law. The State Prosecutor-General is appointed by the National Assembly on the proposal of the Government, the other, on the other hand, the others are appointed by the Government on the proposal of the Minister for justice and public administration. Although prosecutors are appointed by the National Assembly, they are independent in their work which is ensured by the permanent function.

The Police is a body within the Ministry of Interior. Pursuant to the law, the police perform its tasks at three levels: the State, the regional and the local levels. Organizationally, it is composed of General Police Directorate, Police Directorates and police stations. The police headquarters are in Ljubljana.

The National Investigation Bureau (Nacionalni preiskovalni urad - NPU) is a specialized criminal investigation unit established in November 2009. Its task is to detect and investigate the most complex criminal acts in the area of economic, financial crime and corruption, in some cases also organized crime, cyber-crime and complex forms of classical crimes (murder, robbery). NPU also conducts financial investigations to identify, trace and secure proceeds arising from criminal acts. The NPU is part of the Police and therefore depends on the Ministry of Interior.

Slovenia has a Financial Investigation Unit which is an independent body within the Ministry of Finance. Although it is organized within the institutional framework of the Ministry, it has its own head and takes its operational decisions independently. Agents of the Financial Investigation Unit can be included in joint investigation teams.

The Commission for the Prevention of Corruption of the Republic of Slovenia (Commission) is an independent state body, like the Human Rights Ombudsman, Information Commissioner or the Court of Audit, with a broad mandate in the field of preventing and investigating corruption, breaches of ethics and integrity of public office. The current Commission has been originally established in 2004 and in its current form with the adoption of the Integrity and Prevention of Corruption Act (IPCA) of 2010 (with later amendments). The Commission is a specialized body that investigates contraventions against the ICPA, mostly corruption in the public sector and to a lesser extent also in the private sector. The investigation carried out by the Commission is administrative in nature, but the information that results from its investigations can be transferred to the law enforcement authorities and used in criminal proceedings. The Commission has some investigative powers, it can for example demand any document (also classified information). When sufficient information points to an act that violates the IPCA, a document entitled "evaluation" is prepared and sent to the person involved so that he/she can be heard. The person can appoint a lawyer and the following hearing has standards similar to the criminal procedure. The evaluation and the outcome of the investigation are made public. The Commission does not have the power to instruct the police for taking specific measures, however, it has a close working relationship and regular meetings with the police and specialized prosecutors. The police can nominate members of the Commission as witnesses or for the implementation of special investigative techniques. Against the decisions of the Commission, persons can appeal to an administrative court. The decisions of the Commission set standards for the interpretation of the ICPA, but do not have binding force for the criminal court.

Further responsibilities of the Commission include the administration and verification of the asset declarations, implementation on the regulations on lobbying etc. In some cases, the Commission can also carry out misdemeanour proceedings. The Commission can for example impose fines for the violations of the rules on asset declarations or the production of evidence, not for actual corruption offences.

Political System

Slovenia is a parliamentary republic. Its legislature is the bi-cameral Parliament, composed of the National Assembly and the National Council. The National Assembly is composed of 90 deputies (MPs), two of whom are representatives of the Italian and Hungarian national communities. MPs are elected for a 4-year term, through universal, equal, direct suffrage by secret ballot (Articles 80-81 of the Constitution), on the basis of a mixed system combining proportional representation and a majoritarian element. MPs elected by proportional representation are allocated seats using the d'Hondt formula with a 4% electoral threshold required at the national level. MPs representing the Italian and Hungarian minority communities are elected through a simple majority system.

The laws most relevant for the fight against corruption are:

- The Constitution of the Republic of Slovenia (http://www.wipo.int/wipolex/en/details.jsp?id=6052)

- The Police Act (http://www.policija.si/eng/images/stories/Legislation/pdf/PoliceAct_A2_A5a-e_A16.pdf)
- The State Prosecutor Act
- The State Prosecutor's Order Courts Act
- The Judicial Service Act
- Court Rules
- The Integrity and Prevention of Corruption Act (https://www.kpk-rs.si/upload/datoteke/ZintPK-ENG.pdf)
- The Criminal Code (http://www.wipo.int/clea/docs_new/pdf/en/si/si045en.pdf)
- The Criminal Procedure Act (http://www.policija.si/eng/images/stories/Legislation/pdf/CriminalProcedureAct2007.pdf)

Previous evaluations

Anti-corruption measures have been assessed by GRECO, OECD as well as some provisions of the UNCAC have been assessed in 2009.

Slovenia is part of GRECO. Slovenia ratified the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and was granted membership in the Working Group on Bribery in 2001 after fulfilling the economic criteria .

Concept of "public official"

The term "official" is defined in article 99 of the Criminal Code:

> Meaning of Terms of the Criminal Code Article 99
>
> (1) For the purpose of this Criminal Code the term official shall mean:
>
> 1) a member of the National Assembly, a member of the National Council, and a member of a local or regional representative body;
>
> 2) a Constitutional Court judge, a judge, a lay judge, state prosecutor, or state defender;
>
> 3) a person carrying out official duties or exercising a public function with management powers and responsibilities within a state authority or an authority of a self-governing local community or any other entity governed by public law;
>
> 4) any other person exercising official duties by authorization of the law, of by-law (public authority) or of the contract on arbitration concluded on the basis of the law;
>
> 5) military person designated as a such with special regulations in instances, when the act is not already criminalized as a criminal offence against military duty;
>
> 6) a person in a foreign country carrying out legislative, executive or judicial function, or any other official duty at any level, providing that he/she meets the substantive criteria under points 1, 2, or 3 of this paragraph;
>
> 7) a person recognized as an official within a public international organization providing that he/she meets the substantive criteria under points 1, 2, or 3 of this paragraph;
>
> 8) a person carrying out judicial, prosecutorial or other official function or duty with the international court or tribunal.

The term "public officer or civil servant" is defined in the Civil Servant Act, Article 1:

> Article 1
>
> (Civil servants/public officer)
>
> 1) Civil servants shall be individuals employed in the public sector.

2) For the purposes of this Act, the public sector shall be comprised of:

- state bodies and the administrations of self-governing local communities,
- public agencies, public funds, public institutions, and public commercial institutions
- other entities of public law that indirectly use state or local budgetary funds.

3) Public companies and commercial companies, where the state or local communities are controlling shareholders or have prevailing influence, shall not be a part of the public sector under this Act.

4) Functionaries in state bodies and local community bodies shall not be deemed as civil servants.

5) The terms "official", "servant", "principal" and other terms written in masculine grammatical form are used neutrally for both, men and women.

The term “public officer or civil servant” was considered broader than the term “public official”.

Slovenian authorities confirmed that for the definition of “public official”, it is decisive that the person performs official duties with management powers and responsibilities, as contained in article 99 paragraph 1 Nr. 3 of the Criminal Code. Although the wording is not quite clear on this question, it was explained during the joint meeting that this may also include persons without direction powers or employees providing general services, for example, secretaries or assistants, because although they would not have management powers, they have specific responsibilities within their employment and would therefore be considered officials. Although the law seems therefore to be interpreted in the way that persons without managerial responsibilities are also considered public officials (for example a secretary) (see article 2 (a) (ii) UNCAC), the law is not explicit in this regard.

The Code also defines “economic activity” and “commercial operation” (which will be used under the bribery provisions, see below art. 15 and 16):

(10) For the purpose of this Code, "economic activity" means:
1) any activity that is performed on the market for payment;
2) any activity performed as part of profession for an agreed or prescribed payment or any organised activity performed for an agreed or prescribed payment.
(11) Pursuant to this Code, economic activity or commercial operation shall include:
1) implementation, governance, decision-making, representation, management and supervision within the framework of the activity referred to in paragraph 10 of this Article;
2) management of immovable and movable property, funds, income, claims, capital assets, other forms of financial assets, and other assets of legal entities governed by public or private law, the use of these assets and control over them.

These terms are relevant for article 242 (implementing bribery in the private sector, see below article 21 of the Convention). However, the general definition of article 99 does not include persons in public enterprises (article 2 (a) (ii) UNCAC.

Observations on the general part

It is recommended that Slovenia review its definition of a public official to align it with article 2 (a) of the Convention, in particular with regard to persons providing services in public agencies or enterprises.

Although the law seems to be interpreted in the way that persons without managerial responsibilities are also considered public officials, it is recommended that Slovenia consider whether the law should be clarified in this regard.

C. Implementation of selected articles

III. Criminalization and law enforcement

Article 15. Bribery of national public officials

Subparagraph (a) of article 15

Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

(a) *The promise, offering or giving, to a public official, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties;*

(a) Summary of information relevant to reviewing the implementation of the article

The conduct regulated in article 15 (a) is criminalized in article of the Criminal Code (CC-1), amended with CC-1A and CC-1B:

Giving Bribes Article 262

(1) Whoever promises, offers or gives an award, gift or other benefit to an official or a public officer for him or any third person in order for him either to perform an official act within the scope of his official duties which should not be performed, or not to perform an official act which should or could be performed, or makes other abuse of his position, or whoever serves as an intermediary for the purpose of bribing an official, shall be sentenced to imprisonment for not less than one and not more than five years and punished by a fine.

(2) Whoever promises, offers or gives an award, gift or other benefit to an official or a public officer for him or any third person in order for him either to perform an official act within the scope of his official duties which should or could be performed, or not to perform an official act which should not be performed, or makes other use of his position, shall be sentenced to imprisonment for not less than six months and not more than three years.

(3) If the perpetrator under the preceding paragraphs who gave the award, gift or other benefit on request of an official or public officer, had declared such an offence before it was detected or he knew it had been detected, his punishment may be remitted, provided this is not in contravention of the rules of international law.

Slovenian authorities explained that paragraph 1 of article 262 referred to cases in which the act performed by the bribe recipient was against his or her duties, while paragraph 2 referred to the cases in which the act as such was in line with the duties of the public official. Further, the authorities explained that the wording "could" referred to discretionary acts or powers of the official, i.e. to cases in which the official is not obliged to act or refrain from acting, but obliged to make an informed and objective decision.

Slovenian authorities confirmed that "for him or any third person" could also include in the third person an entity.

In the general part of the Criminal Code, the following provisions regulate requirements for criminal responsibility, which include actions and omissions as well as negligence if the law so determines:

Mode of Committing a Criminal Offence Article 17

(1) A criminal offence may be committed by voluntary act or by omission.

(2) A criminal offence may be committed by omission only when the perpetrator has failed to perform the act, which he was obliged to perform.

(3) A criminal offence may be committed by omission, though the offence does not constitute criminal omission under the terms of the statute, when the perpetrator has not prevented the occurrence of an unlawful consequence. In such cases, the perpetrator shall be punished for omission only if he was obliged to prevent the occurrence of the unlawful consequence and insofar as the occurrence of such a consequence could not have been prevented even had he performed any positive act.

Punishability of Negligence Article 27

(1) The perpetrator shall be punished for the criminal offence committed through negligence only if the law so determines.

(2) The court may remit a sentence to the perpetrator, who committed a criminal offence through negligence, if the consequences of the act concern the perpetrator to the extent that punishment in

such a case would clearly not be justifiable.

Case examples

Slovenia provided the following case examples:

In 2012 a court of first instance handed down its verdict in which it found R.A. guilty of giving of bribe under Criminal Code, art. 262/1 and sentenced him to one year imprisonment with a two-year term of suspension and a fine of 30 daily sums. The convicted person gave €500 to the official working for Environment and Spatial Department of the Administrative Unit, who carried out a field review of his newly built house. The convicted person told the official that he built part of the building without a building permit, squeezed a €500 bill in his hand and asked him to "draw and do things as they are supposed to be – here is a compensation for it". The official refused the money and reported the event to the Police.

The Prosecutor's Office lodged a request for investigation of a criminal offense of giving of bribe under the Criminal Code, article 262, committed by a person who offered a payment to a building inspector. The inspector had found that the building belonging to the suspect was built without a building permit and requested from the suspect to obtain it. She offered the money to the inspector to close the case without the permit. The inspector refused the offer.

After carrying out undercover investigative measures and investigation an indictment was lodged against 15 persons accused of multiple corruption offences. Individuals were accused of 2 and up to 17 offences (Giving or Acceptance of Bribes under the Criminal Code, articles 262 and 261, Accepting Benefits for Illegal Intermediation under the Criminal Code, article 263 and a lot of other criminal offences connected to those). The indictment accuses them of committing the offences in connection to getting driving licenses for drivers without them passing the driving school.

Statistics

Slovenia provided the following case statistics:

Giving bribes - article 262 of Criminal Code

Year	**2007**	**2008**	**2009**	**2010**	**2011**	**2012**
Number of investigations	7	6	55	22	21	16
Number of prosecutions	17	7	6	7	2	
Number of convictions	14	1	3	4	1	

With regard to the numbers of prosecutions and convictions, Slovenian authorities explained that many criminal reports are filed against public officials who are involved in different official procedures. Instead of the use of legal remedies in these procedures individuals frequently expressed the suspicion that the public official committed a criminal offence. During the investigative procedure this suspicion was not confirmed and many of such reports were dismissed. The prosecution office was trying to stop this by prosecuting them for false reporting of a crime.

(b) Observations on the implementation of the article

Slovenia has implemented the provision under review.

Indirect promise, offer or giving of undue advantage is not explicitly covered by article 262, however, Slovenian authorities stated that bribery offences involving intermediaries was covered implicitly, and that this was supported by the fact that indirect bribery is criminalized in the person of the intermediary.

Although indirect bribery could be possibly covered by instigation, it was noted that instigation is a very specific act and it is limited in the application. Further, no cases were presented to this effect.

Subparagraph (b) of article 15

Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

(b) The solicitation or acceptance by a public official, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties.

(a) Summary of information relevant to reviewing the implementation of the article

The conduct regulated in article 15 (a) is criminalized in article of the Criminal Code (CC-1), amended with CC-1A and CC-1B:

Criminal Code (CC-1), amended with (CC-1A) and (CC-1B)

Acceptance of Bribes Article 261

(1) An official or a public officer who requests or agrees to accept for himself or any third person an award, gift or other benefit, or a promise or offer for such benefit, in order to perform an official act within the scope of his official duties which should not be performed, or not to perform an official act which should or could be performed, or make other abuse of his position, or whoever serves as an intermediary for the purpose of bribing an official, shall be sentenced to imprisonment for not less than one and not more than eight years and punished by a fine.

(2) An official or a public officer who requests or agrees to accept for himself or any third person an award, gift or other property benefit, or a promise or offer for such benefit, in order to perform an official act within the scope of his official duties which should or could be performed, or not to perform an official act which should not be performed, or make other use of his position, or whoever intermediates in such a bribery of the official, shall be sentenced to imprisonment for not less than one and not more than five years.

(3) An official or a public officer who requests or accepts an award, gift or other favour with respect to the performance of the official act under preceding paragraphs after the official act is actually performed or omitted, shall be punished by a fine or sentenced to imprisonment for not more than three years.

(4) The accepted award, gift and other benefit shall be confiscated.

Case examples:

Slovenia has provided the following case examples:

A Former state secretary at the Ministry for Economics was sentenced to 2 years of prison for accepting bribe (70.000 DEM) and for abuse of office or official duties for which he was sentenced to six years of prison. His assets were frozen for 8 years due to some other court procedures which did not result in the sentence and for which he later sued the Republic of Slovenia for 800.000 EUR of compensation, but the court dismissed the lawsuit.

The Prosecutor's Office requested an investigation of a mayor of an urban municipality who proposed amendments to the municipality's budget for 2010 and suggested to increase borrowing for additional €12 million in favour of the company that runs the city marketplace and enabled it to obtain a financial leasing contract. In exchange for this proposal the mayor received a painting in the value of €12.803 from the CEO of the company. In the same case investigative measures were carried out against two other persons for the offence of article 262 the Criminal Code-1 (Giving Bribes and aiding to the offense of Giving Bribes).

In 2012 a Prosecutor's Office lodged a request for investigation against five natural persons due to Acceptance of Bribes (the Criminal Code 267/2 – as per the previous Criminal Code the criminal offence of Acceptance of Bribes was stipulated in article 267; in the current one, the CC-1 it is stipulated in article 261) and against one legal person for five offenses of Giving Bribes (the CC 268/2 – in the previous CC the criminal offence of Giving Bribes was stipulated in article 268, while the currently CC-1 stipulates the same offence in article 262). In this case the investigation was conducted against the natural persons and the legal person because of suspicion that the doctors (in that time they were considered officials) who had

power of issuing prescriptions for medications prescribed the medication produced by the above mentioned legal person. The price of prescribed medications was covered by the public Health Fund). The doctors received additional benefits from the pharmaceutical company (the legal person) for prescribing the medications it produced. The accused pharmaceutical company and its representative offered additional benefits to doctors and their family members and paid a tourist trip to Dubrovnik (a coastal resort in Croatia).

In 2012 a Prosecutor's Office finished one case having three persons convicted. The verdict referred to the CC-1, article 261 - Acceptance of Bribes; former Building Inspector received a sentence of 1 year and 7 months of imprisonment and €4.996,50 of fine. One designer was sentenced to 1 year and 2 months imprisonment and a fine of 4.996,50 EUR. The other perpetrator (architect/designer) was sentenced to 9 months of imprisonment with a two-year term of suspension and a €1.499,95 fine for aiding to acceptance of bribes. The verdict is not yet final as the defendant and the prosecutor appealed.

A trustee was sentenced to 3 years and 6 months imprisonment for committing a criminal offense of abuse of official position or rights in respect of the fourth paragraph 261 Article of the Criminal Code. He was found guilty of lending money in the amount of 9.740.444,00 EUR of a company TAM, d.d. and its daughter companies which were in bankruptcy proceeding to a company POMPE, d.o.o. The latter did not return the money in the amount of 2.492.906,02 EUR of the principal value. In order to justify the lent amount that was not paid back the issues fictitious invoices on behalf of his company MITREJ, d.o.o., which he donated to his daughters at that time. On the basis of those invoices the company MITREJ, d.o.o. received 583.282,94 EUR. One manager of the company, his daughter was found guilty of assistance in the offence defined in article 261 of the Criminal Code and was sentenced conditionally to one year imprisonment with three years-probation period. The manager of the company POMPE, d.o.o. was acquitted to intentionally instigating the trustee to commit the criminal offence. The convicted trustee has to compensate to all companies TAM, d.d. the amount of 2.492.906,02 EUR of damage, while the amount of 583.282,94 EUR was confiscated the company MITREJ, d.o.o.

Case of bribery of a judge (see also below in article 30 paragraph 2, 50 paragraph 1): In a case of bribing a a judge (the investigation has been completed successfully in January 2011), the investigation about the suspicion of committing a criminal offence of acceptance of bribes started after a person filed a report. A citizen of both Slovenia and Bosnia and Herzegovina fled abroad (Bosnia and Herzegovina, Croatia) because of the start of a legal proceedings against him in Slovenia (criminal offense of Exploitation through Prostitution). After 7 years he intended to return to Slovenia, so he sought help. Two persons (one of them was his long time business partner) arranged several meetings abroad (Croatia) with the judge of the court where the criminal procedure against him was taking place. The judge and both of his two agents have demanded and received money (9,000 EUR) for specific actions taken by the judge while performing his functions. The judge promised that he would arrange the annulment of the international arrest warrant that was issued against the suspect and he would try to arrange the suspension of legal proceedings against the second informer. The judge thereafter composed a proposal for the abolition of custody and the removal of the international arrest warrant. He acted as a chairman of a court panel that was deciding in this matter. The panel decided that the custody was to be abolished and the international arrest warrant was to be withdrawn. The judge and both of his agents demanded more money for the actions that had already been executed by the judge (50,000 EUR).The person was not ready to give the money or bribe - so he filed a report to the police. The police used various covert investigation measures (see below article 50) and found out that the judge together with both agents had in fact received the money (EUR 9.000) and the judge together with both agents demanded more money (EUR 50.000). The investigation was concluded successfully and all three suspects were brought with criminal charges before the investigating judge.

Statistics

Slovenia provided the following statistics:

Acceptance of bribe - article 261 CC

Year	**2007**	**2008**	**2009**	**2010**	**2011**	**2012**
Number of investigations	4	4	59	26	23	25
Number of prosecutions				30	1	

Number of convictions	1	3	1	1	1	

(b) Observations on the implementation of the article

Slovenia has implemented the provision under review.

Indirect solicitation or acceptance of an undue advantage is not explicitly covered by article 261, however, Slovenian authorities stated that bribery offences involving intermediaries was covered implicitly, and that this was supported by the fact that indirect bribery is criminalized in the person of the intermediary..

Article 16. Bribery of foreign public officials and officials of public international organizations

Paragraph 1 of article 16

1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally, the promise, offering or giving to a foreign public official or an official of a public international organization, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties, in order to obtain or retain business or other undue advantage in relation to the conduct of international business.

(a) Summary of information relevant to reviewing the implementation of the article

Slovenia has criminalized active bribery in article 262 of its Criminal Code (see above article 15 (a)).

Foreign public officials and officials of public international organizations are referred to as “officials” in criminal law:

> Meaning of Terms of the Criminal Code Article 99
>
> (1) For the purpose of this Criminal Code the term official shall mean:
>
> …
>
> 6) a person in a foreign country carrying out legislative, executive or judicial function, or any other official duty at any level, providing that he/she meets the substantive criteria under points 1, 2, or 3 of this paragraph;
>
> 7) a person recognised as an official within a public international organisation providing that he/she meets the substantive criteria under points 1, 2, or 3 of this paragraph;
>
> 8) a person carrying out judicial, prosecutorial or other official function or duty with the international court or tribunal.

Slovenia informed that no cases of active bribery of foreign public officials and public international organizations were reported yet.

(b) Observations on the implementation of the article

Article 16 (a) of UNCAC is implemented by article 262 of the Criminal Code, together with article 99 of the Criminal Code.

Although articles 262 and 99 Criminal Code do not explicitly refer to the objective of retaining of business or other undue advantage in relation to the conduct of international business, this does not hinder full compliance because this is a limiting element.

There are no practical examples of applying these provisions yet.

Paragraph 2 of article 16

2. Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally, the solicitation or acceptance by a foreign public official or an official of a public international organization, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties.

(a) Summary of information relevant to reviewing the implementation of the article

Slovenia has criminalized passive bribery in article 261 of its Criminal Code (see above article 15 (b)).

Foreign public officials and officials of public international organizations are referred to as "officials" in criminal law:

Meaning of Terms of the Criminal Code Article 99

(1) For the purpose of this Criminal Code the term official shall mean:

…

6) a person in a foreign country carrying out legislative, executive or judicial function, or any other official duty at any level, providing that he/she meets the substantive criteria under points 1, 2, or 3 of this paragraph;

7) a person recognised as an official within a public international organisation providing that he/she meets the substantive criteria under points 1, 2, or 3 of this paragraph;

8) a person carrying out judicial, prosecutorial or other official function or duty with the international court or tribunal.

Slovenia informed that no cases of passive bribery of foreign public officials and public international organizations were reported yet.

(b) Observations on the implementation of the article

Slovenia has implemented the provision under review.

Article 17. Embezzlement, misappropriation or other diversion of property by a public official

Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally, the embezzlement, misappropriation or other diversion by a public official for his or her benefit or for the benefit of another person or entity, of any property, public or private funds or securities or any other thing of value entrusted to the public official by virtue of his or her position.

(a) Summary of information relevant to reviewing the implementation of the article

Slovenia has criminalized different forms of diversion of property in article 209 of its Criminal Code:

Criminal Code CC-1, amended with CC-1A and CC-1B

Embezzlement and Unauthorised Use of another's Property Article 209

(1) Whoever unlawfully appropriates money, a movable object, or any other part of another's property entrusted to him by virtue of employment or the performance of an economic, financial, or business activity, or while performing the obligations of a guardian, or has been left these as an official on duty, shall be sentenced to imprisonment for not more than three years.

(2) If an official commits the offence referred to in the preceding Article against another's property available to him during the search of a dwelling, premises or persons, or in the course of judicial or administrative proceedings, or in relation to the tasks of protection of persons or property, he shall be sentenced to imprisonment for not more than five years.

(3) If the offence referred to in paragraph 1 of this Article involves property of low value, and if the perpetrator intended to appropriate this property, he shall be punished by a fine or sentenced to imprisonment for not more than one year.

(4) If the offence referred to in paragraphs 1 or 2 of this Article involves property of high value and if the perpetrator intended to appropriate this property, he shall be sentenced to imprisonment for not less than one and not more than eight years.

(5) If the perpetrator uses without authority trusted or accessible objects as referred to in paragraphs 1 or 2 of this Article, he shall be punished by a fine or sentenced to imprisonment for not more than three years.

Regarding the thresholds of high and low value stated in paragraph 3 and 4 of article 209, article 99 of the Criminal Code defines the threshold for low value as up to 500 EUR, and the threshold for high value as exceeding 50.000 EUR. In between is the substantial value, with a threshold up to 5.000 EUR.

Article 99 Criminal Code

(9) Pecuniary benefit, damages or value shall mean the amount during the commitment of a criminal offence which

1) does not exceed 500 Euros relating to low pecuniary benefit, damages or value;
2) does not exceed 5000 Euros relating to substantial pecuniary benefit, damages or value;
3) does not exceed 50,000 Euros relating to large pecuniary benefit, damages or value.

(12) Under this Code, a large quantity of counterfeit money, stamps of value and securities shall be a nominal value exceeding EUR 50,000.

…

Case examples:

Slovenia provided the following case law, as described in the Prosecution's Annual Report for the year 2012:

The State Prosecutors Office requested an investigation against a person accused for a criminal offense of Embezzlement and Unauthorised use of Others Property under 209/4 and 1 CC-1 in connection with 54 CC-1 (Continued Criminal Offence). The accused was a public sector employee working as an accountant in a state institution where she had a duty of carrying out transactions. She illegally appropriated the money that she was entrusted with in connection to her work. The sum was €124,750.59; she made 97 transactions to her bank account. As grounds for transactions she stated payments of bills, scholarship, travel expenses and education costs. She gained a large illegal pecuniary benefit. The court issued an order for investigation in September 2012; the State Prosecutor's Office has not yet received the notification of it being final.

Statistics:

Slovenia provided the following statistics:

Embezzlement and Unauthorised Use of another's Property Article 209

Year	**2007**	**2008**	**2009**	**2010**	**2011**	**2012**
Number of prosecutions			1	1	14	
Number of convictions			1	1	2	

For 2012, the following more detailed statistics were provided:

NATURAL PERSONS

YEAR	INVESTIGATION REQUESTS	INDICTMENTS	JUDGEMENTS	CONVICTIONS
2010	46	212	153	92

2011	20	206	166	97
2012	32	131	205	128

Art 209 LEGAL PERSONS

YEAR	INVESTIGATION REQUESTS	INDICTMENTS	JUDGEMENTS	CONVICTIONS
2010	1	0	0	0
2011	2	2	0	0
2012	0	0	0	0

(b) Observations on the implementation of the article

Slovenia has legislation on diversion of property that covers most of the elements provided for in article 17.

Article 209 paragraph 1 contains a general offence of misappropriation which is applicable to the private and the public sectors and not limited, but applicable to public officials.

Article 209 paragraph 2 is limited to exercise of certain functions by public officials (search of dwellings or premises, in the course of judicial and administrative proceedings, or protection of property) but not to public officials in general.

However, none of the relevant provisions specify appropriation for the benefit of a public official or for the benefit of another person. It is recommended to adapt the legislation to include third party's benefits.

Article 18. Trading in influence

Subparagraph (a) of article 18

Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

(a) The promise, offering or giving to a public official or any other person, directly or indirectly, of an undue advantage in order that the public official or the person abuse his or her real or supposed influence with a view to obtaining from an administration or public authority of the State Party an undue advantage for the original instigator of the act or for any other person;

(a) Summary of information relevant to reviewing the implementation of the article

Slovenia has criminalized active trading in influence in article 264 of its Criminal Code CC-1, amended with CC-1A and CC-1B

Giving of Gifts for Illegal Intervention Article 264

(1) Whoever promises, offers or gives an award, gift or any other favour to another person for himself or any third person, in order to use his rank or real or presumptive influence to intervene so that a certain official act be or not be performed, shall be sentenced to imprisonment for not more than three years.

(2) Whoever promises, offers or gives an award, gift or any other favour to other person for himself or any third person, in order to use his rank or real or presumptive influence to intervene either for the performance of a certain official act which should not be performed or for the non-performance of an official act which should or could be performed, shall be sentenced to imprisonment for not less than one and not more than five years.

(3) If the perpetrator under the preceding paragraphs who gave the award, gift or other benefit on request of the illegal intermediary, had declared such an offence before it was detected or he knew it had been detected, his punishment may be remitted.

Slovenia did not provide case examples, but the following statistics:

Year	2007	2008	2009	2010	2011	2012
Number of investigations	2		48	3	9	7

More detailed statistics for 2012 are shown in the following table:

Art 264	NATURAL PERSONS			
YEAR	INVESTIGATION REQUESTS	INDICTMENTS	JUDGEMENTS	CONVICTIONS
2010	1	0	0	0
2011	12	0	0	0
2012	1	3	1	1

(b) Observations on the implementation of the article

Slovenia implemented the provision under review. The legislative text does not explicitly mention and "undue" advantage, but this element is considered a limiting element and therefore does not affect compliance.

However, the legislative text does not explicitly criminalize the element of "direct or indirect" promise, offer or giving.

Recognizing that indirect trading in influence could potentially be covered by the provisions on instigation, it is recommended to ensure that the legislation be applied in this sense. Should case law evolve in a different direction, this could imply considering legislative clarification.

Subparagraph (b) of article 18

Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

(b) The solicitation or acceptance by a public official or any other person, directly or indirectly, of an undue advantage for himself or herself or for another person in order that the public official or the person abuse his or her real or supposed influence with a view to obtaining from an administration or public authority of the State Party an undue advantage.

(a) Summary of information relevant to reviewing the implementation of the article

Slovenia has criminalized passive trading in influence in article 263 of its Criminal Code CC-1, amended CC-1A and CC-1B:

Accepting Benefits for Illegal Intermediation Article 263

(1) Whoever accepts an award, gift or any other favour or promise or offer for such a favour for himself or any third person, in order to use his rank or real or presumptive influence to intervene so that a certain official act be or not be performed, shall be sentenced to imprisonment for not more than three years.

(2) Whoever uses his rank or his real or presumptive influence to intervene either for the performance of a certain official act which should not be performed or for the non-performance of an official act which should or could be performed, shall be punished to the same extent.

(3) If the perpetrator, prior to or after the intervention, accepts any award, gift or other favour for himself or any third person in exchange for his intervention referred to in the preceding paragraph, he shall be sentenced to imprisonment for not less than one and not more than five years.

(4) The accepted award, gift and other benefit shall be confiscated.

Slovenia provided the following case examples:

Against three perpetrators the State Prosecutors Office lodged requests for investigation for Accepting Benefits for Illegal Intermediation (CC-1 263); one suspect is in custody for risk of repeating the offense. The perpetrator with two accomplices impersonated a Tax Inspector and ensured owners of bars that he could make sure they would not be inspected if they paid him.

After carrying out undercover investigative measures and investigation an indictment was lodged against 15 persons accused of multiple corruption offences. Individuals were accused of 2 and up to 17 offences (Giving or Acceptance of Bribes under the Criminal Code, articles 262 and 261, Accepting Benefits for Illegal Intermediation under the Criminal Code, article 263 and a lot of other criminal offences connected to those). The indictment accuses them of committing the offences in connection to getting driving licences for drivers without them passing the driving school.

Against a mayor of an urban municipality F.K. the State Prosecutors Office lodged an indictment proposal for a criminal offense of 263/2 CC-1 Accepting Benefits for Illegal Intermediation that he committed by intervening at the CEO of the Public City Apartment Fund so that she signed an apartment rental contract with a person that did not fulfil criteria for being awarded with a company housing as set forth in the Rules on renting the Company Housing. The indictment was also lodged against the CEO of the Public City Apartment Fund for a criminal offense of Abuse of Office or Official Duties under CC-1 257/1 and against the person who received the apartment for Forging Documents under the CC-1 251.

The State Prosecutors Office lodged a request to carry out individual investigative measures for the criminal offense of Accepting Benefits for Illegal Intermediation (CC-1 263/2) committed by a mayor of an urban municipality when he ordered the CEO of the Public City Apartment Fund to create a new work post for a trainee and do everything necessary to pay a scholarship for that trainee. This way he achieved that the trainee was employed and after signing the education contract she was refunded all the education expenses, even those that existed before she was employed. In this case the Office lodged investigative measures due to the Abuse of Office or Official Duties under CC-1 257/1.

Slovenia provided the following case statistics:

Year	2007	2008	2009	2010	2011	2012
Number of investigations	4	1	66	8	16	16
Number of prosecutions				1		
Number of convictions				1		

More detailed statistics for 2012 are shown in the following table:

Art 263	NATURAL PERSONS			
YEAR	INVESTIGATION REQUESTS	INDICTMENTS	JUDGEMENTS	CONVICTIONS
2010	0	7	0	0
2011	9	3	1	0
2012	8	7	4	2

(b) Observations on the implementation of the article

Slovenia has criminalized passive trading in influence in article 263 of its Criminal Code. The article does not explicitly refer to the solicitation of undue advantages, nor to the indirect acceptance of advantages.

It is recommended that Slovenia consider amending its legislation to cover the solicitation of undue advantages.

With regard to the indirect acceptance of advantages, it is recognized that indirect trading in influence could potentially be covered by the provisions on instigation. It is recommended to consider ensuring that the legislation be applied in this sense. Should case law evolve in a different direction, legislative clarification should be considered.

Article 19. Abuse of functions

Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally, the abuse of functions or position, that is, the performance or failure to perform an act, in violation of laws, by a public official in the discharge of his or her functions, for the purpose of obtaining an undue advantage for himself or herself or for another person or entity.

(a) Summary of information relevant to reviewing the implementation of the article

Slovenia has criminalized abuse of office in article 257 of its Criminal Code CC-1, amended with CC-1A and CC-1B:

Abuse of Office or Official Duties Article 257

(1) An official or a public officer who, with the intention of procuring any non-pecuniary benefit for himself or another, or of causing damage to another, abuses his office or exceeds the limits of his official duties or fails to perform his official duties, shall be sentenced to imprisonment for not more than one year.

(2) If, by perpetration of the offence referred to in the preceding paragraph, the perpetrator causes substantial damage or seriously encroaches upon the rights of another, he shall be sentenced to imprisonment for not more than three years.

(3) An official a public officer who, with the intention of procuring a pecuniary benefit for himself or for another, abuses his office or exceeds the limits of his official duties or fails to perform his official duties, shall be sentenced to imprisonment for not less than three months and not more than five years.

(4) A perpetrator referred to in the preceding paragraph who abuses his office or influence for an illegal increase of his own property in a significant value, shall be punished to the same extent as in the preceding paragraph.

(4) If, by perpetration of the offence referred to in paragraphs 3 and 4, the perpetrator has acquired for himself or a third person a large property benefit which corresponds to his initial intent, he shall be sentenced to imprisonment for not less than one and up to eight years.

The term "substantial damage" is defined in article 99 para. 9 point 2 as any damage that does not exceed 5.000 euros (see above).

Slovenia provided the following case law:

A mayor of a municipality violated rules of procedure for the implementation of the national budget, as well as rules on the need to publish an internal call to fund the maintenance of property and equipment for public sports facilities from the municipal budget, as he ordered a payment to an individual entrepreneur for reconstruction of volleyball courts in the amount of € 4,169.88. By that act he harmed the municipality's budget for that amount. Criminal charges have been brought against the mayor for a criminal offense of abuse of office or official duties on the basis of paragraph 3, article 257 of the Criminal Code (CC-1).

A customs officer was charged with the criminal offense of abuse of office and official rights as per article 257, paragraph 1 of the Criminal Code for confirming the exit of goods of a higher value the territory of the EU at the crossing point Gruškovje even though the goods never left the EU. By that he enabled the goods to remain in the community and at the same time allowing the release of the goods for free circulation in the customs territory of the European Community. Because of his actions the import duties in the amount of 30.000,00 EUR were not paid, which was the undue advantage the other party gained.

Against a mayor of an urban municipality F.K. the State Prosecutors Office lodged an indictment proposal for a criminal offense of 263/2 CC-1 Accepting Benefits for Illegal Intermediation that he committed by intervening at the CEO of the Public City Apartment Fund so that she signed an apartment rental contract with a person that did not fulfil criteria for being awarded with a company housing as set forth in the Rules on renting the Company Housing. The indictment was also lodged against the CEO of the Public City Apartment Fund for a criminal offense of Abuse of Office or Official Duties under CC-1 257/1 and against the person who received the apartment for Forging Documents under the CC-1 251.

The State Prosecutors Office lodged a request to carry out individual investigative measures for the criminal offense of Accepting Benefits for Illegal Intermediation (CC-1 263/2) committed by a mayor of an urban municipality when he ordered the CEO of the Public City Apartment Fund to create a new work post for a trainee and do everything necessary to pay a scholarship for that trainee. This way he achieved that the trainee was employed and after signing the education contract she was refunded all the education

2012: Art 257 NATURAL PERSONS

YEAR	INVESTIGATION REQUESTS	INDICTMENTS	JUDGEMENTS	CONVICTIONS
2010	73	11	3	1
2011	22	28	7	3
2012	26	15	31	11

expenses, even those that existed before she was employed. In this case the Office lodged investigative measures due to the Abuse of Office or Official Duties under CC-1 257/1.

Slovenia provided the following statistics of application of this provision:

Year	2007	2008	2009	2010	2011	2012
Number of prosecutions			1	1	14	
Number of convictions			1	1	2	

More detailed statistics for 2012 are contained in the following:

The State Prosecutor's Office received complaints against 459 persons, out of that against 2 legal persons; together with cases from previous years, prosecutors worked on cases against 753 persons, out of those 5 legal persons.

Prosecutors worked on indictments against 753 persons and dismissed indictments against 298 persons. The share of dismissals in 2012 was relatively high. The reason for that is in a large number of unfunded denouncements lodged by persons who are unsatisfied with decisions of state institutions in individual official cases. The denouncements are then lodged against officials who worked on such cases. Among the accused are often judges and prosecutors. People unsatisfied with results of official procedures use denouncements although they have other legal remedies at their disposal. Among other officials who are often denounced are mayors, officials of local communities, functionaries, officials working in ministries, administrative units and police officers.

(b) Observations on the implementation of the article

Slovenia has implemented this provision.

Article 20. Illicit enrichment

Subject to its constitution and the fundamental principles of its legal system, each State Party shall consider adopting such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally, illicit enrichment, that is, a significant increase in the assets of a public official that he or she cannot reasonably explain in relation to his or her lawful

income.

(a) Summary of information relevant to reviewing the implementation of the article

Slovenia has not criminalized illicit enrichment. Article 45 of the Integrity and Prevention of Corruption Act contains a reversal of the burden of proof in the context of freezing assets, but not a free standing offence.

Although illicit enrichment is not criminalized, it should be noted on a related topic that Slovenia has an asset declaration system and has established related violations of financial disclosure obligations. The Commission for the Prevention of Corruption (hereinafter: the Commission) is entrusted with supervising assets of those obliged to declare them to the Commission. The Commission may either as part of its regular activities supervise whether declared assets match the registered one or it may conduct an investigation when suspecting one's assets have increased significantly compared to the reported income. In order to establish facts and determine whether one's assets have increased disproportionately to his/her income the Commission shall have access to all public registers, but may also demand information on bank transfers from banks, savings banks etc.

Case example:

The below reflects information published on the Commission's website and submitted to the interested public:

SLOVENIAN COMMISSION FOR THE PREVENTION OF CORRUPTION FOUND A NUMBER OF VIOLATIONS OF FINANCIAL DISCLOSURES OBLIGATIONS BY THE PRIME MINISTER AND THE HEAD OF THE OPPOSITION

On Tuesday, 8 January 2013, the Slovenian Independent Commission for the Prevention of Corruption (hereinafter: Commission) announced the findings of a year-long investigation into the holders of the highest political offices who are (or were in the time of the inception of the oversight in the beginning of 2012) also heads of seven parliamentary parties in relation to their assets declaration and financial disclosure laws. The Commission commenced the investigation after the last Parliamentary elections in 2011 where the wealth and assets of main politicians became the subject of significant public attention. The Commission performed an oversight of assets of Mr Karl Viktor Erjavec (Minister of Foreign Affairs), Mr Zoran Janković (Mayor of Ljubljana and head of opposition), Mr Ivan Janez Janša (Prime Minister) Ms Ljudmila Novak (Minister of Slovenian Diaspora), Mr Borut Pahor (President of the Republic), Mr Gregor Virant (President of the Parliament), Mr Radovan Žerjav (Minister of Economy).

The Commission's investigation revealed that out of the seven persons mentioned, two – namely Slovene Prime Minister Mr Janez Janša (also the head of the main Government Party - SDS) and the Mayor of Ljubljana (capital city of Slovenia) Mr Zoran Janković (also the head of the main opposition party – PS), systematically and repeatedly violated the law by failing to properly report their assets to the Commission. The Commissiondid not find any violations in respect to other party leaders. In the case of Prime Minister Janša the Commission's investigation additionally uncovered private expenses and use of funds of significant amount which came of unknown origin and exceed his official income and savings. Furthermore, the Commission has concluded that there are reasons to believe that the purchase of one of the Prime Minister's real-estate was indirectly co-funded by a construction firm with major government contract.

In case of Mayor Janković, Commission's investigation uncovered a systemic failure to report his full assets to the Commission – 2.4 million EUR in total in 6 years' time being in office as well as his transactions with the shares of different companies. Furthermore, the Commission uncovered several financial chain-transactions between the companies owned by Mr Janković's sons and companies doing multi-million businesses with the city, part of these funds were transferred to a private account of the Mayor.

The Commission did not find any substantial violations or unexplained wealth in relation to other five functionaries under scrutiny. Both officials had several opportunities to respond to the evidence collected by the Commission – they were questioned by the Commission and got additional opportunity to provide written explanations and documents. Nevertheless, upon being faced with the allegations and presented with the Commission's request for clarification, neither the Prime Minister nor the Mayor of Ljubljana was able to present – in Commission's view - any comprehensive and substantial explanation.

It is also important to note that according to the Integrity and Prevention of Corruption Act under which the Commission operates, the burden of proof to explain undeclared wealth is on the official him/her-self. After the publication of the report, the Commission also noted significant shortcoming in the Slovenian anti-corruption legislation and called for its improvement. The Commission also noted with worry that while Slovenia has introduced its assets declaration system in 1994 and the Commission for the Prevention of Corruption has been established in 2004 to conduct oversight, in all those years oversight was weak and almost no cases were investigated and violations were found for years.

With the new law in 2011 and the new Commission which introduced electronic monitoring of asset declarations in late 2011, the proper investigations into financial disclosures became possible. In general, the report's findings present an admonition that such breaches would not occur - or at least not to that extent – if in the 22 years of its independence, the Republic of Slovenia established a proper institutional, material and legislative framework that would actually curb corruption risks and enable efficient detection and sanctioning of violators. In the report Commission therefore proposes an amendment of the relevant legislation to meet that aim.

At the same time the Commission also expressed publicly a fear that the following days and weeks would be marked by various interpretations, even discrediting of the report, the Commission and its leadership – (indeed this was happening), adding that they had already faced such problems during the investigation. The situation was furthermore complicated because two main politicians in the country – the head of government and the head of opposition were involved.

After the publication of the findings by the Commission, both, the Prime Minister and the Head of Opposition denied all findings of the Commission and following the expressed support and trust of their parties rejected resignation from their posts. The Commission's head Goran Klemenčič said in a public statement on Tuesday that he is proud of his colleagues to be able to conduct and finalize such a sensitive case, but that as a citizen he was saddened by the findings. He also noted significant institutional and legal deficiencies of the Slovenia anti-corruption framework and called for change of the legislation in these areas and the strengthening of the supervisory bodies. He concluded that he personally sees no point in remaining in his position of the Chief Commissioner if on one hand the findings of an independent central anti-corruption agency of such gravity are left unanswered by the highest public and political officials, while on the other hand the Commission lacks legal powers to enforce their accountability.

Webpage of the Commission: https://www.kpk-rs.si/en

Additional information: After several public demonstrations end of February 2013 four Slovenian parliamentary parties passed a constructive vote of no confidence forcing the Government of the Prime Minister Janez Janša to step down and a new one being formed, led by the current Prime Minister Alenka Bratušek from the PS. At the same time the leader of the PS Zoran Janković stepped down from the position due to the pressure of the public but resumed his position of a mayor of the Municipality of Ljubljana.

(b) Observations on the implementation of the article

It is recommended that Slovenia consider establishing illicit enrichment as a criminal offence.

Article 21. Bribery in the private sector

Subparagraph (a) of article 21

Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally in the course of economic, financial or commercial activities:

(a) The promise, offering or giving, directly or indirectly, of an undue advantage to any person who directs or works, in any capacity, for a private sector entity, for the person himself or herself or for another person, in order that he or she, in breach of his or her duties, act or refrain from acting;

(a) Summary of information relevant to reviewing the implementation of the article

Slovenia has criminalized bribery in the private sector in article 242 of its Criminal Code CC-1, amended with CC-1A and CC-1B:

> Unauthorized Giving of Gifts Article 242
>
> (1) Whoever promises, offers, or gives an unauthorized award, gift or any other property benefit to a person performing an economic activity, intended for such a person or any third person with a view to obtaining any unjustified benefit for himself or any third person when concluding or retaining a contract or other unauthorized benefit under paragraph 1 of Article 241, shall be sentenced to imprisonment for not less than six months and not more than five years.
>
> (2) Whoever promises, offers, or gives an unauthorized award, gift or any other property benefit to a person performing an economic activity, intended for such a person or any third person in exchange for making or retaining a contract or other benefit, shall be sentenced to imprisonment for not more than three years.
>
> (3) If the perpetrator under the previous paragraphs who gave the unauthorised award, gift or any other property benefit upon request, declares the offence before it was detected or he knew it had been detected, his punishment may be remitted.
>
> (3) The given award, gift or other property benefit shall be seized, while in the case under the preceding paragraph, the same may be returned to the person who gave it.
>
> Unauthorized Acceptance of Gifts Article 241
>
> (1) Whoever, in the performance of an economic activity, requests or agrees to accept for himself or any third person an unauthorized award, gift or other property benefit, or a promise or offer for such benefit, in order to neglect the interests of his organization or other natural person or to cause damage to the same when concluding or retaining a contract or other unauthorized benefit, shall be sentenced to imprisonment for not less than six months and not more than five years.

The term “economic activity” is defined in article 99 of the Criminal Code:

> (10) For the purpose of this Code, "economic activity" means: 1) any activity that is performed on the market for payment;
>
> 2) any activity performed as part of profession for an agreed or prescribed payment or any organised activity performed for an agreed or prescribed payment.
>
> (11) Pursuant to this Code, economic activity or commercial operation shall include:
>
> 1) implementation, governance, decision-making, representation, management and supervision within the framework of the activity referred to in paragraph 10 of this Article;
>
> 2) management of immovable and movable property, funds, income, claims, capital assets, other forms of financial assets, and other assets of legal entities governed by public or private law, the use of these assets and control over them.

Case examples:

Slovenia provided the following case examples:

In one case, four persons were suspected of Unauthorized Giving of Gifts under 242/1 CC-1 and tree persons were suspected of aiding to this offence under article 38 CC-1. Offences were committed against a public company for distribution of electric power. If the criminal acts had been carried out the damage would have been no less than €448,336.34. The case was important due to persons involved; the suspects were members of management of the company (Head of a managing board, the CEO, assistant CEO) who pursued their own benefits when taking managing decisions and they knew that they were making decisions that were harmful for the company. Among the suspects were also a member of a city council and a director of an engineering company. Suspects on the side of the public authority received unauthorized gifts from the director of the engineering company. In exchange they manipulated tender procedure and allowed him to change an already fixed offer so that he was the best bidder. Subsequently he illegally raised the price of the project for 71 %. The case showed strong connections between local political and economic actors and the big risk for public funds. The investigation is still on-going and is not yet final.

Statistics:

Slovenia has provided the following statistics:

Year	2007	2008	2009	2010	2011	2012
Number of investigations	1	2	2	7	7	5
Number of prosecutions	2	1	1	1	1	
Number of convictions		1			1	

On 2012, the following more detailed statistics were presented:

Art 242	NATURAL PERSONS			
YEAR	INVESTIGATION REQUESTS	INDICTMENTS	JUDGEMENTS	CONVICTIONS
2010	3	1	0	0
2011	3	3	0	0
2012	16	3	2	2

(b) Observations on the implementation of the article

Slovenia has criminalized the conduct described in article 21 a) of the Convention in article 242 of its Criminal Code. The article covers most of the elements, but is limited to making or retaining a contract or other benefit and it does not refer to misconduct in general. It is recommended to consider broadening the purpose of the criminalized conduct.

Subparagraph (b) of article 21

Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally in the course of economic, financial or commercial activities:

(b) The solicitation or acceptance, directly or indirectly, of an undue advantage by any person who directs or works, in any capacity, for a private sector entity, for the person himself or herself or for another person, in order that he or she, in breach of his or her duties, act or refrain from acting.

(a) Summary of information relevant to reviewing the implementation of the article

Slovenia criminalized the passive bribery in the private sector in article 241 of its Criminal Code CC-1, amended with CC-1A and CC-1B:

Unauthorised Acceptance of Gifts Article 241

(1) Whoever, in the performance of an economic activity, requests or agrees to accept for himself or any third person an unauthorised award, gift or other property benefit, or a promise or offer for such benefit, in order to neglect the interests of his organisation or other natural person or to cause damage to the same when concluding or retaining a contract or other unauthorised benefit, shall be sentenced to imprisonment for not less than six months and not more than five years.

(2) The perpetrator of the offence under the preceding paragraph of this Article, who requests or agrees to accept an unauthorised award, gift or other property benefit, or a promise or offer for such benefit, for himself or any third person in exchange for making or retaining a contract or other benefit, shall be sentenced to imprisonment for not less than three months and not more than five years.

(3) The perpetrator of the offence under paragraph 1 of this Article who requests or agrees to accept an unauthorised award, gift or other property benefit after the contract is concluded or service performed, or other unauthrorised benefit is acquired for himself or any third person, shall be

sentenced to imprisonment for not more than two years.

(4) The accepted gift, award, or any other benefit shall be seized.

Statistics

Slovenia provided the following statistics:

Year	**2007**	**2008**	**2009**	**2010**	**2011**	**2012**
Number of investigations	1	2	2	7	7	5
Number of prosecutions	2	1	1	1	1	
Number of convictions		1			1	

For 2012, the following more detailed statistics were provided:

Art 241	**NATURAL PERSONS**			
YEAR	INVESTIGATION REQUESTS	INDICTMENTS	JUDGEMENTS	CONVICTIONS
2010	4	0	0	0
2011	5	2	0	0
2012	13	2	0	0

(b) Observations on the implementation of the article

Slovenia has criminalized the conduct described in article 21 b) of the Convention in article 241 of its Criminal Code. The article covers most of the elements, but is limited to concluding or retaining a contract or other benefit and it does not refer to misconduct in general. It is recommended to consider broadening the purpose of the criminalized conduct.

Article 22. Embezzlement of property in the private sector

Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally in the course of economic, financial or commercial activities, embezzlement by a person who directs or works, in any capacity, in a private sector entity of any property, private funds or securities or any other thing of value entrusted to him or her by virtue of his or her position.

(a) Summary of information relevant to reviewing the implementation of the article

Slovenia has a general provision for diversion of property in its Criminal Code CC-1, amended with CC-1A and CC-1B, as discussed before (art. 17):

Embezzlement and Unauthorised Use of another's Property Article 209

(1) Whoever unlawfully appropriates money, a movable object, or any other part of another's property entrusted to him by virtue of employment or the performance of an economic, financial, or business activity, or while performing the obligations of a guardian, or has been left these as an official on duty, shall be sentenced to imprisonment for not more than three years.

(2) If an official commits the offence referred to in the preceding Article against another's property available to him during the search of a dwelling, premises or persons, or in the course of judicial or administrative proceedings, or in relation to the tasks of protection of persons or property, he shall be sentenced to imprisonment for not more than five years.

(3) If the offence referred to in paragraph 1 of this Article involves property of low value, and if the perpetrator intended to appropriate this property, he shall be punished by a fine or sentenced to imprisonment for not more than one year.

(4) If the offence referred to in paragraphs 1 or 2 of this Article involves property of high value and

if the perpetrator intended to appropriate this property, he shall be sentenced to imprisonment for not less than one and not more than eight years.

(5) If the perpetrator uses without authority trusted or accessible objects as referred to in paragraphs 1 or 2 of this Article, he shall be punished by a fine or sentenced to imprisonment for not more than three years.

Case examples:

Slovenia provided the following case law, all from 2012:

A prosecutor lodged a request for investigation for a criminal offense of embezzlement under 209 CC-1 against a CEO who transferred money in the value of more than €400,000; the money was a payment for a real estate and should be transferred to the company which he managed. Additionally he also stole more than €160,000 of company's cash through bank withdrawals.

A prosecutor lodged an indictment against a person who caused damage in the amount of €150,000. The suspect was acting as an accountant for multiple sole proprietorships. She appeared as a very capable accountant; her clients trusted her and did not check their balances. She managed to carry on with her offenses for a number of years. Her motive was a need for money due to her gambling addiction.

The first instance court ruled in a case of embezzlement under the CC 245/1 and 2 (the previous CC stipulated a criminal offence of embezzlement in article 245). A bank clerk (commercialist) was sentenced to two years imprisonment with a five-year term of suspension. She had access to data and all the databases of the bank. She approved multiple credits to non-existing persons and kept the money. As she knew the banking business very well, she was able to insert such data into the banking system that the bank did not notice that the credits were not being repaid. With her actions she caused €220,035 of damage, as was discovered by the Internal Audit. Since it was difficult for banking experts to prove all the damage, the estimated amount was likely the lowest possible they could prove, the actual amount could had been higher. The court sentenced her to two years in prison with a term of suspension of five years. After the appeal of the Prosecution, she was sentenced to two years in prison without suspension. The Prosecution filed a motion for court order under 502 ZKP (Criminal Procedures Act) to secure the apartment that the suspect transferred to her offspring. The court handed down the court order for securing the request for asset recovery with the prohibition of disposing the apartment and by doing so enabled the bank to secure its claim for indemnification.

The State Prosecutors Office worked on a case where the indictment was filed against a defendant who committed a criminal offense under 209 CC-1. As an accountant in a High School he withdrew without authorisation €33,127 from the institutions bank account as a payment for his accounting services, although he was already paid for those services by the company he was working for. Additionally he transferred €52,236.29 to his bank account although he did not have authorisation for such transfers or any documents that would serve as legal basis for the transfer. He gained large unlawful proceeds in total value of €85,363.29.

Statistics:

Slovenia provided the following statistics:

Year	**2007**	**2008**	**2009**	**2010**	**2011**	**2012**
Number of prosecutions			21	51	80	
Number of convictions			15	39	51	

For 2012, the following more detailed statistics were provided:

Art 209	**NATURAL PERSONS**			
YEAR	INVESTIGATION REQUESTS	INDICTMENTS	JUDGEMENTS	CONVICTIONS
2010	46	212	153	92
2011	20	206	166	97

2012	32	131	205	128
Art 209	**LEGAL PERSONS**			
YEAR	INVESTIGATION REQUESTS	INDICTMENTS	JUDGEMENTS	CONVICTIONS
2010	1	0	0	0
2011	2	2	0	0
2012	0	0	0	0

b) Observations on the implementation of the article:

Slovenia has implemented article 22.

Article 23. Laundering of proceeds of crime

Subparagraph 1 (a) of article 23

1. Each State Party shall adopt, in accordance with fundamental principles of its domestic law, such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

(a) (i) The conversion or transfer of property, knowing that such property is the proceeds of crime, for the purpose of concealing or disguising the illicit origin of the property or of helping any person who is involved in the commission of the predicate offence to evade the legal consequences of his or her action;

(a) (ii) The concealment or disguise of the true nature, source, location, disposition, movement or ownership of or rights with respect to property, knowing that such property is the proceeds of crime;

(a) Summary of information relevant to reviewing the implementation of the article

Slovenia regulated money-laundering in article 245 of its Criminal Code CC-1, amended with CC-1A, CC-1B:

Money Laundering Article 245

(1) Whoever accepts, exchanges, stores, disposes, uses in an economic activity or in any other manner determined by the act governing the prevention of money laundering, conceals or attempts to conceal by laundering the origin of money or property that was, to his knowledge, acquired through the commission of a criminal offence, shall be punished by imprisonment of up to five years.

(2) Whoever commits the offence under the preceding paragraph, and is simultaneously the perpetrator of or participate in the criminal offence with which the money or property under the preceding paragraph were acquired, shall be punished to the same extent.

(3) If the money or property under paragraphs 1 or 2 of this Article is of high value, the perpetrator shall be punished by imprisonment of up to eight years and by a fine.

(4) If an offence referred to in the above paragraphs was committed within a criminal association for the commission of such criminal offences, the perpetrator shall be punished by imprisonment of one up to ten years and by a fine.

(5) Whoever should and could have known that the money or property had been acquired through a criminal offence, and who commits the offences from paragraphs 1 or 3 of this Article, shall be punished by imprisonment of up to two years.

(6) The money and property referred to in the preceding paragraphs shall be confiscated.

Case examples:

Slovenia provided the following case examples:

The District Court of Ljubljana sentenced two former CEOs of companies Istrabenz and Pivovarna Laško, to seven and nearly six years in prison, respectively, for unlawful trading with Istrabenz stocks.

B.Š. was sentenced to five years and ten months imprisonment after being found guilty of abuse of position or trust in business activity for acting in a chain transaction involving Istrabenz stock. I. B. was found guilty of instigating abuse of position or trust and money laundering.

Two co-defendants, former CEO of a company Maksima Holding N. S. and former Istrabenz consultant and N. S.'s brother, K. S., were also found guilty of money laundering. N. S., who was also found guilty of abuse of office, got three years and nine months imprisonment, while K. S. got three years and six months.

The four defendants must pay a EUR 35,000 fine each. I. B. was also ordered to return 21 million EUR and K. S. 3.5 million EUR of illegal gains. The freeze on their assets will remain in force until the money is returned.

Criminal offences took place in 2007 when 7,3 % share in Istrabenz, owned by Pivovarna Laško, was sold to the Pivovarna Laško's daughter company Plinfin (for 23 mio EUR), while later Plinfin was sold by Pivovarna Laško to a company Sportina for 7.500 EUR, which on October 1st 2007 sold Plinfin further to a company Microtrust, owned by N.S. for 24,9 mio EUR. On the same day Microtrust sold the Istrabenz's share to Pom-Invest for 49,2 mio EUR, by that making profit in the amount of 24,3 mio EUR, part of which it was paid to Sportina as a commission/fee. By that Pivovarna Laško was injured for 25,4 mio EUR, which was also the amount that the current board of directors of Pivovarna Laško claimed from the defendants. The court was convinced that B.Š. intentionally abused his position as a CEO of Pivovarna Laško by concluding option contracts to sell shares of Istrabenz. Furthermore, he acted contrary to the provisions of the Companies Act demanding such contracts to be presented to the accounting office of the company. In the court's opinion I.B. instigated B.Š. to commit this offence and then, like both brothers/co-defendants disposed of the money knowing it was gained illicitly.

Statistics:

Slovenia provided the following case statistics:

Art 245	**NATURAL PERSONS**			
YEAR	INVESTIGATION REQUESTS	INDICTMENTS	JUDGEMENTS	CONVICTIONS
2010	9	3	2	1
2011	19	18	9	5
2012	33	21	12	7
Art 245	**LEGAL PERSONS**			
YEAR	INVESTIGATION REQUESTS	INDICTMENTS	JUDGEMENTS	CONVICTIONS
2010	1	0	0	0
2011	2	1	0	0
2012	3	0	0	2

(b) Observations on the implementation of the article

Slovenia has criminalized money-laundering in article 245 of its Criminal Code.

It is considered that the term "exchange" in article 245 paragraph 1 covers the term "conversion" in the Convention, and that concealment and disposure are covered. However, the "transfer", and the

"concealment and disguise" of the "true nature, … location, disposition, movement or ownership of or rights with respect to property", are not covered.

It is recommended that Slovenia adapt its legislation so that all elements of article 23 paragraph 1 a) are covered.

Subparagraph 1 (b) (i) of article 23

1. Each State Party shall adopt, in accordance with fundamental principles of its domestic law, such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

(b) Subject to the basic concepts of its legal system:

(i) The acquisition, possession or use of property, knowing, at the time of receipt, that such property is the proceeds of crime;

(a) Summary of information relevant to reviewing the implementation of the article

Slovenia regulated money-laundering in article 245 of its Criminal Code CC-1, amended with CC-1A, CC-1B:

Money Laundering Article 245

(1) Whoever accepts, exchanges, stores, disposes, uses in an economic activity or in any other manner determined by the act governing the prevention of money laundering, conceals or attempts to conceal by laundering the origin of money or property that was, to his knowledge, acquired through the commission of a criminal offence, shall be punished by imprisonment of up to five years.

(2) Whoever commits the offence under the preceding paragraph, and is simultaneously the perpetrator of or participate in the criminal offence with which the money or property under the preceding paragraph were acquired, shall be punished to the same extent.

(3) If the money or property under paragraphs 1 or 2 of this Article is of high value, the perpetrator shall be punished by imprisonment of up to eight years and by a fine.

(4) If an offence referred to in the above paragraphs was committed within a criminal association for the commission of such criminal offences, the perpetrator shall be punished by imprisonment of one up to ten years and by a fine.

(5) Whoever should and could have known that the money or property had been acquired through a criminal offence, and who commits the offences from paragraphs 1 or 3 of this Article, shall be punished by imprisonment of up to two years.

(6) The money and property referred to in the preceding paragraphs shall be confiscated.

(b) Observations on the implementation of the article

It is considered that the "acquisition" is covered by the verb "accepts" and the "possession" by the verb "stores". The "use" is covered in cases in which it refers to an economic activity or any other manner determined by the act governing the prevention of money-laundering", which contains a general definition of money-laundering.

Subparagraph 1 (b) (ii) of article 23

1. Each State Party shall adopt, in accordance with fundamental principles of its domestic law, such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

(b) Subject to the basic concepts of its legal system: ...

(ii) Participation in, association with or conspiracy to commit, attempts to commit and aiding, abetting, facilitating and counselling the commission of any of the offences established in accordance with this article.

(a) Summary of information relevant to reviewing the implementation of the article

Slovenia regulated money-laundering in article 245, and participation in an offence in 36 to 38 of its Criminal Code CC-1, amended with CC-1A, CC-1B:

4. Participation in Criminal Offence Participant Article 36.a

Provisions of this statute applicable to perpetrator are also applicable to the participant who participates in the committing of a criminal offence within the framework of soliciting or supporting, unless the statute states otherwise.

Criminal Support Article 38

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

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

Punishability of Those Soliciting or Supporting a Criminal Attempt Article 39

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

Liability of Members and Leaders of Criminal Organisation Article 41

(1) A member (hereinafter: the member) of a criminal organisation with at least three persons shall be punished with a severer sentence prescribed for a criminal offence committed within a criminal organisation if he commits the criminal offence to implement the criminal organisation's plan in association with at least one member as an accessory or accomplice.

(3) In the case referred to in paragraph 1 of this Article, the leader of the criminal organisation, who led the implementation of the criminal plan or had at his disposal illegally gained property benefits at the time of committing the criminal offence based on the criminal plan, notwithstanding whether he participated at its implementation directly as the perpetrator or accessory pursuant to Articles 20 or 37 and 38 of this Criminal Code, shall be punished the same as the perpetrator.

(b) Observations on the implementation of the article

Slovenia has criminalized all mentioned forms of participation in money-laundering except for conspiracy. It is recommended to criminalize the conspiracy to launder money, subject to the concepts to the Slovenian legal system.

Subparagraphs 2 (a) and 2 (b) of article 23

2. For purposes of implementing or applying paragraph 1 of this article:

(a) Each State Party shall seek to apply paragraph 1 of this article to the widest range of predicate offences;

(b) Each State Party shall include as predicate offences at a minimum a comprehensive range of criminal offences established in accordance with this Convention;

(c) For the purposes of subparagraph (b) above, predicate offences shall include offences committed both within and outside the jurisdiction of the State Party in question. However, offences committed outside the jurisdiction of a State Party shall constitute predicate offences only when the relevant conduct is a criminal offence under the domestic law of the State where it is committed and would be a criminal offence under the domestic law of the State Party implementing or applying this

article had it been committed there;

(a) Summary of information relevant to reviewing the implementation of the article

Slovenia established the all crime model (see article 245 above). The offence is independent, i.e. conviction for predicate offence is not necessary.

The Slovenian authorities explained that the concept of crime comprises offences committed both within and outside the jurisdiction of Slovenia.

(b) Observations on the implementation of the article

Slovenia has implemented the provision under review.

Subparagraph 2 (d) of article 23

2. For purposes of implementing or applying paragraph 1 of this article:

(d) Each State Party shall furnish copies of its laws that give effect to this article and of any subsequent changes to such laws or a description thereof to the Secretary-General of the United Nations;

(a) Summary of information relevant to reviewing the implementation of the article

The Slovenian authorities have stated that the relevant copies laws have been furnished to the Secretary General of the United Nations.

(b) Observations on the implementation of the article

There are no observations.

Subparagraph 2 (e) of article 23

2. For purposes of implementing or applying paragraph 1 of this article:

(e) If required by fundamental principles of the domestic law of a State Party, it may be provided that the offences set forth in paragraph 1 of this article do not apply to the persons who committed the predicate offence.

(a) Summary of information relevant to reviewing the implementation of the article

Slovenia does not exclude self-laundering, as specified in paragraph 2 of article 245 of the Criminal Code:

Money Laundering Article 245

(2) Whoever commits the offence under the preceding paragraph, and is simultaneously the perpetrator of or participate in the criminal offence with which the money or property under the preceding paragraph were acquired, shall be punished to the same extent.

(b) Observations on the implementation of the article

There are no observations.

Article 24. Concealment

Without prejudice to the provisions of article 23 of this Convention, each State Party shall consider adopting such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally after the commission of any of the offences established in

accordance with this Convention without having participated in such offences, the concealment or continued retention of property when the person involved knows that such property is the result of any of the offences established in accordance with this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

Slovenia criminalized concealment in article 217 of its Criminal Code CC-1, amended with CC-1A and CC-1B:

> Concealment Article 217
>
> (1) Whoever purchases, takes as a pledge or otherwise acquires, conceals or disposes either of movable or immovable property which he knows to have been gained unlawfully shall be sentenced to imprisonment for not more than two years.
>
> (2) Whoever commits the offence under the preceding paragraph, and whoever should and could have known that the property had been gained unlawfully, shall be punished by a fine or sentenced to imprisonment for not more than one year.
>
> (3) If the offence referred to in paragraphs 1 or 2 of this Article was committed by at least two persons who colluded with the intention of concealment, or if the property referred to in paragraphs 1 or 2 of this Article is of high value, or the property is either of special cultural significance or a natural curiosity, the perpetrator shall be sentenced to imprisonment for not more than three years for the offence referred to in paragraph 1, and to imprisonment for not more than two years for the offence referred to in paragraph 2.
>
> (4) If the concealed property has been obtained from a criminal offence for which the perpetrator is prosecuted by private action or complaint, the prosecution regarding offences under paragraphs 1 and 2 shall be initiated upon a private action or a complaint respectively.
>
> (5) If the act referred to in paragraphs 1, 2 or 3 of this Article was committed within a criminal association for the commission of such criminal offences, the perpetrator shall be sentenced to imprisonment for not less than five years.

Case examples:

Slovenia provided the following case example, from 2012:

V.R. was accused of Forging Documents (former article 256/1 of the CC, now article 251 of the CC-1), Certification of Untrue Contents (former article 256/1, now article 253 of the CC-1) and Concealment (former article 221/1 of the CC, now article 217 of the CC-1). The accused first reprinted a factory print of a chassis number on a vehicle Audi A3 and then sold the vehicle to a co-defendant, also accused of Concealment, knowing that the vehicle had been stolen. The co-defendant then sold the vehicle to another buyer, knowing that the vehicle was stolen and that the chassis number was reprinted. V.R. was sentenced to one year imprisonment and the co-defendant to 10 months in prison, with a two-year term of suspension.

Statistics:

Slovenia provided the following case statistics:

Year	**2007**	**2008**	**2009**	**2010**	**2011**	**2012**
Number of prosecutions			38	133	210	
Number of convictions			32	100	152	

More detailed statistics for 2012 are presented below:

Art 217	**NATURAL PERSONS**			
YEAR	INVESTIGATION REQUESTS	INDICTMENTS	JUDGEMENTS	CONVICTIONS
2010	89	418	173	86
2011	83	472	229	130
2012	50	322	369	227

(b) Observations on the implementation of the article

Slovenia has implemented the provision under review.

Article 25. Obstruction of justice

Subparagraph (a) of article 25

Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

(a) The use of physical force, threats or intimidation or the promise, offering or giving of an undue advantage to induce false testimony or to interfere in the giving of testimony or the production of evidence in a proceeding in relation to the commission of offences established in accordance with this Convention;

(a) Summary of information relevant to reviewing the implementation of the article

Slovenia criminalized obstruction of justice as described in article 25 (a) in article 286 paragraph 1 of its Criminal Code CC-1, amended with CC-1A and CC-1B:

Obstruction of Judicial and Other State Authorities Article 286

(1) Whoever, with the intention of influencing testimony or production of evidence in a trial before the court or in an administrative procedure or during the procedure before the Commission for the Prevention of Corruption, or whoever, with the intention of influencing the collection of information in pre-trial proceedings, applies force, threat or intimidation against any third person, offers or gives him illegal benefits, shall be sentenced to imprisonment for not more than five years.

(b) Observations on the implementation of the article

Slovenia has implemented most of the elements of the provision under review, although the "promise" of an undue advantage is not covered. It is recommended to add this element to the law.

Subparagraph (b) of article 25

Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

(b) The use of physical force, threats or intimidation to interfere with the exercise of official duties by a justice or law enforcement official in relation to the commission of offences established in accordance with this Convention. Nothing in this subparagraph shall prejudice the right of States Parties to have legislation that protects other categories of public official.

(a) Summary of information relevant to reviewing the implementation of the article

Slovenia criminalized obstruction of justice as described in article 25 (b) in article 286 paragraph 2 of its Criminal Code CC-1, amended with CC-1A and CC-1B:

Obstruction of Judicial and Other State Authorities Article 286

(1) Whoever, with the intention of influencing testimony or production of evidence in a trial before the court or in an administrative procedure or during the procedure before the Commission for the Prevention of Corruption, or whoever, with the intention of influencing the collection of information in pre-trial proceedings, applies force, threat or intimidation against any third person, offers or gives him illegal benefits, shall be sentenced to imprisonment for not more than five years.

(2) The same sentence shall be imposed on whoever, with the intention of influencing the performance of the official duties of officials in the administration of justice, law enforcement authorities in relation to criminal proceedings, applies force, threat or intimidation against an official.

Statistics:

Slovenia provided the following case statistics (related to all predicate offences, not only corruption, and both to paragraph 1 and 2):

Art 286	**NATURAL PERSONS**			
YEAR	INVESTIGATION REQUESTS	INDICTMENTS	JUDGEMENTS	CONVICTIONS
2010	10	9	2	0
2011	15	11	12	9
2012	14	16	10	4

(b) Observations on the implementation of the article

Slovenia has implemented the provision under review.

Article 26. Liability of legal persons

Paragraphs 1 and 2 of article 26

1. Each State Party shall adopt such measures as may be necessary, consistent with its legal principles, to establish the liability of legal persons for participation in the offences established in accordance with this Convention.

2. Subject to the legal principles of the State Party, the liability of legal persons may be criminal, civil or administrative.

(a) Summary of information relevant to reviewing the implementation of the article

Slovenia has regulated criminal, civil and administrative liability of legal persons:

1. Criminal liability

Criminal liability of legal persons is established in article 42 of the Criminal Code:

Criminal Code CC-1, amended with CC-1A and CC-1B

5. Punishability of Legal Persons

Liability of Legal Persons for Criminal Offences

Article 42

(1) Criminal liability shall be imposed on a legal person for criminal offences, which the perpetrator commits in its name, on its behalf or in its favour, providing that the statute, which regulates liability of legal persons for criminal offences, determines that the legal person is liable for the criminal offence in question.

(2) Criminal liability of legal persons shall not exclude liability of natural persons as perpetrators, instigators or aides in the same criminal offence.

(3) The law, which regulates liability of legal persons for criminal offences, shall determine the conditions for criminal liability of legal persons, sentences, admonitory sanctions or safety measures, and legal consequences of the conviction for legal persons.

Simultaneous Application of the General Part of This Criminal Code and Other Criminal Laws Article 9

(1) The provisions of the general part of this Criminal Code shall apply also to criminal offences, defined by other laws or ratified and issued international agreements or European Union acts, unless otherwise determined therein.

(2) If the laws that determine the criminal liability of minors, legal persons, or other special types of offenders or acts (special criminal laws) simultaneously also mention the application of the general

part of this Criminal Code in their general provisions, then the existing Criminal Code shall be applied.

The Liability of Legal Persons for Criminal Offences Act states in its article 1:

Liability of Legal Persons for Criminal Offences Act (Official Gazette of the Republic of Slovenia No.98/04 – official consolidated text no. 65/08 and 57/12)
Article 1

(1) A legal person shall be criminally liable for a criminal offence under the conditions laid down by this Act in accordance with the Criminal Code.

Grounds for the Liability of a Legal Person
Article 4
A legal person shall be criminally liable for a criminal offence committed by the perpetrator in the name of, on behalf of or in favour of the legal person:
1. If the committed criminal offence means carrying out an unlawful resolution, order or endorsement of its management or supervisory bodies;
2. If its management or supervisory bodies influenced the perpetrator or enabled him to commit the criminal offence;
3. If acquiring an unlawful property benefit from a criminal offence or objects gained through committing a criminal offence;
4. If its management or supervisory bodies have omitted due supervision of the legality of the actions of employees subordinate to them.

Limits of the Liability of a Legal Person for a Criminal Offence

Article 5
(1) Under the conditions under the preceding Article a legal person shall also be liable for a criminal offence if the perpetrator is not guilty or if he committed the offence under the influence of force or threat from the legal person for the committed criminal offence.
(2) The liability of a legal person does not preclude the criminal liability of natural persons or responsible persons for a committed criminal offence.
(3) A legal person may only be liable for criminal offences committed out of negligence under the conditions from Point 4 of Article 4 of this Act. In this case the legal person may be given a reduced punishment.
(4) If a legal person has no other body besides the perpetrator who could lead or supervise the perpetrator, the legal person shall be liable for the committed criminal offence within the limits of the perpetrator's guilt.

Slovenia has had a number of cases in which legal persons were accused of corruption offences. For statistical information regarding sanctions for legal persons is provided for each corruption offence please see above Art. 15-25.

Case example

Slovenia provided the following case example:

In 2012 a Prosecutor's Office lodged a request for investigation against five natural persons due to Acceptance of Bribes (the Criminal Code 267/2 – as per the previous Criminal Code the criminal offence of Acceptance of Bribes was stipulated in article 267; in the current one, the CC-1 it is stipulated in article 261) and against one legal person for five offenses of Giving Bribes (the CC 268/2 – in the previous CC the criminal offence of Giving Bribes was stipulated in article 268, while the currently CC-1 stipulates the same offence in article 262). In this case the investigation was conducted against the natural persons and the legal person because of suspicion that the doctors (in that time they were considered officials) who had power of issuing prescriptions for medications prescribed the medication produced by the above mentioned legal person. The price of prescribed medications was covered by the public Health Fund. The doctors received additional benefits from the pharmaceutical company (the legal person) for prescribing the medications it produced. The accused pharmaceutical company and its representative offered additional benefits to doctors and their family members and paid a tourist trip to Dubrovnik (a coastal resort in Croatia).

2. Administrative liability

Some provisions on administrative liability in public procurement cases are contained in the Integrity and Corruption Prevention Act:

> Integrity and Corruption Prevention Act (IPCA)
>
> Article 14
>
> (Anti-corruption clause)
>
> (1) Any contract in which a person promises, offers or gives any undue advantage to the representative or agent of a public sector body or organisation on behalf or for the account of another contracting party for the purpose of
>
> - obtaining business;
>
> - concluding business under more favourable terms and conditions;
>
> - omitting due supervision over the implementation of contractual obligations; or
>
> - any other act or omission which causes a public sector body or organisation damage or by which the representative or the agent of the public sector body or organisation, the other contracting party or its representative, agent or intermediary are put, in a position to obtain an undue advantage, shall be deemed null and void.
>
> (2) Public sector bodies and organisations entering into contracts that exceed EUR 10 000 (excluding VAT) with bidders, the suppliers of goods and services, or contractors shall, by taking each case into consideration, include in these contracts the content referred to in the preceding paragraph as a compulsory element of any contract; they may also include additional provisions for the purpose of preventing corruption or other transactions which are contrary to morality or public order. This provision shall also apply to entering into contracts with bidders, the suppliers of goods and services, or contractors outside the territory of the Republic of Slovenia.
>
> (3) A public sector body or organisation which has concluded a contract shall on the basis of its own findings on the alleged existence of the facts referred to in paragraph 1 of this Article or on the basis of a notification from the Commission or any other authority in respect of the alleged occurrence of these facts commence with the identification of the criteria for nullifying the contract referred to in the previous paragraph or by way of any other measure in compliance with the regulations of the Republic of Slovenia.
>
> (4) In the event that there is a suspicion of irregularities in the implementation of paragraph 2 of this Article, the Commission shall request the public sector bodies or organisations to submit to it all contracts concluded in a specific period of time or with a specific person. In the event that the Commission establishes a violation of the provisions of paragraph 2 of this Article or the alleged existence of the facts referred to in paragraph 1 of this Article, it shall notify the body or organisation that concluded the contract and other competent authorities accordingly thereof.
>
> (5) In the event that a public sector body or organisation takes the view that due to the nature of a contract the inclusion of the anti-corruption clause is not possible or appropriate, or in cases where the other contracting party is established outside the territory of the Republic of Slovenia and opposes the inclusion of such, the relevant body or organisation may, by way of a reasoned proposal, request that the Commission grant an exemption from the obligation laid down in paragraph 2 of this Article in respect of the contract in question. When taking a decision thereon, the Commission shall particularly take into account the public interest in the conclusion of the contract, any objective circumstances which prevent business from being concluded owing to the inclusion of the anti-corruption clause, and the level of the general corruption risk in equivalent business transactions. The Commission's permission regarding the conclusion of a contract without the anti-corruption clause shall be published on its website or, in accordance with an agreement with the relevant body or organisation, when it can no longer have any impact on the conclusion of the contract.
>
> (6) In order to ensure the transparency of the business and to mitigate corruption risks, any public sector body or organisation which is subject to the obligation to carry out public procurement

procedures in compliance with the relevant public procurement regulations shall, prior to the conclusion of a contract exceeding the value of EUR 10 000 (excluding VAT) obtain a statement or information on the participation of natural and legal persons in the bidder's assets, including the participation of silent partners, as well as on economic operators, which are considered to be companies affiliated to the bidder under the provisions of the Companies Act. The public sector body or organisation in question shall submit this statement or information to the Commission at the latter's request. In respect of natural persons, this statement shall include their personal name, residential address and their interest in the assets. In the event that the bidder submits a false statement or provides false information on the facts stated, the contract shall be rendered null and void.

X. PENAL PROVISIONS

Article 77 (Offences by natural persons)

(3) A fine of between EUR 400 and EUR 4 000 shall be imposed on a responsible person of a public sector body or organisation which, in contravention of the provisions of paragraphs 2 and 5 of Article 14 of this Act, fails to include the content specified in paragraph 1 of Article 14 of this Act in a contract concluded by the public sector body or organisation, or which, after being notified by the Commission or other bodies of the alleged existence of the facts referred to in paragraph 1 of Article 14, in contravention of paragraph 3 of Article 14 of this Act, fails to initiate a procedure for establishing the nullity of the contract or to take other appropriate measures in accordance with the regulations of the Republic of Slovenia, or which, in contravention of the provision of paragraph 4 of Article 14 of this Act, fails to submit the required contracts and documents, or which, in contravention of the provision of paragraph 6 of Article 14 of this Act, fails to obtain a statement or information on the participation of natural and legal persons in the bidder's ownership, including the participation of silent partners, and on business entities that are considered to be companies affiliated with the bidder under the provisions of the law on companies, or which, in contravention of the provision of paragraph 6 of Article 14 of this Act, fails to submit the aforementioned statement to the Commission at its request.

Article 78 (Offences by legal persons)

(7) A fine of between EUR 400 and EUR 100 000 shall be imposed on a holder of public authority or other legal person governed by public or private law which commits a minor offence referred to in paragraphs 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, and 16 of Article 77 of this Act, with the exception of the Republic of Slovenia and local communities.

Article 79

(Offences by an interest group)

(1) A fine of between EUR 400 and EUR 100 000 shall be imposed on an interest group for which an individual who, in contravention of Article 58 of this Act, is not registered as a lobbyist but carries out lobbying activities with the full knowledge of the interest group.

(2) A fine of between EUR 400 and EUR 100 000 shall be imposed on an interest group which orders a lobbyist to lobby in contravention of Article 70 of this Act.

Blacklisting of companies is regulated in art. 77 a) Public Procurement Act, art. 81 a) Act Regulating Public Procurement in Water, Energy, Transport and Postal Services and art. 73 Public Procurement for Defence and Security Act.

3. Civil liability

Civil liability for damages inflicted by criminal offences are regulated in the provisions of the Obligations Code of Slovenia, which are applicable to legal persons:

Obligations Code of Slovenia

Compensation claims for damage inflicted by criminal offence

Article 353

(1) If the damage was inflicted by a criminal offence and a longer statute-barring period is stipulated

for criminal prosecution, a compensation claim against the person responsible shall become statute-barred when the period stipulated for the statute-barring of criminal prosecution expires.

(2) The discontinuance of statute-barring of criminal prosecution shall have as a consequence the discontinuance of statute-barring of the compensation claim.

(3) This shall also apply to the suspension of statute-barring.

Compensation claims for reason of corruption

Article 354

If the damage was inflicted by an act on which the offering, provision, acceptance or demanding of a bribe or any other benefit or the promise thereof had a direct or indirect influence, or by the omission of action that would have prevented an act of corruption, or by any other act that according to law or international treaty entails corruption, the claim shall become statute-barred five years after the injured party learnt of the damage and of the person that inflicted it; in any case it shall become statute-barred fifteen years after the act was committed.

(b) Observations on the implementation of the article

In accordance with the provided information Slovenia has established criminal, civil and administrative liability of legal persons. However, no information about cases was provided except for criminal cases.

It was noted that administrative measures only refer to procurement cases, and it was recommended that broader administrative measures with regard to legal persons should be adopted.

Paragraph 3 of article 26

3. Such liability shall be without prejudice to the criminal liability of the natural persons who have committed the offences.

(a) Summary of information relevant to reviewing the implementation of the article

Criminal Code CC-1, amended with CC-1A and CC-1B

5. Punishability of Legal Persons

Liability of Legal Persons for Criminal Offences Article 42

(1) Criminal liability shall be imposed on a legal person for criminal offences, which the perpetrator commits in his name, on his behalf or in his favour, providing that the statute, which regulates liability of legal persons for criminal offences, determines that the legal person is liable for the criminal offence in question.

(2) Criminal liability of legal persons shall not exclude liability of natural persons as perpetrators, instigators or aides in the same criminal offence.

(3) The law, which regulates liability of legal persons for criminal offences, shall determine the conditions for criminal liability of legal persons, sentences, admonitory sanctions or safety measures, and legal consequences of the conviction for legal persons.

Liability of Legal Persons for Criminal Offences Act
Article 1

(1) A legal person shall be criminally liable for a criminal offence under the conditions laid down by this Act in accordance with the Criminal Code.

(2) The statute shall define for what criminal offence a legal person may be liable and what punishment or other penal sanction may be imposed on it.

(b) Observations on the implementation of the article

Article 42 of the Criminal Code and article 1 of the Liability of Legal Persons for Criminal Offences Act stipulate that criminal liability of legal persons shall not exclude criminal liability of natural persons.

Paragraph 4 of article 26

4. Each State Party shall, in particular, ensure that legal persons held liable in accordance with this article are subject to effective, proportionate and dissuasive criminal or non-criminal sanctions, including monetary sanctions

(a) Summary of information relevant to reviewing the implementation of the article

The types of criminal sanctions for legal persons are regulated in articles 12-23 of the Liability of Legal Persons for Criminal Offences Act:

ZOPOKD - Liability of Legal Persons for Criminal Offences Act
Types of Punishments
Article 12
The following punishments may be prescribed for the criminal offences of legal persons:
1) Fine;
2) Confiscation of property;
3) Winding-up of legal person;
4) Prohibition of disposing with securities held by the legal person.

Fines Article 13

(1) The fine which may be prescribed may not be less than 10.000 euros or more than 1,000.000 euros.

(2) In the case of the legal person's criminal offence having caused damage to another's property, or of the legal person having obtained unlawful property benefit, the highest limit of the fine imposed may be 200 (two hundred) times the amount of such damage or benefit.
Confiscation of Property
Article 14
(1) Half or more of the legal person's property or its entire property may be confiscated.
(2) Confiscation of property may be imposed for criminal offences, which carry a punishment of five years' imprisonment or a harsher punishment.
(3) In the case of bankruptcy proceedings resulting from the imposing of a punishment of confiscation of property, creditors may be paid off from the confiscated property.

Winding-up of Legal Person
Article 15
(1) The winding-up of a legal person may be ordered if the activity of the legal person was entirely or predominantly used for the carrying out of criminal offences.
(2) In addition to the winding-up of a legal person the court may also impose a punishment of confiscation of property.
(3) When sentencing a legal person to winding-up the court shall propose the initiation of liquidation proceedings.
(4) Creditors may be paid off from the property of the legal person imposed the punishment of winding-up of legal person.

Article 15a (deleted)

Prohibition of disposing with securities held by the legal person
Article 15(b)
A court may impose on a legal person, for committing criminal offences referred to in Chapter 24 of the Criminal Code and for criminal offences under Article 260 and Articles 262 to 264 of Chapter 26 of the Criminal Code, a secondary sentence of prohibition to dispose with securities held by the legal person and recorded in the central register of dematerialised securities for a period of from one to eight years.

Fixing the Punishment
Article 16
(1) In fixing the punishment for a legal person the court shall consider, in addition to the general rules for fixing punishments under Article 49 of the Criminal Code of the Republic of Slovenia, the economic strength of the legal person.
(2) In the case of criminal offences for which in addition to a fine the confiscation of property is prescribed, the court must ensure in fixing the level of the fine that it does not exceed half of the property of the legal person.

Suspended Sentence
Article 17
(1) The court may impose a suspended sentence to a legal person instead of a fine.

(2) With a suspended sentence the court may fix a fine of up to 500,000 euros on the legal person and, at the same time, order that the sentence will not be imposed if the legal person does not commit a further criminal offence within a term defined by the court, which term may not be shorter than one year or longer than five years (the term of suspension).

Safety Measures Article 18

For the criminal offences of legal persons, in addition to the safety measure of the confiscation of objects as per Article 73 of the Criminal Code of the Republic of Slovenia, the following may be imposed as safety measures:

1) Publication of the judgment;

2) Prohibition of a specific commercial activity.

Publication of the Judgment Article 19

(1) The safety measure of publication of the judgment shall be applied by the court in cases where it would be beneficial for the public to be informed of the judgment, and especially if publication of the judgment would contribute to removing danger to life or limb or the securing of safety of traffic or some economic good.

(2) The court shall consider, with regard to the importance of the criminal offence and the need for the public to be informed of the judgment, whether the judgment should be published in the press, broadcast by radio or television or by several of the listed means of public information simultaneously, and whether the explanation of the judgment should be published in full or in excerpt form; the court shall see that the means of publication shall enable the informing of all those in whose interest it is necessary to publish the judgment.

Prohibition of a Specific Commercial Activity Article 20

(1) The safety measure of prohibition of a specific commercial activity means prohibiting a legal person from producing certain products or doing business in certain plants or prohibiting a legal person from involving itself in certain transactions in the traffic of goods and services, or in other commercial transactions.

(2) The safety measure may be applied to a legal person if its further involvement in a given commercial activity would present a danger to life or limb or be harmful to the commercial or financial business of other legal persons or to the economy, or if the legal person has already been punished in the last two years for the same or a similar criminal offence.

(3) This safety measure may be applied for a term of six months to five years, to run from the time the judgment becomes legally binding.

Legal Consequences of Conviction Article 21

(1) Legal consequences of a conviction may come into effect even if a fine was imposed on the legal person.

(2) The following legal consequences of a conviction may come into effect for a legal person:

1. Prohibition of activity on the basis of licenses, authorisations or concessions granted by state bodies;

2. Prohibition of acquisition of licenses, authorisations or concessions, which are granted by state bodies.

Statutory Limitations Article 22

(1) Limitation of criminal prosecution of a legal person shall be reckoned with regard to the punishment, which may by statute be imposed on the perpetrator of the criminal offence.

(2) The enforcement of a punishment on a legal person shall fall under the statute of limitations when the following periods have elapsed since the final judgment with which the punishment was imposed:

1) Three years in the case of the enforcement of a fine;

2) Five years in the case of the enforcement of a sentence of forfeiture of property, a sentence of winding-up of the legal person or a sentence of prohibition of disposal with securities held by the legal person.

(3) The enforcement of a safety measure shall fall under the statute of limitations:

1) When six months have elapsed since the final judgment with which the measure of publication of the judgment was imposed;

2) When the term for which the measure of prohibition of a specific commercial activity was applied to a legal person has elapsed.

Application of the General Part of the Criminal Code Article 23

The provisions of the General Part section of the Criminal Code of the Republic of Slovenia shall apply to legal persons unless provided otherwise by this Act.

Criminal Code CC-1, amended with CC-1A and CC-1B

2. Sentencing

General Rules on Sentencing Article 49

(1) The perpetrator shall be sentenced for a criminal offence within the limits of the statutory terms provided for such an offence and with respect to the gravity of his offence and his culpability.

(2) In fixing the sentence, the court shall consider all circumstances, which have an influence on the grading of the sentence (mitigating and aggravating circumstances), in particular: the degree of the perpetrator's guilt; the motives, for which the offence was committed; the intensity of the danger or injury caused to the property protected by law; the circumstances, in which the offence was committed; the perpetrator's past behaviour; his personal and pecuniary circumstances; his conduct after the committing of the offence and especially, whether he recovered the damages caused by the committing of the criminal offence; and other circumstances referring to the personality of the perpetrator and to the expected effect of the punishment on the future life of the perpetrator in the social environment.

(3) In fixing the sentence of a perpetrator who committed a criminal offence after he had already been convicted or had served his sentence, or after the implementation of his sentence had been barred by time, or after his sentence has been remitted (recidivism), the court shall pay particular attention to whether the earlier offence is of the same type as the new one, whether both offences were committed for the same motive and to the time, which has lapsed since the former conviction or since the serving, withdrawing, remitting or barring of the sentence.

(b) Observations on the implementation of the article

Slovenia complies with the provision under review.

Article 27. Participation and attempt

Paragraph 1 of article 27

1. Each State Party shall adopt such legislative and other measures as may be necessary to

establish as a criminal offence, in accordance with its domestic law, participation in any capacity such as an accomplice, assistant or instigator in an offence established in accordance with this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

Slovenia regulates participation in article 36.a to 41 of its Criminal Code

Criminal Code CC-1, amended with CC-1A and CC-1B

Participation in Criminal Offence

Participant Article 36.a

Provisions of this statute applicable to perpetrator are also applicable to the participant who participates in the committing of a criminal offence within the framework of soliciting or supporting, unless the statute states otherwise.

Criminal Solicitation Article 37

(1) Any person who intentionally solicits another person to commit a criminal offence shall be punished as if he himself had committed it.

2) Any person who intentionally solicits another person to commit a criminal offence, for which the sentence of three years' imprisonment or a heavier sentence may be imposed under the statute, shall be punished for the criminal attempt even if the committing of such an offence had never been attempted.

Criminal Support

Article 38

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

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

Punishability of Those Soliciting or Supporting a Criminal Attempt Article 39

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

Limits of Punishability of Perpetrators and Accomplices Article 40

(1) The perpetrator and accomplice shall be punished for criminal offences within the limits of their intent or on grounds of negligence, while the instigator and the aide shall be punished within the limits of their intent.

(2) If the instigator or the aide voluntarily prevented the intended criminal offence from being accomplished, his sentence may be abolished or lowered.

(3) The same shall apply if the perpetrator or aide sincerely, and to the extent appropriate, endeavoured to prevent the consequence from occurring, even if the consequence did not occur for any other reason.

(4) The personal relations, attributes and circumstances, through which guilt or punishment are excluded by law or a remitted, reduced or extended sentence, shall be taken into consideration only with respect to the perpetrator or participant with respect to whom such relations, attributes and circumstances were determined.

Liability of Members and Leaders of Criminal Organisation Article 41

(1) A member (hereinafter: the member) of a criminal organisation with at least three persons shall be punished with a severer sentence prescribed for a criminal offence committed within a criminal organisation if he commits the criminal offence to implement the criminal organisation's plan in association with at least one member as an accessory or accomplice.

(3) In the case referred to in paragraph 1 of this Article, the leader of the criminal organisation, who led the implementation of the criminal plan or had at his disposal illegally gained property benefits at the time of committing the criminal offence based on the criminal plan, notwithstanding whether he participated at its implementation directly as the perpetrator or accessory pursuant to Articles 20 or 37 and 38 of this Criminal Code, shall be punished the same as the perpetrator.

Case example:

Slovenia provided the following case example: In 2012 a Prosecutor's Office finished one case having three persons convicted. The verdict referred to the CC-1, article 261 - Acceptance of Bribes. A former building inspector received a sentence of 1 year and 7 months of imprisonment and €4.996,50 of fine. A designer was sentenced to 1 year and 2 months imprisonment and a fine of 4.996,50 EUR. The other perpetrator (architect/designer) was sentenced to 9 months of imprisonment with a two-year term of suspension and a €1.499,95 fine for aiding to the acceptance of bribes. The verdict is not yet final as the defendant and the prosecutor appealed.

Statistics:

Slovenia provided the following statistics on participation (not only on corruption offences but generally):

	PARTICIPATION (NATURAL PERSON)		
YEAR	INDICTMENTS	JUDGEMENTS	CONVICTIONS
2010	37	28	17
2011	51	15	5
2012	43	44	31

(b) Observations on the implementation of the article

Slovenia complies with the provision under review.

Paragraph 2 of article 27

2. Each State Party may adopt such legislative and other measures as may be necessary to establish as a criminal offence, in accordance with its domestic law, any attempt to commit an offence established in accordance with this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

The attempt of a criminal offence is regulated in articles 34 to 36 of the Criminal Code:

Criminal Code CC-1, amended with CC-1A and CC-1B

3. Attempt of Criminal Offence

Attempt Article 34

(1) Any person, who intentionally initiated a criminal offence but did not complete it, shall be punished for the criminal attempt, provided that such an attempt involved a criminal offence, for which the sentence of three years' imprisonment or a heavier sentence may be imposed under the statute; attempts involving any other criminal offences shall be punishable only when so expressly

stipulated by the statute.

(2) Against the perpetrator, who attempted to commit a criminal offence, the sentence shall be applied within the limits prescribed for such an offence or it may be reduced.

Inappropriate Attempt Article 35

If the perpetrator has attempted to commit a criminal offence by inappropriate means or to harm an inappropriate object, his sentence may be withdrawn.

Voluntary Abandonment of Attempt Article 36

(1) If the perpetrator has attempted to commit a criminal offence but voluntarily desisted to go through with it, his sentence may be withdrawn.

(2) If the perpetrator voluntarily desists from committing a criminal offence, he shall be punished for those acts, which present some other independent criminal offence.

(3) The perpetrator may be granted a remission of his sentence if he has sincerely and appropriately endeavoured to prevent the consequences of his act - even if the consequences did not occur for another reason.

Statistics:

Slovenia provided the following statistics:

	ATTEMPT (NATURAL PERSON)		
YEAR	INDICTMENTS	JUDGEMENTS	CONVICTIONS
2010	2	1	1
2011	10	4	2
2012	3	4	2

(b) Observations on the implementation of the article

Slovenia is in compliance with the provision under review.

Paragraph 3 of article 27

3. Each State Party may adopt such legislative and other measures as may be necessary to establish as a criminal offence, in accordance with its domestic law, the preparation for an offence established in accordance with this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

Slovenia has criminalized the preparation of fraud, but not of other offences. Preparatory action is subsidiary in nature - the offender will be punished for this offense only if it is not punished for attempt or commission of an offense of fraud under paragraph 2 Article 211 of the CC-1B.

Criminal Code CC-1, amended with CC-1A and CC-1B

Fraud Article 211

(1) Whoever, with the intention of acquiring unlawful property benefit for himself or a third person by false representation, or by the suppression of facts leads another person into error or keeps him in error, thereby inducing him to perform an act or to omit to perform an act to the detriment of his or another's property, shall be sentenced to imprisonment for not more than three years.

(2) Whoever, with the intention as referred to in the preceding paragraph of this Article, concludes an insurance contract by stating false information, or suppresses any important information, concludes a prohibited double insurance, or concludes an insurance contract after the insurance or

loss event have already taken place, or misrepresents a harmful event, shall be sentenced to imprisonment for not more than one year.

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(b) Observations on the implementation of the article

Slovenia could criminalize the preparation for a corruption offence.

Article 28. Knowledge, intent and purpose

Knowledge, intent or purpose required as an element of an offence established in accordance with this Convention may be inferred from objective factual circumstances.

(a) Summary of information relevant to reviewing the implementation of the article

Slovenia has regulated the liberty of proof in article 18 of the CPA:

Article 18

(1) The right of the court and of state bodies participating in criminal proceedings to evaluate the facts presented shall not be bound or limited by any specific formal rules of evidence.

(2) The court may not base its decision on evidence obtained in violation of human rights and basic freedoms provided by the Constitution, nor on evidence which was obtained in violation of the provisions of criminal procedure and which under this Act may not serve as the basis for a court decision, or which were obtained on the basis of such inadmissible evidence.

The principle of evidentiary liberty allows for all kinds of evidence or proof. Therefore, circumstantial evidence is permitted for any act and includes the mens rea of the offence.

(b) Observations on the implementation of the article

Slovenia complies with the provision under review.

Article 29. Statute of limitations

Each State Party shall, where appropriate, establish under its domestic law a long statute of limitations period in which to commence proceedings for any offence established in accordance with this Convention and establish a longer statute of limitations period or provide for the suspension of the statute of limitations where the alleged offender has evaded the administration of justice.

a) Summary of information relevant to reviewing the implementation of the article

Slovenia regulated the statute of limitations in articles 90 to 95 of its Criminal Code:

Criminal Code CC-1, amended with CC-1A and CC-1B

Chapter Eleven

STATUTE OF LIMITATIONS

Limitation of Criminal Prosecution Article 90

(1) Except where otherwise determine in this Criminal Code, criminal prosecution is barred from taking place:

1) fifty years from the committing of a criminal offence, for which a prison sentence of thirty years may be imposed under the statute unless non-applicability of statute of limitations applies to the offence;

2) thirty years from the committing of a criminal offence, for which a prison sentence of over ten

years may be imposed under the statute;

3) twenty years from the committing of a criminal offence, for which a prison sentence of over five years may be imposed under the statute;

4) ten years from the committing of a criminal offence, for which a prison sentence of over one year may be imposed under the statute;

5) six years from the committing of a criminal offence, for which a prison sentence of up to one year or a fine may be imposed under the statute.

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

(3) Irrespective of paragraph 1 of this Article, the time limit for statute of limitations in criminal offences against sexual inviolability and criminal offences against marriage, family or youth, committed against a minor, shall begin when the injured person becomes an adult.

Progress and Interruption of the Limitation of Criminal Prosecution Article 91

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

(2) If the final judgement in the proceeding for extraordinary legal remedy is annulled, the statute of limitations in the new trial shall be two years from the annulment of the final judgement.

(3) The statute of limitation shall be suspended for the time when the prosecution may not be initiated or continued, or when the perpetrator is unreachable for state authorities.

(4) The statute of limitation shall be interrupted if the perpetrator commits a further criminal offence of the same or greater seriousness before such a period has ended; after an interruption a new period of limitation shall start.

…

Inapplicability of the Statute of Limitations to Criminal Offences Article 95

(1) Criminal prosecution and implementation of a sentence shall not be prevented for criminal offences, for which a life sentence may be imposed pursuant to this Criminal Code, for criminal offences under Articles 100 to 105 of this Criminal Code, as well as for the criminal offences, the prosecution of which may not be prevented under international agreements.

2) Implementation of a life sentence shall not fall under the statute of limitations.

Slovenian authorities explained that the concept of "offences for which a prison sentence of over ten years is foreseen" (see article 90 paragraph 1 Num. 2) is referring to those offences whose upper limit is between ten and 30 years. The concept of "offences for which a prison sentence of over five years is foreseen" (see article 90 paragraph 1 Num. 3) is referring to those offences whose upper limit is between five and ten years.

For corruption offences, this results in the following statutes of limitations:

	Offence	**Article CC**	**Imprisonment (deprivation of liberty term)**		**Statute of Limitations**
			Lower limit	**Upper limit**	
15 (a) / 16 (1)	Active bribery	262 (1)	1	5	10
		262 (2)	6 months	3	10
15 (b) / 16 (2)	Passive bribery	261 (1)	1	8	20
		261 (2)	1	5	10
		261 (3)	one month	3	10
17	Embezzlement	209 (1)	one month	3	10
		209 (2)	one month	5	10
18 (a)	Active trading in influence	264 (1)	one month	3	10

		264 (2)	1	5	10
18 (b)	Passive trading in influence	263 (1)	one month	3	10
		263 (2)	one month	3	10
		263 (3)	1	5	10
19	Abuse of functions	257 (1)	one month	1	6
		257 (2)	one month	3	10
		257 (3) (4)	3 months	5	10
		257 (5)	1	8	20
21 (a)	Active bribery in the private sector	242 (1)	6 months	5	10
		242 (2)	one month	3	10
21 (b)	Passive bribery in the private sector	241 (1)	6 months	5	10
		241 (2)	3 months	5	10
		241 (3)	one month	2	10
22	Embezzlement in the private sector	209 (1)	one month	3	10
23 (1)	Money Laundering	245 (1) (2)	one month	5	10
		245 (3)	one month	8	20
		245 (4)	1 year	10	20
		245 (5)	one month	2	10
24	Concealment	217 (1)	one month	2	10
		217 (2)	one month	1	6
		217 (3)	one month	3 / 2	10
		217 (5)	one month	5	10
25 (a) (b)	Obstruction of Justice	286	one month	5	10

The minimum penalty of one month is regulated in article 46 of the Criminal Code.

> Sentence of Imprisonment
> Article 46
> (1) A prison sentence may be imposed for a term not shorter than one month and not longer than thirty years.
> (2) A sentence of life imprisonment may be imposed for criminal offences of genocide, crimes against humanity, war crimes and aggression, and under conditions under point 1 of paragraph 2 of Article 53 of this Penal Code for two or more criminal offences under paragraph 5 of Article 108, Article 116, Article 352, paragraph 2 of Article 360, paragraph 4 of Article 371, and paragraph 3 of Article 373.
> (3) In prescribing a prison sentence for a term of not more than two years, the statute shall not prescribe the minimum term for which sentence may be imposed.
> (4) A prison sentence shall be determined in full years and months, unless its term does not exceed a period of six months, in which case it may be determined in full days.

The statute of limitation is suspended for the time when the prosecution may not be initiated or continued, or when the perpetrator is unreachable for state authorities. This covers the case when the perpetrator evades justice. Slovenian authorities stated that no cases of evasion of justice in corruption cases have appeared yet.

(b) Observations on the implementation of the article

For corruption offences, the statute of limitations varies from six to twenty years. The statute of limitation can be suspended where the alleged offender has evaded the administration of justice.

Slovenia is in compliance with the provision under review.

Article 30. Prosecution, adjudication and sanctions

Paragraph 1 of article 30

1. Each State Party shall make the commission of an offence established in accordance with this Convention liable to sanctions that take into account the gravity of that offence.

(a) Summary of information relevant to reviewing the implementation of the article=

All corruption offences in Slovenia have sanctions of deprivation of liberty. The upper limits are between one and ten years.

	Offence	**Article CC**	**Imprisonment (deprivation of liberty term)**	
			Lower limit	**Upper limit**
15 (a) / 16 (1)	Active bribery	262 (1)	1	5
		262 (2)	6 months	3
15 (b) / 16 (2)	Passive bribery	261 (1)	1	8
		261 (2)	1	5
		261 (3)	one month	3
17	Embezzlement	209 (1)	one month	3
		209 (2)	one month	5
18 (a)	Active trading in influence	264 (1)	one month	3
		264 (2)	1	5
18 (b)	Passive trading in influence	263 (1)	one month	3
		263 (2)	one month	3
		263 (3)	1	5
19	Abuse of functions	257 (1)	one month	1
		257 (2)	one month	3
		257 (3) (4)	3 months	5
		257 (5)	1	8
21 (a)	Active bribery in the private sector	242 (1)	6 months	5
		242 (2)	one month	3
21 (b)	Passive bribery in the private sector	241 (1)	6 months	5
		241 (2)	3 months	5
		241 (3)	one month	2
22	Embezzlement in the private sector	209 (1)	one month	3
23 (1)	Money Laundering	245 (1) (2)	one month	5
		245 (3)	one month	8
		245 (4)	1 year	10
		245 (5)	one month	2
24	Concealment	217 (1)	one month	2
		217 (2)	one month	1
		217 (3)	one month	3 / 2
		217 (5)	one month	5
25 (a) (b)	Obstruction of Justice	286	one month	5

Criminal Code Article 49 explicitly provides that a person shall be sentenced with respect to the gravity of the offence:

Criminal Code CC-1, amended with CC-1A and CC-1B

2. Sentencing

General Rules on Sentencing Article 49

(1) The perpetrator shall be sentenced for a criminal offence within the limits of the statutory terms provided for such an offence and with respect to the gravity of his offence and his culpability.

(2) In fixing the sentence, the court shall consider all circumstances, which have an influence on the grading of the sentence (mitigating and aggravating circumstances), in particular: the degree of the perpetrator's guilt; the motives, for which the offence was committed; the intensity of the danger or injury caused to the property protected by law; the circumstances, in which the offence was committed; the perpetrator's past behaviour; his personal and pecuniary circumstances; his conduct after the committing of the offence and especially, whether he recovered the damages caused by the committing of the criminal offence; and other circumstances referring to the personality of the perpetrator and to the expected effect of the punishment on the future life of the perpetrator in the social environment.

(3) In fixing the sentence of a perpetrator who committed a criminal offence after he had already been convicted or had served his sentence, or after the implementation of his sentence had been barred by time, or after his sentence has been remitted (recidivism), the court shall pay particular attention to whether the earlier offence is of the same type as the new one, whether both offences were committed for the same motive and to the time, which has lapsed since the former conviction or since the serving, withdrawing, remitting or barring of the sentence.

Article 49 of the Criminal Code addresses general rules on sentencing whereas the reference to the "high value" is specific for the articles of the Specific part of the Code, where the incriminations can be found. For example the Article 245 on money laundering distinguishes two types of cases. In connection with the Article 99 of the Criminal Code the first paragraph of the Article 245 will cover cases from €500 – €50,000 and the third paragraph which addresses "high value" would cover the cases over €50,000. The range of sentencing in first paragraph of the Article 245 is imprisonment up to five years and in the third paragraph the range of sentencing is imprisonment up to eight years and a fine. The perpetrator shall be sentenced for a criminal offence within the limits of the statutory terms provided for such an offence and with respect to the gravity of his offence and his culpability. In fixing the sentence, the court shall consider all circumstances, which have an influence on the grading of the sentence.

(b) Observations on the implementation of the article

Slovenia has established sanctions for corruption offences that permit to take into account the gravity of the offence. It also established sentencing rules in its Criminal Code that aim to ensure that the gravity of the offence be taken into account. The case examples provided in articles 15-25 show that serious sanctions are enforced in practice in corruption cases.

Paragraph 2 of article 30

2. Each State Party shall take such measures as may be necessary to establish or maintain, in accordance with its legal system and constitutional principles, an appropriate balance between any immunities or jurisdictional privileges accorded to its public officials for the performance of their functions and the possibility, when necessary, of effectively investigating, prosecuting and adjudicating offences established in accordance with this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

Functional immunity exists in Slovenia for Deputies of the National Assembly (art. 83 of the Constitution) and for the members of the National Council (art. 100 of the Constitution). Further, judges enjoy immunity for their judicial decisions (art. 134 of the Constitution). Prosecutors and Ministers do not enjoy immunity.

The Constitution of The Republic of Slovenia

Article 83 (Immunity of Deputies)

No deputy of the National Assembly shall be criminally liable for any opinion expressed or vote cast at sessions of the National Assembly or its working bodies.

No deputy may be detained nor, where such deputy claims immunity, may criminal proceedings be initiated against him without the permission of the National Assembly, except where such deputy has been apprehended committing a criminal offence for which a prison sentence of over five years is prescribed.

The National Assembly may also grant immunity to a deputy who has not claimed such immunity or who has been apprehended committing such criminal offence as referred to in the preceding paragraph.

Article 100 (Immunity and Incompatibility of Office)

A member of the National Council may not at the same time be a deputy of the National Assembly. Members of the National Council enjoy the same immunity as deputies. Immunity is decided upon by the National Council.

Article 134 (Immunity of Judges)

No one who participates in making judicial decisions may be held accountable for an opinion expressed during decision-making in court. If a judge is suspected of a criminal offence in the performance of judicial office, he may not be detained nor may criminal proceedings be initiated against him without the consent of the National Assembly.

With regard to deputies of the National Assembly, the Rules of Procedure of the National Assembly (PoDZ-1) provide further provisions on waiving the immunity of deputies and judges of the Constitutional Court:

Rules of Procedure of the National Assembly (PoDZ-1)

Article 203

A deputy enjoys immunity from the time of the confirmation of his election until the expiry of his term.

Article 204

(1) Where there are grounds to order the detention of a deputy or where there are grounds to initiate criminal proceedings against a deputy who claims immunity, the competent state authority sends the request for permission to detain or initiate criminal proceedings to the President of the National Assembly.

(2) In the event a deputy has been detained or criminal proceedings have been initiated against him because he has been apprehended committing a criminal offence for which a prison sentence of over five years is prescribed, the competent state authority immediately sends to the President of the National Assembly the notification of detention or of the initiation of criminal proceedings. The competent state authority sends the notification of the initiation of criminal proceedings to the President of the National Assembly also when the deputy has not claimed immunity.

Article 205

(1) The President of the National Assembly immediately sends the request or the notification to the Commission for Public Office and Elections.

(2) In considering the request or the notification, the Commission for Public Office and Elections establishes whether the granting of immunity is indispensable for performing the office of deputy. As a general rule, it is deemed that the granting of immunity may be indispensable for performing the office of deputy in the event the competent state authority intends to detain or has already detained the deputy, but not where it intends to initiate or has already initiated criminal proceedings against such deputy.

(3) The Commission for Public Office and Elections may only exceptionally and for particularly justified reasons propose to the National Assembly that it subsequently grant immunity to a deputy who has been apprehended committing a criminal offence for which a prison sentence of over five years is prescribed or to a deputy against whom criminal proceedings have been initiated because he

has not claimed immunity. The Commission must thereby also take into consideration the reasons for which the deputy has not claimed immunity.

(4) In considering the request or the notification, the Commission for Public Office and Elections does not evaluate the evidence and does not judge the state of facts regarding the alleged criminal offence or whether the deputy is criminally liable.

Article 206

(1) The Commission for Public Office and Elections discusses the request or the notification at a closed session.

(2) The Commission for Public Office and Elections examines the request or the notification and proposes that the National Assembly grant or not grant immunity to the deputy.

Article 207

(1) The National Assembly decides to grant or not to grant immunity to the deputy without debate.

(2) On the proposal of the Commission for Public Office and Elections or a deputy group, the National Assembly may decide that decision-making thereon be carried out at a closed session. At such closed session, a debate is possible. An official notice of the decision of the National Assembly adopted at the closed session is issued to the public.

(3) In deciding whether to grant or not to grant immunity to the deputy, the National Assembly takes into consideration the criteria referred to in Article 205 of these Rules of Procedure.

Article 208

(1) In every case involving a deputy who has been detained the Commission for Public Office and Elections decides immediately whether to grant immunity.

(2) At its next session the National Assembly upholds, or revokes and alters the decision of the Commission for Public Office and Elections.

Article 209

(1) The National Assembly or, in the cases referred to in the preceding article, the Commission for Public Office and Elections immediately communicates its decision to grant or not to grant immunity to the deputy to the competent state authority.

(2) If the National Assembly subsequently grants immunity to a deputy pursuant to paragraph three of Article 205 of these Rules of Procedure, the criminal proceedings against such deputy may not be continued and the detained deputy must immediately be released. The relevant decision thereon is issued by the competent state authority.

Article 210

When the National Assembly or the Commission for Public Office and Elections grants permission to detain or initiate criminal proceedings against a deputy, the deputy may be detained or criminal proceedings may be initiated against him only for the criminal offence for which permission has been granted.

b) Procedure regarding the immunity of other holders of public offices

Article 211

The provisions of these Rules of Procedure on the procedure regarding the immunity of deputies apply mutatis mutandis to the procedure regarding the immunity of judges of the Constitutional Court.

Article 212

At the request of the competent authority, the National Assembly decides whether to permit the detention of or initiation of criminal proceedings against a judge suspected of having committed a criminal offence in the performance of his judicial office. The National Assembly decides whether to permit the detention of the judge after receiving the opinion of the Judicial Council.

Article 213

At the request of the competent authority, the National Assembly decides whether to permit the detention of the ombudsman, or his deputy, if he is suspected of having committed a criminal offence in the performance of his office.

Article 214

The provisions of these Rules of Procedure on the procedure regarding the immunity of deputies apply mutatis mutandis in the cases referred to in the two preceding Articles.

Immunity can only be waived for criminal offences, not for administrative violations or misdemeanours. According to Article 100 of the Constitution of Republic of Slovenia members of the National Council enjoy the same type of immunity as deputies of the National Assembly. Their immunity can be waived by the National Council and the procedure is similar to the procedure in National Assembly.

The National Assembly has a President who is elected by a majority vote of all deputies (Article 84 of the Constitution of the Republic of Slovenia). Regarding his immunity the same rules apply as for other members of the National Assembly.

Slovenian authorities explained that immunity does not exclude the initiation of criminal proceedings, but only the accusation. Pre-trial indictment and pre-trial procedures can be instituted, in which all investigative techniques including special investigative techniques, house search etc. can be applied. Also, procedures of the Anti-Corruption Commission, procedures for misdemeanors and disciplinary procedures can be carried out.

With regard to article 83 paragraph 2 of the Constitution ("except where such deputy has been apprehended"), Slovenian authorities explained that police detention for up to 48 hours is allowed.

As mentioned above, prosecutors do not enjoy immunity but there is a limitation of custody towards them:

State Prosecutor's Office Act (ZDT-1)1

Article 95

(Detention against a State Prosecutor)

(1) A state prosecutor shall not be detained in a criminal proceedings instituted against him on the suspicion of a criminal act committed during the performance of the state prosecutorial service without a preliminary permission by a panel of three judges of the competent higher court.

Case examples:

Slovenia has provided a number of case examples in which immunities of deputies of the National Assembly were lifted (statistical data about proceedings for waiving the immunity).

Term 1992–1996:

1. Igor Bavčar

- did not apply for immunity to be granted – National Assembly granted immunity
  - Defamation (II K 116/92)

2. Benjamin Henigman

- did not apply for immunity to be granted – National Assembly granted immunity
  - Violation of fundamental rights of employees, Forgery or Destruction of Business Documents (Kt 96/94)
- did apply for immunity to be granted – National Assembly granted immunity
  - Defamation (K 138/95)

3. Ivo Hvalica

- did apply for immunity to be granted – National Assembly granted immunity
  - Defamation (K 85/93, I K 455/93, I K 473/93, I K 3/94, I K 43/94 in K 430/95)

4. Jože Jagodnik

- did not apply for immunity to be granted – National Assembly granted immunity

[1] Official Gazette of the Republic of Slovenia, No. 58/2011.

- Defamation (Kt 2264/93)

5. Zmago Jelinčič Plemeniti

- did not apply for immunity to be granted – National Assembly did not grant immunity
  - Criminal solicitation to attempt to commit a criminal offence, instigation to commit a criminal offence (II Kt 446/92)
  - Endangering Life by Means of Dangerous Instruments in Brawl or Quarrel (II K 479/92)
  - Illegal Manufacture of and Trade in Weapons or Explosive Materials (II Kt 965/92)
  - Illegal Manufacture of and Trade in Weapons or Explosive Materials (II Kt 597/92)
  - Disloyalty (Kt 939/93)
- did not apply for immunity to be granted – National Assembly granted immunity
  - Slander (I Kt 790/92)
  - Slander (II K 344/92)
  - Insult (Kt 1744/93)
  - Defamation (Kt 2156/93)
  - Disclosure of Classified Information (Kt 2275/94)
  - Insult (Kt 2185/94)
  - Defamation (Kt 400/94)
  - Slander (I Kt 82/95)
- did apply for immunity to be granted – National Assembly granted immunity
  - Defamation (II K 451/93)

6. Mag. Janez Kocjančič

- did not apply for immunity to be granted – National Assembly did not grant immunity
  - Preventing Return to Work (II K 442/92)
  - Preventing Return to Work (I K 28/96)

7. Jožef Kocuvan

- did not apply for immunity to be granted – National Assembly did not grant immunity
  - Attempt of criminal offence of Presentation of Bad Cheques (Kpr 242/93)

8. Mag. Igor Omerza

- did not apply for immunity to be granted – National Assembly granted immunity
  - Defamation (II K 85/92)

9. Lojze Peterle

- did apply for immunity to be granted – National Assembly granted immunity
  - Defamation (K 250/95)

10. Marjan Podobnik

- did not apply for immunity to be granted – National Assembly did not grant immunity
  - Defamation (K 47/95)

11. Jana Primožič

- did apply for immunity to be granted – National Assembly did not grant immunity
  - Endangering Public Traffic by Dangerous Acts or Means (K 145/93)

12. Mag. Jože Protner

- did not apply for immunity to be granted – National Assembly granted immunity
  - Abuse of Position or Trust in Business Activity (I Kt 554/93)
  - Concluding a Damaging Contract (I Kt 901/94)

13. Dr. Jože Pučnik

- did not apply for immunity to be granted – National Assembly granted immunity
  - Slander (I K 301/95)

14. Dr. Peter Tancig

- did not apply for immunity to be granted – National Assembly granted immunity
  - Abuse of Trust (Kt 1305/93)
  - Abuse of Office or Official Duties (Kt 2009/94)
- did apply for immunity to be granted – National Assembly did not grant immunity
  - Abuse of Office or Official Duties (Kt 1/1327/95)

Term 1996–2000:

1. Ciril Ribičič

- did not apply for immunity to be granted – National Assembly did not grant immunity
  - Defamation (IK 373/96)

2. Jelko Kacin

- did not apply for immunity to be granted – National Assembly did not grant immunity
  - Causing a Traffic Accident through Negligence (K 48/96)

3. Zmago Jelinčič Plemeniti

- did not apply for immunity to be granted – National Assembly did not grant immunity
  - Insult and Defamation (K 596/95)
- did apply for immunity to be granted – National Assembly did not grant immunity
  - Illegal Manufacture of and Trade in Weapons or Explosive Materials (K 319/95)
- did not apply for immunity to be granted – National Assembly did not grant immunity
  - Violent Conduct (Kt -S 9/98)

4. Jože Zagožen

- did not apply for immunity to be granted – National Assembly did not grant immunity
  - Defamation (I K 263/97)

5. Pavel Rupar

- did not apply for immunity to be granted – National Assembly did not grant immunity
  - Defamation (Ks 112/98)
- did not apply for immunity to be granted – National Assembly did not grant immunity
  - Abuse of Office or Official Duties (Kpr 195/98)
- did not apply for immunity to be granted – National Assembly did not grant immunity
  - Slander (K 118/99-2)
- did not apply for immunity to be granted – National Assembly did not grant immunity
  - Defamation (K 332/98)

6. Janez Janša

- did not apply for immunity to be granted – National Assembly did not grant immunity
  - Actual Bodily Harm in Damaging Another's Object (I K 442/98)

7. Jakob Presečnik

- did apply for immunity to be granted – National Assembly granted immunity
  - Abuse of Power (Kt 121/95-R/S)

8. Franc Pukšič

- did not apply for immunity to be granted – National Assembly did not grant immunity
  - Defamation (IK 605/99)

Term 2000–2004:

1. Pavel Rupar

- did apply for immunity to be granted – National Assembly granted immunity
  - Slander (K 118/99-28)
- did apply for immunity to be granted – National Assembly did not grant immunity
  - Abuse of Office or Official Duties (K 92/2000-54)

2. Zmago Jelinčič Plemeniti

- did apply for immunity to be granted – National Assembly did not grant immunity
  - Violent Conduct (I K 546/98)

3. Jožef Jerovšek

- did apply for immunity to be granted – National Assembly did not grant immunity
  - Endangering Security at Work (Kpr 70/2001)

4. Dr. Slavko Gaber

- did not apply for immunity to be granted – National Assembly did not grant immunity
  - Defamation (I K 441/99)

5. Franc Pukšič

- did apply for immunity to be granted – National Assembly did not grant immunity
  - Defamation (II K 607/2001)

6. Zmago Jelinčič Plemeniti

- did apply for immunity to be granted – National Assembly did not grant immunity
  - Violent Conduct (I K 546/98)

7. Jerica Mrzel

- did apply for immunity to be granted – National Assembly did not grant immunity
  - Maltreatment, Threatening the Security of Another Person in Damaging Another's Object (II K 292/2000)

8. Anton Anderlič

- did not apply for immunity to be granted – National Assembly did not grant immunity
  - Defamation (I K 92/2003)

9. Zmago Jelinčič - Plemeniti

- did apply for immunity to be granted – National Assembly granted immunity
  - Damaging Another's Object (I K 655/2002)

Term 2004–2008:

1. Zmago Jelinčič Plemeniti

- did not apply for immunity to be granted – National Assembly did not grant immunity
  - Aiding to the criminal offence of Murder (K 341/2002)

2. Dimitrij Kovačič

- did not apply for immunity to be granted- National Assembly did not grant immunity
  - Defamation (K 341/2002)

3. Alojz Sok

- did not apply for immunity to be granted - National Assembly did not grant immunity
  - Slander (KT (0)660/03/ZL-dm)

4. Pavel Rupar

- did not apply for immunity to be granted - National Assembly did not grant immunity
  - Abuse of Office or Official Duties, Forgery or Destruction of an Official Paper, Book, File or Historical Archives, Accepting Bribes, Threatening the Security of Another Person (KT (1)248/04-16)

5. Pavel Rupar

- did not apply for immunity to be granted - National Assembly did not grant immunity
  - Abuse of Office or Official Duties (Kt (1)248/04-3)

6. Pavel Rupar

- did not apply for immunity to be granted - National Assembly did not grant immunity
  - Endangering Life by Means of Dangerous Instruments in Brawl or Quarrel (KT (0)152/05-3)

7. Pavel Rupar

- did not apply for immunity to be granted - National Assembly did not grant immunity
  - Slander (K 206/2003)

8. Breda Pečan

- did not apply for immunity to be granted - National Assembly did not grant immunity
  - Abuse of Office or Official Duties (KT 167/05 BMR)

9. Martin Mikolič

- did not apply for immunity to be granted - National Assembly did not grant immunity
  - Abuse of Office or Official Duties (Kpr. 292/2003)

10. Janko Veber

- did not apply for immunity to be granted - National Assembly did not grant immunity
  - Misfeasance in Office (Kt/0/116/05-Bš/ld)

11. Zmago Jelinčič Plemeniti

- did not apply for immunity to be granted - National Assembly did not grant immunity
  - Concealment (Kt(1) 5466/06-BU-mš

12. Zmago Jelinčič Plemeniti

- did not apply for immunity to be granted - National Assembly did not grant immunity
  - Defamation (I K 420/2006)

13. Zmago Jelinčič Plemeniti

- did not apply for immunity to be granted - National Assembly did not grant immunity
  - Insult (l K 390/2006)

<u>Term 2008–2011:</u>

1. Dr. Matej Lahovnik

- did not apply for immunity to be granted – National Assembly did not grant immunity
  - Insult (K 47/2008)

2. Janko Veber

- did not apply for immunity to be granted - National Assembly did not grant immunity
  - Incitement to Rebellion (K 100/2007-7)

3. Mag. Radovan Žerjav

- did not apply for immunity to be granted - National Assembly did not grant immunity
  - Slander (II K 283/2008)

4. Vili Trofenik

- did not apply for immunity to be granted - National Assembly did not grant immunity
  - Defamation (KT (1) 1353/08/MB-dm)

5. Zmago Jelinčič Plemeniti

- did not apply for immunity to be granted - National Assembly did not grant immunity
  - Insult (I K 3902/06)

6. Srečko Prijatelj

- did not apply for immunity to be granted - National Assembly did not grant immunity
  - Extortion and Blackmail, Illegal Manufacture of and Trade in Weapons or Explosive Materials (Kpr 32/2010)

7. Srečko Prijatelj

- did not apply for immunity to be granted - National Assembly did not grant immunity

- solicitation to the criminal offence of Unauthorised Acceptance of Gifts, solicitation to the criminal offence of Unauthorised Acceptance of Gifts, two cases of attempted Extortion and Blackmail (KT (1192/09) 234/10)

8. Srečko Prijatelj

- did not apply for immunity to be granted - National Assembly did not grant immunity
- Attempted Extortion and Blackmail (KT 234/10)

9. Srečko Prijatelj

- did not apply for immunity to be granted - National Assembly did not grant immunity
- Insult (II Ks 28452/10) (Ks 198/109)

10. Branko Marinič

- did not apply for immunity to be granted - National Assembly did not grant immunity
- solicitation to criminal offence of Forging Documents (Kt (0)1373/09-8RV/mp)

11. Janez Janša

- did not apply for immunity to be granted - National Assembly did not grant immunity
- Accepting Benefits for Illegal Intermediation (K 2457/2010)

12. Zmago Jelinčič Plemeniti

- did not apply for immunity to be granted - National Assembly did not grant immunity
- Public Incitement to Hatred, Violence or Intolerance (IV K 59798/2010)

13. Anton Anderlič

- did not apply for immunity to be granted – National Assembly did not grant immunity
- Disclosure of Classified Information (V K 63309/2010)

14. Zmago Jelinčič Plemeniti

- did not apply for immunity to be granted – National Assembly did not grant immunity
- Defamation, Insult (I K 35201/2010, II Ks 735/2010)

15. Janez Janša

- did not apply for immunity to be granted – National Assembly did not grant immunity
- Defamation (I K 80163/2010)

16. Zmago Jelinčič Plemeniti

- did apply for immunity to be granted – National Assembly did not grant immunity
- Defamation (I Kpr 82194/2010)

<u>Term 2011–2015:</u>

1. Branko Marinič

- did not apply for immunity to be granted - National Assembly did not grant immunity
- solicitation to the criminal offence of Forging Documents

2. Ivan Janša Janez

- did not apply for immunity to be granted - National Assembly did not grant immunity
- Accepting Benefits for Illegal Intermediation

3. Mag. Radovan Žerjav

- did not apply for immunity to be granted - National Assembly did not grant immunity
- six cases of Slander (II K 11674/2010)

4. Karel Viktor Erjavec

- did not apply for immunity to be granted - National Assembly did not grant
- Misfeasance in Office (Kp 78351/2010)

5. Dr. Gregor Virant

- did not apply for immunity to be granted - National Assembly did not grant immunity
  - Insult (Kp 42712/2010)

6. Mag. Marko Pogačnik

- did not apply for immunity to be granted - National Assembly did not grant immunity
  - Abuse of Position or Trust in Business Activity (Kpr 53791/2010)

7. Mag. Ivan Vogrin

- did not apply for immunity to be granted - National Assembly did not grant immunity
  - 19 cases of Business Fraud

8. Dragutin Mate

- did not apply for immunity to be granted - National Assembly did not grant immunity
  - Abuse of Office or Official Duties

9. Mag. Ivan Vogrin

- did not apply for immunity to be granted - National Assembly did not grant immunity
  - Abuse of Office or Official Duties

10. Mag. Ivan Vogrin

- did not apply for immunity to be granted - National Assembly did not grant immunity
  - Business Fraud

11. Mag. Ivan Vogrin

- did not apply for immunity to be granted - National Assembly did not grant immunity
  - Business Fraud

12. Mag. Ivan Vogrin

- did not apply for immunity to be granted - National Assembly did not grant immunity
  - Business Fraud

13. Mag. Ivan Vogrin

- did not apply for immunity to be granted - National Assembly did not grant immunity
  - Business Fraud

14. Mag. Ivan Vogrin

- did not apply for immunity to be granted - National Assembly did not grant immunity
  - Business Fraud

Slovenia also provided a number of case examples in which judges faced disciplinary proceedings (those are listed under paragraph 8 of the present article).

Further, in case mentioned above of the bribery of a judge (see above article 15 b)), the suspected judge has claimed immunity. The National Assembly of Slovenia decided not to grant immunity, so he remained in custody.

(b) Observations on the implementation of the article

Slovenia has regulated immunities for deputies of the National Assembly and the National Council, as well as for judges in the context of their judicial decisions. Immunity can be waived by the National Assembly. The existing system seems to strike an appropriate balance between immunities accorded to public officials for the performance of their functions and the possibility of effectively investigating, prosecuting and adjudicating corruption offences.

(c) Successes and good practices

The existing system seems to strike an appropriate balance between immunities accorded to public officials for the performance of their functions and the possibility of effectively investigating, prosecuting and adjudicating corruption offences, and Slovenia has provided a number of examples indicating that procedures on waiving immunity of deputies of the National Assembly are a frequent practice.

Paragraph 3 of article 30

3. Each State Party shall endeavour to ensure that any discretionary legal powers under its domestic law relating to the prosecution of persons for offences established in accordance with this Convention are exercised to maximize the effectiveness of law enforcement measures in respect of those offences and with due regard to the need to deter the commission of such offences.

(a) Summary of information relevant to reviewing the implementation of the article

Generally, prosecution in Slovenia is mandatory. Articles 161, 161 a, 162 of the Criminal Procedure Code provide exceptional discretionary powers for prosecutors:

Criminal Procedure Code
Article 161
(1) The public prosecutor shall dismiss a crime report if it follows from the crime report itself that the act reported is not a criminal offence subject to prosecution ex officio, if prosecution is barred by statute or the offence has been amnestied or pardoned, if other circumstances exist which bar prosecution, or if there is no reasonable cause for suspicion that the suspect has committed the reported criminal offence or when disproportion between the low importance of the criminal offence (its danger is insignificant due to the nature and gravity of the act or because the harmful consequences are insignificant or non-existent, or because of other circumstances in which the criminal offence was committed and because of the low degree of the perpetrator's guilt or his personal circumstances) and the consequences which would be caused by the criminal prosecution. The public prosecutor shall, within eight days, notify the injured party of the dismissal of the report and of the reasons for this (Article 60), and in cases, when a crime report was submitted by a state authority he shall notify this authority as well.
(2) If the public prosecutor is unable to conclude from the report itself whether the allegations contained in it are probable, or if information in the report does not provide sufficient basis to decide on requesting investigation, or if the public prosecutor has only heard rumours about a criminal offence and, in particular, if the perpetrator is not known, he may request the police, if he is unable to do so himself or through other authorities, to collect the necessary information and to take other measures within the time limit set by the public prosecutor with a view to discovering the criminal offence and the perpetrator thereof (Articles 148 and 149). The public prosecutor shall be entitled to ask the police at any time to notify him of what it has undertaken and the latter shall reply without delay.
(3) The public prosecutor may demand necessary information from government agencies, companies and other legal entities, and may for the same purpose summon the person who has submitted a crime report.
(4) The public prosecutor shall dismiss a crime report if, even after actions from the second and third paragraphs of this Article have been undertaken, any of the circumstances referred to in the first paragraph of this Article remain.
(5) The public prosecutor and other state authorities, companies and other legal entities shall in collecting and/or disclosing information act with consideration, taking care not to harm the dignity and reputation of the person to whom information refers.

Article 161.a
(1) The public prosecutor may transfer the crime report or the summary indictment for a criminal offence for which a fine or imprisonment of up to three years is prescribed and for criminal offences referred to in the second paragraph of this Article into the settlement procedure. In so doing, he shall take account of the type and nature of the offence, the circumstances in which it was committed, the personality of the perpetrator and his prior convictions for the same type of criminal offences or for other criminal offences, as well as degree of his criminal liability.

(2) If special circumstances exist, settlement may also be permitted for the criminal offences of aggravated bodily harm (first paragraph of Article 123 of the Criminal Code), grievous bodily harm (fourth paragraph of Article 124), grand larceny (point 1 of the first paragraph of Article 205), disavowal (fourth paragraph of Article 208) and damage to property (second paragraph of Article 220); if the crime report is submitted against a minor, this may also apply to other criminal offences for which the Criminal Code prescribes a prison sentence of up to five years.
(3) Settlement shall be run by the settlement agent, who is obliged to accept the case into procedure. Settlement may be only implemented with the consent of the suspect and the injured party. The settlement agent is independent in his work. The settlement agent shall strive to ensure that the contents of the agreement are proportionate to the seriousness and consequences of the offence.
(4) If the content of the agreement relates to the performance of community service, implementation of the agreement shall be prepared and managed by centres for social work in collaboration with the settlement agent and the public prosecutor.
(5) On receiving notification of the fulfilment of the agreement, the public prosecutor shall dismiss the report. The settlement agent shall also inform the public prosecutor of any failure of settlement and the reasons for such failure. The time limit for the fulfilment of the agreement may not be longer than three months.
(6) In the event of the dismissal of the report from the previous paragraph, the rights referred to in the second and fourth paragraphs of Article 60 of this Act shall not be enjoyed by the injured party, who must be informed thereof by the settlement agent before the agreement is signed.
(7) General instructions issued by the Public Prosecutor General shall define in greater detail the conditions and circumstances referred to in the first paragraph of this Article and the special circumstances referred to in the second paragraph of this Article which influence the transfer of the report to the settlement procedure.

Article 162

(1) The public prosecutor may, upon consent of the injured party, suspend prosecution of a criminal offence punishable by a fine or prison term of up to three years and of criminal offences referred to in the second paragraph of this Article if the suspect is willing to act as instructed by the public prosecutor and to perform certain tasks to allay or remove the harmful consequences of the criminal offence. These actions may be:
1) elimination of or compensation for damage;
2) payment of a certain contribution to a public institution or for purposes of charity or in a fund for compensation of damage to victims of criminal offences;
3) performance of community service;
4) fulfilment of a family maintenance obligation;
5) medical treatment in an appropriate medical institution;
6) attendance of psychological or other types of counselling;
7) complying with restraining orders to keep away from the victim, some other person or certain places.
(2) If special circumstances exist, criminal prosecution may also be suspended for the criminal offences of facilitating of taking of narcotic drugs or illicit substances in sport (first paragraph of Article 187 of the Criminal Code), family violence (first and second paragraph of Article 191), neglect and maltreatment of a minor (second paragraph of Article 192), grand larceny (point 1 of the first paragraph of Article 205), disavowal (fourth paragraph of Article 208), blackmail (first and second paragraph of Article 213), business fraud (first paragraph of Article 228), damage to property (second paragraph of Article 220), and the abuse of non-cash means of payment (second paragraph of Article 246); if the criminal report is submitted against a minor, this may also apply to criminal offences for which the Criminal Code prescribes a prison sentence of up to five years.
(3) If the public prosecutor imposes the task of rectifying damage from point 1 or the task from point 3 of the first paragraph of this Article, the execution of work shall be prepared and managed by centres for social work, in collaboration with the public prosecutor.
(4) If within a time limit defined by the state prosecutor the suspect fulfils the obligation undertaken and pays the costs in accordance with the seventh paragraph of this article the criminal complaint shall be dismissed.
(5) In the event of the dismissal of the report from the previous paragraph, the injured party shall not have the rights referred to in the second and fourth paragraphs of Article 60 of this Act. The public prosecutor shall inform the injured party of the loss of these rights before the injured party gives consent under the first paragraph of this Article.

(6) General instructions issued by the state prosecutor general shall define the manner and time limits for fulfilling the obligations referred to in the first paragraph of this Article, supervision over the implementation; they shall also define in detail special circumstances referred to in the second paragraph of this Article which affect the decision of the state prosecutor to defer prosecution.
(7) The suspect and the injured party each carry his or her own costs of the procedure of the deferred prosecution, unless they agree that the suspect will reimburse the costs of the injured party. Costs of fulfilment of obligations referred to in the first paragraph of this Article are not the costs of the criminal proceedings.

The principle of opportunity is therefore applied

- in *de minimis* cases (art. 161 paragraph 1)

- in settlement cases (art. 161 a) – in offences for which a fine or imprisonment of up to three years is prescribed

- in cases in which the accused consents to take certain measures to remove the damage done (art. 162) – in offences for which a fine or imprisonment of up to three years is prescribed.

Further, plea bargaining is foreseen in certain limits (see below art. 37 paragraph 1).

No concrete case examples were presented to indicate how Slovenia endeavoured to ensure that such discretionary legal powers relating to prosecution were exercised to maximize the effectiveness of law enforcement measures and with due regard to the need to deter the commission of corruption offences. However, Slovenian authorities noted that discretionary powers were only rarely exercised in corruption offences, in which the rule of mandatory prosecution normally applied.

(b) Observations on the implementation of the article

Slovenia is in compliance with the provision under review .

Paragraph 4 of article 30

4. In the case of offences established in accordance with this Convention, each State Party shall take appropriate measures, in accordance with its domestic law and with due regard to the rights of the defence, to seek to ensure that conditions imposed in connection with decisions on release pending trial or appeal take into consideration the need to ensure the presence of the defendant at subsequent criminal proceedings.

(a) Summary of information relevant to reviewing the implementation of the article

The following provisions of Slovenian legislation relate to the implementation of the provision under review:

Criminal Procedure Act

Chapter Seventeen

MEASURES TO ENSURE THE PRESENCE OF THE ACCUSED, TO PREVENT RE-OFFENDING AND TO ENSURE SUCCESSFUL CONDUCT OF THE CRIMINAL

PROCEEDINGS

1. Common provision

Article 192

(1) The measures which may be used to ensure the presence of the accused, to prevent re-offending and to ensure successful conduct of the criminal proceedings are: summons, compulsory appearance, promise by the accused not absent himself from his place of residence, restraining orders prohibiting approach to a specific place or person, reporting to the police station, bail, house arrest and detention.

(2) In deciding on which of the measures from the preceding paragraph to apply, the court shall take account of the conditions stipulated for individual measures. In selecting the measure, it shall also

ensure that it does not apply a stricter measure if a less strict measure would suffice for the purpose.

(3) These measures shall also be abolished ex officio when reasons which necessitated them disappear, or shall be replaced by more lenient measures if the relevant conditions are satisfied.

Provisional detention requires the risk that the accused flew, repeated the offence or influenced witnesses. The exact requirements for provisional detention are regulated in art. 201 of the Criminal Procedures Act:

Criminal Procedures Act

Article 201

(1) If a reasonable suspicion exists that a person has committed a criminal offence, detention of that person may be ordered:

1) if he is in hiding, if his identity cannot be established or if other circumstances exist which point to the danger of his attempting to flee;

2) if there is reasonable ground for concern that he will destroy the traces of crime or if specific circumstances indicate that he will obstruct the progress of the criminal procedure by influencing witnesses, accomplices or concealers;

3) if the seriousness of the offence, or the manner or circumstances in which the criminal offence was committed and his personal characteristics, history, the environment and conditions in which he lives or some other personal circumstances indicate a risk that he will repeat the criminal offence, complete an attempted criminal offence or commit a criminal offence which he has threatened.

(2) In the instance referred to in point 1 of the preceding paragraph the detention ordered solely because of the impossibility to establish the identity of a person shall last until the identity is established. In the instance referred to in point 2 of the preceding paragraph detention shall be cancelled as soon as the evidence on account of which detention was ordered has been secured.

(3) In particular, violations by the accused of the measures referred to in Articles 195, 195.a, 195.b, 196 and 199 of this Act shall be deemed to be special circumstances referred to in points 1, 2 and 3 of this Article.

Slovenian officials underlined that the mildest possible measure was imposed, always taking into account the necessity to ensure the presence of the accused. The gravity of the offence was another criterion which the judge took into account when defining the measures to be taken. It was noted that generally a suspect was first taken into custody for 48 hours by the police, while the requirements for provisional detention were assessed. After that time, often a milder measure was taken for the rest of the time of the investigation.

(b) Observations on the implementation of the article

Slovenia is in compliance with the provision under review, although no case examples were available.

Paragraph 5 of article 30

5. Each State Party shall take into account the gravity of the offences concerned when considering the eventuality of early release or parole of persons convicted of such offences.

(a) Summary of information relevant to reviewing the implementation of the article

The following provisions of Slovenian legislation relate to early release or parole of persons convicted of offences:

Criminal Code

Article 88

(1) The convict, who has served half of his sentence of imprisonment, may be released from a penal institution under the condition that until the term, for which he was sentenced, has elapsed, he does not commit another criminal offence.

(2) The convict, who has been sentenced to over fifteen years' imprisonment, may be released on parole after he has served three quarters of the sentence.
(3) The convict, who has been sentenced to life imprisonment, may be released on parole after he has served twenty-five years in prison.
(4) The statute shall prescribe the body responsible for deciding on parole and the procedure for deciding on parole.
(5) The convict may be released on parole when it is possible to reasonably expect that he will not repeat the criminal offence. In considering whether to release the convict on parole, they shall take into account in particular the possibility of re-offending, eventual criminal procedures taking place against the convict for criminal offences committed before he started serving prison sentence, the attitude of the convict towards the criminal offence committed and towards the injured party, the convict's conduct during the serving of the sentence, the success of treatment of addiction, and the conditions for the convict's reintroduction to life outside of prison.
(6) Exceptionally, the convict who has served only one third of his sentence may be also released on parole, if he complies with the condition under paragraph 5 of this Article and if special circumstances referring to convict's personality indicate that he will not repeat the criminal offence.
(7) The convict, who shall be released on parole, may be put under custodial supervision by the body responsible for deciding on the parole. Custodial supervision shall be performed by a counsellor who shall have the same tasks as in suspended sentence with custodial supervision.
(8) The instructions of the body responsible for deciding on the parole may include the following tasks to be performed by the convict on parole:
1) to submit himself to a course of medical treatment at an appropriate medical institution, with his consent also treatment of alcohol or drug addiction;
2) to attend sessions of appropriate vocational, psychological or other counselling service;
3) to train for a profession or to take up employment suitable to convict's health, skills, or inclinations;
4) to spend income according to the legal obligations related to family maintenance;
5) prohibition of association with certain persons;
6) restraining order to keep the convict away from the victim or some other person;
7) ban on access to certain places.
(9) The provisions of this Article shall also apply for release on parole from house prison. In assessing whether a convict should be granted a parole from house prison, compliance with restrictions regarding house prison shall be taken into account instead of the convicted person's behaviour during the serving of the sentence.

(b) Observations on the implementation of the article

Slovenia is in compliance with the provision under review, although no case examples were available.

Paragraph 6 of article 30

6. Each State Party, to the extent consistent with the fundamental principles of its legal system, shall consider establishing procedures through which a public official accused of an offence established in accordance with this Convention may, where appropriate, be removed, suspended or reassigned by the appropriate authority, bearing in mind respect for the principle of the presumption of innocence.

(a) Summary of information relevant to reviewing the implementation of the article

For judges, the suspension pending trial is regulated in articles 95 to 98 of the Judicial Service Act:

Judicial Service Act:

Suspension from Judicial Service

Article 95

If criminal proceedings are introduced against a judge because of well-founded suspicion of a criminal offence having been committed through the abuse of judicial office, the President of the Supreme Court must pronounce temporary removal from judicial service (hereinafter: suspension) on the judge.

If criminal proceedings are introduced against a judge because of a criminal offence that is prosecuted ex officio and for which it is possible to pronounce a sentence of more than two years of imprisonment and because of which the judge can be dismissed, the President of the Supreme Court may pronounce suspension.

The Judicial Council shall rule on the suspension of the President of the Supreme Court in the cases specified in the previous paragraphs.

Article 96

The judge may appeal to the Judicial Council against a decision on suspension, which must be reasoned, within fifteen days of receiving the ruling; the President of the Supreme Court may appeal to the National Assembly.

The appeal shall not stay execution of the ruling.

Article 97

The suspension shall last until the relevant body makes a final decision on the dismissal of the judge.

If the proceedings before a criminal court finish such that there is no basis for dismissing the judge pursuant to the present act, the suspension shall end on the day the ruling ending the proceedings in the first instance is issued, and on the day it becomes final the ruling and all its consequences shall be expunged.

In the case specified in the fourth paragraph of Article 91 of the present act, the suspension shall last no longer than until the final decision by the relevant body in the disciplinary proceedings is made.

Article 98

During suspension the judge shall receive wage compensation equal to one-half of the wage the judge would receive if working.

For prosecutors, the same is regulated in articles 93 and 94 of the Judicial Service Act:

Judicial Service Act:

Suspension from Prosecutorial Service

Article 93

If criminal proceedings are introduced ex officio against a prosecutor because of a criminal offence having been committed through the abuse of prosecutorial office, the State Prosecutor General must pronounce temporary removal from prosecutorial service (hereinafter: suspension) of the prosecutor.

If criminal proceedings are introduced against a prosecutor because of a criminal offence that is prosecuted ex officio and for which it is possible to pronounce a sentence of more than two years of imprisonment and because of which a prosecutor can be dismissed, the State Prosecutor General may pronounce suspension after receiving an opinion of the State Prosecutorial Council.

If criminal proceedings are introduced against a prosecutor by an injured party acting as a prosecutor, because of a criminal offence having been committed through the abuse of prosecutorial office or of a criminal offence for which it is possible to pronounce a sentence of more than two years of imprisonment and because of which a prosecutor can be dismissed, the State Prosecutor General may pronounce suspension after receiving an opinion of the State Prosecutorial Council.

The Government of the Republic of Slovenia shall rule on the suspension in the cases specified in the previous paragraphs on the basis of a reasoned proposal of a minister acquired after the opinion of the State Prosecutorial Council.

The ruling on suspension has to be reasoned.

Prosecutor’s offices immediately inform competent bodies on introduction of criminal proceedings against a prosecutor on the basis of provisions from the first to the fourth paragraph of this article.

If this law does not prescribe otherwise provisions on suspension of a judge will be used with regard to the procedure and rights of a prosecutor being suspended.

Appeal against a suspension

Article 94

Against a ruling on suspension a prosecutor or State Prosecutor General may file an appeal with the State Prosecutorial Council within 15 days from receiving of the ruling.

The appeal shall not stay execution of the ruling.

A prosecutor or the State Prosecutor General may present grounds for appeal orally at a session of a State Prosecutorial Council.

For other civil servants, there are no provisions on suspension pending criminal action.

(b) Observations on the implementation of the article

Slovenia can suspend judges and prosecutors after a criminal accusation, while no such provisions exist for other public officials, nor for removal and reassignment of public officials. It is recommended to consider taking measures to allow for the suspension of public officials, similar to those already existing for judges and prosecutors, when they are being accused of an offence established in accordance with the Convention, as well as their removal and reassignment.

Subparagraph 7 of article 30

7. Where warranted by the gravity of the offence, each State Party, to the extent consistent with the fundamental principles of its legal system, shall consider establishing procedures for the disqualification, by court order or any other appropriate means, for a period of time determined by its domestic law, of persons convicted of offences established in accordance with this Convention from:

(a) Holding public office;

(b) Holding office in an enterprise owned in whole or in part by the State.

(a) Summary of information relevant to reviewing the implementation of the article

With the criminal conviction, Slovenian judges can apply safety measures against the convicted person, including the ban on the performance of his/her profession (articles 69-71 CC):

Criminal Code CC-1 (CC-1A, CC-1B)

Chapter Six

SAFETY MEASURES

Article 69: Types of safety measures

The following safety measures may be imposed on perpetrators of criminal offences:

1) compulsory psychiatric treatment and confinement in a health institution

2) compulsory psychiatric treatment at liberty;

3) ban on the performance of profession;

4) revocation of the driving licence;

5) confiscation of items.

Article 70: Conditions for Application of Safety Measures

(1) The court may apply one or more safety measures to the perpetrator of a criminal offence, when the statutory conditions for their application are met.

(2) When imposing a safety measure, the court shall, according to the principle of proportionality,

take into consideration the gravity of the offence and offences which it reasonably believes might be committed by the offender if the safety measure was not imposed on him.

(3) Compulsory psychiatric treatment and confinement in a health institution and compulsory psychiatric treatment at liberty shall be independently imposed on a insane offender if there is no other way to ensure the safety of people. In addition to these two measures, the court may also impose other measures, including a ban on the performance of profession, revocation of the driving licence, and confiscation of items.

(4) The revoking of a driving licence and the confiscation of objects may be ordered for the perpetrator, when a prison sentence, a suspended sentence, or a judicial admonition has been imposed on him, as well as in the case of the withdrawal of a sentence.

(5) Barring to perform an occupation may be ordered if the perpetrator has been sentenced to imprisonment or when such a sentence has been suspended.

Article 71: Barring to Perform Occupation

(1) The court may bar the perpetrator from performing a certain profession, autonomous activity, or function if by abusing his occupation, position, activity, or function, he committed a criminal offence and if the court has probable cause to believe that his further performing of such an occupation would therefore be dangerous.

(2) The court shall determine the length of the measure outlined in the preceding paragraph. This may not be ordered for less than one year and not more than five years, running from the day the judgement became final, whereby the time spent in prison or in a health institution for treatment and detention shall not be credited towards the term of such a measure.

(3) When pronouncing a suspended sentence, the court may order that such a sentence be revoked if the perpetrator violates the terms of the bar to perform his occupation.

(4) The court may order that such safety measure be repealed, when a period of two years has expired dating from the day the measure commenced. The court may decide thereof on the request by the offender if it considers that reasons for the imposition of such a measure have ceased to exist.

Article 154 of the Civil Servants Act foresees that the contract of employment of a civil servant may be terminated if the civil servant is lawfully convicted for an offence:

CIVIL SERVANTS ACT

Article 154

The contract of employment of civil servant may be terminated according to the provisions of the Employment Act, according to the provisions of this law the contract of employment shall be terminated:

if the civil servant fail to pass the professional examination, set as the condition in the contrast of employment, unless the existence of the reasons the civil servant cannot be held responsible for; the employment is terminated the following day after the deadline specified in the employment contract.

if the civil servant is lawfully convicted for an intentionally committed criminal offence prosecuted out of official duty and sentenced to unconditional imprisonment for a period of more than six months; employment is terminated by a written order of a principle, within 15 days after handing the final judgment to a principal.

according to other terms, if provided by this Act or other particular law, governing employment in bodies.

On the date of the termination of employment, officials shall cease to hold their titles and their positions.

The provisions of the Employment Act shall apply for different terms of termination of the contract of employment, unless differently provided by this Act.

b) Observations on the implementation of the article

While Slovenia has no specific regulation of disqualification from holding public office or holding office in an enterprise owned in whole or in part by the State, the Criminal Code contains a general accessory sanction of ban on the performance of a certain profession which can be applied in these cases. No case examples have been provided.

Paragraph 8 of article 30

8. Paragraph 1 of this article shall be without prejudice to the exercise of disciplinary powers by the competent authorities against civil servants.

(a) Summary of information relevant to reviewing the implementation of the article

Slovenia has a disciplinary system that is regulated specifically for each sector. For example, the State Prosecutor's Office Act regulates the disciplinary system for State prosecutors. It specifically regulates that criminal and disciplinary responsibility are independent.

STATE PROSECUTOR'S OFFICE ACT (ZDT-1)2
Chapter Three
DISCIPLINARY PROCEDURES AND TEMPORARY DISMISSAL
FROM THE STATE PROSECUTORIAL SERVICE
Section One
General provisions
Article 79
(General)
(1) A disciplinary sanction may not be imposed on a state prosecutor except under the conditions and following the procedure as determined by this Act.
(2) The criminal liability and minor offence liability shall not preclude a state prosecutor's disciplinary responsibility.
(3) The disciplinary procedure shall not interfere with a state prosecutor's self-dependence in the performance of his state prosecutorial service.
(4) A disciplinary procedure shall be prompt.

Article 80
(Disciplinary Violations)
(1) A disciplinary sanction may be imposed on a state prosecutor who violates the state prosecutor's obligations determined by this Act and the State Prosecutor Rules, either intentionally or as a result of negligence.
(2) The acts which constitute violations of state prosecutor obligations shall be the following:
1. an act containing statutory elements of a criminal offence committed during the performance of a state prosecutorial office;
2. non-fulfilment or refusal to perform state prosecutor's obligations without statutory grounds;
3. reckless, late, inappropriate or negligent performance of state prosecutorial service;
4. acting in conflict with the general instructions issued under the provisions of this Act;
5. illegitimate or inappropriate use of financial or material assets;
6. releasing of official or other secrets determined by this Act or the State Prosecutor Rules;
7. abuse of position or transgressing official powers;
8. abuse of the right to the absence from work;
9. failure to attain the expected performance results in terms of volume, quality or success or the expected time framework set for particular procedural tasks for more than three months in a row out of unjustified reasons;
10. violation of the sequence and/or priority sequence of case consideration as established by this Act and the State Prosecutor Rules;
11. failure to report about the exceeded expected time of case resolution as determined by quality criteria on state prosecutor's performance or failure to apply an acceleratory legal remedy or failure to report the use of an acceleratory legal remedy to the head of a state prosecutor's office;

[2] Official Gazette of the Republic of Slovenia, No. 58/2011.

12. failure to report on the cases involving particularly serious crime, on the cases of general public interest that are particularly significant or on demanding legal issues that are relevant for the state prosecution and court case-law, on the state of such cases and the measures planned, and failure to report and submit the files of cases with reasonable grounds to be allocated to a Specialised State Prosecutor's Office or Specialised Department;
13. the performance of functions, work or activities which are incompatible with a state prosecutor office under the Constitution or this Act;
14. violation of provisions on a restricted right to a strike;
15. failure to inform the head of a state prosecutor's office on taking on the work which is subject to the assessment of incompatibility with the state prosecutorial office;
16. failure to report on the existing statutory reasons for exclusion of a state prosecutor or for carrying on the work in a matter where a reason for exclusion exists;
17. advance public expression of positions in a state prosecution case on which the state prosecutor's office or the court has not passed a final decision yet and/or in which an extraordinary legal remedy has been lodged, in conflict with statutory law;
18. conduct or acting of a state prosecutor which is in conflict with the self-dependence of a state prosecutor or state prosecutor's office or which is detrimental to the reputation of a state prosecutor's profession;
19. improper, indecent or offensive conduct or expression towards individuals, state authorities and legal persons in connection with the performance of the office of a state prosecutor and outside of it;
20. obstructing the operation of a state prosecutor's office in order to exercise his rights;
21. accepting gifts or other benefits related to the state prosecutorial service, abusing his position or reputation of the state prosecutor office for asserting his rights or benefits;
22. failure to submit or late submission of data on the assets owned;
23. neglecting or failure to perform mentorship tasks;
24. disrespect of issued decisions on the transfer or secondment of a state prosecutor;
25. disabling or hindering the implementation of provisions of the act on professional supervision of work, justice supervision and supervisory appeals;
26. Operating activities with other authorities, parties and their counsels and other persons in conflict with the provisions of this Act or the State Prosecutor Rules;
27. disregard of the measures for regular and effective performance of duties of the state prosecutor's office;
28. violation or failure to implement measures under special programmes of resolving the matters;
29. failure to comply with the obligation of expert training;
30. violation of regulations on safety and health at work and on fire and explosion protection or measures for ensuring security at a state prosecutor's office in compliance with the State Prosecutor Rules and other regulations;
31. violation of provisions of an implementing regulation on the use of service robe.

(3) More serious violations under this Act include the acts referred to in points 1, 2, 3, 4, 6, 7, 9, 13, 14, 16, 17, 21, 22, 24, 25, 27 and 28 of the preceding paragraph, and the act referred to in point 5 of the preceding paragraph only if it involves the illegitimate use of financial or material assets, and the act referred to in point 12 of the preceding paragraph only if it results in the failure of the head of a state prosecutor office to undertake the measures necessary in terms of the matter's importance.

(4) If the Minister under the provisions of this Act proposes the dismissal of a state prosecutor to the Government of the Republic of Slovenia on the grounds of a final judgment for a criminal offence but the Government fails to dismiss him, the Minister shall file a request for the institution of a disciplinary procedure.

Article 81
(Disciplinary Sanctions)

(1) Disciplinary sanctions under this Act shall include:
1. a written reprimand;
2. reduced salary;
3. suspension of promotion;
4. secondment to another state prosecutor's office;
5. dismissal from the state prosecutorial office.

(2) Disciplinary sanctions shall be imposed as main sanctions and reduced salary may be imposed as the main or secondary sanction.

(3) Disciplinary sanctions shall be imposed in proportion to the severity of the committed disciplinary violation.

Further, Slovenia provided the following examples for disciplinary proceedings against judges:

Immunities of judges:

According to the data submitted by the Disciplinary Court, the disciplinary proceedings that took place from 2008 to 2011 were for the following motives:

2008 (three cases):

- One was initiated for action or behaviour on the part of the judge that conflicts with the judge's impartiality or that damages the reputation of the judicial profession (Article 81/2 – point 14 of the Judicial Service Act). The investigation took place, but after the investigation the disciplinary prosecutor dropped the charges so the procedure was stopped.
- One referred to a breach of the case roster or priority handling of cases defined by law or the court rules (Article 81/2 – point 9 of the Judicial Service Act);. The judge was acquitted.
- One case addressed the failure to achieve the expected work results for more than three months consecutively without justifiable grounds (Article 81/2 – point 8 of the Judicial Service Act). As the judge retired during the procedure, the disciplinary prosecutor withdrew the proposition for an investigation and the procedure was stopped.

2009 (one case):

The case referred to the unconscientious, late, inappropriate or negligent performance of judicial service, for breach of the case roster or priority handling of cases defined by law or the court rules and for action or behaviour on the part of the judge that conflicts with the judge's impartiality or that damages the reputation of the judicial profession (Article 81/2 – points 3, 9 and 14 of the Judicial Service Act). The judge was found liable for the charges and was sentenced with the lowering of the salary for 20% for a period of 6 months.

2010 (one case):

The case was initiated for the unconscientious, late, inappropriate or negligent performance of judicial service (Article 81/2 – point 3 of the Judicial Service Act). The investigation took place, but after the investigation the disciplinary prosecutor dropped the charges so the procedure was stopped.

2011 (nine cases):

One of them was initiated for commission of an act that has the statutory definition of a criminal offence while holding judicial office (Article 81/2 – point 1 of the Judicial Service Act). The investigative procedure is in place.
Six cases were initiated for unconscientious, late, inappropriate or negligent performance of judicial service (Article 81/2 – point 3 of the Judicial Service Act). In one case the investigative procedure is in place. In one case the procedure was stopped. In one case the judge was found not liable for the charged offences. In two cases the judges were found liable for the offences committed and their promotion was held for the period of 1 year. In one case judge was found liable for the charges and was sentenced with the lowering of the salary for 5% for a period of 2 years. The decision is not final
yet, since an appeal has been filed.
One case was initiated for breach of the case roster or priority handling of cases defined by law or the court rules (Article 81/2 – point 9 of the Judicial Service Act). The investigative procedure is in place. One case was initiated for action or behaviour on the part of the judge that conflicts with the judge's impartiality or that damages the reputation of the judicial profession (Article 81/2 – point 14 of the Judicial Service Act).The judge was found liable of the offences committed and got a written warning.

With regard to the disciplinary responsibility of civil servants, to the status of civil servants in the public administration the Employment Relations Act shall apply by analogy with the employees from the private sector. A civil servant who violates contractual or other obligations deriving from employment relationship, may be given upon establishing a violation of disciplinary liability a reprimand or other disciplinary sanction (i.e. fine, revocation of benefits if defined in a collective labour agreement for a particular trade) by the employer. However as of 31. 12. 2005 when the Act amending the Civil Servants Act came into force (Official Gazette of the Republic of Slovenia, No. 113/05) the disciplinary sanction should not change the employment legal position of a civil servant permanently, thus not allowing

termination of an employment relationship but rather allowing giving a reprimand or a fine of up to a maximum amount of 15 % of a full-time salary paid for the month in which a violation occurred (in cases of minor disciplinary violations) or up to a maximum amount of 20-30 % of a salary (in cases of major disciplinary violations).

(b) Observations on the implementation of the article

Disciplinary procedures and criminal procedures are independent. This is specifically regulated in the State Prosecutors' Act. Slovenian authorities stated that it also applied to disciplinary procedures in other sectors.

Paragraph 10 of article 30

10. States Parties shall endeavour to promote the reintegration into society of persons convicted of offences established in accordance with this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

The institutions (prisons) offer to the convicted person assistance while serving his sentence. They offer managing and planning the social integration after release on the basis of a personal plan – including the individual, group and community programs that are implemented in the institution and outside it in the living environment. In addition to the convicted person and the prison staff Social Work Centres, Employment service, Housing organizations and Public institutions in the field of health and education are involved in planning, unless the convicted person refuses. NGO, charities and other civil society organizations also offer support to the convicted person.

A convicted person may in accordance with the personal plan be included in the seeking employment program at the Employment service and can also be employed, within six months before the release. The convicted person can also be registered as unemployed at the Regional Office.

Criminal Code CC-1 (CC-1A, CC-1B)

Chapter Nine

REHABILITATION, ANNULMENT OF CONVICTION AND CONDITIONS FOR RELEASE OF INFORMATION FROM CRIMINAL RECORD

Legal Status of the Offender after His Sentence Is Served Article 81

(1) After the sentence has been served paid or enforced in any other way in accordance with the law, remitted or barred by the statute, the former offender shall enjoy all rights contained in the constitution, laws and other regulations, and may exercise all rights other than those, which he is deprived of owing to the application of a safety measure or the legal consequences of the conviction.

(2) The preceding paragraph shall also apply to offenders released on parole.

Legal Rehabilitation and Annulment of Conviction Article 82

(1) By means of legal rehabilitation, the conviction shall be removed from the criminal record, the legal consequences of the conviction shall cease to apply, and the offender shall be deemed never to have been convicted.

(2) The conviction shall be understood to mean any final judgement as well as any modification of such a judgement by means of amnesty or pardon.

(3) The conviction shall be removed from the criminal record within the prescribed period of time from the day the sentence was served, remitted or barred, unless in this period the offender commits a further criminal offence.

(4) Time limits under the preceding paragraph shall be as follows:

1) one year from the final judgement, in which a judicial admonition was administered to the offender or his sentence was remitted;

2) one year from the expiry of the term of suspension if the sentence was suspended;

3) three years for a fine, accessory sentence, or a prison sentence not exceeding one year; 4) five years for a prison sentence of between one and three years;

5) eight years for a prison sentence of between three and five years; 6) ten years for a prison sentence of between five and ten years;

7) fifteen years for a prison sentence of between ten and fifteen years.

(5) A prison sentence of over fifteen years shall not be removed from the criminal record.

(6) The conviction may not be removed from the criminal record as long as safety measures apply to the offender.

(7) A safety measure of compulsory psychiatric treatment and confinement in a health institution and compulsory psychiatric treatment at liberty that has been imposed independently shall be deleted within a period of three years from the time when it ceases to be implemented or its implementation is statute-barred.

Judicial Rehabilitation Article 83

Upon a request by the offender, the court may rule that the conviction be removed from the criminal record and the offender be deemed never to have been convicted, provided that half of the statutory prescribed period has elapsed, by expiry of which the conviction is removed, and with the further proviso that during this period the offender has not committed any further criminal offence. In deciding whether to remove the conviction, the court shall consider the offender's behaviour after he has served the sentence, the nature of the offence he committed, and other circumstances relevant to the removal of the conviction.

(b) Observations on the implementation of the article

Slovenia foresees measures for the rehabilitation of persons convicted of corruption offences.

Article 31. Freezing, seizure and confiscation

Subparagraph 1 (a) of article 31

1. Each State Party shall take, to the greatest extent possible within its domestic legal system, such measures as may be necessary to enable confiscation of:

(a) Proceeds of crime derived from offences established in accordance with this Convention or property the value of which corresponds to that of such proceeds;

(a) Summary of information relevant to reviewing the implementation of the article

Slovenia has regulated both conviction-based and non-conviction based confiscation of proceeds of crime.

Conviction-based confiscation

The conviction-based system is regulated in articles 74 to 77 c) of the Criminal Code and articles 498 to 503 of the Criminal Procedure Code. Although generally regulating a conviction-based system, articles 498 to 501, 503 CPA provide for certain exceptional cases in which also in the absence of a conviction, property can be confiscated, mostly for preventive reasons.

The Slovenian confiscation system is a value based system (article 75 CC). The object or the link between the offence and the specific object do not have to be found or proven. The value is determined in the proceedings by general evidentiary rules.

Extended confiscation is regulated in articles 77 a) to c) for proceeds of organized crime.

Criminal Code CC-1 (CC-1A, CC-1B)

Confiscation of Objects

Article 73

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

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

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

Grounds for Confiscation of Property

Article 74

(1) Nobody shall retain the property gained through or owing to the committing of a criminal offence.

(2) The property shall be confiscated according to the judgment passed on the criminal offence under conditions laid down in this Criminal Code.

Method of Confiscation of Property

Article 75

(1) Money, valuables and any other property benefit gained through or owing to the committing of a criminal offence shall be confiscated from the perpetrator or recipient (hereinafter, the recipient); if confiscation cannot be carried out, property equivalent to the property benefit shall be confiscated from them.

(2) When the property benefit or property equivalent to the property benefit cannot be confiscated from the perpetrator or other recipient, the perpetrator shall be obliged to pay a sum of money equivalent to this property benefit. In justified instances, the court may allow the sum of money equivalent to the property benefit to be paid by instalments, whereby the period of payment may not exceed two years.

(3) Property benefit gained through or owing to the committing of a criminal offence may also be confiscated from persons, to which it was transferred free of charge or for a sum of money that does not correspond to its actual value, if such persons knew or could have known that this property had been gained through or owing to the committing of a criminal offence.

(4) When a property benefit gained through or owing to the committing of a criminal offence has been transferred to close relatives of the perpetrator of the criminal offence (relations from Article 224 of this Criminal Code) or when, for reason of the prevention of confiscation of property benefits under paragraph 1 of this Article, any other property has been transferred to such persons, this property shall be confiscated from them unless they can demonstrate that they paid its actual value.

(5) If proceeds of crime have been acquired by several persons acting together, their respective proportions of proceeds shall be confiscated; if these proportions cannot be precisely determined, they shall be determined by the court after consideration of all circumstances of the case.

Confiscation of property acquired through crime committed by a criminal organisation

Article 77a

(1) Pursuant to the provisions of this chapter, proceeds or property from crime or related to crime that a criminal organisation has acquired or has at its disposal shall be confiscated.

(2) The property of an offender who has committed a criminal offence in a criminal organisation for which the court establishes that is derived from criminal activities in that criminal organisation shall also be confiscated as proceeds from crime.

Confiscation of property acquired through crime

Article 77b

Pursuant to the provisions of this chapter, property that the offender or other persons whose property is confiscated use exclusively or mostly to their own benefit with the consent of persons to whom this property belongs, if these persons knew or should have known that the property was acquired through crime or that it was used to prepare, commit or conceal crime or that it was acquired with the intention of being used for crime, shall also be confiscated as property acquired through crime or related to crime.

Presumption of a gratuitous transfer

Article 77c

(1) Irrespective of the legal basis regarding transfer, it is presumed that proceeds of crime or property subject to confiscation pursuant to the provisions of this chapter has been transferred gratuitously or for payment that does not correspond to its actual value if the offender or his close relatives (relationships referred to in Article 224 of this Code) have transferred it, directly or indirectly, to a company or other legal entity that is majority owned by them or in which they have the right to exercise a dominant influence or control.

(2) Proceeds of crime or property shall not be confiscated from the company or entity referred to in the preceding paragraph if the property or entity proves that it has paid its actual value.

Criminal Procedure Act

Article 498

(1) Objects which pursuant to criminal law may or must confiscated shall be confiscated even when criminal proceedings do not end in a verdict of guilty if there is a danger that they might be used for a criminal offence or where so required by the interests of public safety or by moral considerations.

(2) A special ruling thereon shall be issued by the authority before which proceedings were conducted at the time when proceedings ended or were discontinued.

(3) The court shall render the ruling on the confiscation of objects from the first paragraph of this Article even where a provision to that effect is not contained in the judgement by which the defendant was found guilty.

(4) A certified copy of the decision on the confiscation of objects shall be served on the owner if his identity is known.

(5) The owner of the objects shall be entitled to appeal against the decision referred to in the second and third paragraphs of this Article if he considers that statutory grounds for confiscation do not exist. If the ruling from the second paragraph of this Article was not rendered by the court, the appeal shall be decided by the panel (sixth paragraph of Article 25) of the court which would have had the jurisdiction to adjudicate in first instance.

Article 498.a

(1) Except in instances where criminal proceedings are concluded with a judgement by which the accused is found guilty, money or property of unlawful origin referred to in Article 245 of the Criminal Code and illegally given or accepted bribes referred to in Articles 151, 157, 241, 242, 261, 262, 263 and 264 of the Criminal Code shall also be confiscated:

1) if those elements of criminal offences referred to in Article 245 of the Criminal Code which indicate that money or property from the aforementioned Article originate from criminal offences are proven, or

2) if those elements of criminal offences from Articles 162, 157, 241, 242, 261, 262, 263 and 264 of the Criminal Code which indicate that a reward, gift, bribe or any other form of a material benefit was given or accepted are proven.

(2) The panel shall issue a special ruling on this (sixth paragraph of Article 25) at the reasoned motion of the public prosecutor; prior to this, the investigating judge shall, at the request of the panel, collect data and investigate all the circumstances of importance for the determination of unlawful origin of money or property or illegally given or received bribes.

(3) A certified copy of the ruling from the preceding paragraph shall be served on the owner of the confiscated money or property or bribe, if he is known. If the owner is unknown, the ruling shall be posted on the bulletin board of the court and, after eight days, the unknown owner shall be deemed to have been served.

(4) Owners of confiscated money or property or bribes shall have the right to appeal against the ruling referred to in the second paragraph of this Article if they believe that there were no legal grounds for the confiscation.

Article 499

(1) Proceeds gained through the commission of a criminal offence or by reason of the commission thereof shall be determined in criminal proceedings ex officio.

(2) The court and other agencies conducting the proceedings shall be bound to gather evidence and inquire into circumstances material to the determination of proceeds.

(3) If the injured party has filed an indemnification claim to recover the objects acquired by the commission of a criminal offence or to receive the monetary equivalent thereof, the proceeds shall only be determined for that part which exceeds the indemnification claim.

Article 500

(1) Where the confiscation of proceeds from another recipient of the proceeds is indicated (Articles 75, 77, 77a and 77b) the latter shall be summoned for questioning in preliminary procedure and at the main hearing. If a legal entity is involved, summons shall be served on its representative. In the summons, the latter shall be informed that proceedings may be conducted in his absence.

(2) The representative of a legal person shall be examined at the main hearing, after the accused. The same shall apply in respect of another recipient of proceeds if he was not summoned as a witness.

(3) The recipient of proceeds and the representative of a legal person shall, in connection with determination of proceeds, be entitled to move for evidence to be taken and, with the permission of the presiding judge, to put questions to the accused, witnesses and experts.

(4) The exclusion of the public from the main hearing shall not apply in respect of the recipient of proceeds and the representative of a legal person.

(5) If the court only finds at the main hearing that the issue of confiscation of proceeds demands to be considered, it shall interrupt the main hearing and summon the recipient of the proceeds or the representative of the legal person.

Article 501

The court shall fix the amount of proceeds using its discretion if an accurate determination would entail undue difficulties or the proceedings would thereby be unduly protracted.

Article 503

(1) The court may impose confiscation of proceeds in the judgement by which it finds the defendant guilty, in the ruling on judicial admonition or the ruling on educational measure, as well as in the ruling on security measure of compulsory psychiatric treatment and confinement in a health institution and compulsory open psychiatric treatment in compliance with the Criminal Code.

(2) In the operative part of the judgement or ruling, the court shall specify the object and the sum confiscated. Where good grounds exist the court shall permit the payment of proceeds in instalments, fixing the time limit and the amounts thereof.

(3) Where the court has imposed the confiscation of proceeds on the recipient or a legal person, a certified copy of the judgement or ruling shall be served on the recipient of proceeds or the representative of a legal person, respectively.

Non-conviction based confiscation

The non-conviction based forfeiture system is a civil procedure regulated in the Forfeiture of Assets of Illegal Origin Act (ZOPNI) and refers to “assets of illegal origin”. Once it is established that assets are of illicit origin, they are forfeited and become property of the Republic of Slovenia.

Forfeiture of Assets of Illegal Origin Act (ZOPNI)
Assets of illegal origin
Article 5
(1) The assets of a Suspect, an Accused Person, a Convicted Person or a Testator shall be deemed to be of illegal origin if there are reasonable grounds to suspect that they have committed a listed criminal offence, unless it has been demonstrated that such assets have been acquired from lawful income, i.e. in a lawful manner.

(2) Assets shall be presumed not to have been acquired from legal sources of income, that is in a lawful manner, if there is a gross disproportion between the amount of assets and income less taxes and contributions paid by the persons referred to in the preceding paragraph over the period of time in which the assets have been acquired.
(3) The value of the total assets which are owned, possessed, used, enjoyed, held or transferred to related parties by the persons referred to in the preceding paragraph or which have been blended together with the assets of such related parties or which have been passed to the aforementioned persons' legal successors shall be taken into account in determining this disproportion.

Commencement of the procedure
Article 26
(1) The civil proceedings for the forfeiture of assets of illegal origin shall commence by a lawsuit brought against the owner by a member of the Specialised State Prosecutor's Office of the Republic of Slovenia.
(2) The lawsuit shall include all elements under the act governing civil procedure. The lawsuit shall be accompanied by a written financial investigation report and court decisions on temporary security for the permanent forfeiture or temporary forfeiture of assets of illegal origin issued in accordance with this Act.

Burden of proof
Article 27
(1) During the civil proceedings, the plaintiff shall state the facts and submit the evidence that give rise to the suspicion of the illegal origin of the defendant's assets in accordance with the provisions of this Act.
(2) If the assets of illegal origin have been transferred to a related party, the plaintiff shall also state in the civil proceedings the facts and submit evidence of the transfer carried out free of charge or of consideration that is disproportionate to the actual value of the assets and, in the case of a closely related party or an immediate family member, the facts and evidence that give rise to the presumption of a gratuitous transfer of assets.
(3) The defendant may challenge the presumption referred to in paragraph (2) of Article 5 of this Act if he proves that it is likely that the assets are not of illegal origin, and may challenge the presumption referred to in Article 6 of this Act if he proves that it is likely that he has paid the actual value of the assets.

Article 34

(1) The court shall deliver a judgment granting the claim and establishing that particular assets are of illegal origin, whereupon these assets shall be forfeited and shall become property of the Republic of Slovenia.

(2) If the court refuses the claim, the court shall not abolish temporary security and return the temporarily forfeited assets prior to the expiry of one month after the date of valid service of the decision on DURS.

Non-conviction based or civil forfeiture is applicable to not all, but a number of corruption offences:

Article 4

10. "Criminal offence" shall mean a criminal offence defined by the Criminal Code (hereinafter: KZ-1):

- …
- the acceptance of bribes (Article 261 of KZ-1);
- giving bribes (Article 262 of KZ-1);
- the acceptance of benefits for illegal intermediation (Article 263 of KZ-1);
- giving gifts for illegal intermediation (Article 264 of KZ-1);
- criminal association (Article 294 of KZ-1);
- …
- other criminal offences committed in a criminal organization; or
- other premeditated criminal offences punishable by five years or more in prison if they are the source of assets of illegal origin.

Statistical information

Slovenian authorities indicated that they were preparing a new electronic system which will enable them to follow this data.

The statistics available indicate that in 2010 the courts confiscated proceeds of the value of 487.369,00 EUR. Types of case in which the proceeds were confiscated were referring to the following offences: Fraud, Business Fraud, Acceptance of Bribes, Giving of Bribes, Exploitation through Prostitution, Unlawful Manufacture and Trade of Narcotic Drugs, Illicit Substances in Sport and Precursors to Manufacture Narcotic Drugs, Concealment, Breach of Trust, Grand Larceny, Tax Evasion.

There have no cases been brought under the ZOPNI yet, because it is a new law.

(b) Observations on the implementation of the article

Slovenia is compliant with the provision under review. It is noted that asset tracing and confiscation has to be carried out ex officio.

Subparagraph 1 (b) of article 31

1. Each State Party shall take, to the greatest extent possible within its domestic legal system, such measures as may be necessary to enable confiscation of:

(b) Property, equipment or other instrumentalities used in or destined for use in offences established in accordance with this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

Slovenia has provisions on the confiscation of instrumentalities used in or destined for use in offences in article 73 of the Criminal Code:

Criminal Code CC-1 (CC-1A, CC-1B)

Confiscation of Objects

Article 73

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

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

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

Non-conviction based confiscation based on the ZOPNI only relates to proceeds of crime.

(b) Observations on the implementation of the article

Slovenia is in compliance with the provision under review.

c) Successes and good practices:

Statistics about confiscated assets has been provided, and a new programme will be in place in order to track the amount of confiscated assets for in statistics disaggregated by offence.

Paragraph 2 of article 31

2. Each State Party shall take such measures as may be necessary to enable the identification,

tracing, freezing or seizure of any item referred to in paragraph 1 of this article for the purpose of eventual confiscation.

(a) Summary of information relevant to reviewing the implementation of the article

Regulations on seizure and freezing are contained in the Criminal Procedure Act for conviction-based confiscation, and in the ZOPNI for non-conviction based confiscation.

Conviction-based confiscation

Criminal Procedure Act

Article 502

(1) When the confiscation of proceeds is taken into consideration in the criminal procedure and there is a danger that the accused alone or through other persons should use these proceeds for a further criminal activity or to conceal, alienate, destroy or otherwise dispose of it in order to prevent or render substantially difficult their confiscation after the completed criminal procedure, the court shall order, on a motion of the public prosecutor, a provisional securing of the request for the confiscation of proceeds.

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

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

Article 502.a

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

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

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

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

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

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

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

(8) When the participants of the hearing make a statement about all the issues and produce evidence

if necessary to decide on the objection, the court shall decide on the objection. By the ruling on the objection, the court shall dismiss the objection by applying Article 375 mutatis mutandis, declare the objection admissible and repeal or amend the ruling ordering the provisional securing, or reject the objection.

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

Article 502.b

(1) In the ruling ordering provisional securing, the court shall specify the property which is the subject to the provisional securing, the manner of securing (first paragraph of Article 271, first paragraph of Article 272 and first paragraph of Article 273 of the Execution of Judgements in Civil Matters and Insurances of Claims Act) and the duration of the measure. The ruling shall include an explanation.

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

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

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

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

Article 502.c

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

(2) On a reasoned motion of the public prosecutor, the suspect or accused or the person against whom a provisional securing was ordered and taking into consideration the criteria referred to in the first paragraph of Article 502 of this Act, the court may order a new manner of securing and repeal the former ruling on provisional securing. Prior to its decision on the motion, the court shall submit the motion to other participants to make a statement about it and set a reasonable time limit for reply. The decision repealing the measure shall be executed after the execution of the decision by which the new manner of provisional securing is ordered.

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

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

Article 502.è

The court must take a decision on the motion for ordering, extension, amendment or abolition of provisional securing particularly speedily. If provisional securing was ordered, the authorities in the

pre-trial procedure must proceed in with particular speed, and the criminal procedure shall be considered preferential.

Article 502d

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

Article 502e

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

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

Non-conviction based confiscation

Article 20 ZOPNI foresees freezing for civil forfeiture.

Forfeiture of Assets of Illegal Origin Act (ZOPNI)

Conditions for temporary security of forfeiture

Article 20

(1) The court shall order temporary security for the forfeiture of assets of illegal origin on the proposal of the state prosecutor provided that the following conditions have been satisfied:

1. that there are reasonable grounds to suspect that a Suspect, an Accused Person, a Convicted Person or a Testator has committed a listed criminal offence;
2. the data and evidence gathered for the period under financial investigation show a clear discrepancy between the income less taxes and contributions paid by a Suspect, an Accused Person, a Convicted Person or a Testator and the value of assets owned, used, enjoyed or held and transferred to related parties by such persons or passed by such persons to their respective successors;
3. that there is a risk of the owner using these assets for criminal purposes, either alone or through other persons, or there is a risk of the owner hiding, disposing, destroying or otherwise holding these assets with a view to preventing or making the forfeiture of these assets more difficult; and
4. that the assets which are the subject of the application for temporary security under this Act are not the subject of the security or forfeiture of the proceeds from or relating to a listed criminal offence in accordance with the provisions of the act governing criminal proceedings.

(2) The subject of security under this Act may also be the assets for which temporary security of the forfeiture of the proceeds has been ordered and subsequently revoked if a change to or cancellation of the provisional security ordered in the trial proceedings has remained in force due to a procedure planned to be introduced by the competent tax authority.

Order for temporary security
Article 21

(1) Temporary security shall be ordered for a Suspect, an Accused Person, a Convicted Person or a Testator for which there are reasonable grounds to suspect that they hold assets of illegal origin, or for a Legal Successor or a Related Party provided there are reasonable grounds to suspect that the assets of illegal origin have been transferred to such persons.
(1) The court order shall include data on the owner, a description of the acts serving as evidence of a listed criminal offence, the time and place of its commission, and the statutory definition of such criminal offence, the assets that are the subject of security and the method and duration of security. The decision shall be substantiated.

(3) The court shall establish the amount of assets of illegal origin and order security to be provided on the basis of the evidence submitted by the state prosecutor. The court shall not enter into an assessment of the legality of the bases for the acquisition of assets, but shall restrict itself only to an assessment of proportionality on the basis of the data submitted.
(4) If the decision on temporary security cannot be served on the owner of the assets since his address is unknown or cannot be ascertained, the court shall designate ex officio a proxy for the temporary security procedure.

Statistical information:

In 2010, the courts froze property in 23 cases in the amount of 80,14 million EUR.

The following statistics refer to different regions of the country:

TEMPORARY FREEZING ORDERS : € 270.488.449,19

DPP CELJE

€ 2.013.296,00
€ 106.114,00
€ 49.870,00
€ 3.588,00
€ 250.611,00
€ 20.000,00
€ 2.443.479,00

DPP KOPER

€ 145.500,00
€ 331.000,00
€ 214.127,04
€ 4.689.919,00
€ 532.371,09
€ 205.555,83
€ 514.500,00
€ 277.277,34
€ 51.616,00
€ 6.961.866,30

DPP KRŠKO

€ 20.000,00
€ 220.000,00
€ 121.025,94
€ 98.174,00
€ 459.199,94

DPP LJUBLJANA

€ 120.000,00
€ 148.800,00
€ 100.000,00

€ 61.600,00
€ 430.400,00

DPP MARIBOR

€ 261.601,00
€ 399.600,00
€ 40.000,00
€ 399.400,00
€ 5.030,00
€ 195.500,00
€ 170.255,00
€ 1.471.386,00

DPP MURSKA SOBOTA

€ 1.771.000,00
€ 80.881,00
€ 43.500,00
€ 1.895.381,00

DPP NOVA GORICA

€ 267.933,01
€ 131.400,00
€ 91.761,24
€ 491.094,25

DPP NOVO MESTO

€ 1.000,00

DPP PTUJ

€ 106.323,00
€ 4.560.000,00
€ 60.000,00
€ 4.726.323,00

SPECIALIZED PUBLIC PROSECUTION

€ 509.102,00
€ 1.607.000,00
€ 175.549,41
€ 1.600.000,00
€ 717.553,45
€ 6.470.380,18
€ 3.313.759,00
€ 6.666.464,00
€ 5.477.660,17

€ 30.822.191,59
€ 134.640.616,16
€ 489.716,20
€ 266.585,00
€ 679.527,00
€ 4.500.000,00
€ 97.365,54
€ 43.400,00
€ 1.927.000,00
€ 16.211.811,00
€ 800.000,00
€ 32.903.324,00
€ 1.689.315,00
€ 251.608.319,70

(b) Observations on the implementation of the article

Slovenia has provisions on tracing, seizure and freezing of assets. Generally a court decision is required.

However, measures for securing assets are subject of strict maximum time limits of three months in the pre-trial procedure and six months in trial procedure, which may be extended, but not to longer than one year or two years respectively.

Given the complexity and possible duration of corruption procedures, it is recommended to extend these time limits.

(c) Successes and good practices

Slovenia has both a conviction-based and non-conviction based confiscation system for final deprivation of assets that are proceeds and instrumentalities of crime, and related precautionary measures for both systems. It has therefore established a great extent of flexibility for the seizure, freezing and confiscation of proceeds of crime.

Paragraph 3 of article 31

3. Each State Party shall adopt, in accordance with its domestic law, such legislative and other measures as may be necessary to regulate the administration by the competent authorities of frozen, seized or confiscated property covered in paragraphs 1 and 2 of this article.

(a) Summary of information relevant to reviewing the implementation of the article

For the conviction-based procedure, article 502 b) of the CPA only contains basic rules for managing seized and confiscated assets, but these include the sale or donation of assets whose management requires disproportional costs:

Criminal Procedure Act

Article 506.a

(1) The court which ordered the storage of confiscated objects or the provisional securing of a request for the confiscation of proceeds or property in the value of the proceeds, shall proceed with

particular speed in such instances. It shall act as a good manager with respect to the confiscated objects and property serving as provisional security, as well as to objects and property given as bail (Articles 196 to 199).

(2) If the storage of the confiscated objects or the provisional securing of a request from the preceding paragraph involves disproportionate costs or if the value of the property or the objects is decreasing, the court may order that such property or objects be sold, destroyed or donated for the public benefit. Prior to taking a decision on this, the court must obtain the opinion of the owner of the property or objects. If the owner is not known or it is not possible to service the owner with the summons to give an opinion, the court shall post the summons on the bulletin board of the court and after eight days it shall be deemed that the service has taken place. If the owner does not give an opinion within eight days after the service of the summons, it shall be deemed that he has consented to the property or objects being sold, destroyed or donated.

(3) Relevant state bodies, organisations with public authorisation, executors and financial organisations shall take care of the storage of the confiscated objects and bail and of the provisional securing of requests referred to in the first paragraph of this Article.

(4) The procedure for managing confiscated objects and property and bails referred to in the first paragraph of this Article shall be prescribed by the Government of the Republic of Slovenia.

For the non-conviction based procedure, there are regulations on the management of seized assets in the ZOPNI:

ZOPNI

Responsibility for secure storage and management

Article 37

The secure storage and management of temporarily secured, temporarily forfeited and permanently forfeited assets of illegal origin shall be the responsibility of the following bodies:

1. the Capital Asset Management Agency of the Republic of Slovenia – for equity securities under the act governing the financial instruments market and equity holdings in companies;
2. The Ministry Responsible for Finance – for other financial assets;
3. CURS, which may also authorise external secure storage service providers – for movable property;
4. the Farmland and Forest Fund of the Republic of Slovenia – for agricultural areas and forests;
5. the Public Real Estate Fund of the Republic of Slovenia – for other real estate.

Secure storage and management of temporarily secured and temporarily forfeited assets

Article 38

(1) Competent authorities shall manage the temporarily secured and temporarily forfeited assets with due care and diligence.

(2) If the secure storage or management referred to in the preceding paragraph is associated with disproportionate costs or if the value of assets or objects decreases, the state prosecutor may, on the proposal from a body responsible for the secure storage or management of such assets, request the court to order the assets to be sold, destroyed or donated for the public benefit.

(3) Prior to making the decision referred to in the preceding paragraph, the court shall obtain the opinion of the owner of the assets. If the owner is unknown or cannot be served with a summons to provide his opinion, the summons will be posted on the court's notice board and shall be deemed to have been served within eight days thereof. If the owner fails to deliver his opinion within eight days of service of the summons, he shall be deemed to have consented to the property or objects being sold, destroyed or donated.

Management of forfeited assets of illegal origin

Article 39

(1) The management of financial assets shall be subject to the provisions of the act governing public finance and of the act governing capital investments.

(2) The management of physical assets shall be subject to the provisions of the act governing physical assets of the state.

(3) The management of agricultural land, farms and forests shall be subject to the provisions of the act governing the fund of agricultural areas and forests.

Sale of forfeited assets
Article 40
(1) The assets forfeited by a valid court decision shall be sold unless otherwise decided by the Government of the Republic of Slovenia at the request of the asset administrator.
(2) Assets shall be sold in accordance with the act governing public finance, the act governing capital investments, the act governing the physical assets of the state and the act governing the fund of agricultural areas and forests.

Costs and revenues

Article 41

(1) Funds for covering the costs of security, secure storage, management and sale of the assets that are the subject of temporary security, temporary forfeiture or forfeiture shall be provided from the budget of the Republic of Slovenia.

(2) The proceeds from the sale of the assets referred to in the preceding paragraph shall be budget revenues of the Republic of Slovenia.

Slovenia does not have a central institution to manage seized and confiscated assets, but the Court decides according to the nature of the assets. Money is in both procedures (conviction-based and non-conviction based) managed by the Ministry of Finances, moveable objects by bailiffs or private companies that have to apply as an administrator through a public tender. Real estate is marked as secured in the registers. When seizing companies, the management rights are blocked. If expenses for the management are too high, the worth of the asset can be realized by selling it, even before a final confiscation decision has been met.

(b) Observations on the implementation of the article

Slovenia has regulations for the management of assets and for the pre-sale of assets even before final confiscation decisions are taken.

Slovenia has not yet had experience with complex assets such as companies, and it is recommended to review the system to ensure that complex assets, such as e.g. corporate assets, can be managed over some time if this is deemed preferable to a sale.

Paragraph 4 of article 31

4. If such proceeds of crime have been transformed or converted, in part or in full, into other property, such property shall be liable to the measures referred to in this article instead of the proceeds.

(a) Summary of information relevant to reviewing the implementation of the article

Slovenian (conviction-based) confiscation is value-based and includes:

- the confiscation of property equivalent to the property that is proceeds of crime (art. 75 para. 1 CC)
- a payment order where also the equivalent cannot be confiscated (art. 75 para. 2 CC):

Method of Confiscation of Property
Article 75
(1) Money, valuables and any other property benefit gained through or owing to the committing of a criminal offence shall be confiscated from the perpetrator or recipient (hereinafter, the recipient); **if confiscation cannot be carried out, property equivalent to the property benefit shall be confiscated from them.**
(2) When the property benefit or property equivalent to the property benefit cannot be confiscated from the perpetrator or other recipient, **the perpetrator shall be obliged to pay a sum of money**

equivalent to this property benefit. In justified instances, the court may allow the sum of money equivalent to the property benefit to be paid by instalments, whereby the period of payment may not exceed two years.
(3) Property benefit gained through or owing to the committing of a criminal offence may also be confiscated from persons, to which it was transferred free of charge or for a sum of money that does not correspond to its actual value, if such persons knew or could have known that this property had been gained through or owing to the committing of a criminal offence.
(4) When a property benefit gained through or owing to the committing of a criminal offence has been transferred to close relatives of the perpetrator of the criminal offence (relations from Article 224 of this Criminal Code) or when, for reason of the prevention of confiscation of property benefits under paragraph 1 of this Article, any other property has been transferred to such persons, this property shall be confiscated from them unless they can demonstrate that they paid its actual value.

(5) If proceeds of crime have been acquired by several persons acting together, their respective proportions of proceeds shall be confiscated; if these proportions cannot be precisely determined, they shall be determined by the court after consideration of all circumstances of the case.

In the non-conviction based system, the link between the offence and the asset does not have to be proven because all assets are considered of illicit origin if there are reasonable grounds to suspect that they have committed a listed criminal offence, unless it has been demonstrated that such assets have been acquired from lawful income, i.e. in a lawful manner (art. 5 para. 1 ZOPNI). Therefore the assets referred to under paragraph 4 of article 31 are included in the assets that are subject to seizure and confiscation.

(b) Observations on the implementation of the article

Slovenia is in compliance with this provision.

Paragraph 5 of article 31

5. If such proceeds of crime have been intermingled with property acquired from legitimate sources, such property shall, without prejudice to any powers relating to freezing or seizure, be liable to confiscation up to the assessed value of the intermingled proceeds.

(a) Summary of information relevant to reviewing the implementation of the article

Article 75 paragraphs 1 and 2 can also be used in the case of intermingled assets, since Slovenia's system is value-based (see above under paragraph 4).
In the non-conviction based system, the link between the offence and the asset does not have to be proven because all assets are considered of illicit origin if there are reasonable grounds to suspect that they have committed a listed criminal offence, unless it has been demonstrated that such assets have been acquired from lawful income, i.e. in a lawful manner (art. 5 para. 1 ZOPNI). Therefore the assets referred to under paragraph 5 of article 31 are included in the assets that are subject to seizure and confiscation.

(b) Observations on the implementation of the article

Slovenia is in compliance with this provision.

Paragraph 6 of article 31

6. Income or other benefits derived from such proceeds of crime, from property into which such proceeds of crime have been transformed or converted or from property with which such proceeds of crime have been intermingled shall also be liable to the measures referred to in this article, in the same manner and to the same extent as proceeds of crime.

(a) Summary of information relevant to reviewing the implementation of the article

Article 75 CC (see above under paragraph 4) provides for a broad concept of proceeds and instrumentalities of crime, based on a value-based confiscation procedure. However, the seizure, freezing and confiscation of income and other benefits derived from such proceeds of crime are not explicitly regulated. The same applies for the securing orders in accordance with article 502 CPA.
In the non-conviction based system, the link between the offence and the asset does not have to be proven because all assets are considered of illicit origin if there are reasonable grounds to suspect that they have committed a listed criminal offence, unless it has been demonstrated that such assets have been acquired from lawful income, i.e. in a lawful manner (art. 5 para. 1 ZOPNI). Therefore the assets referred to under paragraph 6 of article 31 are included in the assets that are subject to seizure and confiscation.

(b) Observations on the implementation of the article

It is recommended to explicitly regulate the seizure, freezing and confiscation of income and other benefits derived from proceeds of crime, from property into which such proceeds of crime have been transformed or converted or from property with which such proceeds of crime have been intermingled.

Paragraph 7 of article 31

7. For the purpose of this article and article 55 of this Convention, each State Party shall empower its courts or other competent authorities to order that bank, financial or commercial records be made available or seized. A State Party shall not decline to act under the provisions of this paragraph on the ground of bank secrecy.

(a) Summary of information relevant to reviewing the implementation of the article

In Slovenia, lifting of bank secrecy generally requires an order of the investigating judge upon request of the public prosecutor:

Criminal Procedure Act

Article 156

(1) The investigating judge may upon a properly reasoned request of the public prosecutor order a bank, savings bank payment institution or an electronic money company to disclose to him information and send documentation on the deposits, statement of account and account transactions or other transactions by the suspect, the accused and other persons who may reasonably be presumed to have been implicated in the financial transactions or deals of the suspect or the accused, if such data might represent evidence in criminal proceedings or are necessary for the confiscation of objects or the securing of a request for the confiscation of proceeds or property in the value of proceeds.

(2) The bank, savings bank, payment institution or an electronic money company shall immediately send to the investigating judge the information and documentation referred to in the preceding paragraph.

(3) Subject to conditions from the first paragraph of this Article, the investigating judge may upon a properly reasoned request by the public prosecutor order a bank, savings bank payment institution or an electronic money company to keep track of financial transactions of the suspect, the accused and other persons reasonably presumed to have been implicated in financial transactions or deals of the suspect or the accused, and to disclose to him the confidential information about the transactions or deals the aforesaid persons are carrying out or intend to carry out at these institutions or services. In the order, the investigating judge shall set the time period within which the bank, savings bank or savings-credit service shall provide him with the information.

(4) The measure referred to in the preceding paragraph may be applied for three months at most, but the term may for weighty reasons, upon request of the public prosecutor, be extended to six months at most.

(5) If there are reasonable grounds for suspecting that the criminal offence for which a perpetrator is being prosecuted ex officio has been committed or is being prepared, and in order to uncover this

criminal offence or the perpetrator thereof it is necessary to obtain information on the holder or the authorised person of a certain payment account, savings account or cash deposit, on the renter or the authorised person of a safety deposit box and on the period in which they were or are being used, the police may, by a written request, order the bank, savings bank, payment institution or the electronic money company to furnish them without delay such information even without the consent of the person to whom these information refers.

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

Further, a relevant regulation is contained in article 8 of the Forfeiture of Assets of Illegal Origin Act (ZOPNI).

Cooperation and provision of information

Article 8 ZOPNI

(1) State authorities, holders of public authority, banks and other financial institutions shall provide the required free-of-charge assistance to the competent authorities referred to in Article 7 of this Article and to authorities having the competence to enforce decisions under this Act.

(2) Administrators of official records, registers, public registers and other protected data, information and documents required for the purpose of exercising the powers under this Act shall provide the competent authorities with information free of charge at their request. A request for data, information and documents made by a competent authority shall include the type of information requested, the full name, the date and the place of birth or the personal registration number and information on the place of residence of the owners for whom the information is required, the unique identification number assigned to the case, as well as the appropriate time limit within which the information is to be provided; moreover, it shall also include a notice that the person to whom the information relates shall not be made aware of the disclosure of such information.

(3) The obligation to protect confidential information, trade, bank and professional secrecy shall not apply to the court, state prosecutor's office, other state authorities, holders of public authority, notaries public, banks and other financial institutions and their employees in the provision of the data, information and documents referred to in the preceding paragraph.

The Commission can request banking information without a judicial order:

Integrity And Prevention Of Corruption Act

(Article 16 - Acquisition of data and documents by the Commission)

(1) State bodies, bodies of self-governing local communities and bearers of public authority, as well as any legal person governed by public or private law shall, within the time limit set out by the Commission and notwithstanding the provisions of other Acts and irrespective of the form of the data, communicate to the Commission at its reasoned request any data, including personal data, and documents which are required by the Commission to perform its statutory tasks. They shall do so free of charge. Where the addressee of the Commission's request is the Bank of Slovenia, the exchange of data shall take place pursuant to the law of the European Union regulating the exchange of supervisory and statistical information and the protection of professional secrecy, and pursuant to the provisions of the regulations which are binding on the Bank of Slovenia in respect of the contents referred to herein.

(2) The reasoned request referred to in the preceding paragraph shall contain a statement regarding the legal basis for the acquisition of the data, and the reasons for and the purpose of the request for the data concerned.

According to Art 156 of the Criminal Procedure Code the banks must, upon a Court’s order cooperate and reveal the information that are relevant for the criminal procedure. A search can be conducted if the grounds for search are met, and a seizure of the documents can be carried out following the normal seizure procedure (see above para. 2).

Technically, the police has established a direct on-line access to data on the holders of bank accounts, be it legal or natural persons. Further, the information on bank accounts of legal persons is publicly available

through the Agency of the Republic of Slovenia for Public Legal Records and Related Services (AJPES). The police access the information on bank accounts of individuals through AJPES as a data controller under the Agreement on direct electronic access to information on bank accounts of individuals from the register of bank accounts through back-office applications. The conditions for such access constitutes is the appropriate legal basis and the tax identification number of the person of the person under inspection. Such direct access can provide information on the bank account holder (name, address of the natural person or the name and address of the legal entity) and the information on the bank account (account number, bank name, account type, date of opening and closing).

(b) Observations on the implementation of the article

Under the CPA, the lifting of bank secrecy requires a judicial order, upon request of the state prosecutor. Under the ZOPNI, the bank secrecy does not apply to the court, the state prosecutor and other authorities. Further, the Commission has the power to lift the bank secrecy without a judicial order. When there are grounds for suspicion that a crime for which the perpetrator is prosecuted ex officio was committed or is planned, the police can request banking information.

When banks do not cooperate, files can be seized.

Slovenia is in compliance with the provision under review.

Paragraph 8 of article 31

8. States Parties may consider the possibility of requiring that an offender demonstrate the lawful origin of such alleged proceeds of crime or other property liable to confiscation, to the extent that such a requirement is consistent with the fundamental principles of their domestic law and with the nature of judicial and other proceedings.

(a) Summary of information relevant to reviewing the implementation of the article

Slovenia has regulations shifting the burden of proof for the legal origin of assets in the ZOPNI, with the legal consequence of (non-conviction based) forfeiture of such assets when lawful origin cannot be demonstrated:

ZOPNI

Assets of illegal origin

Article 5

(1) The assets of a Suspect, an Accused Person, a Convicted Person or a Testator shall be deemed to be of illegal origin if there are reasonable grounds to suspect that they have committed a listed criminal offence, unless it has been demonstrated that such assets have been acquired from lawful income, i.e. in a lawful manner.

(2) Assets shall be presumed not to have been acquired from legal sources of income, that is in a lawful manner, if there is a gross disproportion between the amount of assets and income less taxes and contributions paid by the persons referred to in the preceding paragraph over the period of time in which the assets have been acquired.

(3) The value of the total assets which are owned, possessed, used, enjoyed, held or transferred to related parties by the persons referred to in the preceding paragraph or which have been blended together with the assets of such related parties or which have been passed to the aforementioned persons' legal successors shall be taken into account in determining this disproportion.

Presumption of a gratuitous transfer of assets Article 6

Assets of illegal origin shall be presumed to have been transferred free of charge or for consideration that is disproportionate to the assets' actual value if such assets have been transferred to closely related parties or immediate family members.

Burden of proof Article 27

(1) During the civil proceedings, the plaintiff shall state the facts and submit the evidence that give rise to the suspicion of the illegal origin of the defendant's assets in accordance with the provisions of

this Act.

(2) If the assets of illegal origin have been transferred to a related party, the plaintiff shall also state in the civil proceedings the facts and submit evidence of the transfer carried out free of charge or of consideration that is disproportionate to the actual value of the assets and, in the case of a closely related party or an immediate family member, the facts and evidence that give rise to the presumption of a gratuitous transfer of assets.

(3) The defendant may challenge the presumption referred to in paragraph (2) of Article 5 of this Act if he proves that it is likely that the assets are not of illegal origin, and may challenge the presumption referred to in Article 6 of this Act if he proves that it is likely that he has paid the actual value of the assets.

Article 75 paragraph 4 and 77 c) contain a presumption of gratuitous transfer of assets (rebuttable presumption):

Method of Confiscation of Property

Article 75

(1) Money, valuables and any other property benefit gained through or owing to the committing of a criminal offence shall be confiscated from the perpetrator or recipient (hereinafter, the recipient); if confiscation cannot be carried out, property equivalent to the property benefit shall be confiscated from them.

(2) When the property benefit or property equivalent to the property benefit cannot be confiscated from the perpetrator or other recipient, the perpetrator shall be obliged to pay a sum of money equivalent to this property benefit. In justified instances, the court may allow the sum of money equivalent to the property benefit to be paid by instalments, whereby the period of payment may not exceed two years.

(3) Property benefit gained through or owing to the committing of a criminal offence may also be confiscated from persons, to which it was transferred free of charge or for a sum of money that does not correspond to its actual value, if such persons knew or could have known that this property had been gained through or owing to the committing of a criminal offence.

(4) When a property benefit gained through or owing to the committing of a criminal offence has been transferred to close relatives of the perpetrator of the criminal offence (relations from Article 224 of this Criminal Code) or when, for reason of the prevention of confiscation of property benefits under paragraph 1 of this Article, any other property has been transferred to such persons, this property shall be confiscated from them unless they can demonstrate that they paid its actual value.

(5) If proceeds of crime have been acquired by several persons acting together, their respective proportions of proceeds shall be confiscated; if these proportions cannot be precisely determined, they shall be determined by the court after consideration of all circumstances of the case.

Presumption of a gratuitous transfer

Article 77c

(1) Irrespective of the legal basis regarding transfer, it is presumed that proceeds of crime or property subject to confiscation pursuant to the provisions of this chapter has been transferred gratuitously or for payment that does not correspond to its actual value if the offender or his close relatives (relationships referred to in Article 224 of this Code) have transferred it, directly or indirectly, to a company or other legal entity that is majority owned by them or in which they have the right to exercise a dominant influence or control.

(2) Proceeds of crime or property shall not be confiscated from the company or entity referred to in the preceding paragraph if the property or entity proves that it has paid its actual value.

Further, article 45 of the Integrity and Prevention of Corruption Act contains a special right for freezing in cases of disproportionate increase in property, in the context of asset declarations:

Article 45 (Disproportionate increase in property)

(1) If the Commission based on data on the assets or other data determines that property of a person under obligation has disproportionately increased since the last declaration with regard to his/her

income from holding of the office or activity otherwise performed in line with the provisions and restrictions set out herein and in other laws or that the value of his/her actual property used as the taxation base significantly exceeds the reported value of property, it shall call upon the person under obligation to explain within 15 days the manner of increase in property or the difference between the actual and declared property.

(2) If the person under obligation under the preceding paragraph hereunder fails to explain the manner of the increase in property or the difference between the actual and declared property, the Commission shall notify thereof the body where the person under obligation holds office or the body responsible for election or appointment of the person under obligation and other competent bodies in the case of suspected other violations.

(3) The body where the person under obligation holds office or job or the body competent for election or appointment of the person under obligation may, except for directly elected functionaries, based on a notice of the Commission referred to in the previous paragraph hereunder initiate the procedure in accordance with the Constitution and the law to cease the office or discharge or other procedures and inform the Commission thereof.

(4) The bodies referred to in the second and the previous paragraph shall notify the Commission of their findings and decisions within a period of three months from receiving the notice from the Commission.

(5) If the Commission reasonably suspects that property of a person under obligation referred to in the first paragraph hereunder has significantly increased and the person under obligation failed to provide adequate explanation for the increase with the simultaneous substantiated danger that the person under obligation would dispose with the property, hide it or sell it, the Commission may propose to the state prosecutor's office or the competent body for prevention of money laundering, tax evasion and for financial supervision to act within their legal powers to suspend transactions or protect cash and property with the aim of confiscating unlawfully acquired pecuniary benefits or cash and property of illegal origin.

(6) The state prosecutor's office or another body referred to in the previous paragraph hereunder shall inform the Commission in writing within 72 hours on the action taken.

(b) Observations on the implementation of the article

Slovenia has implemented this provision.

In non-conviction based confiscation proceedings, the defendant has to proof the lawful origin of assets.

Further, in non-conviction based and under some circumstances also in conviction-based confiscation procedures, third parties have to demonstrate that they did not receive the asset gratuitously. The legal consequence of a failure to demonstrate the lawful origin is confiscation.

Paragraph 9 of article 31

9. The provisions of this article shall not be so construed as to prejudice the rights of bona fide third parties.

(a) Summary of information relevant to reviewing the implementation of the article

The Criminal Code in its article 75 provides that property may only be confiscated from third persons if it was transferred free of charge or for a sum that does not correspond to its actual value, and if they were not *bona fide*. In cases of organized crime, the gratuitous transfer is object of a rebuttable assumption (art. 77 c) CC)

Criminal Code CC-1 (CC-1A, CC-1B)

Method of Confiscation of Property Article 75

(3) Property benefit gained through or owing to the committing of a criminal offence may also be confiscated from persons, to which it was transferred free of charge or for a sum of money that does

not correspond to its actual value, if such persons knew or could have known that this property had been gained through or owing to the committing of a criminal offence.

(4) When a property benefit gained through or owing to the committing of a criminal offence has been transferred to close relatives of the perpetrator of the criminal offence (relations from Article 224 of this Criminal Code) or when, for reason of the prevention of confiscation of property benefits under paragraph 1 of this Article, any other property has been transferred to such persons, this property shall be confiscated from them unless they can demonstrate that they paid its actual value.

(5) If proceeds of crime have been acquired by several persons acting together, their respective proportions of proceeds shall be confiscated; if these proportions cannot be precisely determined, they shall be determined by the court after consideration of all circumstances of the case.

Presumption of a gratuitous transfer Article 77c

(1) Irrespective of the legal basis regarding transfer, it is presumed that proceeds of crime or property subject to confiscation pursuant to the provisions of this chapter has been transferred gratuitously or for payment that does not correspond to its actual value if the offender or his close relatives (relationships referred to in Article 224 of this Code) have transferred it, directly or indirectly, to a company or other legal entity that is majority owned by them or in which they have the right to exercise a dominant influence or control.

(2) Proceeds of crime or property shall not be confiscated from the company or entity referred to in the preceding paragraph if the property or entity proves that it has paid its actual value.

In non-conviction based confiscation, the protection of *bona fide* third parties in article 30:

ZOPNI
Protection of beneficiaries
Article 30
(1) The forfeiture of assets of illegal origin shall have no impact on the rights to this property enjoyed by third parties unless, during the acquisition of such rights, they were aware or should have been aware of the illegal origin of the assets in question.
(2) The court shall verify *ex officio* whether the proceedings involve all third parties who have been identified and whose rights or legal benefits, for which no final judicial decision has yet been made, could be affected by the court's decision. The court shall invite the third parties not involved in the proceedings to submit a statement on entering into the proceedings in accordance with the act governing civil proceedings and a statement on co-defendants and the participation of other persons in the proceedings within one month of receipt of the invitation and shall draw the attention of such third parties to the legal consequences referred to in Article 32 of this Act and the right referred to in paragraph (4) of Article 33 of this Act.
(3) Under the circumstances defined by KZ-1 for the protection of injured parties in the forfeiture of proceeds of crime or proceeds associated with crime, the injured party exercising a claim for indemnification against a Suspect, an Accused Person, a Convicted Person or a Testator in criminal proceedings for a listed criminal offence shall also be deemed a third party referred to in the preceding paragraphs.
(4) In accordance with the provisions of the preceding paragraphs, third party rights to forfeited assets which are established in civil proceedings and which do not preclude the forfeiture of assets of illegal origin shall be exercised in accordance with paragraph (4) of Article 33 of this Act.

(b) Observations on the implementation of the article

Slovenia is in compliance with this provision.

Article 32. Protection of witnesses, experts and victims

Paragraph 1 of article 32

1. Each State Party shall take appropriate measures in accordance with its domestic legal system and within its means to provide effective protection from potential retaliation or intimidation

for witnesses and experts who give testimony concerning offences established in accordance with this Convention and, as appropriate, for their relatives and other persons close to them.

(a) Summary of information relevant to reviewing the implementation of the article

Slovenia has relevant provisions in the CPA. Article 141 a) provides generally the obligation to provide protection to witnesses and makes reference to the Witness Protection Act, while articles 240 a) and 244 a) foresee measures to protect the identity of witnesses in the criminal procedure.

With regards to the persons eligible for protection,

- the relevant provisions of the CPA refer to witnesses and to the accused under certain circumstances, but not to experts;
- the Witness Protection Act applies explicitly also "to other persons who are endangered due to co-operation in criminal procedures". However, Slovenian authorities specified that "other endangered person" under this Act is a person who is in relation to witnesses (relatives). This means that, according to the Slovenian law, the witness protection program is conducted exclusively for witnesses and the persons suffering from the relationship to the threatened witness.

Criminal Procedure Act

Article 141.a

(1) The accused whose punishment may be mitigated in certain cases (point 3 of Article 42 and third paragraph of Article 297 of the Criminal Code) and witnesses referred to in Article 240.a of this Act whose life or body is under serious threat shall be provided **with the largest possible personal security in the pre-trial procedure, and during and after the conclusion of criminal procedure.**

(2) Pursuant to the provisions of the Act referred to in the third paragraph of this Article, the personal security of their close relatives (points 1 to 3 of the first paragraph of Article 236) and of other persons under threat shall also be ensured on a motion of the accused and/or witnesses referred to in the preceding paragraph.

(3) The Act shall lay down the procedure and conditions for inclusion in a protection programme and for the termination of the protection programme, the authorities competent for proposing and ordering protection, urgent protection measures, protection programme measures, records and data protection as well as financing and control over the implementation of protection programmes.

Article 240.a

(1) If there are reasonable grounds for believing that disclosure of the personal data or whole identity of a certain witness could endanger his life or body, or the life or body of his close relatives (points 1 to 3 of the first paragraph of Article 236), or of persons proposed by the witness in accordance with the provisions of the act referred to in the third paragraph of Article 141.a of this Act, the court may order one or more of the following measures to protect him or his close relative:

1) deletion of all or certain data from the third paragraph of Article 240 of this Act from the criminal case file;

2) the marking of all or some of the data from the preceding point as an official secret;

3) the issuing of an order to the accused, his counsel, the injured party, or their legal representative and attorneys to keep certain facts or data secret;

4) the assignment of a pseudonym to the witness;

5) the taking of testimony using technical devices (protective screen, devices for disguising the voice, transmission of sound from separate premises and other similar technical protective devices).

(2) Protective measures from the preceding paragraph shall be ordered in writing by the investigating judge upon the motion of the public prosecutor, the witness, the injured party, the accused, their legal representatives and attorneys, or ex officio. The ruling may not contain data that could lead to the disclosure of data that are the subject of the protective measure.

(3) Prior to the issuing of the ruling on the use of protective measures, the investigating judge shall

obtain from the witness the data referred to in the third paragraph of Article 240 of this Act. If protective measures are ordered, the appropriate data from the third paragraph of Article 240 of this Act shall be removed from the case file and kept as an official secret immediately after identification of the witness and before his testimony is taken. They may only be inspected and used in the procedure of decision-making on an appeal against the ruling from the preceding paragraph and in the case of identity control pursuant to the ninth paragraph of this Article.

(4) A ruling on the use of protective measures by means of which the identity of the witness is entirely concealed from the accused and his counsel (anonymous witness) may only be issued by the investigating judge after a special hearing has been held, if he assesses:

1) that there are reasonable grounds for believing that the disclosure could endanger the life or body of the witness, or the life or body of his immediate family member, or of persons proposed by the witness in accordance with the provisions of the act referred to in the third paragraph of Article 141.a of this Act,

2) that the witness's testimony is important to the criminal proceedings; 3) that the witness shows a sufficient level of credibility; and

4) that the interests of justice and the successful conduct of criminal proceedings outweigh the interests of the defence in knowing the identity of the witness.

(5) Only the necessary court staff and staff providing security may be present at the hearing from the preceding paragraph, in addition to the public prosecutor and the witness for whom the protective measure has been requested. At the hearing the investigating judge shall inspect the enclosed documents and take testimony from the witness and from other people able to supply information that could have a bearing on his decision. The statements given by the witness or by other people at this hearing shall be removed from the case file immediately after the hearing, and kept as an official secret. They may only be inspected and used in the procedure of decision-making on an appeal against the ruling from the second paragraph and in the case of identity control pursuant to the ninth paragraph of this Article. If the investigating judge establishes at the hearing that protection measures referred to in the first paragraph of this Article do not prove sufficient to ensure personal security, he may propose to the public prosecutor to take the initiative according to the provisions of the act referred to in the third paragraph of Article 141.a of this Act.

(6) If urgent protection measures or measures under the protection programme under the act referred to in the third paragraph of Article 141.a of this Act are already ordered before the hearing in connection with a certain witness, the investigating judge shall gather data from the witness at the hearing pursuant to the third paragraph of Article 240 of this Act and shall check whether this is indeed the same witness as the one for whom the measures were ordered. The findings shall be entered in the record. The data gathered shall be removed from the file immediately after identification and before the hearing of the witness and shall be kept as an official secret. In the case of such a witness the investigating judge shall decide, by a ruling, on the concealment of identity for the purposes of court procedure after the assessment referred to in point 4 of the fourth paragraph of this Article is made.

(7) While testimony is being taken from a witness in relation to whom the measures from the first paragraph of this Article have been ordered, or in relation to whom the protection programme measures according to the act referred to in the third paragraph of Article 141.a of this Act have been ordered, the investigating judge shall prohibit any questions whose answers could disclose protected information.

(8) After the charge sheet has been submitted to the court and until the end of the main hearing, the powers of the investigating judge from this Article shall be exercised by the presiding judge.

(9) If it is necessary for testimony to be taken from a witness at the main hearing in relation to whom the protective measure from point 4 of the first paragraph of this Article has been ordered, or in relation to whom a measure according to the sixth paragraph of this Article has been ordered, the president of the panel must, before testimony is taken, verify that it is indeed the same witness for whom the protective measure has been ordered. The findings shall be entered in the record.

Article 244.a

(1) In accordance with the provision of this Article, an interrogation of the accused or witness may also be performed by the use of modern technical devices for transferring vision and sound (videoconference).

(2) The interrogation of the accused or witness by a videoconference shall be conducted if:

1. it concerns a protected person under the law regulating protection of witnesses and the arrival of the authority to conduct the interrogation would cause serious danger to their live or body, to life or body of persons in related to them under points 1 to 3 of Article 236(1) or persons who were suggested in accordance with the provisions of the law regulating the protection of witnesses;

2. it concerns an anonymous witness and the arrival of the authority to conduct the interrogation would cause serious danger to their life or body, to life or body of persons related to them under points 1 to 3 of Article 236(1) or persons who were suggested in accordance with the provisions of the law regulating protection of witnesses;

3. the competent authority submitted an adequate request to another state in accordance with the law or an international treaty; or

4. it is not desirable or possible for the person to come to the authority conducting the interrogation for other legitimate reasons.

3) When the conditions of point 4 in the preceding paragraph are met, the interrogation of an expert may be conducted via a videoconference.

(4) The interrogation via a videoconference shall be conducted by applying the provisions of this Act on interrogating an accused, witness or expert unless a law, binding international treaty or legal act of an international organisation provide otherwise.

(5) A competent official of the authority conducting the interrogation or another person authorised by the authority shall be present next to the accused, witness or expert who is in the territory of the Republic of Slovenia during the interrogation via a videoconference and ensure adequate identification of the person interrogated. During such interrogation, the defence counsel and persons dealing with security may be present.

(6) When the accused, witness or expert is interrogated in the territory of another state via a videoconference for the purposes of national criminal proceedings, the competent authority under point 3 of paragraph (2) of this Act shall ensure that an official of the competent authority of this state shall be present next to the accused, witness or expert who shall ensure an adequate identification of the person interrogated. During such an interrogation the defence counsel may also be present.

(7) The Minister responsible for justice shall issue instructions laying down in detail the conditions according to which technical devices for the transmission of sound and vision (videoconference) have to comply with, the method of their use, the transcription and broadcasting of recordings, making copies of recordings and their storage.

Witness Protection Act

I. General Provisions

Contents of the Act

Article 1

This Act regulates the conditions and procedures for the protection of witnesses and other persons who are endangered due to co-operation in criminal procedures.

Fundamental Provisions

Article 2

(1) Protection is guaranteed for endangered persons in pre-trial procedures and during and after criminal procedures for criminal offences, determined herein.

(2) The admission of endangered persons into the protection programme is voluntary. It is based on the written consent of the endangered person and the decision of the competent authority pursuant to this Act.

(3) Data which arises in connection with the implementation of this Act or data intended for implementation of this Act must be designated and treated with an appropriate degree of confidentiality, pursuant to the regulations regarding confidential information.

Meaning of Terms

Article 3

The individual terms used herein shall have the following meanings:

- an endangered person is an endangered witness or other endangered person;

- an endangered witness is a witness whose admission into the protection programme is justified due to circumstances determined herein and in the act regulating criminal procedures;

- other endangered person is a close relative of the witness (points 1 to 3 of Article 236 of the Criminal Procedure Act) or other person who is endangered due to his/her relation with the witness;

Slovenian authorities reported that it was seen as a big problem for corruption proceedings that witnesses did not testify because they did not feel safe.

Slovenia has taken institutional measures to implement the protection regulated in the CPA and the Witness Protection Act. A Commission for the Protection of Endangered Persons has been established according to articles 7 to 9 of the Witness Protection Act, to decide on admission of individuals into the protection programme. Further a Witness Protection Unit has been set up in in 2007 the Criminal Police Directorate with round 10 staff. This unit is an internal organizational unit of the Special Tasks Division, which is part of the Criminal Police Directorate.

One of the examples of victim protection under this law is the protection of a person with a status of a witness who is threatened due to his/her testimony (this condition relates also to other persons – they need to be threatened due to direct testimony of the witness).

The program is applicable to all cases where, under the CPA (Criminal Procedures Act), undercover methods may be used on the basis of a judicial decision. This means that the protection of witnesses is applicable for all crimes in the Criminal Code, also for corruption offenses.

Slovenian authorities informed that the number of cases or individuals in the program was classified information so it could not be included. The issue was considered particularly sensitive due to the small size of the country. As the number of cases and persons included in the program was very limited, a connection to concrete cases could be established. However, Slovenian authorities confirmed that there were cases in which the Witness Protection Programme was activated.

Protective measures implemented under the Witness Protection Act involve physical as well as technical protection, a change of identity, or the relocation/resettlement of the vulnerable person to other countries.

Witness protection measures are also mentioned in the CPA (art. 240/a); this article establishes the status of an anonymous witness, given to the threatened witnesses. This status is often accompanied by the following protective measures:

1. awarding of a pseudonym (concealment of the real identity),
2. modification of the voice,
3. hearing via videoconference from a safe location.

This method of protection is appropriate for threatened witnesses which are actually unknown to the accused, but are otherwise not sufficient. In the event that the accused has personal knowledge of the witness, the only proper protection is through the witness protection program, which is based on a voluntary decision of the witnesses or other threatened person to enter the program with all the restrictions necessary for its effective implementation.

(b) Observations on the implementation of the article

Slovenia has legislation on witness protection and a witness protection programme since 2007. However, Slovenian authorities highlighted that during criminal procedures on corruption offences, the problem of witnesses not testifying because of safety concerns was still a major problem; therefore it was recommended to further strengthen witness protection measures.

Further, experts are not eligible for protection under either the CPA or the Witness Protection Act, and it is recommended to include them into the protection measures.

Subparagraph 2 (a) of article 32

2. The measures envisaged in paragraph 1 of this article may include, inter alia, without prejudice to the rights of the defendant, including the right to due process:

(a) Establishing procedures for the physical protection of such persons, such as, to the extent necessary and feasible, relocating them and permitting, where appropriate, non-disclosure or limitations on the disclosure of information concerning the identity and whereabouts of such persons;

(a) Summary of information relevant to reviewing the implementation of the article

Physical protection measures are established in articles 11, 19-28 of the Witness Protection Act.

Witness Protection Act
Urgent Protective Measures
Article 11
(1) In urgent cases, the life and body of the endangered person shall be safeguarded before the filing of an application for admission into the protection programme, pursuant to the provisions of the act regulating police authorisations.

(2) After filing the application for admission into the protection programme the State Prosecutor General may on the initiative of the Unit or the competent state prosecutor order in writing the implementation of urgent protective measures, if this is necessary to ensure the safety of the endangered person and if that person gives their written consent.

(3) Urgent protective measures under the preceding paragraph shall be as follows:

– consulting by the Unit,

– technical protection of persons or residences,

– physical protection of persons or residences,

– temporary relocation of persons.

(4) The Unit must report to the Commission monthly about the implementation of urgent protective measures.

(5) Urgent protective measures may be carried out at most up to the expiration of the time limit for a decision on the application for admission into the protection programme.

Types of Measures

Article 19

(1) One or more measures from the second paragraph of this Article shall be determined in the protection programme pursuant to the evaluation of the type, degree and expected duration of the danger.

(2) The measures within the protection programme are:

- the measures referred to in the third paragraph of Article 11 of this Act,

- the relocation of persons,

- altered documents,

- prevention of provision of personal data and supervision of inquiries into records,

- concealment of identity as required for judicial procedures,

- change of identity,

- use of video conference and telephone conference,

- international exchange,

- measures in prisons or institutions for the enforcement of corrective measures,

- economic and social support.

(3) The implementation of measures within the protection programme shall be provided by the Unit.

(4) On the proposal of the Unit, the measures from the second paragraph of this Article determined in the order for the admission of the endangered person into the protection programme (Article 15 of this Act) may be amended or changed by the Commission for justifiable reasons.

(5) State bodies, holders of public authorisations, and bodies and offices of self-governing local communities must on the basis of written orders from the President of the Commission perform all actions necessary for the successful implementation of the measures from this article.

Relocation of Persons

Article 20

(1) The measure of relocating persons shall be carried out as a temporary or permanent relocation from the place of residence of the protected person to a different place, to be determined by the Unit. Relocation is possible in the territory of the Republic of Slovenia or, pursuant to international agreements, outside of the territory of the Republic of Slovenia.

(2) Measures which refer to the relocation of protected persons who are in detention or serving a prison sentence shall be carried out by the Administration for the Implementation of Criminal Penalties.

(3) In the case of the implementation of measures from this Article outside the Republic of Slovenia, the Unit shall inform the competent authority in the foreign country without delay about the facts which might affect the security of the protected person.

Altered Documents

Article 21

(1) The measure of altering documents includes the production and use of altered documents, identification marks and other papers important for the proof of the rights and legal facts which are connected with the protected person, and the entry of altered personal and other data in the appropriate records.

(3) Protected persons for whom altered documents, identification marks and papers are produced shall hand over the originals to the Unit for storage.

(3) Protected persons may not use altered documents, identification marks or papers to conduct legal business from which arise obligations or rights of third parties without the prior consent of the Unit.

(4) The production of the altered documents, identification marks and papers shall be provided by the Unit.

Prevention of Provision of Personal Data and Supervision of Inquiries into Records

Article 22

(1) The measure of preventing the provision of personal data and supervision of inquiries into records shall be implemented through the ordering of the administrator of personal or other data not to allow access to the original data of the protected person to third parties.

(2) The administrator of personal or other data must prevent access to the data and secure the original personal data of the protected person.

(3) The administrator of personal or other data must notify the Unit without delay about requests or inquiries by third parties for data pursuant to this Article, whereupon they shall provide the identification data of the third party.

Concealment of Identity as Required for Judicial Procedures

Article 23

The measure of concealing identity as required for examination in judicial procedures shall be ordered and carried out pursuant to the provisions of the act regulating criminal procedures.

Change of Identity

Article 24

(1) Change of identity is the partial or complete changing of the personal data of the protected person. The Unit shall form the new identity together with the protected person in accordance with the needs of the protection programme. The identification data of other existing persons may not be used. The connection of the new identity with the original identity may not be recorded except in the records of the Unit.

(2) The Unit shall provide for the production of documents, identification marks and papers in accordance with the new identity.

(3) Papers with the original identity of the protected person shall be stored by the Unit. Records which contain the personal data of the original identity of the protected person shall not be changed until the conclusion of the protection programme.

(4) The protected person may not use altered data from this Article to conduct any legal business which affects third parties without the prior consent of the Unit.

International Exchanges

Article 27

(1) International exchanges shall include the exchange of protected persons for whom the competent authority has called for the measure of relocation of the person, and the exchange of personal data in order to guarantee their safety. They shall be carried out on the basis of obligations assumed under bilateral agreements concluded by the Republic of Slovenia.

(2) The relocation of protected persons outside the territory of the Republic of Slovenia or within the territory of the Republic of Slovenia may be conducted on the basis of a bilateral agreement.

(3) Bodies which are competent for the implementation of the protection programme for endangered persons shall co-operate directly with each other.

Measures in Prisons or Institutions for the Enforcement of Corrective Measures

Article 28

(1) A protected person who is in detention, or serving a prison sentence, juvenile prison sentence or corrective measure must be kept separate from other persons serving prison sentences, juvenile prison sentences or corrective measures.

(2) The administration of institutions for the enforcement of prison sentences or, in the case of protected persons who are minors, institutions for the enforcement of juvenile prison sentences or institutions for the enforcement of corrective measures must adhere to the decisions of the Commission referring to providing the safety of the protected person.

Under the Slovenian witness protection programme, there was one case of changed identity so far.

(b) Observations on the implementation of the article

Slovenia has implemented the provision under review.

Subparagraph 2 (b) of article 32

2. The measures envisaged in paragraph 1 of this article may include, inter alia, without prejudice to the rights of the defendant, including the right to due process:

(b) Providing evidentiary rules to permit witnesses and experts to give testimony in a manner that ensures the safety of such persons, such as permitting testimony to be given through the use of communications technology such as video or other adequate means.

(a) Summary of information relevant to reviewing the implementation of the article

The procedural measures for witness protection are regulated in article 235 a) 240 a), 244 a) of the CPA and article 26 of the Witness Protection Act.

Articles 235 a) and b) of the CPA provide for protection of the identity of witnesses. Article 240.a stipulates that protective measures shall be ruled by the investigating judge upon the request of prosecutor to witnesses and victims, whereas interrogation of an expert may be conducted in videoconference if it is not desirable or possible for the person to come to the authority conducting the interrogation for other legitimate reasons.

Criminal Procedure Act

Article 235a

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

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

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

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

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

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

Article 240.a

(1) If there are reasonable grounds for believing that disclosure of the personal data or whole identity of a certain witness could endanger his life or body, or the life or body of his close relatives (points 1 to 3 of the first paragraph of Article 236), or of persons proposed by the witness in accordance with the provisions of the act referred to in the third paragraph of Article 141.a of this Act, the court may order one or more of the following measures to protect him or his close relative:

1) deletion of all or certain data from the third paragraph of Article 240 of this Act from the criminal case file;

2) the marking of all or some of the data from the preceding point as an official secret;

3) the issuing of an order to the accused, his counsel, the injured party, or their legal representative and attorneys to keep certain facts or data secret;

4) the assignment of a pseudonym to the witness;

5) the taking of testimony using technical devices (protective screen, devices for disguising the voice, transmission of sound from separate premises and other similar technical protective devices).

(2) Protective measures from the preceding paragraph shall be ordered in writing by the investigating judge upon the motion of the public prosecutor, the witness, the injured party, the accused, their legal representatives and attorneys, or ex officio. The ruling may not contain data that could lead to the disclosure of data that are the subject of the protective measure.

(3) Prior to the issuing of the ruling on the use of protective measures, the investigating judge shall obtain from the witness the data referred to in the third paragraph of Article 240 of this Act. If protective measures are ordered, the appropriate data from the third paragraph of Article 240 of this Act shall be removed from the case file and kept as an official secret immediately after identification of the witness and before his testimony is taken. They may only be inspected and used in the procedure of decision-making on an appeal against the ruling from the preceding paragraph and in the case of identity control pursuant to the ninth paragraph of this Article.

(4) A ruling on the use of protective measures by means of which the identity of the witness is entirely concealed from the accused and his counsel (anonymous witness) may only be issued by the investigating judge after a special hearing has been held, if he assesses:

1) that there are reasonable grounds for believing that the disclosure could endanger the life or body of the witness, or the life or body of his immediate family member, or of persons proposed by the witness in accordance with the provisions of the act referred to in the third paragraph of Article 141.a of this Act,

2) that the witness's testimony is important to the criminal proceedings; 3) that the witness shows a sufficient level of credibility; and

4) that the interests of justice and the successful conduct of criminal proceedings outweigh the interests of the defence in knowing the identity of the witness.

(5) Only the necessary court staff and staff providing security may be present at the hearing from the preceding paragraph, in addition to the public prosecutor and the witness for whom the protective measure has been requested. At the hearing the investigating judge shall inspect the enclosed documents and take testimony from the witness and from other people able to supply information that could have a bearing on his decision. The statements given by the witness or by other people at this hearing shall be removed from the case file immediately after the hearing, and kept as an official secret. They may only be inspected and used in the procedure of decision-making on an appeal against the ruling from the second paragraph and in the case of identity control pursuant to the ninth paragraph of this Article. If the investigating judge establishes at the hearing that protection measures referred to in the first paragraph of this Article do not prove sufficient to ensure personal security, he may propose to the public prosecutor to take the initiative according to the provisions of the act referred to in the third paragraph of Article 141.a of this Act.

(6) If urgent protection measures or measures under the protection programme under the act referred to in the third paragraph of Article 141.a of this Act are already ordered before the hearing in connection with a certain witness, the investigating judge shall gather data from the witness at the hearing pursuant to the third paragraph of Article 240 of this Act and shall check whether this is indeed the same witness as the one for whom the measures were ordered. The findings shall be entered in the record. The data gathered shall be removed from the file immediately after identification and before the hearing of the witness and shall be kept as an official secret. In the case of such a witness the investigating judge shall decide, by a ruling, on the concealment of identity for the purposes of court procedure after the assessment referred to in point 4 of the fourth paragraph of this Article is made.

(7) While testimony is being taken from a witness in relation to whom the measures from the first paragraph of this Article have been ordered, or in relation to whom the protection programme measures according to the act referred to in the third paragraph of Article 141.a of this Act have been ordered, the investigating judge shall prohibit any questions whose answers could disclose protected information.

(8) After the charge sheet has been submitted to the court and until the end of the main hearing, the powers of the investigating judge from this Article shall be exercised by the presiding judge.

(9) If it is necessary for testimony to be taken from a witness at the main hearing in relation to whom the protective measure from point 4 of the first paragraph of this Article has been ordered, or in relation to whom a measure according to the sixth paragraph of this Article has been ordered, the president of the panel must, before testimony is taken, verify that it is indeed the same witness for whom the protective measure has been ordered. The findings shall be entered in the record.

Article 244.a

(1) In accordance with the provision of this Article, an interrogation of the accused or witness may also be performed by the use of modern technical devices for transferring vision and sound (videoconference).

(2) The interrogation of the accused or witness by a videoconference shall be conducted if:

1. it concerns a protected person under the law regulating protection of witnesses and the arrival of the authority to conduct the interrogation would cause serious danger to their live or body, to life or body of persons in related to them under points 1 to 3 of Article 236(1) or persons who were suggested in accordance with the provisions of the law regulating the protection of witnesses;

2. it concerns an anonymous witness and the arrival of the authority to conduct the interrogation would cause serious danger to their life or body, to life or body of persons related to them under points 1 to 3 of Article 236(1) or persons who were suggested in accordance with the provisions of the law regulating protection of witnesses;

3. the competent authority submitted an adequate request to another state in accordance with the law or an international treaty; or

4. it is not desirable or possible for the person to come to the authority conducting the interrogation for other legitimate reasons.

3) When the conditions of point 4 in the preceding paragraph are met, the interrogation of an expert may be conducted via a videoconference

. (4) The interrogation via a videoconference shall be conducted by applying the provisions of this Act on interrogating an accused, witness or expert unless a law, binding international treaty or legal act of an international organisation provide otherwise.

(5) A competent official of the authority conducting the interrogation or another person authorised by the authority shall be present next to the accused, witness or expert who is in the territory of the Republic of Slovenia during the interrogation via a videoconference and ensure adequate identification of the person interrogated. During such interrogation, the defence counsel and persons dealing with security may be present.

(6) When the accused, witness or expert is interrogated in the territory of another state via a videoconference for the purposes of national criminal proceedings, the competent authority under point 3 of paragraph (2) of this Act shall ensure that an official of the competent authority of this state shall be present next to the accused, witness or expert who shall ensure an adequate identification of the person interrogated. During such an interrogation the defence counsel may also be present.

(7) The Minister responsible for justice shall issue instructions laying down in detail the conditions according to which technical devices for the transmission of sound and vision (videoconference) have to comply with, the method of their use, the transcription and broadcasting of recordings, making copies of recordings and their storage.

Witness Protection Act

Use of Video Conference and Telephone Conference

Article 26

(1) Examinations and other activities of protected witnesses during procedures shall be performed using modern technical devices, unless otherwise provided by the act regulating criminal procedures. Modern technical devices shall include but not be limited to computer technology, electronic

communications networks and other devices for the transmission of images and sound.

(2) In procedures of international legal assistance, when a protected witness is examined in the country from which assistance was requested, a representative of the country which is providing protection and security must be present.

(3) Examinations from the preceding paragraph shall be conducted pursuant to the legal order of the country which requested assistance. An interpreter must be provided, the cost of whose services shall be borne by the country which requested assistance, unless otherwise agreed.

(4) In order to guarantee their rights, protected witnesses from the second paragraph of this Article may use the legislation of the country which requested assistance or the country from which assistance was requested, whichever is more favourable to the witness.

(5) Technical devices from the first paragraph of this Article may also be used in the case of the examination of a protected person who appears as a defendant in the particular case in which international legal assistance is being provided, if the person agrees to this.

(b) Observations on the implementation of the article

Slovenia has implemented the provision under review.

Paragraph 3 of article 32

3. States Parties shall consider entering into agreements or arrangements with other States for the relocation of persons referred to in paragraph 1 of this article.

(a) Summary of information relevant to reviewing the implementation of the article

The Witness Protection Act foresees the international exchange of witnesses for their protection:

Witness Protection Act

International Exchanges

Article 27

(1) International exchanges shall include the exchange of protected persons for whom the competent authority has called for the measure of relocation of the person, and the exchange of personal data in order to guarantee their safety. They shall be carried out on the basis of obligations assumed under bilateral agreements concluded by the Republic of Slovenia.

(2) The relocation of protected persons outside the territory of the Republic of Slovenia or within the territory of the Republic of Slovenia may be conducted on the basis of a bilateral agreement.

(3) Bodies which are competent for the implementation of the protection programme for endangered persons shall co-operate directly with each other.

The witness protection unit in the Criminal Police Department has to negotiate the specific exchange with partnering countries. There have not yet been cases.

As a result of cooperation between the competent Ministries of the Republic of Austria, the Republic of Bulgaria, the Republic of Croatia, the Czech Republic, Hungary, the Republic of Poland, Romania, the Slovak Republic and the Republic of Slovenia in the framework of the Salzburg Forum, Slovenia is the depositary of the Agreement on the cooperation in the area of witness protection.

(b) Observations on the implementation of the article

Article 27 of the Witness Protection Act explicitly covers international exchange of personal data and relocation of the person on the basis of bilateral agreements.

Slovenia is the depositary of the agreement on the cooperation in the area of witness protection between nine Eastern European States and Austria.

Paragraph 4 of article 32

4. The provisions of this article shall also apply to victims insofar as they are witnesses.

(a) Summary of information relevant to reviewing the implementation of the article

Slovenian authorities confirmed that when a victim is testifying, he/she has the status of a witness and all the provisions and measures described under paragraphs 1-3 can be applied to them as for other witnesses.

(b) Observations on the implementation of the article

The victim is eligible for protection measures insofar as he/she is acting as a witness.

Paragraph 5 of article 32

5. Each State Party shall, subject to its domestic law, enable the views and concerns of victims to be presented and considered at appropriate stages of criminal proceedings against offenders in a manner not prejudicial to the rights of the defence.

(a) Summary of information relevant to reviewing the implementation of the article

In Slovenian criminal procedure, the victim can have different roles – it can be a witness, injured party, subsidiary prosecutor or private prosecutor, depending also on the phase of the procedure. The "victim" as such is not defined in Criminal Procedure Act, but this will have to be changed in order to implement the Directive 2012/29/EU of the European Parliament and of the Council of October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA by the mid November 2015.

The law differentiates between two different categories of criminal offences, based on who is the proper prosecutor for their prosecution:

b.1) Most of the criminal offences are prosecuted ex officio by the state prosecutor (official terminology designation of the "public prosecutor"). In such cases the victim might have a role of a witness.

b.1-1) Some criminal offences are prosecuted ex officio by the state prosecutor, but only if the victim proposes prosecution with a motion (i.e. a kind of sub-category of ex officio prosecuted criminal offences). So, the victim must propose prosecution and might eventually have a role of a witness.

b.2) Then there are criminal offences which are prosecuted only through private prosecution – i.e. a sort of criminal offence lawsuit filed by the victim (e.g. for criminal offences against honour and reputation). Given the nature of such criminal offences, the Slovene criminal procedural law doesn't consider these private prosecutors as "victims".

Article 59 of the CPA regulate the rights of the injured party:

Article 59

(1) The injured party and the private prosecutor shall during the investigation be entitled to call attention to all facts and offer evidence relevant to establishing the commission of a criminal offence, the perpetrator thereof and the indemnification claims of the injured party and the prosecutor.

(2) At the main hearing they shall be entitled to produce evidence, pose questions to the witnesses and experts and comment on and clarify their depositions, and make other statements and motions.

(3) The injured party, the injured party in his capacity as prosecutor and the private prosecutor shall be entitled to inspect the file and the material evidence. The injured party may be denied the right to inspect the file until he has been interrogated as a witness.

(4) The investigating judge and the presiding judge shall acquaint the injured party and the private prosecutor with the rights they are entitled to under the first, second and third paragraphs of this Article.

Article 59 applies to all injured parties as defined in article 144 CPA :

Criminal Procedure Act

Article 144

The meaning of individual expressions used in this Act is as follows:
…
– the injured party, denoting either a male or female, is the person whose personal or property rights have been violated or jeopardised;

(b) Observations on the implementation of the article

Slovenia has implemented the provision under review.

Article 33. Protection of reporting persons

Each State Party shall consider incorporating into its domestic legal system appropriate measures to provide protection against any unjustified treatment for any person who reports in good faith and on reasonable grounds to the competent authorities any facts concerning offences established in accordance with this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

Measures for protection of reporting persons are incorporated in the Integrity and Corruption Prevention Act implemented by the Commission for Prevention of Corruption. This Act establishes principles of nondisclosure and protection of identity of reporting persons.

In case of appearance of conditions provided by the Law on Witness Protection the Commission of Corruption may submit proposal to the Commission on Protection of Witnesses Risk in order to protect reporting person or his family members.

Article 25 of the Integrity and Corruption Prevention Act provides two different approaches with regards to reporting persons in the private sector and in public administration, and establishes burden of proof for the employer if an employee provides facts concerning circumstances of retaliation. An employee has also rights to claim for compensation if they have been subject to retaliatory measures. In addition a fine can be imposed for any attempt to disclose the identity of reporting person (from 400 EUR up to 1200 EUR), for disclosing the identity of a reporting person (from 1000 up to 2000 EUR), and for initiating a procedure for disclosure of identity of a reporting person by a responsible person in public administration or local government.

Integrity and Corruption Prevention Act (IPCA)

Article 23

Reporting of corruption and protection of reporting persons

(1) Any person may report instances of corruption in a State body, local community, by a holder of public authority or other legal persons governed by public or private law, or a practice by a natural person for which he believes that it contains elements of corruption, to the Commission or any other competent body. At the reporting person's request, the Commission and other competent authorities shall notify the reporting person of the measures or the course of action taken in this respect. This provision shall not encroach on the reporting person's right to inform the public of the corrupt practice in question.

(2) The provisions of the law regulating access to public information shall not apply to documents, files, records and other documentary material relating to a procedure conducted by the Commission with regard to the reported suspicion of corruption until the procedure before the Commission has

been concluded. The information on the protected reporting person shall not be made public after the procedure has been concluded. This provision shall also apply in the event that the material referred to in this paragraph has been referred to another body for consideration. The reporting person may send the report that contains information that is defined by law as classified information only to criminal law enforcement authorities or to the Commission.

(3) If the Commission finds that the report referred to in the preceding paragraphs contains elements of a criminal offence for which the offender is prosecuted ex officio, it shall inform the law enforcement authorities of this in accordance with the law governing the criminal procedure and request that they keep it informed of any further courses of action.

(4) The identity of the reporting person referred to in paragraph 1 of this Article, who has made a report in good faith and has reasonably believed that the information he has provided with regard to the report is true, which shall be assessed by the Commission, shall not be established or disclosed. The filing of a malicious report shall be an offence punishable under this Act if no elements of a criminal offence have been established.

(5) In assessing whether the report has been made in good faith, or whether the reporting person has reasonably believed that the information he provided is true, the Commission shall take into account, in particular, the nature and gravity of the practice reported, the threat of damage posed by that practice or the actual damage caused as a result, a possible breach of the reporting person's duty to protect specific information, and the status of the body or person to which the report has been made.

(6) If in connection with the report of corruption, the conditions for the protection of the reporting person or his family members are fulfilled under the law on witness protection, the Commission may submit a proposal to the Commission on the Protection of Witnesses Risk to include them in the protection programme or may propose that the State Prosecutor General take urgent safeguarding measures.

(7) When the Commission on the Protection of Witnesses considers the Commission's proposal, its session may also be attended by the chair of the Commission.

(8) Only the court may rule that any information on and the identity of the persons referred to in paragraph 4 of this Article be disclosed if this is strictly necessary in order to safeguard the public interest or the rights of others.

Article 24

Reporting unethical or illegal conduct

(1) An official person who has reasonable grounds to believe that he has been requested to engage in illegal or unethical conduct, or has been subject to psychological or physical violence to that end, may report such practice to the superior or the person authorised by the superior (hereinafter: the responsible person).

(2) If there is no responsible person, or if the responsible person fails to respond to the report in writing within five working days, or if it is the responsible person himself who requests that the official should engage in illegal or unethical conduct, the report referred to in the preceding paragraph and the procedure pertaining to it shall fall within the competence of the Commission.

(3) The responsible person or the Commission shall assess the actual situation on the basis of the report, issue appropriate instructions on further action to be taken if necessary, and take all necessary steps to prevent any illegal or unethical requests and adverse consequences that may ensue.

Article 25

Measures to protect the reporting person

(1) If the reporting persons have been subject to retaliatory measures as a consequence of filing the report referred to in Articles 23 and 24 of this Act, and this has had an adverse impact on them, they have the right to claim compensation from their employer for the unlawfully caused damage.

(2) The Commission may offer reporting persons assistance in establishing a causal link between the adverse consequences and retaliatory measures referred to in the preceding paragraph.

(3) If during the course of the procedure referred to in the preceding paragraph the Commission

establishes a causal link between the report and the retaliatory measures taken against the reporting person, it shall demand that the employer ensure that such conduct is discontinued immediately.

(4) If the reporting persons referred to in paragraph 1 of this Article are public servants, and if they continue to be the focus of retaliation despite the Commission's demand referred to in the preceding paragraph, making it impossible for them to continue work in their current work post, they may request that their employer transfer them to another equivalent post and inform the Commission of this.

(5) If a reporting person cites facts in a dispute that give grounds for the assumption that he has been subject to retaliation by the employer due to having filed a report, the burden of proof shall rest with the employer.

(6) The public servant's employer shall ensure that the demand under paragraph 4 of this Article is met within 90 days at the latest and shall inform the Commission of this.

X. PENAL PROVISIONS

Article 77 Offences by natural persons

(1) A fine of between EUR 400 and EUR 1 200 shall be imposed on an individual who acts as follows:

- in contravention of the provision of paragraph 4 of Article 23 of this Act, attempts to establish the identity of the reporting person who has made the report in good faith or has reasonably believed that his information is true;

(2) A fine of between EUR 1 000 and EUR 2 000 shall be imposed on an individual who does the following:

- in contravention of the provision of paragraph 4 of Article 23 of this Act, discloses the identity of the reporting person, who has made the report in good faith or has reasonably believed that his information is true, or makes a malicious report;

(6) A fine of between EUR 400 and EUR 4 000 shall be imposed on a responsible person of a State body, local community body, holder of public authority, and legal person governed by public or private law which, in contravention of the provision of paragraph 4 of Article 23, initiates a procedure for the establishment or disclosure of the identity of the reporting person due to the report having been filed by this person.

(7) A fine of between EUR 400 and EUR 4 000 shall be imposed on a responsible person of a State body, local community body, holder of public authority, or other legal person governed by public or private law which, in contravention of the provision of paragraph 1 of article 25 of this Act, acts in a manner that has adverse consequences for the reporting person, or takes retaliatory measures against the reporting person.

(8) A fine of between EUR 400 and EUR 4 000 shall be imposed on a responsible person of a State body, local community body, holder of public authority, or other legal person governed by public or private law which, in contravention of the demand of the Commission referred to in paragraph 3 of Article 25 of this Act, fails to immediately cease imposing retaliatory measures.

(9) A fine of between EUR 400 and EUR 4 000 shall be imposed on a responsible person of a State body, local community body, holder of public authority, or other legal person governed by public or private law which, in contravention of paragraphs 4 and 6 of Article 25 of this Act, fails to transfer a public servant without justification.

Article 78 Offences by legal persons

(7) A fine of between EUR 400 and EUR 100 000 shall be imposed on a holder of public authority or other legal person governed by public or private law which commits a minor offence referred to in paragraphs 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, and 16 of Article 77 of this Act, with the exception of the Republic of Slovenia and local communities.

Article 80 Exercising supervision

(1) The Commission shall be responsible for the implementation and supervision of the implementation of the provisions of this Act.

(2) The fines laid down in this Act may also be imposed under an expedited procedure in an amount higher than the minimum amount of the fine prescribed, but shall not exceed the maximum fines prescribed for minor offences under this Act.

If a whistleblower is becoming a witness in the further procedure, the witness protection measures are applicable (see above articles 141 a, see above under article 32), including concerning confidentiality (articles 235 a) and 240 a). See also the Witness Protection Act (above under article 32).

Article 7 of the Labor Act provides also labor protections against mobbing that could be applied to retaliation measures against reporting persons.

Statistics:

Since the provisions on whistle-blower protection have been introduced in June 2010, the Commission does not have a lot of practical examples of their implementation. However, in the yearly report for 2012 the Commission provided statistical data for the period from 2010 till 2012, stating that

- in 2010 it had one case when the protection of identity was granted,
- in the following year 13 such cases and
- 14 cases in 2013.
- Both in 2011 and 2012, a request to cease to continue with retaliatory measures was sent to the respective institution.
- In 2012, 4 tests of bona fide were conducted,
- in 5 cases protection of an official person was granted and
- in 4 cases a causal link between the adverse consequences and retaliatory measures was established.

With regard to imposing a fine for attempt to disclose identity of reporting person the Commission did not have to use this measure; however, in one case the media tried to discover the identity of the reporting person and the Commission in its public statement as well as press conference warned the media that such acts can be considered as attempts to disclose identity and can be fined – the media then ceased to continue with such activities.

One misdemeanour proceeding was introduced due to attempts to discover the identity of a reporting person but was later stopped.

Due to filing a malicious report three misdemeanour proceedings were introduced and concluded, each resulted in a fine, one becoming final after a judicial review, while the other two are still pending.

Whistle-Blower protection example

A public sector employee filed a report to the Commission. In the report he revealed acts of corruption in his working environment. Due to this report he was – as he said – subjected to retaliatory measures. He notified the head of the institution he worked for of the measures taken against him and asked for action to be taken and to provide him the necessary protection. As the employee explained to the Commission the head of the institution did not provide him the protection he was entitled to under the labour law.

The Commission addressed a letter to the head of the institution and explained that it initiated a procedure under articles 23, 24 and 25 of IPCA to assess the actual situation and reasons for protection of the public sector employee against retaliatory measures (harassment or victimization at the workplace).

Under IPCA Article 25 the reporting person enjoys a right to claim compensation from their employer for the unlawfully caused damage. The Commission may offer reporting persons assistance in establishing a causal link between the adverse consequences and retaliatory measures. If the Commission establishes the causal link, it demands that the employer makes sure the retaliatory measures seize immediately. The reporting person needs to state the facts that justify the assumption that he was actually exposed to retaliatory measures. The burden of proof lies with the employer who needs to prove that the assertions of the reporting person are untrue.

The Commission requested that the institution in this case assesses the situation and acts accordingly (issue appropriate instructions and does everything necessary to prevent occurrence of the adverse consequences and creates environment in which the reporting person will be able to work without being subjected to retaliatory measures).

The institution responded and explained that they understand the importance of the field covered by the IPCA. They explained they have zero tolerance for any kind of corruption and any act that could be perceived as harassment or victimization in the workplace.

The Commission concluded that its whistle-blower protection effort was successful as the reporting person did not complain about retaliatory measures again.

(b) Observations on the implementation of the article

Slovenia has implemented the provision under review.

Article 34. Consequences of acts of corruption

With due regard to the rights of third parties acquired in good faith, each State Party shall take measures, in accordance with the fundamental principles of its domestic law, to address consequences of corruption. In this context, States Parties may consider corruption a relevant factor in legal proceedings to annul or rescind a contract, withdraw a concession or other similar instrument or take any other remedial action.

(a) Summary of information relevant to reviewing the implementation of the article

The Integrity and Corruption Prevention Act provides in its article 14 for anti-corruption clauses in public procurement contracts:

Integrity and Corruption Prevention Act (IPCA)

Article 14

(Anti-corruption clause)

(1) Any contract in which a person promises, offers or gives any undue advantage to the representative or agent of a public sector body or organisation on behalf or for the account of another contracting party for the purpose of

- obtaining business;

- concluding business under more favourable terms and conditions;

- omitting due supervision over the implementation of contractual obligations; or

- any other act or omission which causes a public sector body or organisation damage or by which the representative or the agent of the public sector body or organisation, the other contracting party or its representative, agent or intermediary are put in a position to obtain an undue advantage, shall be deemed null and void.

(2) Public sector bodies and organisations entering into contracts that exceed EUR 10 000 (excluding VAT) with bidders, the suppliers of goods and services, or contractors shall, by taking each case into consideration, include in these contracts the content referred to in the preceding paragraph as a compulsory element of any contract; they may also include additional provisions for the purpose of preventing corruption or other transactions which are contrary to morality or public order. This provision shall also apply to entering into contracts with bidders, the suppliers of goods and services, or contractors outside the territory of the Republic of Slovenia.

(3) A public sector body or organisation which has concluded a contract shall on the basis of its own findings on the alleged existence of the facts referred to in paragraph 1 of this Article or on the basis of a notification from the Commission or any other authority in respect of the alleged occurrence of these facts commence with the identification of the criteria for nullifying the contract referred to in the previous paragraph or by way of any other measure in compliance with the regulations of the

Republic of Slovenia.

(4) In the event that there is a suspicion of irregularities in the implementation of paragraph 2 of this Article, the Commission shall request the public sector bodies or organisations to submit to it all contracts concluded in a specific period of time or with a specific person. In the event that the Commission establishes a violation of the provisions of paragraph 2 of this Article or the alleged existence of the facts referred to in paragraph 1 of this Article, it shall notify the body or organisation that concluded the contract and other competent authorities accordingly thereof.

(5) In the event that a public sector body or organisation takes the view that due to the nature of a contract the inclusion of the anti-corruption clause is not possible or appropriate, or in cases where the other contracting party is established outside the territory of the Republic of Slovenia and opposes the inclusion of such, the relevant body or organisation may, by way of a reasoned proposal, request that the Commission grant an exemption from the obligation laid down in paragraph 2 of this Article in respect of the contract in question. When taking a decision thereon, the Commission shall particularly take into account the public interest in the conclusion of the contract, any objective circumstances which prevent business from being concluded owing to the inclusion of the anti-corruption clause, and the level of the general corruption risk in equivalent business transactions. The Commission's permission regarding the conclusion of a contract without the anti-corruption clause shall be published on its website or, in accordance with an agreement with the relevant body or organisation, when it can no longer have any impact on the conclusion of the contract.

(6) In order to ensure the transparency of the business and to mitigate corruption risks, any public sector body or organisation which is subject to the obligation to carry out public procurement procedures in compliance with the relevant public procurement regulations shall, prior to the conclusion of a contract exceeding the value of EUR 10 000 (excluding VAT) obtain a statement or information on the participation of natural and legal persons in the bidder's assets, including the participation of silent partners, as well as on economic operators, which are considered to be companies affiliated to the bidder under the provisions of the Companies Act. The public sector body or organisation in question shall submit this statement or information to the Commission at the latter's request. In respect of natural persons, this statement shall include their personal name, residential address and their interest in the assets. In the event that the bidder submits a false statement or provides false information on the facts stated, the contract shall be rendered null and void.

(b) Observations on the implementation of the article

Slovenia has a relevant provision in article 14 of its Integrity and Corruption Prevention Act. This provision refers to public procurement contracts and states that acts which cause damage to a public sector entity or by which anybody involved obtains an undue advantage shall be deemed null and void. The provision can be interpreted to the effect that corruption can be considered a relevant factor in legal proceedings to annul such contracts, although no case examples have been provided.

It is recommended that Slovenia consider creating similar provisions for concessions or similar instruments.

Article 35. Compensation for damage

Each State Party shall take such measures as may be necessary, in accordance with principles of its domestic law, to ensure that entities or persons who have suffered damage as a result of an act of corruption have the right to initiate legal proceedings against those responsible for that damage in order to obtain compensation.

(a) Summary of information relevant to reviewing the implementation of the article

Article 354 of the Code of Obligations stipulates the cases in which one can ask for the compensation due to corruption:

Code of Obligations:

Compensation claims for reason of corruption

Article 354

If the damage was inflicted by an act on which the offering, provision, acceptance or demanding of a bribe or any other benefit or the promise thereof had a direct or indirect influence, or by the omission of action that would have prevented an act of corruption, or by any other act that according to law or international treaty entails corruption, the claim shall become statute-barred five years after the injured party learnt of the damage and of the person that inflicted it; in any case it shall become statute-barred fifteen years after the act was committed.

Criminal Procedure Act

Chapter Ten

CLAIMS FOR INDEMNIFICATION

Article 100

(1) Claims for indemnification arising out of the commission of a criminal offence shall upon a motion by rightful claimants be dealt with in criminal procedure, provided that the determination of those claims does not significantly protract the procedure.

(2) A claim for indemnification may consist of a demand for compensation for damage, the recovery of property or the cancellation of a legal transaction.

Article 101

The motion for the assertion of an indemnification claim in criminal procedure may be made by the person entitled to assert such claim in a civil action.

Article 102

(1) The motion for indemnification in criminal procedure shall be filed with the agency responsible for receiving crime reports or with the court which conducts criminal proceedings.

(2) The motion shall be made before the end of the main hearing at a court of first instance. (3) The person entitled to make the motion shall specify his claim and offer evidence for such claim.

(4) If the claimant fails to make the motion for indemnification in criminal procedure before charges are brought, he shall be informed that he may make it before the end of the main hearing.

Obligations Code of Slovenia

Compensation claims for damage inflicted by criminal offence

Article 353

(1) If the damage was inflicted by a criminal offence and a longer statute-barring period is stipulated for criminal prosecution, a compensation claim against the person responsible shall become statute-barred when the period stipulated for the statute-barring of criminal prosecution expires.

(2) The discontinuance of statute-barring of criminal prosecution shall have as a consequence the discontinuance of statute-barring of the compensation claim.

(3) This shall also apply to the suspension of statute-barring.

Compensation claims for reason of corruption

Article 354

If the damage was inflicted by an act on which the offering, provision, acceptance or demanding of a bribe or any other benefit or the promise thereof had a direct or indirect influence, or by the omission of action that would have prevented an act of corruption, or by any other act that according to law or international treaty entails corruption, the claim shall become statute-barred five years after the injured party learnt of the damage and of the person that inflicted it; in any case it shall become statute-barred fifteen years after the act was committed.

In principle the civil procedure and criminal procedure are not interdependent. However, the civil court is bound by the judgment of the criminal court's judgment regarding the existence of preliminary question, the existence of the offence.

The compensation could be claimed in all cases stipulated in the Obligation Code irrespective whether the damage is caused by an action of public official.

(b) Observations on the implementation of the article

Slovenia has a specific provision for compensation for damages. Slovenia has therefore implemented the provision, although no practical examples were available.

Article 36. Specialized authorities

Each State Party shall, in accordance with the fundamental principles of its legal system, ensure the existence of a body or bodies or persons specialized in combating corruption through law enforcement. Such body or bodies or persons shall be granted the necessary independence, in accordance with the fundamental principles of the legal system of the State Party, to be able to carry out their functions effectively and without any undue influence. Such persons or staff of such body or bodies should have the appropriate training and resources to carry out their tasks.

(a) Summary of information relevant to reviewing the implementation of the article

Slovenia has several anti-corruption authorities specialized in anti-corruption through law enforcement.

Police

In the Slovenian Criminal Police, the units combating corruption were set up in April 2000 soon after the ratification of the Criminal Law Convention on Corruption of the Council of Europe (Official Gazette of the Republic of Slovenia, RS No. MP 7/2000). The units began to operate within the organizational structure to combat organized crime. Before that time, no specialized units to deal with corruption had been set up within the criminal police. The task of disclosing corruption offences was assigned to economic crime bodies as set out in the job description.

By adopting the Economic Crime Management Strategy adopted by the Slovenian Government on 19 June 2003, with a view to implementing the second strategic goal related to the improvement of cooperation between state authorities and institutions to adapt the police organization to the state prosecutor's organization, the anti-corruption unit fell in 2004 within the structure of economic crime units as set out in the Rules on organization and job classification in the police.

The Anti-Corruption Unit, at the national level, is integrated into the General Police Directorate, Criminal Police Directorate in the Economic Crime Division as the Corruption Section, whose tasks are primarily as follows:

- to include and deal with greater and more complex corruption cases in the Republic of Slovenia, to coordinate anti-corruption units when criminal cases and perpetrators of criminal acts are linked to the area of several PD,
- to coordinate and harmonize work with district state prosecutors' offices, in particular with the Specialized Office of the State Prosecutor at the Office of the State Prosecutor General, to cooperate with the institutions of social control in Slovenia,
- to cooperate with foreign security forces in the prosecution of corruption (international) crime, to participate in the police education process.

At the regional level, the units operate at Police Directorates in Criminal Investigation Police Divisions. In larger units such as the Criminal Investigation Police Division of the Police Directorates of Ljubljana, Koper, Maribor, Novo mesto and Celje, they operate as groups, whereas in other smaller units of Police Directorates (Nova Gorica, Murska Sobota and Kranj), individual criminal police officers within economic crime groups are in charge of corruption.

The Resolution on the Prevention of Corruption in the Republic of Slovenia, regulates specific fields where

corruption may occur, namely politics; state administration; law enforcement bodies and authorities in charge of trials; the economy; non-governmental organizations; media and the general public. It sets out to implement legislative, institutional and practical measures for the above-mentioned fields. In the chapter on law enforcement bodies and authorities in charge of trials, as a result of the institutional measures, a reorganization of police units specialized in corruption is planned, specifically towards greater centralization aimed at maximizing operability and ensuring harmonized operation and complete independence.

Slovenia has a specialized anti-corruption unit in the General Police Directorate, Criminal Police Directorate since 2000. Also it has anti-corruption units at the regional level.

Its organization is regulated in the Act on Police Organization and Work (ZODPol and ZODPol-A), Official Journal of the Republic of Slovenia, No. 15/2013 of 18 February 2013 ZODPol and ZODPol-A

Since 1 January 2010, the National Bureau of Investigation is a specialized criminal investigation unit at the national level for the detection and investigation of serious criminal offences, especially economic and financial crime and corruption and in certain cases organized crime, cybercrime and complex forms of conventional crime.

The National Bureau of Investigation (hereinafter: NBI) is a specialized investigating unit of the Criminal Police Directorate at the General Police Directorate established for special cases in the detection and investigation of complex criminal offences, particularly in the area of the economy, corruption and organized crime, which requires specialized qualifications, organization and the equipment of criminal police investigators or particular targeted activities of state authorities and institutions in the fields of taxes, customs duties, financial operations, securities, protection of competition, prevention of money laundering, prevention of corruption, illicit drugs and inspection supervision.

The activities of the NBI aimed at detecting and investigating criminal offences under its competence is headed by the Director of the NBI. In addition to the Director of the NBI, the work is carried out by assistant directors, heads of investigation (senior criminal police inspectors), investigators (senior criminal police inspectors) and a professional technical staff. The NBI, within the scope of its tasks, operates under the principle of professional and operational autonomy. The Criminal Police Directorate provides technical conditions and assistance to the NBI in carrying out its tasks.

Act on Police Organization and Work (ZODPol)

Article 21

(National Bureau of Investigation)

(1) The National Bureau of Investigation shall be a specialised investigating unit established for special cases of the detection and investigation of complex criminal offences, particularly in the area of white-collar crime, corruption and organised crime, which requires specific qualifications, organisation and equipment of criminal police investigators or specifically targeted activities carried out by state authorities and institutions in the areas of taxes, customs duties, financial operations, securities, the protection of competition, the prevention of money laundering, the prevention of corruption, illicit drugs and inspection supervision.

(2) The National Bureau of Investigation shall be organised within the internal organisational unit of the General Police Directorate responsible for combating crime. In performing their tasks, they shall be fully autonomous.

(3) The National Bureau of Investigation shall be headed by a director (hereinafter: Director of the National Bureau of Investigation).

Article 22

(Taking over an investigation)

(1) An internal act adopted by the Director General of the Police upon the proposal of the Director of the National Bureau of Investigation shall determine investigations of suspicions of criminal offences to be taken over by the National Bureau of Investigation.

(2) Notwithstanding the preceding paragraph, the National Bureau of Investigation may institute or take over an investigation of the suspicion of a particular criminal offence in cases when it receives a written initiative to take over the investigation by the head of the Specialised State Prosecutor's Office of the Republic of Slovenia, the head of a district state prosecutor's office or the heads of any

state authorities or institutions in the areas of taxes, customs duties, financial operations, securities, the protection of competition, the prevention of money laundering, the prevention of corruption, illicit drugs and inspection supervision. In the event of their refusal to take over the investigation, the police shall accordingly notify the initiator thereof.

The Corruption Section (in the Economic Crime Division of the Criminal Police Directorate of the General Police Directorate) is responsible for the corruption crime situation in the entire territory of the Republic of Slovenia. It monitors, manages and directs the work of all police directorates, and investigates suspected criminal acts of corruption reported by state institutions and other governmental and non-governmental organizations or through portal e-notification of corruption. In addition to undertaking tasks on a regular basis, it analyses and detects places of corruption and establishes the modus operandi of the perpetrators of these acts. It sets out conditions for investigations of corruption offences and refers the prepared cases to the competent police directorates for implementation. In doing so, it controls and coordinates the activities of individual police directorates and provides the international exchange of data. In the most demanding cases it manages or coordinates operational activities or a combination of operational activities or activities in working groups. In the future, it is expected to set up more joint investigation teams. They will be led by individual inspectors from the Corruption Section in the Economic Crime Division of the Criminal Police Directorate of the General Police Directorate. Great emphasis is placed on gaining specialist knowledge to investigate the most demanding corruption offences, which requires continuous education and training of criminal police officers who are responsible for corruption in individual Police Directorates. Police inspectors in the Corruption Section will participate in the elaboration of education and training programmes and will propose topics for education and training in relation to the situation of current corruption crime and trends in this area.

Selection of criminal police officers for work in the field of corruption:

1. General conditions:

The conditions are set out in the act governing the internal organisation and job classification in the police. For example, that he is a citizen of the Republic of Slovenia.

2. Priorities to be considered in employing a candidate(s):

taking into consideration career prospects in the police - priority should be given to candidates who have been carrying out operational activities in the police for more than ten years;

active knowledge of at least one global language is desirable: English, German or Italian;

other forms of knowledge are desirable - specialist qualifications, knowledge of the functioning of the state administration, functioning of self-government bodies, public procurement, macro-and micro-economics etc;

candidates must submit a police clearance certificate stating that they have not been prosecuted either for disciplinary violations or for criminal responsibility.

The above priorities are verified by a candidate selection commission. The commission is appointed by the Director of a Police Directorate.

3. Other priorities (criteria of suitability) to be met by a candidate

- results of work performed in the past - they indicate that an individual is capable of carrying out the work i.e. his contribution to the detection of criminal offences and wide knowledge of crime problems;

- suitability - honesty - these jobs should be taken by people who are not burdened with various political views, especially in terms of glorification of individual political options or individuals, i.e. they should be guided by their profession and qualifications. Suitability and honesty should be criteria for building up public confidence in the work of a candidate.

- prudence - cases dealt with through corruption crime are subject to various imputations, revenge etc.; therefore, special attention is required in identifying the motivations for reporting. Prudence should be one of the most important criteria of suitability for work in corruption units; • wide range of knowledge - this criterion stems from work performed in the past and knowledge gained.

- conducting highly demanding crime investigations and cases - criterion related to the results of

work performed in the past;

- independence and self-development in investigation - the number of cases obtained independently and solved in the pre-trial investigation;

- loyalty - criterion to be respected by state officials, meaning compliance with the laws and regulations and benefits of the state.

On the basis of the aforementioned criteria, five posts, at the level of the Criminal Police Directorate, were created for the Corruption Section in the Economic Crime Division of the Criminal Police Directorate, namely a head of the Section, four senior criminal police inspectors and one criminal police inspector.

Training of police officers in the field of corruption:

The Corruption Section in the Economic Crime Division at the Criminal Police Directorate is responsible for training criminal police officers who work in Slovenia in the field of corruption. Each year, training in the form of professional meetings is organised, where current topics in the area of corruption are discussed, namely 1 x one-day training in legislation and 1 x two-day training focused on the investigation of corruption in individual critical areas. Each year, another topic area is chosen. In addition to criminal police officers, training is attended by representatives of the Commission for the Prevention of Corruption and prosecutors from the entire territory of Slovenia. Lecturers are experts in individual areas that are current topics of the training. The topics of the training in the last three years were as follows: CORRUPTION IN THE JUDICIARY, FORMS OF CORRUPTION IN THE WORK OF INSPECTION SERVICES AND THE RISK OF CORRUPTION OF INSPECTORS AND AUDITORS and CORRUPTION WITHIN PUBLIC PRIVATE PARTNERSHIPS.

Statistical data on corruption offences investigated by the Police (from the yearly report of the Police)

Corruption Offenses	Number of offenses		Growth/Decline %	Number of Denounced Suspects		Growth/Decline %
	2011	2012		2011	2012	
Violation of Free Determination (KZ-1 153)	1	-	…	1	-	…
Acceptance of Bribe during the Election or Ballot (KZ-1 157)	-	1	…	-	1	…
Unauthorised Acceptance of Gifts (KZ-1 241)	2	4	…	1	2	…
Unauthorised Giving of Gifts (KZ-1 242)	4	5	…	6	6	…
Acceptance of Bribes (KZ-1 261)	7	19	…	6	6	…
Giving Bribes (KZ-1 262)	10	14	…	11	21	…
Accepting Benefits for Illegal Intermediation (KZ-1 263)	16	3	…	20	3	…
Giving of Gifts for Illegal Intervention (KZ-1 264)	8	1	…	8	1	…
Total	**48**	**47**	**…**	**58**	**55**	**-5.2**
Criminal Offenses with elements of corruption (at least one criminal police indication 244K or 261K)	8	17	…	10	35	…

Anti-Corruption Commission

The Commission is not strictly spoken a law enforcement body because it investigates administrative cases. However, it is an investigation body and often submits its cases to the Prosecutors Office for the further criminal procedure. It is an independent body with an independent part of the State budget. The

Commission's budget had at the time of the joint meeting recently been increased due to public pressure. The Commission also carries out numerous, specialized and general trainings for civil servants regarding the whistle-blower protection.

State Prosecutors Office

The State Prosecutor's Office has ten appointed and eleven delegated specialized prosecutors. Cases from specialized prosecutors have priority in courts.

Prosecutors are appointed for life time by the Government upon proposal of the prosecutorial council.

The Specialised State Prosecutor's Office of the Republic of Slovenia (hereinafter: SOSP) is regulated in article 182 of the State Prosecutor's Office Act:

> Article 192 of the State Prosecutor's Office Act
>
> (Jurisdiction)
>
> (1) The most serious criminal acts whose prosecution calls for a special organisation and qualifications of state prosecutors and the highest level of performance shall be dealt with by the Specialised State Prosecutor's Office of the Republic of Slovenia (hereinafter: SOSP).
>
> The SOSP shall be competent for prosecution of perpetrators of criminal acts:
>
> - against the economic sector, subject to a punishment of five years of imprisonment or to a more severe punishment, except commercial fraud, issuing of a bad cheque and abuse of bank or credit card, use of counterfeit bank, credit or other card;
>
> - subject to a punishment of ten years of imprisonment or a more severe punishment if the act has been committed within a criminal association;
>
> - accepting a bribe, giving a bribe, accepting benefits for illegal intermediation, giving of gifts for illegal intermediation, unlawful acceptance of gifts, unlawful giving of gifts;
>
> - terrorism, financing terrorism, instigation and public glorification of terrorist acts, recruitment and training for terrorist acts;
>
> - establishing slavery relations and human trafficking.
>
> (3) The SOSP shall be competent for the prosecution of perpetrators of criminal acts associated with the criminal acts from the preceding paragraph if the same evidence is presented (associated cases).
>
> (4) The SOSP shall have exclusive competence for directing the investigation, filing and representing the motions for temporary securing and seizure of property of illegal origin pursuant to statutory law.
>
> (5) In the event of doubt concerning the designation of a competent state prosecutor's office, the SOSP shall be deemed competent to pass the decision.
>
> (6) Unless otherwise stipulated by this Act, the provisions of the act, implementing regulations and other acts applying to district state prosecutor's offices shall also apply to the SOSP.

Judicial Power

There are specialized courts on serious economic crime.

Judges are appointed for life time by the Parliament, upon proposal by the judicial council.

(b) Observations on the implementation of the article

Slovenia has a specialized anti-corruption unit in the police. Further, the Commission is an independent body investigating corruption administratively, and although it is not a law enforcement body, the results of its administrative investigations often result in criminal procedures. Slovenia has also specialized anti-

corruption prosecutors and courts specialized on serious economic crime.

Article 37. Cooperation with law enforcement authorities

Paragraph 1 of article 37

1. Each State Party shall take appropriate measures to encourage persons who participate or who have participated in the commission of an offence established in accordance with this Convention to supply information useful to competent authorities for investigative and evidentiary purposes and to provide factual, specific help to competent authorities that may contribute to depriving offenders of the proceeds of crime and to recovering such proceeds.

(a) Summary of information relevant to reviewing the implementation of the article

According to the Article 52 of the Criminal Code punishment of the perpetrator may be "remitted" if the perpetrator gave the award, gift or other benefit on request of an official or public officer and had declared such an offence before it was detected or before he knew it had been detected. Slovenian authorities explained that the concept of remission means abolishment, but that the judge is free to only reduce the sentence instead of abolishing it (see below para. 2)_.

Article 51 paragraph 2 contains a regulation on guilty plea, which was introduced in 2011 (see below under paragraph 2).

The Criminal Procedure Act in Chapter XXVI a (titled the Agreement on the Recognition of Guilt) provides that in criminal proceedings the accused, the defender and the public prosecutor may suggest to the other party to enter into an agreement that the accused recognizes guilt for the crime. Such agreement may be proposed by the public prosecutor even before the criminal proceedings start, if a well-grounded suspicion exists that the person committed the criminal offence, which is to be subject to the criminal proceedings. In such case, the public prosecutor, who proposed the agreement, shall inform the suspect in writing about of the description of the act and the legal qualification of the criminal offence in respect of which he proposed the conclusion of an agreement. If the suspect has not yet been questioned, he must be informed on the rights referred to in the fourth paragraph of Article 148 of this Act. The agreement contains the type and the amount or the duration of the penalty to be imposed on the accused for the criminal offence. The agreed penalty shall be within the limits of the prescribed penalty; the imposition of a penalty and the method of enforcement of a penalty may be proposed in the agreement only subject to the conditions and within the limits laid down in the Criminal Code. This is applicable to all the offences. Accused persons are not required to provide substantial information and disclose all the information at their disposal in order to have an agreement with the prosecutor. Only prosecutors have the authority to enter into such agreements, police agents are not allowed to.

Chapter XXVI a
Agreement on the Confession of Guilt

Article 450a

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

(2) If the parties agree with the alternative of concluding the criminal proceedings on the basis of an agreement on the confession of guilt and the suspect or the accused does not have legal representation, the president of the court may appoint legal representation for him ex officio on the proposal of the state prosecutor. In concluding the agreement, the appointed counsel shall perform this duty until the criminal proceedings are finally concluded. However, he shall be dismissed if the

state prosecutor notifies the president of the court that the negotiations were not successful. The remuneration and the necessary expenses of the counsel appointed for negotiations shall be the costs of the criminal proceedings and the court shall decide on their provisional advance payment on the basis of the third paragraph of Article 92 of this Act.

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

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

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

Further, for active bribery, there is a provision on effective regret:

Giving Bribes Article 262

(1) Whoever promises, offers or gives an award, gift or other benefit to an official or a public officer for him or any third person in order for him either to perform an official act within the scope of his official duties which should not be performed, or not to perform an official act which should or could be performed, or makes other abuse of his position, or whoever serves as an agent for the purpose of bribing an official, shall be sentenced to imprisonment for not less than one and not more than five years and punished by a fine.

(2) Whoever promises, offers or gives an award, gift or other benefit to an official or a public officer for him or any third person in order for him either to perform an official act within the scope of his official duties which should or could be performed, or not to perform an official act which should not be performed, or makes other use of his position, shall be sentenced to imprisonment for not less than six months and not more than three years.

(3) If the perpetrator under the preceding paragraphs who gave the award, gift or other benefit on request of an official or public officer, had declared such an offence before it was detected or he knew it had been detected, his punishment may be remitted, provided this is not in contravention of the rules of international law.

Giving of Gifts for Illegal Intervention Article 264

(1) Whoever promises, offers or gives an award, gift or any other favour to another person for himself or any third person, in order to use his rank or real or presumptive influence to intervene so that a certain official act be or not be performed, shall be sentenced to imprisonment for not more than three years.

(2) Whoever promises, offers or gives an award, gift or any other favour to other person for himself or any third person, in order to use his rank or real or presumptive influence to intervene either for the performance of a certain official act which should not be performed or for the non-performance of an official act which should or could be performed, shall be sentenced to imprisonment for not less than one and not more than five years.

(3) If the perpetrator under the preceding paragraphs who gave the award, gift or other benefit on request of the illegal intermediary, had declared such an offence before it was detected or he knew it had been detected, his punishment may be remitted.

Slovenian authorities confirmed that the remission of the punishment was optional, at the discretion of the judge, and not automatic.

(b) Observations on the implementation of the article

Slovenia has provisions about agreements between the accused, the defender and the public prosecutor on cooperation with the justice system, and about guilty pleas. Further, Slovenia has a provision about the "remission", i.e. abolishment or reduction of the punishment. For bribery, Slovenia has a provision on effective regret. Slovenia has implemented the provision under review.

Paragraph 2 of article 37

2. Each State Party shall consider providing for the possibility, in appropriate cases, of mitigating punishment of an accused person who provides substantial cooperation in the investigation or prosecution of an offence established in accordance with this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

Slovenian authorities can mitigate the sentence on the basis of a guilty plea (art. 51 of the Criminal Code):

Criminal Code:

Reduction of Sentence Article 50

The court may fix the sentence of the perpetrator within the limits of statutory terms or may apply a less severe type of sentence under the following conditions:

- if the possibility of a reduced sentence for the perpetrator is provided for by the statute;

- if the court ascertains that special mitigating circumstances are present, which justify the imposition of a reduced sentence.

Limits of the Reduction of Sentence Article 51

(1) When conditions for the reduction of a sentence, as outlined in the preceding Article, are met, the sentence shall be reduced within the following limits:

1) if a prison sentence for a term of fifteen years is prescribed as the lowest limit for a specific offence, such a limit may be lowered by up to ten years of imprisonment;

2) if a prison sentence for a term of three or more years is prescribed as the lowest limit for a specific offence, such a limit may be lowered by up to one year of imprisonment;

3) if a prison sentence for a term of one year is prescribed as the lowest limit for a specific offence, such a limit may be lowered by up to three months of imprisonment;

4) if a prison sentence for a term of less than one year is prescribed as the lowest limit for a specific offence, such a limit may be lowered by up to one month of imprisonment;

5) if a prison sentence is prescribed as the lowest limit without the statutory terms being determined, a fine may be imposed in place of the prison sentence;

(2) A perpetrator who, pursuant to the Act governing the criminal procedure, pleads guilty when giving a statement for the first time on the indictment containing the proposal for the reduction of the sentence in the case in question, or pleads guilty in the agreement concluded with the state prosecutor, shall have his sentence reduced within the following limits:

1) if a prison sentence of up to ten years or more is prescribed as the lowest limit for a criminal offence, such a limit may be lowered to three years of imprisonment;

2) if a prison sentence of between three and ten years is prescribed as the lowest limit for a criminal offence, such a limit may be lowered to three months of imprisonment;

3) if a prison sentence of less than three years is prescribed as the lowest limit for a criminal offence, such a limit may be lowered to one month of imprisonment;

if a prison sentence of less than one year is prescribed as the lowest limit for a criminal offence, a fine may be imposed instead of imprisonment.

There are internal guidelines for prosecutors on the sentence that they should offer in guilty pleas, which

take into account the guilty plea and the amount of assistance the person has given to help the proceedings. In practice, this would usually result in less than half the sanction that otherwise would have been decided. It was noted that this was an important and often used practice and that it was subject to control and confirmation by the courts.

Further, the "remission" of a sanction (article 52 Criminal Code) can take the form of a reduction of the punishment:

> Remission of Sentence Article 52
>
> (1) The court may remit a sentence when it is so expressly provided for by the statute.
>
> (2) In cases when the court is entitled to remit the sentence, it need not apply the provisions prescribing the limits of the reduction of the sentence.

(b) Observations on the implementation of the article

Slovenia has implemented the provision under review.

Paragraph 3 of article 37

> *3. Each State Party shall consider providing for the possibility, in accordance with the fundamental principles of its domestic law, of granting immunity from prosecution to a person who provides substantial cooperation in the investigation or prosecution of an offence established in accordance with this Convention.*

(a) Summary of information relevant to reviewing the implementation of the article

In Slovenia, the "remission" of the punishment gives the judge the possibility to abolish the punishment, which equals to granting immunity:

> Remission of Sentence Article 52
>
> (1) The court may remit a sentence when it is so expressly provided for by the statute.
>
> (2) In cases when the court is entitled to remit the sentence, it need not apply the provisions prescribing the limits of the reduction of the sentence.

Further, article 163 of the CPA foresees that criminal prosecutions are not started when the offender has repented of the offence and the prosecutor assesses that in view of the circumstances of the case a sentence is not necessary. The circumstances are those established in paragraph 2 of the same article:

> Criminal Procedure Act
>
> Article 163
>
> The public prosecutor shall not be obligated to start criminal prosecution, or shall be entitled to abandon prosecution:
>
> 1) where the Criminal Code lays down that the court may or must grant remission of penalty to a criminal offender and the public prosecutor assesses that in view of the actual circumstances of the case a sentence alone without a criminal sanction is not necessary;
>
> 2) where the Criminal Code provides for a specific offence a fine or imprisonment up to one year and the suspect or the accused, having genuinely repented of the offence, has prevented harmful consequences or compensated for damage and the public prosecutor assesses that in view of the actual circumstances of the case a criminal sanction would not be justified.

(b) Observations on the implementation of the article

Slovenia has implemented the provision under review, although no case examples were provided.

Paragraph 4 of article 37

4. Protection of such persons shall be, mutatis mutandis, as provided for in article 32 of this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

The Witness Protection Act explicitly makes its provisions applicable to suspects and defendants whose sentences may be reduced pursuant to the Criminal Code if they are endangered:

Application of the Act for Persons Showing Remorse

Article 4

(1) Unless otherwise determined herein, the provisions of this Act regulating the protection of endangered witnesses shall be applied correspondingly to suspects and defendants whose sentences may be reduced pursuant to the Criminal Code if they are endangered due to the fact that as the perpetrators of criminal offences committed within criminal associations they have prevented the further committing of such offences or disclosed information important to the investigation and proof of already committed criminal offences.

(2) Unless otherwise determined herein, in cases from the preceding paragraph the provisions of this Act which refer to other endangered persons shall be applied correspondingly for persons who are endangered owing to their relationship to the suspect or defendant.

These provisions are applicable to offenders accused of corruption offences.

(b) Observations on the implementation of the article

Slovenia has implemented the provision under review.

Paragraph 5 of article 37

5. Where a person referred to in paragraph 1 of this article located in one State Party can provide substantial cooperation to the competent authorities of another State Party, the States Parties concerned may consider entering into agreements or arrangements, in accordance with their domestic law, concerning the potential provision by the other State Party of the treatment set forth in paragraphs 2 and 3 of this article.

(a) Summary of information relevant to reviewing the implementation of the article

Slovenia has not entered into agreements or arrangements with other States parties for the case that a person located in Slovenia can provide substantial cooperation to the competent authorities of another Strate party or vice versa.

(b) Observations on the implementation of the article

Slovenia could consider entering in agreements or arrangements with other States parties, where a person referred to in paragraph 1 of this article located in one State Party can provide substantial cooperation to the competent authorities of another State Party, concerning the potential provision by the other State Party of the treatment set forth in paragraphs 2 and 3 of this article.

Article 38. Cooperation between national authorities

Each State Party shall take such measures as may be necessary to encourage, in accordance with its domestic law, cooperation between, on the one hand, its public authorities, as well as its public officials, and, on the other hand, its authorities responsible for investigating and prosecuting criminal offences. Such cooperation may include:

(a) Informing the latter authorities, on their own initiative, where there are reasonable grounds to believe that any of the offences established in accordance with articles 15, 21 and 23 of this Convention has been committed; or

(b) Providing, upon request, to the latter authorities all necessary information.

(a) Summary of information relevant to reviewing the implementation of the article

Article 23 of the IPCA regulates the sharing of information between the Commission and law enforcement authorities:

> Integrity and Prevention of Corruption Act
>
> Article 23
>
> (Reporting of corruption and protection of reporting persons)
>
> (3) If the Commission finds that the report referred to in the preceding paragraphs contains elements of a criminal offence for which the offender is prosecuted ex officio, it shall inform the law enforcement authorities of this in accordance with the law governing the criminal procedure and request that they keep it informed of any further courses of action.

In 2012, the Commission for the Prevention of Corruption assigned 215 cases to the Slovene investigation and prosecution bodies (i.e. the Police and the State Prosecutor's Office).

The Decree on the cooperation of the state prosecutorial service, Police and other competent state bodies and institutions in detection and prosecution of perpetrators of criminal offences and operation of specialised and joint investigation teams (Official Journal of the Republic of Slovenia, No. 83/2010) regulates the relation between different law enforcement authorities, including before prosecution:

> Article 1
>
> 1) This Regulation lays down the procedure examples, deadlines and the way of cooperation of the state prosecutorial service with the police and other competent state bodies and institutions in the areas of taxes, duties, financial management, securities, competition protection, prevention of money laundering, prevention of corruption, illegal drugs and inspection controls in the exercise of their functions within specialized investigation teams (second, third and fourth paragraph of Article 160a of the Criminal Procedure Act, hereinafter CPA) and joint investigation teams (Article 160b of the CPA).
>
> (2) Cooperation encompasses mutual information, guiding the work of police officers and representatives of other relevant state bodies and institutions referred to in the preceding paragraph, and directing the work of the members of specialized investigative teams and joint investigative teams.
>
> Article 2
>
> (1) The purpose of the cooperation under this decree is a directed, coordinated and effective functioning of bodies, institutions and teams from the previous article with the purpose of detection of crimes and their perpetrators, and to obtain information necessary for the decision of a public prosecutor in a concrete case and for filing the indictment in the event the prosecutor continues with the prosecution.
>
> (2) The record of links between state prosecutors, police officers and representatives of other relevant state bodies and institutions referred to in the previous article in the framework of cooperation under this Regulation is not part of the criminal charges and is governed by the internal guidelines of each body or institution.

The Commission indicated that it has a close working relationship and regular meetings with the police (specialized anti-corruption unit) and the specialized anti-corruption prosecutors.

(b) Observations on the implementation of the article

Slovenia has implemented the provision under review.

(c) Successes and good practices

The Anti-Corruption Commission, an administrative investigation body, holds regular meetings with the law enforcement authorities and is allowed to share and receive information from and with them.

Article 39. Cooperation between national authorities and the private sector

Paragraph 1 of article 39

1. Each State Party shall take such measures as may be necessary to encourage, in accordance with its domestic law, cooperation between national investigating and prosecuting authorities and entities of the private sector, in particular financial institutions, relating to matters involving the commission of offences established in accordance with this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

Slovenia has not taken measures yet to encourage cooperation between national investigating and prosecuting authorities and entities of the private sector, in particular financial institutions, relating to matters involving the commission of corruption offences.

(b) Observations on the implementation of the article

It is recommended that Slovenia take such measures as may be necessary to encourage cooperation between national investigating and prosecuting authorities and entities of the private sector, in particular financial institutions, relating to matters involving the commission of offences established in accordance with this Convention.

Paragraph 2 of article 39

2. Each State Party shall consider encouraging its nationals and other persons with a habitual residence in its territory to report to the national investigating and prosecuting authorities the commission of an offence established in accordance with this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

Any person may report corruption (article 23 Integrity and Corruption Prevention Act):

> Integrity and Corruption Prevention Act (IPCA)
>
> Article 23
>
> (Reporting of corruption and protection of reporting persons)
>
> (1) Any person may report instances of corruption in a State body, local community, by a holder of public authority or other legal persons governed by public or private law, or a practice by a natural person for which he believes that it contains elements of corruption, to the Commission or any other competent body. At the reporting person's request, the Commission and other competent authorities shall notify the reporting person of the measures or the course of action taken in this respect. This provision shall not encroach on the reporting person's right to inform the public of the corrupt practice in question.

The reporting persons are protected (further text of article 23, see above article 33).

Further, anonymous reports are accepted by the Commission.

> Rules of Procedure of the Commission for the Prevention of Corruption
>
> Article 39 (Anonymous Report)
>
> (1) The Commission may initiate proceedings on the basis of anonymous report, if at first glance it appears that the report is authentic and well-intentioned, its content and attached documents or data indicate sufficient grounds to suspect corruption or other violations of IPCA, the rationale of introducing the proceedings and if it is likely that the proceedings will effective lead to findings of corrupt conduct or violation of IPCA.
>
> (2) If the conditions set out in the preceding paragraph are not met, the commission rejects

anonymously in accordance with the Article 40 of Procedure.

(3) Discarded anonymous report containing personal information may be forwarded to other competent authorities or superiors only if the report contains information and data on which it is possible to start appropriate labour or other proceedings within powers and duties of other authorities or superiors.

The Commission confirmed that it investigates reports of allegations of corruption, even if the reports are anonymous or under a pseudonym. The Commission established a website that features a report form, which enables users to report their suspicions. Giving personal name or contact information of the person reporting is not mandatory.

The IPCA demands that the Commission does not reveal the identity of person that submitted the report to anyone, except when the report was not made in good faith or when the court rules that the information on and the identity of the persons reporting need to be disclosed because it is strictly necessary in order to safeguard the public interest or the rights of others. In practice the Commission will not reveal any information on the person reporting, not even to other law enforcement authorities, without prior consent of the person.

To encourage people to report corruption the Commission provides all the necessary information about whistle-blower protection easily accessible on its website (see above article 33).

The provisions of the IPCA regarding whistle-blower protection are explained in every training for public sector entities carried out by the Commission. Civil servants are encouraged to report corruption cases they are confronted with.

The Commission has a general phone line that is also used to report corruption. The line does not guarantee anonymity; however the Commission does not log or record the calls, not even for statistical purposes.

The Commission accepts reports submitted via ordinary mail.

The Commission accepts reports submitted via e-mail.

Statistical information:

- Number of reports

Year	Number of reports
2004	55
2005	270
2006	263
2007	595
2008	661
2009	1027
2010	1271
2011	1237
2012	1296

* The numbers in this table represent the reports of corruption. It does not include the reports of other related offences, such as violations of provisions on Conflict of Interest, Lobbying, Declaration and Supervision of Assets of the Officials etc.

The Commission does not keep separate statistics for anonymous reports.

In 2012, the Commission received 1296 reports and by the end of the year 866 reports were investigated (not including investigated reports from the previous years).

Out of 1296 reports, 466 were submitted anonymously and another 24 under pseudonym (the Commission does have contact information, e.g. e-mail address, but does not have a name of a person who submitted the report).

Generally speaking, anonymous reports have slightly less chance of being successfully investigated, because the Commission cannot ask the reporting person for additional information if needed. Cooperation with whistle-blowers is often crucial, especially if the first report lacks substantial elements.

Within the Police, 080-1200 is the anonymous phone number to log all crimes. Anonymous e-reports for corruption offences are also possible. In both cases anonymity is guaranteed.

Slovenian authorities indicated that even anonymously, citizens have concerns in reporting corruption and that it is therefore considered particularly important to encourage citizens to report corruption.

Financial incentives are not offered to encourage reports because reporting persons' motivations are assumed to be idealistic.

Slovenian authorities explained that many reports of alleged criminal conduct are filed against public officials who are involved in different official procedures. Instead of the use of legal remedies in these procedures individuals frequently expressed the suspicion that the public official committed a criminal offence. During the investigative procedure this suspicion was not confirmed and many of such reports were dismissed. The prosecution office was trying to stop this by prosecuting them for false reporting of a crime.

(b) Observations on the implementation of the article

Slovenia is in compliance with this provision.

Article 40. Bank secrecy

Each State Party shall ensure that, in the case of domestic criminal investigations of offences established in accordance with this Convention, there are appropriate mechanisms available within its domestic legal system to overcome obstacles that may arise out of the application of bank secrecy laws.

(a) Summary of information relevant to reviewing the implementation of the article

Article 215 of the Banking Act, article 16 of the Integrity And Prevention Of Corruption Act, as well as article 156 of the Criminal Procedure Act provide for provision on bank secrecy.

Banking Act (article 215)

(1) Members of the bank's governing bodies, shareholders, employees or other persons who have access to the confidential information referred to in Article 214 of this Act in connection with their work at the bank or provision of services for the bank, may not disclose this information to third parties or use them by themselves or enable third parties to use them.

(2) The obligation to protect confidential information shall not apply in the following cases:

1. When the client expressly agrees in writing with the disclosure of some confidential information,

2. When this information is required by the Bank of Slovenia or another competent authority for the purposes of supervision carried out within its competencies,

3. In cases of disclosure of information to parent undertakings in connection with supervision on a consolidated basis subject to the provisions of sub-section 7.9.3 of this Act or ZFK,

4. for the exchange of information on the credit rating of clients for the purpose of credit risk management:

- between banks and financial institutions referred to in Paragraph (2) of Article 390.a of this Act,

- within a banking group, or

- with Member State banks, or systems for the exchange of information on credit rating of clients organised in other Member States, regarding information on the credit rating of clients who are legal entities, and

5. in other cases stipulated by the law.

Integrity And Prevention Of Corruption Act

(Article 16 - Acquisition of data and documents by the Commission)

(1) State bodies, bodies of self-governing local communities and bearers of public authority, as well as any legal person governed by public or private law shall, within the time limit set out by the Commission and notwithstanding the provisions of other Acts and irrespective of the form of the data, communicate to the Commission at its reasoned request any data, including personal data, and documents which are required by the Commission to perform its statutory tasks. They shall do so free of charge. Where the addressee of the Commission's request is the Bank of Slovenia, the exchange of data shall take place pursuant to the law of the European Union regulating the exchange of supervisory and statistical information and the protection of professional secrecy, and pursuant to the provisions of the regulations which are binding on the Bank of Slovenia in respect of the contents referred to herein.

(2) The reasoned request referred to in the preceding paragraph shall contain a statement regarding the legal basis for the acquisition of the data, and the reasons for and the purpose of the request for the data concerned.

Criminal Procedure Act (Article 156)

(1) The investigating judge may upon a properly reasoned proposal of the public prosecutor order a bank, savings bank, payment institution or electronic money undertaking to disclose to him information and send documentation on the deposits, statement of account and account transactions or other transactions by the suspect, the defendant and other persons who may reasonably be presumed to have been implicated in the financial transactions or deals of the suspect or the defendant, if such data might represent evidence in criminal proceedings or are necessary for the seizure of objects or the securing of a request for the seizure of property benefits or the seizure of property whose value is equivalent to the value of property benefits.

(2) The bank, savings bank, payment institution or electronic money undertaking shall immediately send to the investigating judge the data and documentation referred to in the preceding paragraph.

(3) Subject to conditions from the first paragraph of this Article, the investigating judge may upon a properly reasoned proposal by the public prosecutor order a bank, savings bank, payment institution or electronic money undertaking to keep track of financial transactions of the suspect, the defendant and other persons reasonably presumed to have been implicated in financial transactions or deals of the suspect or the defendant, and to disclose to him the confidential information about the transactions or deals the aforesaid persons are carrying out or intend to carry out at these institutions or services. In the order, the investigating judge shall set the time period within which the bank, savings bank, payment institution or electronic money undertaking shall provide him with the data.

(4) The measure referred to in the preceding paragraph may be applied for three months at most, but the term may for weighty reasons, upon motion of the public prosecutor, be extended to six months at most.

(5) If there are reasons to suspect that a criminal offense was committed or it is preparing to be committed for which the offender is prosecuted ex officio and where for the discovery of the offense or the offender is necessary to obtain information about the holder or assignee of a given payment account, savings deposit or money deposit, tenant or agent of the vault and the time in which they have been or are in use, the police may request in writing from bank, savings bank, payment institution or electronic money undertaking to provide it without delay and without the consent of the individual to whom the information relates the requested information.

(6) Bank, savings bank, payment institution or electronic money undertaking must not disclose to the client or to the third person, that the information and documentation will be send to the investigating judge or the police (previous paragraph).

In accordance with the applicable provisions of Article 156 of the Criminal Procedure Act the investigating judge can, on the basis of a reasoned proposal from public prosecutor (often upon a preliminary initiative to the prosecutor's office taken by the police), order a bank, a savings bank, a payment institution or a society for the issuance of electronic money to communicate confidential information and send documentation on deposits, account balances and transactions or other dealings of the suspect, the accused or persons

concerning which one can reasonably conclude that have been engaged in the financial transactions or businesses of the suspect or the accused, if such information could be used as evidence in criminal proceedings, or if they are needed for the seizure of objects or insurance claim for the confiscation of proceeds or property in the value of the proceeds. A bank, a savings bank, a payment institution or a society for the issuance of electronic money is required to forward the requested information to the investigating judge without delay.

In order to clarify the division of competencies, article 156 of the Criminal Procedure Act has been changed in 2011. According to the new provisions, when there are grounds for suspicion that a crime for which the perpetrator is prosecuted ex officio was committed or is planned, and when the information on the holder or assignee of a given payment account, a deposit, tenant or agent of the vault or the time of its use is required for the detection of such crime or the perpetrator, the police may request from a bank, a savings bank, a payment institution or a society for the issuance of electronic money to, upon written request and even without the consent of the individual to whom the information relates, without delay communicate this information. The new provisions in article 156 of the CPA came into effect on 15 May 2012.

The police have established a direct on-line access to data on the holders of bank accounts, be it legal or natural persons.

The information on bank accounts of legal persons is publicly available through the Agency of the Republic of Slovenia for Public Legal Records and Related Services (AJPES).

The police access the information on bank accounts of individuals through AJPES as a data controller under the Agreement on direct electronic access to information on bank accounts of individuals from the register of bank accounts through back-office applications. The conditions for such access constitutes is the appropriate legal basis and the tax identification number of the person of the person under inspection. The AJPES keeps a register of transaction accounts for the entire country. The police can through their web sites to access external data sources, can log in to the database and therefore receive information on the bank account holder (name, address of the natural person or the name and address of the legal entity) and the information on the bank account (account number, bank name, account type, date of opening and closing).
. Information and documentation on deposits, statement balance and transactions on bank accounts and get from banks, savings banks, payment institutions or companies to issue electronic money, can be received on the basis of an order the investigating judge, according to Article 156 of the Criminal Procedure Act.

(b) Observations on the implementation of the article

The bank secrecy can be lifted by the Commission or the prosecutor following a judicial order. The Commission and, in crimes for which the perpetrator is prosecuted ex officio, the police can request banking information without a judicial order (art. 156 para. 5 CPA).

(c) Successes and good practices

Access to banking information is granted to the Commission and the Police, additionally to the prosecutor by judicial order. The police can request bank information when there are grounds for suspicion that a crime for which the perpetrator is prosecuted ex officio was committed or is planned, and direct access is provided through the Agency of the Republic of Slovenia for Public Legal Records and Related Services (AJPES), which holds a central registry of transaction accounts.

Article 41. Criminal record

Each State Party may adopt such legislative or other measures as may be necessary to take into consideration, under such terms as and for the purpose that it deems appropriate, any previous conviction in another State of an alleged offender for the purpose of using such information in criminal proceedings relating to an offence established in accordance with this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

The Penal Sanctions Enforcement Act provides for a general provision referring to criminal records.

Penal Sanctions Enforcement Act

III. PROVIDING DATA FROM CRIMINAL RECORDS

Article 250a

(1) Criminal records shall cover: personal data on criminals from judgments or other court decisions, data on criminalities imposed, security measures, conditional sentences, admonitions and convictions on the basis of which criminals for whom criminal records are kept have been acquitted of charges and on their legal consequences; subsequent changes to data on convictions entered in criminal records and data on enforced penalties and cancellation of entry of wrongful convictions.

(2) Special records on educational measures, including personal data on juveniles, data on imposed educational measures and data on educational measures carried out or other data relating to the implementation of educational measures shall be kept.

(3) Data from criminal records on un-expunged convictions only shall be provided to the courts, State Prosecutor's Office and police for the needs of criminal procedures conducted against convicts, to authorities competent for the enforcement of criminal sanctions and to competent authorities participating in a procedure of granting amnesty, clemency or for erasing a conviction. Secure electronic access to criminal records shall be allowed to the aforementioned authorities so that they may submit a request in electronic form and, if a person is not registered in the records, they shall receive notification that the person has not been entered in criminal records. If a person is registered, the ministry responsible for justice shall submit to the authority data from criminal records in electronic form on un-expunged convictions.

(4) Data on un-expunged convictions from the criminal records shall be submitted to state authorities, on the basis of a reasoned request they may also be submitted to legal persons and private employers if legal consequences of the conviction or security measures still exist or if they demonstrate a well-founded and legitimate interest. Secure electronic access to criminal records shall be allowed to state authorities so that they may submit a request in electronic form and if the person is not registered in the records, they shall receive notification that the person has not been entered in criminal records. If the person has been registered, the ministry responsible for justice shall submit to the authority data from criminal records in electronic form, data on un-expunged convictions.

(5) On the basis of a well-founded request set out in law, information from criminal records on expunged convictions for criminal offences referred to in Article 173, second paragraph of Article 174, second paragraph of Article 175 committed against a juvenile and referred to in Article 176 of the Criminal Code (Official Gazette (Uradni list) no 55/08 and 66/08 - corrigendum) shall also be made available to institutions, societies and groups that are entrusted with teaching, education, protection or care.

(6) Convictions for the criminal offences referred to in the preceding paragraph shall be registered in special records, whilst conditions and restrictions for submitting data on such convictions shall be set out in sector-specific laws. In cases not included in the preceding paragraph, a conviction shall be deemed to have been expunged in spite of being maintained in a special record.

(7) At his or her request, an individual may be provided with data on the fact that he or she has been or has not been convicted if this is required for exercising his or her rights.

(8) Provisions concerning legal rehabilitation and expungement of judgment and legal rehabilitation shall be applied mutatis mutandis when a judgment has been imposed on a Slovenian citizen by a foreign court.

(9) The provisions of this article shall also apply to judgments that have been imposed on citizens of the Republic of Slovenia by foreign courts, whilst the provisions regarding the submission of data shall also apply to state authorities, legal entities and private employers of European Union Member States, unless otherwise provided by law.

(10) The provisions of this article shall also apply mutatis mutandis for the submission of data from the records of final judgments and/or offence decisions and joint records of the number of penalty

points in road traffic, from the records of the number of penalty points and court decisions in offence procedures, unless otherwise provided by law.

Slovenian authorities explained that the Ministry of Justice, specifically the Criminal Records Office, is the central authority and therefore the owner of data basis containing information about convictions. It holds information on all convictions, of Slovene and foreign courts of the Slovene citizens and convictions of Slovene courts of the foreign citizens. For the judge/prosecutor in practice it was considered substantial to have the information of prior conviction regardless where was the person convicted.

(b) Observations on the implementation of the article

Slovenia has implemented the provision under review.

Article 42. Jurisdiction

Subparagraph 1 (a) of article 42

1. Each State Party shall adopt such measures as may be necessary to establish its jurisdiction over the offences established in accordance with this Convention when:

(a) The offence is committed in the territory of that State Party; or

(a) Summary of information relevant to reviewing the implementation of the article

The territorial application of the criminal law is regulated in articles 10 to 15 of the Criminal Code:

Criminal Code CC-1 (CC-1A, CC-1B)

Territorial Application

Application of the Criminal Code of the Republic of Slovenia to Any Person Who Commits a Criminal Offence in Its Territory

Article 10

(1) The Criminal Code of the Republic of Slovenia shall apply to any person who commits a criminal offence in the territory of the Republic of Slovenia.

(b) Observations on the implementation of the article

Slovenia has implemented the provision under review.

Subparagraph 1 (b) of article 42

1. *Each State Party shall adopt such measures as may be necessary to establish its jurisdiction over the offences established in accordance with this Convention when:*

(b) The offence is committed on board a vessel that is flying the flag of that State Party or an aircraft that is registered under the laws of that State Party at the time that the offence is committed.

(a) Summary of information relevant to reviewing the implementation of the article

Criminal Code CC-1 (CC-1A, CC-1B)

Territorial Application

Application of the Criminal Code of the Republic of Slovenia to Any Person Who Commits a Criminal Offence in Its Territory

Article 10

(2) The Criminal Code of the Republic of Slovenia shall also apply to any person who commits a criminal offence on a domestic vessel regardless of its location at the time of the committing of the

offence.

(3) The Criminal Code of the Republic of Slovenia shall also apply to any person who commits a criminal offence on a domestic civil aircraft in flight or on a domestic military aircraft regardless of its location at the time of the committing of the offence.

(b) Observations on the implementation of the article

Slovenia has implemented the provision under review.

Subparagraph 2 (a) of article 42

2. Subject to article 4 of this Convention, a State Party may also establish its jurisdiction over any such offence when:

(a) The offence is committed against a national of that State Party; or

(a) Summary of information relevant to reviewing the implementation of the article

Criminal Code CC-1 (CC-1A, CC-1B)

Application of the Criminal Code of the Republic of Slovenia to Foreign Citizens Who Committed a Criminal Offence Abroad

Article 13

(1) The Criminal Code of the Republic of Slovenia shall apply to any foreign citizen who has, in a foreign country, committed a criminal offence against the Republic of Slovenia or any of its citizens, even though the offences in question are not covered by Article 11 of this Criminal Code.

(b) Observations on the implementation of the article

Slovenia has established its jurisdiction over offences committed by foreigners against its citizens. This only applies to foreign citizens. However, Slovenia has established a very broad jurisdiction over offences committed by its own citizens (see below under subparagraph 2 (b)), therefore these cases would also be covered. Slovenia has therefore implemented the provision.

Subparagraph 2 (b) of article 42

2. Subject to article 4 of this Convention, a State Party may also establish its jurisdiction over any such offence when:

(b) The offence is committed by a national of that State Party or a stateless person who has his or her habitual residence in its territory; or

(a) Summary of information relevant to reviewing the implementation of the article

Criminal Code CC-1 (CC-1A, CC-1B)

Application of the Criminal Code of the Republic of Slovenia to Citizens of the Republic of Slovenia Who Committed a Criminal Offence Abroad

Article 12

The Criminal Code of the Republic of Slovenia shall be applicable to any citizen of the Republic of Slovenia who commits any criminal offence abroad other than those specified in the preceding article.

The offences specified in article 11 do not contain any corruption offences but refer to terrorism, counterfeiting money and offences against the sovereignty of the Republic of Slovenia and its democratic constitutional order.

(b) Observations on the implementation of the article

Slovenia has implemented the provision under review for its citizens. Slovenia has only established its jurisdiction over stateless persons having habitual residence in Slovenia in the framework of article 13, which covers territorial and universal jurisdiction, under certain circumstances.

Slovenia could establish its jurisdiction when the offence is committed by a stateless person who has his or her habitual residence in Slovenia.

Subparagraph 2 (c) of article 42

2. Subject to article 4 of this Convention, a State Party may also establish its jurisdiction over any such offence when:

(c) The offence is one of those established in accordance with article 23, paragraph 1 (b) (ii), of this Convention and is committed outside its territory with a view to the commission of an offence established in accordance with article 23, paragraph (a) (i) or (ii) or (b) (i), of this Convention within its territory; or

(a) Summary of information relevant to reviewing the implementation of the article

Criminal Code CC-1 (CC-1A, CC-1B)

Application of the Criminal Code of the Republic of Slovenia for Specific Criminal Offences Committed in a Foreign Country

Article 11

The Criminal Code of the Republic of Slovenia shall apply to any person who, in a foreign country, commits

- a criminal offence under Article 243 of this Criminal Code and the criminal offences referred to in Articles 332, 333 and 334 of this Code provided they were committed in the ecological protection zone or in the continental shelf of the Republic of Slovenia, and
- criminal offences under Article 108 and Articles 348-360 of this Criminal Code.

(b) Observations on the implementation of the article

Slovenia has established universal jurisdiction for counterfeiting money, criminal offences against the environment, space and natural resources, terrorism and offences against the sovereignty of the Republic of Slovenia and its democratic constitutional order, not for money-laundering.

Slovenia could establish its jurisdiction over offences which entail all forms of participation in money-laundering offences outside the country.

Subparagraph 2 (d) of article 42

2. Subject to article 4 of this Convention, a State Party may also establish its jurisdiction over any such offence when:

(d) The offence is committed against the State Party.

(a) Summary of information relevant to reviewing the implementation of the article

Criminal Code CC-1 (CC-1A, CC-1B)

Application of the Criminal Code of the Republic of Slovenia for Specific Criminal Offences Committed in a Foreign Country

Article 11

The Criminal Code of the Republic of Slovenia shall apply to any person who, in a foreign country, commits

- a criminal offence under Article 243 of this Criminal Code and the criminal offences referred to in Articles 332, 333 and 334 of this Code provided they were committed in the ecological protection

zone or in the continental shelf of the Republic of Slovenia, and

- criminal offences under Article 108 and Articles 348-360 of this Criminal Code.

Application of the Criminal Code of the Republic of Slovenia to Foreign Citizens Who Committed a Criminal Offence Abroad Article 13

(1) The Criminal Code of the Republic of Slovenia shall apply to any foreign citizen who has, in a foreign country, committed a criminal offence against the Republic of Slovenia or any of its citizens, even though the offences in question are not covered by Article 11 of this Criminal Code.

(2) The Criminal Code of the Republic of Slovenia shall also be applicable to any foreign citizen who has, in a foreign country, committed a criminal offence against a third country or any of its citizens if he has been apprehended in the territory of the Republic of Slovenia, but was not extradited to the foreign country. In such cases, the court shall not impose a sentence on the perpetrator heavier than the sentence prescribed by the law of the country, in which the offence was committed.

(3) The Criminal Code of the Republic of Slovenia shall be applicable to any person who commits any criminal offence abroad which, under relevant international agreement(s) or general legal rules recognised by the international community, is subject to prosecution, regardless of the location where it was committed.

(b) Observations on the implementation of the article

Slovenia has established universal jurisdiction for counterfeiting money, criminal offences against the environment, space and natural resources, terrorism and offences against the sovereignty of the Republic of Slovenia and its democratic constitutional order, not for corruption.

Slovenia could establish its jurisdiction over corruption offences committed against the Republic of Slovenia.

Paragraph 3 of article 42

3. For the purposes of article 44 of this Convention, each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences established in accordance with this Convention when the alleged offender is present in its territory and it does not extradite such person solely on the ground that he or she is one of its nationals.

(a) Summary of information relevant to reviewing the implementation of the article

In principle, Slovenia does not extradite its nationals (please see details under article 44 paragraph 11-13).

(b) Observations on the implementation of the article

Slovenia has not established its jurisdiction over corruption offences when the alleged offender is present in its territory and it does not extradite such person on the ground of nationality, and it is recommended to do so.

Paragraph 4 of article 42

4. Each State Party may also take such measures as may be necessary to establish its jurisdiction over the offences established in accordance with this Convention when the alleged offender is present in its territory and it does not extradite him or her.

(a) Summary of information relevant to reviewing the implementation of the article

Criminal Code CC-1 (CC-1A, CC-1B)

Article 13

(2) The Criminal Code of the Republic of Slovenia shall also be applicable to any foreign citizen

who has, in a foreign country, committed a criminal offence against a third country or any of its citizens if he has been apprehended in the territory of the Republic of Slovenia, but was not extradited to the foreign country. In such cases, the court shall not impose a sentence on the perpetrator heavier than the sentence prescribed by the law of the country, in which the offence was committed.

(b) Observations on the implementation of the article

Slovenia has implemented the provision under review for foreign citizens who have committed criminal offences in foreign countries against a third country or any of its citizens.

Slovenia could establish its jurisdiction over all offences when the alleged offender is present in its territory and it does not extradite him or her.

Paragraph 5 of article 42

5. If a State Party exercising its jurisdiction under paragraph 1 or 2 of this article has been notified, or has otherwise learned, that any other States Parties are conducting an investigation, prosecution or judicial proceeding in respect of the same conduct, the competent authorities of those States Parties shall, as appropriate, consult one another with a view to coordinating their actions.

(a) Summary of information relevant to reviewing the implementation of the article

Consultations for the coordination of actions in cases with multiple jurisdictions are regulated in article 160 b CPA.

Criminal Procedure Act

"Article 160.b

(1) In the case which is the subject to the pre-trial procedure, investigation or criminal procedure in one or more countries, the police may cooperate with the police staff of the other country in the territory or outside the territory of the Republic of Slovenia in carrying out tasks and measures in the pre-trial procedure and investigation procedure for which it is responsible following the provisions of this Act.

(2) In carrying out the tasks and measures referred to in the previous paragraph, the police shall be directed by the State Prosecutor pursuant to Article 160.a of this Act and may cooperate with the State Prosecutors of the other country in the territory and outside the territory of the Republic of Slovenia in carrying out the stated activity and in exercising other powers in compliance with the provisions of this Act (joint investigation team).

(3) The tasks, measures, guidance and other powers referred to in the previous paragraphs of this Article must be carried out in accordance with the agreement on the establishment and operation of joint investigation team in the territory of the Republic of Slovenia or other countries that shall be concluded on a case by case basis by the State Prosecutor General or under his authorisation by his deputy with the State Prosecution Office, Court, Police or other competent authorities of other states as set out in the Council Framework Decision of 13 June 2002 on joint investigation teams (Official Journal of the European Union, No. L 162/1, 20.6.2002) or in the existing international treaty concluded with a country not being a member of the European Union after obtaining the opinion of the Director General of the Police. The agreement shall be concluded on the initiative of the State Prosecutor General, the Head of the District State Prosecution Office or the Head of the Group of State Prosecutors for Special Affairs or on the initiative of the competent authority of another state.

(4) The agreement referred to in the previous paragraph shall lay down which authorities are to conclude the agreement, in which case the joint investigation team will act, the purpose of functioning of the team, the State Prosecutor of the Republic of Slovenia who is its Head in the territory of the Republic of Slovenia, other team members and the duration of its functioning. The State Prosecutor General must notify in writing the Ministry of Justice of the concluded agreement.

(5) The police personnel, State Prosecutors or other competent authorities of other states shall carry

out tasks, measures, guidance and/or other powers referred to in the first and second paragraphs of this Article in the territory of the Republic of Slovenia only within the framework of the joint investigation team in compliance with the provisions of the agreement on the establishment and operation of the joint investigation team referred to in the third paragraph of this Article.

(6) If so provided for in the agreement on the establishment and operation of the joint investigation team referred to in the third paragraph of this Article, the representatives of competent authorities of the European Union such as for instance EUROPOL, EUROJUST and OLAF may participate in the joint investigation team. The representatives of competent authorities of the European Union shall exercise their powers in the territory of the Republic of Slovenia only within the framework of the joint investigation team in compliance with the provisions of the agreement as stipulated in the third paragraph of this Article.

(7) The police organisation units and State Prosecution Offices of the Republic of Slovenia are obliged to offer all the necessary assistance to the joint investigation team.

(8) The head of the joint investigation team shall make a report in writing to all its members and the General State Prosecutor upon the completion of the work done by the joint investigation team."

(b) Observations on the implementation of the article

The provision under review has been implemented, although no practical examples have been provided.

Paragraph 6 of article 42

6. Without prejudice to norms of general international law, this Convention shall not exclude the exercise of any criminal jurisdiction established by a State Party in accordance with its domestic law.

(a) Summary of information relevant to reviewing the implementation of the article

Slovenia has not adopted any grounds of criminal jurisdiction other than those described above.

(b) Observations on the implementation of the article

No observations are made.

IV. International cooperation

Article 44. Extradition

Paragraph 1 of article44

1. This article shall apply to the offences established in accordance with this Convention where the person who is the subject of the request for extradition is present in the territory of the requested State Party, provided that the offence for which extradition is sought is punishable under the domestic law of both the requesting State Party and the requested State Party.

(a) Summary of information relevant to reviewing the implementation of the article

Slovenia regulates extradition in Chapter 31 (articles 521-537) of its Criminal Procedure Act.

Slovenia can apply international treaties directly (article 8 of the Constitution), and the application of the national law is subsidiary (art. 521 CPA).

Cooperation for extradition with non-EU Member States:

Extraditable offences are those which carry a sanction of one year or more (art. 522 paragraph 1 No. 4 CPA).

Since recently (May 2012), extradition does not need a treaty base any more but can be provided on the basis of reciprocity.

Dual criminality is one of the requirements for extradition, in accordance with article 522 (1) No. 3 of the Criminal Procedure Act. The requirements for passive extradition in general are the following:

Article 522 (1) of the Criminal Procedure Act

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

1. that the person whose extradition is requested is not a Slovenian citizen;

2. that the offence for which the extradition is requested has not been committed in the territory of the Republic of Slovenia, against the Republic of Slovenia, or against a Slovenian citizen;

3. that the offence for which the extradition is requested is a criminal offence both within the meaning of domestic law and the law of the country where the offence was committed;

4. that in the event of extradition for the purpose of criminal prosecution, a prison sentence of one year or more or a security measure lasting over a year may be imposed for the offence under the law of both states;

5. that in the event of extradition for the purpose of the execution of a final sentence or security measure, the sentence or the security measure and/or their remainder which needs to be carried out shall be at least four months;

6. that under national law, the criminal prosecution or execution of punishment had not become statute-barred before the person was detained or examined as an accused;

7. that the person whose extradition is requested has not been acquitted on the same offence by a final judgment or sentenced in the Republic of Slovenia or another country provided that he has already served the sentence or is serving the sentence if the sentence was passed, or that according to the law of the state which passed the sentence the latter may not be executed any more or that the criminal proceedings against him was stopped under a final decision or that the indictment against the person was dismissed under a final decision; or that in the Republic of Slovenia criminal proceedings have not been instituted against the alien for the same offence committed against the Republic of Slovenia, and - in the event that criminal proceedings have been instituted for an offence committed against a Slovenian citizen - that the indemnification claim of the injured party has been secured;

8. that against the person whose extradition is sought, no procedure before the extraordinary court is pending in the requesting state if a request for extradition is involved for the purpose of implementing the procedure, and/or that such court did not impose a criminal sanction if a request for extradition is involved for the purpose of executing the sentence;

9. that the requesting state submits the relevant warranties that the death penalty will not be imposed and/or carried out if the extradition is requested for a criminal offence which is punishable by the death penalty in the requesting state;

10. That in cases involving the execution of a criminal sanction imposed by a final judgment in a court proceedings in the absence of the person whose extradition is requested, the requesting party shall submit the necessary evidence that the person was personally invited or that the person was notified on the time and venue of the proceedings through the counsel authorised in compliance with the law of the issuing state, which is the reason why the judgment was issued in the person's absence, or that the person made a statement to the competent authority that he did object to the decision; or that the requesting state shall grant that the criminal proceedings after the extradition will be repeated in the presence of the extradited person;

11. that the request for extradition is not submitted for a criminal offence committed by the requested person when he was not yet 14 years of age;

12. that the identity of the person whose extradition is requested has been established;

13. that there is sufficient evidence for reasonable suspicion that the alien whose extradition is requested has committed a certain criminal offence, or that a final judgment exists thereon.

Slovenia does not extradite its nationals to non-European Union States.

With regard to the extradition procedure, articles 521-537 of the Criminal Procedure Act envisage detailed rules regarding the conditions for extradition and for subsequent proceedings. They always apply when treaties do not provide for anything else (subsidiarity). Slovenia has a mixed judicial and administrative procedure, which will be detailed in the following.

Procedure in passive extradition cases

The extradition request is received through the diplomatic channel. The Ministry for Foreign Affairs transmits it through the Ministry of Interior to the Ministry of Justice. The extradition procedure is divided between judicial authorities (competent courts) and an administrative authority (Ministry of Justice) and is consequently two-phased.

In the first part of the procedure, a court must hear the person and if necessary execute other measures necessary for the adoption of the decision whether conditions for extraditions are met or if there are any optional or obligatory grounds for the refusal or postponement of the extradition. The court does not see the evidence on the criminal act as such. If the court decision is negative, it is automatically reviewed by a higher court. A positive court decision is subject to appeal.

After the court decision, the second part of the procedure follows, which is the decision of the Minister of Justice. The Minister of Justice rejects the extradition of a foreigner if he enjoys the right of asylum, if a military or political criminal offence is in question or if it can be reasonably suspected that basic human rights could be violated in the requesting country, or that the person could be tortured, or exposed to the other cruel, inhuman or degrading treatment or punishment.

In summary, the basic steps of the procedure are:

- the investigative judge hears the person, examines the request and documentation, adopts other relevant measures and provides the opinion on the case, which is sent to the panel of three judges of the territorially competent District Court;
- if the panel decides that conditions for the extradition are met, the accused may lodge an appeal to the higher court - the decision of the higher court is final. If the decision of the district court is confirmed, the case is sent to the Ministry of Justice;

- if the panel decides that conditions are not met, the file is ex officio sent to the higher court and the decision of the higher Court is final - there is no decision of the Minister (the Minister is bound by the negative judicial decision);
- if the judicial decision is positive (preconditions for extraditions are fulfilled), the file is sent to the Ministry for final decision (the Ministry does not check the conditions for the extradition once again, but merely checks the conditions which fall within its competence (human rights, other treaty obligations, asylum, etc.). The Minister may as well postpone the extradition or allow the temporary extradition. The decision on extradition is subject to the speciality principle.
- an appeal to the administrative court may be lodged against the decision of Minister, however the appeal itself does not have suspensive effect.

Article 523 of the CPA

(1) Proceedings for extradition of an accused or convicted alien shall be instituted on petition of a foreign country.

(2) The petition shall be submitted through diplomatic channels.

(3) A petition for extradition shall be accompanied by:

1. means of identification of the accused or convicted person (accurate description, photographs, fingerprints and similar);

2. certificate or other data

3. a about the alien's citizenship;

4. the charge sheet, or judgement, or detention order, or another equivalent document, in the original or a certified copy. These papers shall contain: the name and surname of the person whose extradition is requested and other data necessary to establish his identity, the description of the act, statutory qualification of the act, and evidence on which suspicion rests;

5. an extract from the criminal law of a foreign country to be applied, or which was applied, against the accused regarding the offence which prompted the request for extradition; if the offence was committed in a third country, also an extract from the criminal low of that country.

(4) If the petition and annexes were drawn up in a foreign language, a certified copy of translation into Slovenian shall be enclosed.

Article 524

(1) The ministry responsible for internal affairs shall transmit the petition for extradition of an alien through the ministry responsible for justice to the investigating judge in whose territory the alien resides or in whose territory he is to be found.

(2) If the permanent or temporary residence of the alien whose extradition is requested is not known, his whereabouts shall first be established through the police.

(3) If the petition complies with the conditions specified in the preceding Article and if grounds for detention as specified in Article 201 of this Act exist, the investigating judge shall order that the alien be detained, or shall take other steps to secure his presence, unless it is clear from the petition itself that extradition is impermissible.

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

(5) Notwithstanding the provision of Article 205 of this Act, detention in the extradition procedure after receipt of the request for extradition without special decisions on the extension may last until the extradition to a foreign country and/or the decision of the minister responsible for justice refusing the extradition, but the total length of detention determined before receipt of the request for extradition and after its receipt shall not exceed 30 months.

(6) Notwithstanding the preceding paragraph, the detention shall be lifted immediately when its length meets or exceeds the imposed criminal sanction of a foreign country or the maximum

prescribed sentence that the law of the requesting state prescribes for the criminal offence for which the extradition is requested.

(7) The investigating judge shall immediately upon establishing the identity of the alien inform him why and on what grounds his extradition is requested, whereupon he shall invite the alien to say what he has to say in his defence.

(8) The examination and the statement of the alien shall be entered in the record. The investigating judge shall instruct the alien that he may retain a counsel, or shall appoint one for him ex officio if a criminal offence for which defence is mandatory is involved or if detention against the alien has been ordered.

Article 526

(1) After hearing the views of the public prosecutor and defence counsel the investigating judge shall perform, if necessary, other investigative acts to determine if grounds exist for the extradition of the alien or the delivery of objects upon which or by means of which the criminal offence was committed, provided such objects were seized from the alien.

(2) On completing inquiries the investigative judge shall send the files to the panel (sixth paragraph of Article 25), together with his opinion on the matter.

(3) If criminal proceedings for the same or another criminal offence are in progress before a domestic court against the alien whose extradition is requested, the investigating judge shall put a note thereon in the files.

Article 527

(1) If the panel of the circuit court finds that statutory prerequisites for extradition have not been fulfilled, it shall render a ruling rejecting the request for extradition. The court shall, ex officio, forward the ruling to the court of second instance which, after hearing the opinion of the public prosecutor, may affirm, annul or modify the ruling.

(2) If the alien is in remand the panel of the court of first instance may decide that he remain in custody until the ruling by which extradition has been rejected becomes final.

(3) The final ruling by which extradition is rejected shall be transmitted via the ministry responsible for justice to the ministry responsible for foreign affairs, which shall notify the foreign country thereof.

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

Article 528

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

Article 529

If the court of second instance finds upon appeal that the statutory prerequisites for extradition of the alien have been fulfilled, or no appeal against the ruling to that effect of the court of first instance has been filed, it shall refer the matter to the minister responsible for justice who shall decide on extradition.

Article 530

(1) The minister responsible for justice shall issue a decision whereby extradition is either granted or rejected. He may decide that extradition be postponed because proceedings for another criminal offence are pending before a domestic court against the alien whose extradition is requested, or because the alien is serving his sentence in the Republic of Slovenia.

(2) In the event that in the requesting state, the criminal prosecution could be statute-barred or its course severely obstructed as a result of the postponed extradition referred to in the first paragraph,

temporary extradition for the purpose of criminal procedure may be granted on a reasoned request submitted by the requesting state. The minister responsible for justice shall decide on the permissibility of temporary extradition after the preliminary opinion of the authority before which the criminal proceedings are pending and who is responsible for the implementation of criminal sanctions. Temporary extradition may be allowed if it does not threaten the course of criminal proceedings conducted against the person in the Republic of Slovenia and if the requested state granted that the person in the requesting state will be detained for the entire period and also that he shall be returned to the Republic of Slovenia within the time limit determined by the Republic of Slovenia.

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

Article 531

(1) In the ruling by which he grants extradition of an alien the minister responsible for justice shall state:

1. that the alien may not be prosecuted for another criminal offence committed prior to the extradition;

2. that he may not be punished for another criminal offence committed before his extradition;

3. that a severer punishment than the one to which he was sentenced may not be imposed on him;

4. that he may not be surrendered to a third country for prosecution of a criminal offence which he had committed before his extradition was granted.

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

- If the extradited person waives them;

- If the extradited person, despite the warning of the requesting state about the possible consequences, does not leave the territory of the requesting state within 45 days of being released to freedom provided he could have done that;

- If the person leaves the territory of the state to which he was extradited but returns there voluntarily or is returned there by a third country.

(3) In addition to the aforesaid conditions the minister responsible for justice may order yet other preconditions for extradition.

Article 532

(1) The decision regarding extradition shall be communicated to the foreign country involved through diplomatic channels.

(2) The decision by which extradition is granted shall be forwarded to the ministry responsible for internal affairs, which shall order that the alien be transported to the state border where, at a place agreed upon earlier, he shall be surrendered to the bodies of the foreign country which had requested extradition.

As a related measure to extradition, Slovenian legislation also regulates the seizure of items that might serve as evidence in criminal proceedings or were obtained with the criminal offence. Items may be seized on the basis of the request of the competent authority of the requested State or ex officio. Items, financial benefit or property must be seized and handed over also in the case when the extradition cannot be carried out because the requested person has died or absconded. If items were seized for the purpose of on-going national proceedings, they may be temporary transferred to the requesting state on condition that they are returned.

Procedure in active extradition cases

The procedure in active extradition cases is regulated in article 534 CPA.

> Article 534
>
> (1) If criminal proceedings are pending in the Republic of Slovenia against a person who resides in a foreign country, or if that person has been punished by a domestic court, the minister responsible for justice may file a request for his extradition.
>
> (2) The request shall be sent to the foreign country concerned through diplomatic channels, together with the documents and data referred to in Article 523 of this Act.
>
> Article 535
>
> (1) If there is a danger that the person whose extradition is requested might flee or go into hiding, the minister responsible for justice may request, before taking action referred to in the preceding Article, that the necessary measures be taken for his apprehension.
>
> (2) In the request for provisional detention, the requesting party shall provide data on the identity of the person sought, the name and nature of the criminal offence, the number and date of the detention order, the place and name of the body which ordered detention, and information about the finality of the judgment, and a statement that extradition shall be requested through regular channels.

The request for extradition or provisional arrest is submitted by the Ministry of Justice to the extradition authority of the requested country through diplomatic channels. The request is submitted on the motion of the competent court, which is also responsible for the preparation of the extradition documentation.

If the request fulfils the requirements, it is usually submitted subject to the speciality principle. According to national legislation it is possible for the sought person to waive the speciality principle before the domestic court (the Criminal Procedure Act also regulates the procedure for the waiver of the speciality principle).

Special rules on cooperation with the Member States of the European Union

The legal basis for the cooperation with Member States of the European Union is regulated in the Act on Cooperation in Criminal Matters with the Member States of the European Union (ACCMEU) as well as relevant EU instruments. For Member States of the EU, these take precedence over other international instruments.

The ACCMEU was in 2013 replaced with a new Act (ACCMEU-1), applicable since 20th September 2013, that was enacted with a view to implement ting several new mutual recognition instruments adopted within the EU, as well as necessary amendments identified by the existing practice. ACCMEU-1 implements the following instruments adopted within the EU:

- ✓ Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States,
- ✓ Council Framework Decision 2009/948/JHA of 30 November 2009 on prevention and settlement of conflicts of exercise of jurisdiction in criminal proceedings,
- ✓ Council Framework Decision 2009/829/JHA of 23 October 2009 on the application, between Member States of the European Union, of the principle of mutual recognition to decisions on supervision measures as an alternative to provisional detention,
- ✓ Council Framework Decision of 29 August 2006 on the European supervision order in pre-trial procedures between Member States of the European Union,
- ✓ Council Framework Decision 2008/978/JHA of 18 December 2008 on the European evidence warrant for the purpose of obtaining objects, documents and data for use in proceedings in criminal matters,
- ✓ Council Framework Decision 2008/947/JHA of 27 November 2008 on the application of the principle of mutual recognition to judgments and probation decisions with a view to the supervision of probation measures and alternative sanctions,

- ✓ Council Decision 2008/976/JHA of 16 December 2008 on the European Judicial Network, Council Decision 2002/187/JHA of 28 February 2002 setting up Eurojust with a view to reinforcing the fight against serious crime,
- ✓ Council decision 2009/426/JHA of 16 December 2008 on the strengthening of Eurojust and amending Decision 2002/187/JHA setting up Eurojust with a view to reinforcing the fight against serious crime,
- ✓ Council Framework Decision 2009/315/JHA of 26 February 2009 on the organisation and content of the exchange of information extracted from the criminal record between Member States,
- ✓ Council Framework Decision 2009/299/JHA of 26 February 2009 amending Framework Decisions 2002/584/JHA, 2005/214/JHA, 2006/783/JHA, 2008/909/JHA and 2008/947/JHA, thereby enhancing the procedural rights of persons and fostering the application of the principle of mutual recognition to decisions rendered in the absence of the person concerned at the trial,
- ✓ Council Framework Decision 2008/909/JHA of 27 November 2008 on the application of the principle of mutual recognition to judgments in criminal matters imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement in the European Union,
- ✓ Council Framework Decision 2006/783/JHA of 6 October 2006 on the application of the principle of mutual recognition to confiscation orders,
- ✓ Council Framework Decision 2005/212/JHA of 24 February 2005 on Confiscation of Crime-Related Proceeds, Instrumentalities and Property, and
- ✓ Council Framework Decision 2003/577/JHA of 22 July 2003 on the execution in the European Union of orders freezing property or evidence.

The new Act incorporates all adopted instruments of the mutual recognition in criminal matters and relevant procedural provisions regarding mutual legal assistance, transfer of proceedings and cooperation with entities such as Eurojust and European Judicial Network. The main goal is to enable smoother and faster cooperation as well as simplification and acceleration of procedures. The main principles of ACCMEU-1 are, in accordance with the principles and provisions of above-listed instruments,the following:

- ✓ direct communication between judicial authorities;
- ✓ abolishing of the political element in the decision-making process;
- ✓ abolishing of dual criminality for certain offences;
- ✓ set deadlines for certain procedural actions;
- ✓ limited grounds for refusal of request;
- ✓ unified forms.

The following regulations on extradition are contained in the instruments adopted within the EU, which were implemented in the ACCMEU-1:

- ✓ the extradition procedure has been replaced by the surrender procedure on the basis of the Council Framework Decision 2002/584/JHA of 13 June 2002 on the European Arrest Warrant and the surrender procedures between Member States;
- ✓ the transfer of the execution of a sentence is regulated by the Council Framework Decision 2008/909/JHA of 27 November 2008 on the application of the principle of mutual recognition of judgments in criminal matters imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement in the European Union;
- ✓ the institute of freezing –see Council Framework Decision 2003/577/JHA of 22 July 2003 on the execution in the European Union of orders freezing property or evidence;

Cases

Slovenia had one passive extradition case on the basis of the Convention from Belarus; the sought person

could not be extradited because the documentation did was not sufficient to support the extradition request, but the Convention could have been used as a legal basis.

There was also an active extradition case on the basis of the Convention to Canada. In September 2013, the Slovenian authorities submitted the request to Canadian authorities on the basis of the UNCAC for the criminal offence of assisting in the acceptance of gifts for illegal intervention.

A further active extradition request was transmitted on the basis of the United Nation Convention against Organised Crime (at the time of the submission of the request this was the only applicable instrument) for the criminal offences of abuse of position or rights in business activity, forgery or destruction of business documents and abuse of office or official duties. The Canadian authorities granted the extradition.

(b) Observations on the implementation of the article

Slovenia is in compliance with the provision under review.

(c) Successes and good practices

Slovenia can use the Convention as a legal basis for extradition and has used it in at least two cases (active and passive).

Paragraph 2 of article 44

2. Notwithstanding the provisions of paragraph 1 of this article, a State Party whose law so permits may grant the extradition of a person for any of the offences covered by this Convention that are not punishable under its own domestic law.

(a) Summary of information relevant to reviewing the implementation of the article

Generally, under article 522 (1) (3) of the Criminal Procedure Act, dual criminality is a condition for granting extradition.

Article 522 (1) No. 3 of the Criminal Procedure Act

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

3. that the offence for which the extradition is requested is a criminal offence both within the meaning of domestic law and the law of the country where the offence was committed;

However, according to Article 8 of the Constitution of the Republic of Slovenia, international treaties ratified by Slovenia are directly applicable, including UNCAC (see above). Therefore, in theory Slovenia could extradite in the absence of dual criminality; however, such cases have not occurred yet.

Under the European Arrest Warrant Framework Decision which came into force in 2004, the requirement for dual criminality is removed between EU member states for a wide range of categories of crimes, including corruption.

(b) Observations on the implementation of the article

Slovenia strictly requires dual criminality for corruption offences except for the cases foreseen in the European Arrest Warrant Framework Decision.

It is stated that Slovenia could also grant extradition in the absence of dual criminality with States parties that are not European Union Member States.

Paragraph 3 of article 44

3. If the request for extradition includes several separate offences, at least one of which is extraditable under this article and some of which are not extraditable by reason of their period of

imprisonment but are related to offences established in accordance with this Convention, the requested State Party may apply this article also in respect of those offences.

(a) Summary of information relevant to reviewing the implementation of the article

Slovenia requires for extraditable offences a minimum penalty of one year (art. 522 No. 4 CPA). According to the Article 8 of the Constitution of the Republic of Slovenia the provision of the Convention is directly applicable, but the institute of the accessory surrender is regulated also by the Article 522 para. 2 of the Criminal Procedure Act.

Article 522 (1) of the Criminal Procedure Act

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

4. that in the event of extradition for the purpose of criminal prosecution, a prison sentence of one year or more or a security measure lasting over a year may be imposed for the offence under the law of both states;

5. that in the event of extradition for the purpose of the execution of a final sentence or security measure, the sentence or the security measure and/or their remainder which needs to be carried out shall be at least four months;

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

The new extradition treaty with Serbia makes reference to the same principle.

(b) Observations on the implementation of the article

Slovenia has implemented article 44 paragraph 3 of the Convention.

Paragraph 4 of article 44

4. Each of the offences to which this article applies shall be deemed to be included as an extraditable offence in any extradition treaty existing between States Parties. States Parties undertake to include such offences as extraditable offences in every extradition treaty to be concluded between them. A State Party whose law so permits, in case it uses this Convention as the basis for extradition, shall not consider any of the offences established in accordance with this Convention to be a political offence.

(a) Summary of information relevant to reviewing the implementation of the article

According to article 8 of the Constitution of the Republic of Slovenia, the provision of the Convention is directly applicable. Therefore, Slovenia can deem all offences established in accordance with the Convention to be included as an extraditable offence in any of its extradition treaties, although there have been no cases of application yet.

With regard to the minimum penalty according to Slovenian national law, article 522 para. 1 No. 4 foresees that

a prison sentence of one year or more or a security measure lasting over a year may be imposed for the offence under the law of both states.

The wording “may” be imposed is interpreted in the way that it refers to the maximum penalty of the relevant offences. The maximum penalties for corruption offences are between one and 10 years (see above article 30 para. 1), so that according to national law, all corruption offences would be extraditable.

Slovenian authorities stated that all of the country’s bilateral treaties determine as a condition for

extradition the prescribed minimum penalty for the offence in question. With regard to the inclusion of corruption offences as extraditable offences in every future extradition treaty, it is noted that Slovenia has concluded one bilateral extradition treaty after the ratification of the Convention, with the Republic of Serbia. This bilateral treaty defines as extraditable all offences for which the minimum penalty is one year.

With regard to the political offence exception, it is not regulated in Slovenian legislation, however, Slovenian authorities stated that this exception would be directly applied according to article 8 of the Constitution, However, Slovenia had only one relevant extradition case yet (see above case with Belarus), in which the problem has not presented itself, so there are no case examples yet.

(b) Observations on the implementation of the article

Slovenia considers all corruption offences as extraditable offences, and can deem all offences established in accordance with the Convention to be included as an extraditable offence in any of its extradition treaties.

Slovenia has included all offences with a minimum penalty of one year in its only extradition treaty concluded after the ratification of UNCAC, and this includes all corruption offences.

Slovenian law does not regulate the political offence exception; however, this exception can be applied by direct application of the Convention.

Paragraph 5 of article 44

5. If a State Party that makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may consider this Convention the legal basis for extradition in respect of any offence to which this article applies.

(a) Summary of information relevant to reviewing the implementation of the article

Slovenia does not make extradition conditional on the existence of a treaty.

It can still consider the Convention as a legal basis for extradition.

At the time of the ratification of the Convention, the existence of an international instrument was a condition for passive extradition (see notification below, paragraph 6). Based on recent amendments of the Criminal Procedure Act (in force since 15th May 2012),extradition is now possible without the existence of the relevant international instrument, according to the rules established in national law and on the basis of the principle of reciprocity.

(b) Observations on the implementation of the article

Slovenia does not make extradition conditional on the existence of a treaty but can extradite on the basis of the principle of reciprocity.

Paragraph 6 of article 44

6. A State Party that makes extradition conditional on the existence of a treaty shall:

(a) At the time of deposit of its instrument of ratification, acceptance or approval of or accession to this Convention, inform the Secretary-General of the United Nations whether it will take this Convention as the legal basis for cooperation on extradition with other States Parties to this Convention; and

(b) If it does not take this Convention as the legal basis for cooperation on extradition, seek, where appropriate, to conclude treaties on extradition with other States Parties to this Convention in order to implement this article.

(a) Summary of information relevant to reviewing the implementation of the article

Slovenia does not make extradition conditional on the existence of a treaty.

It can consider the Convention as a legal basis for extradition.

At the time of the ratification of the Convention, the existence of the international instrument was a condition for passive extradition. Therefore, Slovenia deposited a notification with the Secretary-General that the Convention is considered as a legal basis for extradition.

Due to recent amendments of the Criminal Procedure Act (in force since 15th May 2012), passive extradition is also possible without the existence of the relevant international instrument, according to the rules established in national law and on the basis of the principle of reciprocity.

(b) Observations on the implementation of the article

Slovenia does not make extradition conditional on the existence of a treaty.

Paragraph 7 of article 44

7. States Parties that do not make extradition conditional on the existence of a treaty shall recognize offences to which this article applies as extraditable offences between themselves.

(a) Summary of information relevant to reviewing the implementation of the article

Slovenia foresees a minimum penalty requirement of one year in article 522 para. 1 No. 4:

Article 522 (1) of the Criminal Procedure Act

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

4. that in the event of extradition for the purpose of criminal prosecution, a prison sentence of one year or more or a security measure lasting over a year may be imposed for the offence under the law of both states;

All of the offences regulated by the Convention carry maximum sanctions of one year or more of deprivation of liberty and are therefore considered extraditable under national legislation. Slovenian authorities confirmed that the bilateral extradition treaties provide for the same threshold.

(b) Observations on the implementation of the article

Slovenia is in compliance with this provision.

Paragraph 8 of article 44

8. Extradition shall be subject to the conditions provided for by the domestic law of the requested State Party or by applicable extradition treaties, including, inter alia, conditions in relation to the minimum penalty requirement for extradition and the grounds upon which the requested State Party may refuse extradition.

(a) Summary of information relevant to reviewing the implementation of the article

According to the Article 522 of the Criminal Procedure Act, requirements for extradition are, inter alia:

4. that in the event of extradition for the purpose of criminal prosecution, a prison sentence of one year or more or a security measure lasting over a year may be imposed for the offence under the law of both states;
5. that in the event of extradition for the purpose of the execution of a final sentence or security measure, the sentence or the security measure and/or their remainder which needs to be carried out shall be at least four months;

(b) Observations on the implementation of the article

Slovenia subjects extradition to, inter alia, the existence of dual criminality and a minimum penalty of one year (upper limit of the sanction). These requirements are in accordance with the Convention.

Paragraph 9 of article 44

9. States Parties shall, subject to their domestic law, endeavour to expedite extradition procedures and to simplify evidentiary requirements relating thereto in respect of any offence to which this article applies.

(a) Summary of information relevant to reviewing the implementation of the article

Extradition cases are in Slovenia generally dealt with as a priority, since in most cases detention is ordered. Consequently, the extradition documentation is sent to the competent judicial authorities generally on the same day when the Ministry receives it or the day after at the latest.

With the same urgency, (active) requests for extradition and decisions of the Minister of Justice on the extradition are transmitted or issued – consequently, if translation is not required and there is no need for additional information, requests and decisions are transmitted or issued in a term of 1-2 days.

The institute of the simplified extradition procedure is regulated by Article 529a of the Criminal Procedure Act. It is a simplified extradition procedure in cases in which the sought person agrees to the extradition. Consequently if the person at the hearing consents to the extradition and all conditions for the extradition are met, the investigating judge adopts the decision on extradition. The decision can be adopted even without the submission of the formal request for extradition, solely on the basis of the Interpol red notice or the request for the provisional arrest. The final decision of the investigative judge is sent to the Ministry of Justice and Public Administration which merely notifies the requesting State and Interpol about the decision. Within the simplified extradition procedure, the requested person can also renounce the speciality principle, however the consent and the renouncement are not connected.

Article 529.a

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

(2) In the case referred to in the preceding paragraph the alien may, after being instructed by the investigating judge, withdraw from the application of the provisions referred to in Article 531 of this Act.

(3) When taking testimony the investigating judge shall inform the alien of the possibility of consenting to extradition, instruct him that consent to extradition is voluntary and that it is only possible to withdraw consent until the decision is taken by the minister responsible for justice, and warn him that, should he consent to extradition, the decision will be taken in a summary procedure. The investigating judge shall also instruct this person of the significance and content of the rule of speciality, the consequences of terminating the rule of speciality and of the fact that termination is voluntary and irrevocable. The defence counsel and the competent public prosecutor may be present at the hearing. The instruction from the first and second paragraphs, the consent from the first paragraph and the termination from the second paragraph of this Article, as well as the statement of the alien that his consent and termination were given voluntarily and in the presence of counsel shall be entered in the record.

(4)After examining the requirements referred to in points 1 to 13 of the first paragraph of Article 522 of this Act, the investigating judge shall decide on extradition by way of decision. The decision shall be served on the person whose extradition is requested, on his counsel and the state prosecutor. The appeal to the district court's panel shall be allowed within 24 hours (sixth paragraph of Article 25), which shall decide on it within 48 hours.

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

The number of persons that consent to their extradition is significant and therefore this institute is often used in practice. The whole extradition and surrender procedure can in these cases be concluded within 10 days approximately.

With regards to the evidentiary requirements for the extradition, article 522 para. 1 no. 13 foresees:

Article 522 (1) of the Criminal Procedure Act

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

13. that there is sufficient evidence for reasonable suspicion that the alien whose extradition is requested has committed a certain criminal offence, or that a final judgment exists thereon.

The evidentiary threshold therefore is reasonable suspicion, and it refers to the requirements of article 522 such as the identity of the person, dual criminality, ne bis in idem, lapse of time, absence of political or military elements of the offence and protection of human rights, as well as to the commission of the offence.

(b) Observations on the implementation of the article

Article 529a of the Criminal Procedure Act regulates a simplified extradition procedure for cases in which the sought person agrees to his/her extradition.

With regards to evidentiary requirements, there must be grounds for reasonable suspicion that the sought person has committed the offence.

Paragraph 10 of article 44

10. Subject to the provisions of its domestic law and its extradition treaties, the requested State Party may, upon being satisfied that the circumstances so warrant and are urgent and at the request of the requesting State Party, take a person whose extradition is sought and who is present in its territory into custody or take other appropriate measures to ensure his or her presence at extradition proceedings.

(a) Summary of information relevant to reviewing the implementation of the article

Slovenian legislation regulates both general provisional detention and extradition detention in the CPA (art. 524, 525).

Extradition detention is not mandatory, it may only be imposed if a reasonable suspicion exists that a person has committed a criminal offence, if he is in hiding, if his identity cannot be established or if other circumstances exist which point to the danger of his attempting to flee; if there is reasonable ground for concern that he will destroy the traces of crime or if specific circumstances indicate that he will obstruct the progress of the criminal procedure by influencing witnesses, accomplices or concealers or if the seriousness of the offence, or the manner or circumstances in which the criminal offence was committed and his personal characteristics, history, the environment and conditions in which he lives or some other personal circumstances indicate a risk that he will repeat the criminal offence, complete an attempted criminal offence or commit a criminal offence which he has threatened. As an alternative to the extradition detention, other measures for the insurance of the presence of the accused may be imposed, such as bail, house arrest, reporting to the police station, etc.

Provisional detention is regulated in article 525. It may be imposed for a maximum period of three months, with an extension of another two months due to special circumstances, by a panel of three judges of the district court.

In consequence, extradition detention is regulated in article 524 paragraphs 306 in combination with the

articles 201 (grounds for detention), 195, 196 and 199a (alternatives to the extradition) of the Criminal Procedure Act:

Criminal Procedure Act

Article 524

(3) If the petition complies with the conditions specified in the preceding Article and if grounds for detention as specified in Article 201 of this Act exist, the investigating judge shall order that the alien be detained, or shall take other steps to secure his presence, unless it is clear from the petition itself that extradition is impermissible.

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

(5) Notwithstanding the provision of Article 205 of this Act, detention in the extradition procedure after receipt of the request for extradition without special decisions on the extension may last until the extradition to a foreign country and/or the decision of the minister responsible for justice refusing the extradition, but the total length of detention determined before receipt of the request for extradition and after its receipt shall not exceed 30 months.

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

Article 525

(1) In urgent cases where there is a danger that the alien might flee or go into hiding the police shall be allowed to arrest the alien upon petition by a foreign competent body, irrespective of the manner in which the petition was sent. The petition should contain the data necessary for the establishment of identity of the alien, the type and designation of the criminal offence, the number of the decision together with the date, place and address of the foreign body which ordered detention and the statement that extradition shall be requested by a regular route.

(2) The police shall, without any delay, bring the arrested alien before the investigating judge of the court with jurisdiction for interrogation. If the investigating judge orders detention against the alien, the investigating judge shall notify the ministry responsible for foreign affairs thereof.

(3) The investigating judge shall release the alien if grounds for detention cease to exist or if the request for extradition is not filed within the time determined by him in allowing for the distance of the requesting country from Slovenia; this period of time may not be in excess of three months from the day the alien was detained. The foreign country shall be notified of the aforesaid time limit. Upon petition by the foreign country the panel of the court of jurisdiction may extend this period by two months at most in well-founded instances.

(4) If the petition is filed within the fixed time the investigating judge shall proceed as provided by the third and fourth paragraphs of the preceding Article.

Detention is generally regulated in article 201 CPA, and articles 195, 196 and 199 a CPA regulate the alternatives to provisional detention (see above article 30 para. 4).

Article 201

(1) If a reasonable suspicion exists that a person has committed a criminal offence, detention of that person may be ordered:

1) if he is in hiding, if his identity cannot be established or if other circumstances exist which point to the danger of his attempting to flee;

2) if there is reasonable ground for concern that he will destroy the traces of crime or if specific circumstances indicate that he will obstruct the progress of the criminal procedure by influencing witnesses, accomplices or concealers;

3) if the seriousness of the offence, or the manner or circumstances in which the criminal offence was committed and his personal characteristics, history, the environment and conditions in which he lives or some other personal circumstances indicate a risk that he will repeat the criminal offence, complete an attempted criminal offence or commit a criminal offence which he has threatened.

(2) In the instance referred to in point 1 of the preceding paragraph the detention ordered solely because of the impossibility to establish the identity of a person shall last until the identity is established. In the instance referred to in point 2 of the preceding paragraph detention shall be cancelled as soon as the evidence on account of which detention was ordered has been secured.

(3) In particular, violations by the accused of the measures referred to in Articles 195, 195.a, 195.b, 196 and 199 of this Act shall be deemed to be special circumstances referred to in points 1, 2 and 3 of this Article.

With regard to practical cases, in the above-mentioned corruption case with Belarus, the relevant provisions were applied. In general terms, provisional measures for ensuring the presence of the requested persons are regularly ordered by Slovenian courts in extradition proceedings. In the mentioned case, the court on the basis of the Interpol red notice imposed the provisional extradition detention against the wanted person for the period of 30 days and requested the competent authorities of Belarus to submit the request for extradition as well as relevant extradition documentation.

(b) Observations on the implementation of the article

Slovenia has implemented the provision under review.

Paragraph 11 of article 44

11. A State Party in whose territory an alleged offender is found, if it does not extradite such person in respect of an offence to which this article applies solely on the ground that he or she is one of its nationals, shall, at the request of the State Party seeking extradition, be obliged to submit the case without undue delay to its competent authorities for the purpose of prosecution. Those authorities shall take their decision and conduct their proceedings in the same manner as in the case of any other offence of a grave nature under the domestic law of that State Party. The States Parties concerned shall cooperate with each other, in particular on procedural and evidentiary aspects, to ensure the efficiency of such prosecution.

(a) Summary of information relevant to reviewing the implementation of the article

Beyond the European Union, Slovenia does not extradite its nationals (art. 47 of the Constitution, 522 para. 1 No. 1 CPA).

Article 47 of the Constitution of the Republic of Slovenia

No citizen of Slovenia may be extradited or surrendered unless such obligation to extradite or surrender arises from a treaty by which, in accordance with the provisions of the first paragraph of Article 3a, Slovenia has transferred the exercise of part of its sovereign rights to an international organisation.

Article 522 (1) of the Criminal Procedure Act

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

1. that the person whose extradition is requested is not a Slovenian citizen;

The principle aut dedere aut judicare is regulated in article 527 para. 4 CPA:

Article 527

(4) In the event that the extradition is refused because the person is a Slovenian citizen, the extradition documents shall be handed over to the competent state prosecutor's office for the purpose of eventually instituting criminal prosecution in the Republic of Slovenia.Slovenian authorities have underlined the obligation to prosecute in all the cases where the facts have been established.

Further, Slovenian authorities informed about the problem of citizens with dual criminality, an issue that has appeared round the time of the joint meeting in Vienna. Generally, such citizens were considered Slovenian citizens and not extradited. However, in cases in which the country of their second nationality requests their extradition, the issue had not been clarified by Slovenian courts yet. Several solutions were discussed, they included a transfer of the criminal proceedings or the initiation of new proceedings in Slovenia.

Between Member States of the European Union, Slovenia applies the Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States, under which it can extradite its nationals.

(b) Observations on the implementation of the article

Slovenia has implemented the provision under review. With the Member States of the European Union, Slovenia extradites its nationals. Otherwise, it does not extradite its nationals, but has the obligation to prosecute the sought person, as regulated in article 527 para. 4 of the CPA.

Paragraph 12 of article 44

12. Whenever a State Party is permitted under its domestic law to extradite or otherwise surrender one of its nationals only upon the condition that the person will be returned to that State Party to serve the sentence imposed as a result of the trial or proceedings for which the extradition or surrender of the person was sought and that State Party and the State Party seeking the extradition of the person agree with this option and other terms that they may deem appropriate, such conditional extradition or surrender shall be sufficient to discharge the obligation set forth in paragraph 11 of this article.

(a) Summary of information relevant to reviewing the implementation of the article

Slovenian law does not contain such conditions.

(b) Observations on the implementation of the article

Slovenian law does not contain such conditions.

Paragraph 13 of article 44

13. If extradition, sought for purposes of enforcing a sentence, is refused because the person sought is a national of the requested State Party, the requested State Party shall, if its domestic law so permits and in conformity with the requirements of such law, upon application of the requesting State Party, consider the enforcement of the sentence imposed under the domestic law of the requesting State Party or the remainder thereof.

(a) Summary of information relevant to reviewing the implementation of the article

Slovenia has no specific regulation for the enforcement of a sanction when a national is not extradited on grounds of his nationality. However, there is generally an exequatur proceeding by which national courts may grant the motion of the state prosecutor or request of the competent foreign authority for the execution of a foreign prison sentence, security or other sanction of the criminal court which is implemented through deprivation of liberty or a fine under the final criminal judgment of a foreign court, if so stipulated by an international treaty or on the basis of reciprocity and on the basis of the requirements of the national law.

The execution of the foreign sentence is possible without the request of the foreign county. If extradition is refused because of the nationality of the requested person, this is one of the cases in which the prosecutor can submit the proposal to the court to execute the foreign sentence. The procedure for the transfer of the

execution of sentence is based on the exequatur procedure. Normally the consent of the person to the transfer is one of its basic preconditions. However, the sentence may be transferred also without the consent of the personin the case that the person evaded the enforcement or further enforcement of the criminal judgment by absconding in Slovenia.

In the exequatur procedure, the court recognizes the foreign judicial decision and imposesa sentence under the criminal legislation of Slovenia.The enforcement of a foreign judgment requires its replacement with a domestic judgment, whereby the sentence passed abroad is adapted in accordance with the provisions of the Criminal Code, however the sentence may only be adapted if the length or the nature of the imposed sentence does not comply with the national legislation. If the sentence is incompatible with the national law in terms of its duration, the court may decide to adapt the sentence to the extent in which that sentence exceeds the maximum penalty provided for similar offences under national law. The adapted sentence should not be less than the maximum penalty provided for similar offences under the national legislation. Where the sentence is incompatible with the national law in terms of its nature, the court may adapt it to the punishment or measure provided for under Slovenian law for similar offences. Such a punishment or measure must correspond as closely as possible to the sentence imposed in the issuing State. In accordance with the principle of prohibition of transformation *in peius*, the adapted sentence must not aggravate the sentence passed in the requesting State in terms of its nature or duration.

Article 517 CPA

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

- the person agrees with the execution of the sentence in the Republic of Slovenia, except in the cases referred to in the second paragraph of this Article;

- the judgment does not entail a violation of the main principles of the legal order of the Republic of Slovenia;

- the decision was issued on an offence punishable by a prison sentence or a fine pursuant to the national law;

- the decision was not issued on the political or military criminal offence;

- the execution of sentence has not become statute-barred pursuant to the national legislation;

- the person has not been sentenced for the same offence by a final judgment or acquitted under a final decision or the criminal proceedings against this person has been stopped under a final decision or the indictment against the person was dismissed under a final decision;

- this person in question is a Slovenian citizen and has permanent or temporary residence in the Republic of Slovenia;

- in cases where a criminal court's safety precaution or some other measure is implemented by deprivation of liberty, the national law prescribes the same measure;

- the judgment was issued in the presence of the person, unless the requesting state submits the relevant evidence that the person has been invited personally or that the person has been notified on the time and venue of the proceedings through the counsel authorised in accordance with the national law, which was the reason why the judgment was issued in the person's absence, or if the person declared to the competent authority that he did not object to the decision.

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

Article 517a

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

1. that the state issuing the judgment sent a request for implementing the criminal judgment or order for the execution of criminal judgment;

2. that the circumstances exist indicating the risk that the person could avoid the execution procedure and/or serving the sentence or the measure by absconding;

3. that the person's consent to the execution is not necessary or has been given, and 4. that the request for execution is not manifestly inadmissible.

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

Article 517b

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

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

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

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

Article 517c

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

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

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

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

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

(b) Observations on the implementation of the article

Under articles 517, 517a, 517b, and 517c of the CPA, a penalty imposed by a judicial authority of a requesting State may be executed in Slovenia, by imposing a new sentence under Slovenian law (exequatur proceedings).The proceedings require the consent of the sentenced person, except for the cases in which the person has avoided the execution of the criminal judgement through his arrival or abscondment in Slovenia. In cases in which the person is sought through extradition proceedings, this will be regularly the case.

Therefore, Slovenia has implemented article 44 paragraph 13 of the Convention, despite the absence of examples of application.

Paragraph 14 of article 44

14. Any person regarding whom proceedings are being carried out in connection with any of the offences to which this article applies shall be guaranteed fair treatment at all stages of the proceedings, including enjoyment of all the rights and guarantees provided by the domestic law of the State Party in the territory of which that person is present.

(a) Summary of information relevant to reviewing the implementation of the article

In the extradition procedure, the provisions of the Criminal Procedure Act apply mutatis mutandis. The sought person is entitled to the same rights as a defendant in the regular criminal procedure (right to legal counsel, to proper defence, to not incriminate himself, right to interpretation, etc).

Articles 4, 5, 7, 8 of the Criminal Procedure Act

Article 4

(1) Any arrested person shall be advised immediately, in his mother tongue or in a language he understands, of the reasons for his arrest. An arrested person shall immediately be instructed that he is not bound to make any statements, that he is entitled to the legal assistance of a counsel of his own choice and that the competent body is bound to inform upon his request his immediate family of his apprehension.

(2) The suspect shall have the right to the services of a counsel from the moment of apprehension onwards.

(3) Any restriction on the freedom of the suspect that involves forced detention shall be considered as apprehension.

(4) If a suspect who has been apprehended does not have the means to retain a counsel by himself, the police shall, upon request of the suspect, appoint a counsel for him at the expense of the state if this is in the interest of justice.

Article 5

(1) The accused shall at the first interrogation be informed of the offence he is charged with and of the grounds on which the charge has been brought against him.

(2) The accused shall be enabled to make a statement on all the facts and evidence which incriminate him and to state all facts and evidence in his favour.

(3) The accused shall not be obliged to plead his case or to answer any questions; if he pleads his case he shall not be obliged to incriminate himself or his close relatives, nor to confess guilt.

Article 7

(1) Charges, appeals and other submissions shall be filed with the court in the Slovenian language.

(2) In those areas in which members of the Italian or Hungarian national minority reside, members of these national minorities shall be allowed to file submissions in the Italian or the Hungarian language if these languages are used as official languages of the court.

(3) A foreigner who has been deprived of freedom shall have the right to file submissions with the court in his language; in other cases foreign subjects shall be allowed to file submissions in their languages solely on the condition of reciprocity.

Article 8

(1) Parties, witnesses and other participants in the proceedings shall have the right to use their own languages in investigative and other judicial actions and at the main hearing. If a judicial action or the main hearing is not conducted in the languages of these persons, the oral translation of their statements and of the statements of others, and the translation of documents and other written

evidence, must be provided.

(2) Persons referred to in the preceding paragraph shall be informed of their right to have oral statements and written documents and evidence translated for them; they may waive translation rights if they know the language in which the proceedings are conducted. The fact that they have been informed of their right, as well as their statements in this regard, should be entered in the record.

(3) The translation shall be done by a court interpreter.

(b) Observations on the implementation of the article

Under articles 4, 5, 7 and 8 of the Code of Criminal Procedure, the requested person enjoys the same rights as a defendant in a normal criminal proceeding. The right to appeal is granted in the extradition procedure (see above).

Slovenia has implemented article 44 paragraph 14 of the Convention, although there are no examples of application.

Paragraph 15 of article 44

15. Nothing in this Convention shall be interpreted as imposing an obligation to extradite if the requested State Party has substantial grounds for believing that the request has been made for the purpose of prosecuting or punishing a person on account of that person's sex, race, religion, nationality, ethnic origin or political opinions or that compliance with the request would cause prejudice to that person's position for any one of these reasons.

(a) Summary of information relevant to reviewing the implementation of the article

Slovenia does not have any regulations on the matter.

The exclusion of extradition in cases of some human rights violations are contained in article 522 paragraph 1 No.s 8 to 11 (no extradition when proceedings before extraordinary courts, no extradition for death penalty, no extradition based on proceedings in absence of the sought person, no extradition for criminal offences committed by persons under 14 years).

In accordance with the Article 8 of the Constitution, the provision is directly applicable.

(b) Observations on the implementation of the article

The provision is directly applicable. Slovenia is in compliance with the provision under review, although there are no examples of application.

Paragraph 16 of article 44

16. States Parties may not refuse a request for extradition on the sole ground that the offence is also considered to involve fiscal matters.

(a) Summary of information relevant to reviewing the implementation of the article

The requirements of extradition from Slovenia are regulated in article 522 CPA (see above).

As mentioned before, the requirements for the extradition are (unless a treaty says something different)in summary:

- ✓ that the requested person is not a citizen;
- ✓ that the criminal offence has not been committed on the territory of Slovenia, against Slovenia or against the citizen of Slovenia;

- ✓ existence of dual criminality;
- ✓ existence of the sentence threshold (criminal prosecution 1 year, enforcement of sentence 4 months);
- ✓ lapse of time;
- ✓ ne bis in idem;
- ✓ that procedure in the requesting State was not or will not be conducted before the ad hoc tribunal or that the sentence has not been imposed by that tribunal;
- ✓ existence of the appropriate assurances that the death penalty will not be demanded or carried out;
- ✓ existence of relevant circumstances or assurances relating to the in absentia;
- ✓ existence of the criminal liability of person;
- ✓ verification of the identity of the person;
- ✓ existence of the sufficient evidence to suspect that the alien whose extradition is requested has committed a criminal offence or the existence of the final judgement.

The fact that the offence is also considered to involve fiscal matters is not considered a ground for refusal.

In the bilateral treaties, this ground for refusal is also not contained.

(b) Observations on the implementation of the article

Slovenia is in compliance with article 44 paragraph 16 of the Convention.

Paragraph 17 of article 44

17. Before refusing extradition, the requested State Party shall, where appropriate, consult with the requesting State Party to provide it with ample opportunity to present its opinions and to provide information relevant to its allegation.

(a) Summary of information relevant to reviewing the implementation of the article

Slovenia could apply the measures specified in paragraph 17 through direct application of the Convention. There is no special provision regulating the consultations between the competent authorities; however Slovenian authorities confirmed that they may nonetheless consult with each other in all stages of procedure.

(b) Observations on the implementation of the article

Slovenia is in compliance with article 44 paragraph 17 of the Convention, despite the absence of examples that illustrate the exchanges between Slovenia and other States.

Paragraph 18 of article 44

18. States Parties shall seek to conclude bilateral and multilateral agreements or arrangements to carry out or to enhance the effectiveness of extradition.

(a) Summary of information relevant to reviewing the implementation of the article

Slovenia has concluded the following bilateral treaties:

- Albania: Treaty on the extradition of perpetrators of criminal offences
- People's Democratic Republic of Algeria: Treaty on legal assistance in civil and criminal matters of 31st March 1982

- Australia : Treaty on mutual extradition of fugitive criminals
- Bosnia and Herzegovina: Treaty between the Republic of Slovenia and Bosnia and Herzegovina on extradition
- Mongolia : Treaty on legal assistance in civil, matrimonial and criminal matters
- Macedonia: Treaty between the Republic of Slovenia and Republic of Macedonia on extradition,
- New Zealand : Treaty between Serbia and UK on extradition of perpetrators of criminal offences
- Russia: Treaty on legal assistance in civil, matrimonial and criminal matters
- Turkey: Treaty on extradition
- US: Agreement between the Government of the Republic of Slovenia and the Government of the United States of America comprising the Instrument as contemplated by Article 3(2) of the Agreement on Extradition between the European Union and the United States of America signed 25 June 2003, as to the Application of the Treaty on Extradition between the Kingdom of Serbia and the United States, signed 25 October 1901

At the time of the joint meeting, Slovenia had negotiated an extradition treaty with Serbia that was ready for ratification.[3] The treaty was expected to bring added value to the cooperation, as well as accelerate and simplify the procedure through the following measures:

- Direct communication through the Ministry of Justice
- Translation of the request for the extradition and relevant extradition documentation was not necessary
- Extradition for accessory offences (see above article 44 paragraph 3).
- Principle of aut dedere aut judicare
- Simplified extradition procedure
- The possibility of waiving the speciality principle by the extradited person.

Slovenia can still use older bilateral treaties in which the State succeeded the Former Yugoslavia. However, more frequently, multilateral instruments are used, such as agreements within the Council of Europe, United Nations, etc., which are considered more flexible and users friendly.

Slovenia is part of the following multilateral extradition agreements:

- European Convention on Extradition (Strasbourg, 13.12.1957)
- Additional Protocol to the European Convention on Extradition of 15th October 1975
- Second Additional Protocol to the European Convention on Extradition of 17th March 1978
- Convention implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders
- United Nations Convention against Translational Organized Crime
- Council Decision 2006/697/EC of 27 June 2006 on the signing of the Agreement between the European Union and the Republic of Iceland and the Kingdom of Norway on the surrender procedure between the Member States of the European Union and Iceland and Norway
- Slovenia has also signed the Third and Fourth Protocol to the European Convention on Extradition (Strasbourg, 10.11.2010 and 20.9.2012)

The mentioned instruments of the European Union take precedence over all other international instruments.

Further, Slovenia can use the Convention as a legal basis for extradition.

[3] Development after the joint meeting: The bilateral treaty with Serbia entered into force on 1 December 2013.

(b) Observations on the implementation of the article

Slovenia has concluded bilateral and multilateral treaties and can use the Convention as a legal basis for extradition.

Article 45.Transfer of sentenced persons

States Parties may consider entering into bilateral or multilateral agreements or arrangements on the transfer to their territory of persons sentenced to imprisonment or other forms of deprivation of liberty for offences established in accordance with this Convention in order that they may complete their sentences there.

(a) Summary of information relevant to reviewing the implementation of the article

Slovenia has concluded the following bilateral treaties:

- ✓ People's Democratic Republic of Algeria: Treaty on legal assistance in civil and criminal matters of 31st March 1982
- ✓ Turkey: Treaty on mutual surrender of the convicted persons for the execution of the custodial sentence of 22nd June 1989
- ✓ Macedonia :Treaty between the Republic of Slovenia and Republic of Macedonia on mutual enforcement of court decisions in criminal matters of 6th February 1996
- ✓ Bosnia and Herzegovina: Treaty between the Republic of Slovenia and Bosnia and Herzegovina on Mutual Enforcement of Judgments in Criminal Matters of 5th April 2012
- ✓ Republic of Serbia: Treaty between the Republic of Slovenia and Republic of Serbia on Mutual Enforcement of Judgments in Criminal Matters of 30th November 2011 (in the ratification process)

Further, Slovenia is a party in the following multilateral treaties:

- ✓ Convention on the Transfer of Sentenced Persons (Strasbourg, 21.3.1983)
- ✓ Additional protocol to the Convention on the Transfer of Sentenced Persons (Strasbourg 18.12.1997).
- ✓ Convention implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders
- ✓ United Nations Convention against Translational Organized Crime

With the Member States of the European Union, the Council Framework Decision 2008/909/JHA of 27 November 2008 on the application of the principle of mutual recognition to judgments in criminal matters imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement in the European Union is applied.

Slovenia can also use the Convention as a legal basis, use bilateral arrangements or execute the transfer on the principle of reciprocity.

The transfer of prisoners to Slovenia is under all international instruments subject to exequatur proceedings.

The transfer of prisoners from Slovenia to another country is further regulated in national legislation, in article 517č CPA:

Article 517č

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

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

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

- No other criminal procedure is conducted against the sentenced person in the Republic of Slovenia;

- The person has settled the fine and/or the property claim.

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

No case for the transfer of sentenced persons based on the Convention had been executed yet. However, one case was solved with Peru on the basis of the United Nations Convention against Transnational Organized Crime.

Slovenian authorities stated that transfer of sentenced persons generally was frequently applied in practice.

Statistical data:

- 2011 : active 5, passive 12
- 2012 active 10, passive 17

At the time of the joint meeting, there were ongoing cases with Austria, Bosnia and Herzegovina, Croatia, Peru, Serbia, Sweden, Venezuela, and other countries.

(b) Observations on the implementation of the article

Slovenia has implemented the provision.

Article 46. Mutual legal assistance

Paragraph 1 of article 46

1. States Parties shall afford one another the widest measure of mutual legal assistance in investigations, prosecutions and judicial proceedings in relation to the offences covered by this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

Mutual legal assistance is regulated in Chapter 30 (articles 514 to 520) of its Criminal Procedure Act. Further, the Act on cooperation in criminal matters with Member States of the European Union (ACCMEU-1) is relevant. Finally, the recently adopted Forfeiture of Assets of Illegal Origin Act contains relevant provisions.

The provisions of national legislation are applicable according to the principle of subsidiarity, i.e., they apply only unless an international legal instrument is applicable or if the provisions of the instrument do not regulate specific issues (see art. 8 of the Constitution). The Criminal Procedure Act also explicitly states that rule, establishing that mutual legal assistance is requested and provided pursuant to the provisions of the Act unless provided otherwise by international agreements (art. 514). This principle enables the direct use of international agreements when they regulate a certain question differently than the national legislation.

Slovenia has concluded a number of bilateral and multilateral treaties (see below paragraph 18), however, it does not require a treaty base and does not even require reciprocity. It can apply article 46 paragraphs 9-29 to its mutual legal assistance request directly. Only if direct police-to-police or court-to-court cooperation is requested, an undertaking for reciprocity is necessary.

Slovenia has had cases with Panama on the basis of the Convention.

Cooperation with non-member states of the EU

According to the CPA (article 515), all mutual legal assistance requests have to be transmitted through the diplomatic channel. The Ministry of Foreign Affairs transmits passive requests through the Ministry of Justice (central authority) to the competent Slovenian authorities, i.e., courts or state prosecutor's office (passive mutual legal assistance requests). Active request are transmitted from the competent Slovenian authorities to the Ministry of Justice (central authority) and then through the diplomatic channel to the responsible foreign authorities.

The procedure through the Ministry of Foreign Affairs and the Ministry of Justice and Public Administration is carried out as swiftly as possible, usually no later than in a day or two.

Article 515

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

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

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

Article 516

(1) The ministry responsible for foreign affairs shall send petitions for legal aid received from foreign bodies to the ministry responsible for justice, which shall forward them for consideration to the circuit court in whose territory resides the person who should be served with a document, or interrogated, or confronted, or in whose territory another investigative act should be conducted. If the request refers to the implementation of an act which, according to the national law, falls under the jurisdiction of the state prosecutor's office, the Ministry of Justice shall send the request into the consideration of the state prosecutor's office in whose territory of jurisdiction the act needs to be implemented.

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

(3) In instances referred to in the second paragraph of Article 515 of this Act, petitions shall be transmitted to the court or to the state prosecutor's office by the ministry responsible for internal affairs.

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

(5) Notwithstanding the provision of the fourth paragraph of this Article, the act of assistance can be implemented in a manner as determined in the legislation of the requesting country if such manner of implementing the act is in compliance with the main principles of the national criminal proceedings.

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

However, Slovenian authorities stated that generally in practice, the requests are not submitted through the diplomatic channels but directly through the central authority. In accordance with article 514 of CPA mutual legal assistance in criminal matters shall be administered pursuant to the provisions of CPA, unless provided otherwise by international agreements (principle of subsidiarity). Since a lot of bilateral treaties as well as multilateral treaties determine the Ministry of Justice as the central authority and enable communication through central authorities, in practice this way of communication is frequently used. Direct communication between domestic and foreign judicial authorities is regulated by article 515 paragraph 3:

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

The competent authorities for the execution of (passive) mutual legal assistance requests are district courts - investigative judges or district prosecutors' offices, depending on the requested investigative measure. If the request relates to the criminal acts against the economic sector, subject to a punishment of five years of imprisonment or to a more severe punishment, except commercial fraud, issuing of a bad cheque and abuse of bank or credit card, use of counterfeit bank, credit or other card; subject to a punishment of ten years of imprisonment or a more severe punishment if the act has been committed within a criminal association; accepting a bribe, giving a bribe, accepting benefits for illegal intermediation, giving of gifts for illegal intermediation, unlawful acceptance of gifts, unlawful giving of gifts; terrorism, financing terrorism, instigation and public glorification of terrorist acts, recruitment and training for terrorist acts; establishing slavery relations and human trafficking, the request may also be sent to the Specialised Public Prosecutors' Office.

The competent authorities for issuing (active) mutual legal assistance requests are local and district courts, district prosecutors' offices and the Specialised Public Prosecutors' Office.

Cooperation with the Member States of the European Union

As mentioned before, the legal basis for the cooperation is Act on Cooperation in Criminal Matters with the Member States of the European Union (ACCMEU) as well as the relevant EU instruments. The ACCMEU was replaced with the new ACCMEU-1, applicable since 20th September 2013, due to the necessity for implementation of several new mutual recognition instruments adopted within the EU as well as necessary amendments identified by the existing practice. The following aspects of mutual legal assistance are regulated by the instruments adopted within the EU, which were implemented in the ACCMEU-1:

- ✓ freezing - Council Framework Decision 2003/577/JHA of 22 July 2003 on the execution in the European Union of orders freezing property or evidence;
- ✓ confiscation - Council Framework Decision 2006/783/JHA of 6 October 2006 on the application of the principle of mutual recognition to confiscation orders;
- ✓ evidentiary requirements - Council Framework Decision 2008/978/JHA of 18 December 2008 on the European evidence warrant for the purpose of obtaining objects, documents and data for use in proceedings in criminal matters

(b) Observations on the implementation of the article

Slovenia has implemented article 46 paragraph 1 of the Convention

(c) Successes and good practices

Slovenia has applied the Convention as a basis for mutual legal assistance in at least one case.

Paragraph 2 of article 46

2. Mutual legal assistance shall be afforded to the fullest extent possible under relevant laws, treaties, agreements and arrangements of the requested State Party with respect to investigations, prosecutions and judicial proceedings in relation to the offences for which a legal person may be held liable in accordance with article 26 of this Convention in the requesting State Party.

(a) Summary of information relevant to reviewing the implementation of the article

Slovenia has regulated the criminal liability of legal persons (see above article 26), and regarding mutual legal assistance proceedings, it makes no distinction between cases concerning natural or legal persons.

(b) Observations on the implementation of the article

Slovenia has implemented article 46 paragraph 2 of the Convention.

Subparagraphs 3(a) to3 (i) of article 46

3. Mutual legal assistance to be afforded in accordance with this article may be requested for any of the following purposes:

(a) Taking evidence or statements from persons;

(b) Effecting service of judicial documents;

(c) Executing searches and seizures, and freezing;

(d) Examining objects and sites;

(e) Providing information, evidentiary items and expert evaluations;

(f) Providing originals or certified copies of relevant documents and records, including government, bank, financial, corporate or business records;

(g) Identifying or tracing proceeds of crime, property, instrumentalities or other things for evidentiary purposes;

(h) Facilitating the voluntary appearance of persons in the requesting State Party;

(i) Any other type of assistance that is not contrary to the domestic law of the requested State Party;

(j) Identifying, freezing and tracing proceeds of crime in accordance with the provisions of chapter V of this Convention;

(k) The recovery of assets, in accordance with the provisions of chapter V of this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

Assistance is possible in all stages of proceedingsand for all investigative or procedural measures (hearing, service of documents, obtaining bank information, expert evaluation, taking of blood/DNA samples, tracing of telecommunications, identification of users of telecommunications, interception and recording of telecommunications and other forms of communication, interception of e-mails, search and seizure,

confiscation, etc.).

Generally, the competent authorities of Slovenia apply the same provisions on investigative measures as in national cases, plus some specific rules on international cooperation, namely:

- ✓ on paragraph 3 a) - taking evidence or statements from persons: articles 227- 233 CPA (interrogation of the accused) and articles 234- 244 CPA (examination of witnesses)
- ✓ on paragraph 3 b) - Effecting service of judicial documents: articles 117-119 CPA and Article 92 of the Court Rules:

  Article 92 of the Court Rules:

  When a request by a foreign court to serve writings is not accompanied by a translation into Slovene, even though required by international treaties that the writings to be served must be written in the language of the requested country, then the court shall inform the party invited for the first time due to the serving of an act by a foreign court without a translation, that this court act shall be sent by post if the party does not appear in the court at the first invitation and the party shall therefore lose the opportunity to decline to accept this foreign court act.

  A party who appears in court in order to be served in person with a foreign court act without a translation, shall be informed by the court of the right to decline to accept it.
- ✓ on paragraph 3 c) - executing searches and seizures, and freezing: articles 214-219 CPA (house search and personal search), 220- 224 (confiscation of objects), and 502-502 e) CPA.
- ✓ on paragraph 3 d) - examining objects and sites: articles 245-247CPA (inspection)
- ✓ on paragraph 3 e) - providing information, evidentiary items and expert evaluations: articles 143 CPA, articles 248-267 (expertise).
- ✓ on paragraph 3 f) - providing originals or certified copies of relevant documents and records, including government, bank, financial, corporate or business records: article 156 CPA;

The measures referred to in

- ✓ paragraph 3 g) - dentifying or tracing proceeds of crime, property, instrumentalities or other things for evidentiary purposes, and
- ✓ paragraph 3 h) - facilitating the voluntary appearance of persons in the requesting State Party,

are not specifically regulated in national legislation. However, national legislation on MLA generally does not contain an enumerative list of the permissible acts of assistance or investigative measure, so that consequently all requested measures may be executed if they are not contrary to basic principles of national legislation.

In this sense, the general clause in

- ✓ paragraph 3 i) "any other type of assistance that is not contrary to the domestic law of the requested State Party" is applied, either directly on the basis of the Convention or following the general principle that all acts are allowed if conditions for the execution determined either by the international instrument or national legislations are fulfilled, and that there is no enumerative list or limitations.

To implement

- ✓ paragraph 3 j) - identifying, freezing and tracing proceeds of crime in accordance with the provisions of chapter V of this Convention; and
- ✓ paragraph 3 k) - recovery of assets, in accordance with the provisions of chapter V of this Convention,

Slovenia applies articles 499- 502 d) CPA as well as the recently adopted Forfeiture of Assets of Illegal Origin Act (see above article 31).

Case examples:

<u>Slovenia provided the following case examples on paragraphs 3 j) and k):</u>

- ✓ Cooperation between the Italian and Slovenian authorities on the basis of the European Convention on Mutual Legal Assistance in Criminal Matters and the Schengen Convention (there was direct communication and cooperation between the competent judicial authorities with the assistance of Eurojust). Slovenian authorities granted the request for mutual legal assistance. This implied seizure of a plane which had landed in the territory of the Republic of Slovenia. There were however some difficulties with the takeover of the plane by the Italian authorities. One of the problems encountered was the cost for maintenance for the securing and storage of the plane. During the procedure, there was also a consideration of selling the plane, however, at the end the Italian authorities took over the plane and settled all costs.
- ✓ Ongoing freezing cases in relation to Croatia for the criminal offences of abuse of position or trust in business activity, abuse of position or rights in business activity, money-laundering, etc. A request for freezing had been initially transmitted to the competent authorities of Croatia on the basis of a bilateral agreement, the European Convention on Mutual Legal Assistance in Criminal Matters as well as the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism. However, since 1st of July 2013 the legal basis for the cooperation regarding the institute of freezing in relation to the Republic of Croatia is Council Framework Decision 2003/577/JHA of 22 July 2003 on the execution in the European Union of orders freezing property or evidence. Consequently, the request for the extension of freezing was transmitted on this legal basis, directly between judicial authorities.
- ✓ A mutual legal assistance case regarding freezing in relation to Liechtenstein. Legal basis was the European Convention on Mutual Legal Assistance in Criminal Matters, the case related to the criminal offence of money-laundering and the abuse of position or rights in business activities.
- ✓ A few years ago, there was a successful case of asset recovery. A mutual legal assistance request based on a Slovenian court order was sent to Croatia. On the basis of this request, Croatian authorities seized a yacht. Because the maintenance costs for the yacht were high, Croatian authorities requested either reimbursement of the costs or transfer of the yacht to Slovenia. Since the transfer and maintenance/storage costs were lower in Slovenia, competent Slovenian and Croatian authorities reached an agreement, according to which the yacht was transferred to Slovenia.
- ✓ There were also other cases relating to freezing and confiscation in relation to some Member States of the European Union, all of which were executed in direct communication between judicial authorities. there Ministry does not have concrete information.
- ✓ Finally, there was a request for the identification and freezing from Tunisia and several requests for identification as well as freezing of assets from Egypt. In accordance with national legislation these requests were submitted to the District Court Ljubljana - Investigative department and the latter forwarded them to the District Prosecutor's Office in Ljubljana (requests were executed, there was also a coordination meeting at Eurojust, however no assets were recovered in the Republic of Slovenia).

(b) Observations on the implementation of the article

Slovenia may provide legal assistance including; the interrogation of the defendant, taking depositions of witnesses, effecting service of judicial documents provided that the judicial documents and other official documents are admitted under Slovenian law, if they seem necessary for the proceeding taking place abroad and are linked to a criminal action, or recovering the proceeds of the offence. All measures can be taken as long as they are not contrary to Slovenian law.

Slovenian authorities, within the framework of mutual legal assistance, have accepted requests from various countries, including Italy, Croatia, Tunisia and Egypt.

Slovenia has implemented article 46 paragraph 3.

(c) Successes and good practices

Slovenian authorities have experience in different categories of measures taken in response to mutual legal assistance requests, including tracing, freezing, seizure and confiscation of assets.

Paragraphs 4 and 5 of article 46

4. Without prejudice to domestic law, the competent authorities of a State Party may, without prior request, transmit information relating to criminal matters to a competent authority in another State Party where they believe that such information could assist the authority in undertaking or successfully concluding inquiries and criminal proceedings or could result in a request formulated by the latter State Party to this Convention.

5. The transmission of information pursuant to paragraph 4 of this article shall be without prejudice to inquiries and criminal proceedings in the State of the competent authorities providing the information. The competent authorities receiving the information shall comply with a request that said information remain confidential, even temporarily, or with restriction on its use. However, this shall not prevent the receiving State Party from disclosing in its proceedings information that is exculpatory to an accused person. In such a case, the receiving State Party shall notify the transmitting State Party prior to disclosure and, if so requested, consult with the transmitting State Party. If, in an exceptional case, advance notice is not possible, the receiving State Party shall inform the transmitting State Party of the disclosure without delay.

(a) Summary of information relevant to reviewing the implementation of the article

In accordance with the Article 8 of the Constitution the provision is directly applicable; however, national legislation also provides a legal basis for spontaneous exchange of information.

Article 516c CPA

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

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

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

Article 52 (ACCMEU-1)

(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.

The confidential treatment of information received by spontaneous transmission is not specifically regulated, but both paragraph 3 of article 516 c CPA and paragraph 3 of article 52 ACCMEU-1 provide that “if the authority, when transmitting the data, has set up some conditions for their application, they shall be binding upon the authority receiving the data".

Case example on receiving spontaneous information:

A case with the Swiss Confederation: The competent Swiss authority spontaneously transmitted to the Ministry of Justice of Slovenia information relating to a case of money-laundering. The Ministry sent the information to the Office for the Prevention of Money-Laundering (the use of the information was limited by the specialty principle). Later, in the same case the specialty principle was lifted (see below para. 19).

Slovenia has received information without prior request also from Germany in a corruption case .

Slovenian authorities stated that they have not yet spontaneously provided information to other jurisdictions through mutual legal assistance channels; however, spontaneous information exchange is a frequent practice in police-to-police cooperation (see below article 48) with, inter alia, Uruguay. Further, Slovenian authorities stated that nothing would prevent them to provide information according to paragraph 4 of article 46.

(b) Observations on the implementation of the article

Slovenia is in conformance with article 46 paragraphs 4 and 5 of the Convention.

Paragraph 8 of article 46

8. States Parties shall not decline to render mutual legal assistance pursuant to this article on the ground of bank secrecy.

(a) Summary of information relevant to reviewing the implementation of the article

Transmission of bank information or transactions in the context of mutual legal assistance is regulated by articles 156 and 143 of the Criminal Procedure Act.

Article 156

(1) The investigating judge may upon a properly reasoned request of the public prosecutor order a bank, savings bank or savings-credit service to disclose to him information and send documentation on the deposits, statement of account and account transactions or other transactions by the suspect, the accused and other persons who may reasonably be presumed to have been implicated in the financial transactions or deals of the suspect or the accused, if such data might represent evidence in criminal proceedings or are necessary for the confiscation of objects or the securing of a request for the confiscation of proceeds or property in the value of proceeds.

(2) The bank, savings bank or savings-credit service shall immediately send to the investigating judge the information and documentation referred to in the preceding paragraph.

(3) Subject to conditions from the first paragraph of this Article, the investigating judge may upon a properly reasoned request by the public prosecutor order a bank, savings bank or savings-credit service to keep track of financial transactions of the suspect, the accused and other persons reasonably presumed to have been implicated in financial transactions or deals of the suspect or the accused, and to disclose to him the confidential information about the transactions or deals the aforesaid persons are carrying out or intend to carry out at these institutions or services. In the order, the investigating judge shall set the time period within which the bank, savings bank or savings-credit service shall provide him with the information.

(4) The measure referred to in the preceding paragraph may be applied for three months at most, but the term may for weighty reasons, upon request of the public prosecutor, be extended to six months at most.

(5) The bank, savings bank or savings-credit service may not disclose to their clients or third persons that they have sent, or will send, the information and documents to the investigating judge.

Article 143

(1) The personal data controller must submit to the court, at its request and free of charge, the personal data from the filing system also without a personal consent of the individual whom the data refer to if the court states that the data are required for conducting a criminal procedure.

(2) The court shall keep the data referred to in the previous paragraph confidential, if so provided by law.

(3) The court shall process the data referred to in the first paragraph of this Article for the purposes of implementing the provisions of this Act. The data shall be available to the public in compliance with the provisions of this Act.

These provisions are applicable in international cases and for purposes of mutual legal assistance.

Further relevant provisions are to be found in article 215 of the Banking Act and article 16 of the ICPA (see above under article 40)

(b) Observations on the implementation of the article

Respecting that only the investigating judge upon request of the prosecutor has the power to lift banking secret in mutual legal assistance cases, the banking secret is not considered a ground for refusal and Slovenia has implemented the provision under review.

Subparagraph 9 of article 46

9. (a) A requested State Party, in responding to a request for assistance pursuant to this article in the absence of dual criminality, shall take into account the purposes of this Convention, as set forth in article 1;

(b) States Parties may decline to render assistance pursuant to this article on the ground of absence of dual criminality. However, a requested State Party shall, where consistent with the basic concepts of its legal system, render assistence that does not involve coercive action. Such assistance may be refused when requests involve matters of a de minimis nature or matters for which the cooperation or assistance sought is available under other provisions of this Convention;

(c) Each State Party may consider adopting such measures as may be necessary to enable it to provide a wider scope of assistance pursuant to this article in the absence of dual criminality.

(a) Summary of information relevant to reviewing the implementation of the article

Slovenia does not require dual criminality.

The courts comply with a mutual legal assistance request if the execution of the measure would not be in conflict with the legal order of Slovenia and would not prejudice its sovereignty and security. The lack of dual criminality requirement does not per se mean that the execution of the measure is in conflict with the legal order.

Paragraph 4 of the Article 516 of the Criminal Procedure Act

Article 516

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

Measures that Slovenia considers as coercive include house search and personal search (article 214-219 CPA), confiscation of objects (articles 220-224 CPA), secret surveillance (article 149 a) CPA), electronic surveillance (article 149 b) CPA), surveillance and monitoring of communications including phone tapping (article 150 CPA), listening and surveillance of the home of a person (article 151 CPA), controlled delivery (article 155 CPA), undercover operations (article 155 a) CPA), lifting of banking secret (article 156 CPA). They have to be implemented according to the requirements of Slovenian law, which foresees for most of them a requirement for a judicial order and for some additional requirements.

Only according to the Council of Europe Convention, dual criminality is needed for search and seizure.

When a mutual legal assistance request is based on the Convention, the court also analyzes whether the

conduct falls under an offence described in the Convention.

When these requirements are complied with, they can all be implemented also for conducts that do not constitute a criminal offence in Slovenia.

(b) Observations on the implementation of the article

Slovenia does not require dual criminality for mutual legal assistance.

Paragraph 10 of article 46

10. A person who is being detained or is serving a sentence in the territory of one State Party whose presence in another State Party is requested for purposes of identification, testimony or otherwise providing assistance in obtaining evidence for investigations, prosecutions or judicial proceedings in relation to offences covered by this Convention may be transferred if the following conditions are met:

(a) The person freely gives his or her informed consent;

(b) The competent authorities of both States Parties agree, subject to such conditions as those States Parties may deem appropriate.

11. For the purposes of paragraph 10 of this article:

(a) The State Party to which the person is transferred shall have the authority and obligation to keep the person transferred in custody, unless otherwise requested or authorized by the State Party from which the person was transferred;

(b) The State Party to which the person is transferred shall without delay implement its obligation to return the person to the custody of the State Party from which the person was transferred as agreed beforehand, or as otherwise agreed, by the competent authorities of both States Parties;

(c) The State Party to which the person is transferred shall not require the State Party from which the person was transferred to initiate extradition proceedings for the return of the person;

(d) The person transferred shall receive credit for service of the sentence being served in the State from which he or she was transferred for time spent in the custody of the State Party to which he or she was transferred.

12. Unless the State Party from which a person is to be transferred in accordance with paragraphs 10 and 11 of this article so agrees, that person, whatever his or her nationality, shall not be prosecuted, detained, punished or subjected to any other restriction of his or her personal liberty in the territory of the State to which that person is transferred in respect of acts, omissions or convictions prior to his or her departure from the territory of the State from which he or she was transferred.

(a) Summary of information relevant to reviewing the implementation of the article

Article 516 a) of the CPA regulates the transfer of detained persons from Slovenia to a foreign country for purposes of a criminal procedure.

Article 516 b) of the CPA regulates the opposite case in which a person deprived of his liberty abroad is required for purposes of a criminal procedure in Slovenia.

Article 516a of the Criminal Procedure Act

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

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

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

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

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

Article 516b

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

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

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

The provisions contain all necessary requirements regulated in paragraphs 10-12.

(b) Observations on the implementation of the article

Slovenia has implemented article 46 paragraphs 10-12 of the Convention, although no case examples were available.

Paragraph 13 of article 46

13. Each State Party shall designate a central authority that shall have the responsibility and power to receive requests for mutual legal assistance and either to execute them or to transmit them to the competent authorities for execution. Where a State Party has a special region or territory with a separate system of mutual legal assistance, it may designate a distinct central authority that shall have the same function for that region or territory. Central authorities shall ensure the speedy and proper execution or transmission of the requests received. Where the central authority transmits the request to a competent authority for execution, it shall encourage the speedy and proper execution of the request by the competent authority. The Secretary-General of the United Nations shall be notified of the central authority designated for this purpose at the time each State Party deposits its instrument of ratification, acceptance or approval of or accession to this Convention. Requests for mutual legal assistance and any communication related thereto shall be transmitted to the central authorities designated by the States Parties. This requirement shall be without prejudice to the right of a State Party to require that such requests and communications be addressed to it through diplomatic

channels and, in urgent circumstances, where the States Parties agree, through the International Criminal Police Organization, if possible.

(a) Summary of information relevant to reviewing the implementation of the article

The central authority of Slovenia is the Ministry of Justice.

Generally in Slovenia, the legislation foresees that all requests must be transmitted through the diplomatic channel. However, in practice almost all mutual legal assistance requests are transmitted through the Ministry of Justice, which transmits them either to the competent Slovene or foreign authorities as soon as possible, usually no longer than in a day or two. In mutual legal assistance cases, cases for the transfer of proceedings as well as cases on the transfer of prisoners, the Ministry of Justice has merely administrative role and is responsible for smooth cooperation, transmission of active and passive requests, provides explanation on appropriate legal basis etc. but does not decide on the substance of the request. The practice of direct transmission is based on article 514 and 515 of CPA. Article 514 determines that mutual legal assistance in criminal matters shall be administered pursuant to the provisions of CPA, unless provided otherwise by international agreements (principle of subsidiarity). Since a lot of bilateral treaties as well as multilateral treaties determine Ministry of Justice as the central authority and enable communication through central authorities, in practice this way of communication is frequently used. Direct communication between domestic and foreign judicial authorities is regulated by article 515 paragraph 3:

Criminal Procedure Act:

515 paragraph 3:

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

Article 516 of the Criminal Procedure Act

(1) The ministry responsible for foreign affairs shall send petitions for legal aid received from foreign bodies to the ministry responsible for justice, which shall forward them for consideration to the circuit court in whose territory resides the person who should be served with a document, or interrogated, or confronted, or in whose territory another investigative act should be conducted. If the request refers to the implementation of an act which, according to the national law, falls under the jurisdiction of the state prosecutor's office, the Ministry of Justice shall send the request into the consideration of the state prosecutor's office in whose territory of jurisdiction the act needs to be implemented.

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

(3) In instances referred to in the second paragraph of Article 515 of this Act, petitions shall be transmitted to the court or to the state prosecutor's office by the ministry responsible for internal affairs.

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

(5) Notwithstanding the provision of the fourth paragraph of this Article, the act of assistance can be

implemented in a manner as determined in the legislation of the requesting country if such manner of implementing the act is in compliance with the main principles of the national criminal proceedings.

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

As explained above, the competent authorities for the execution of the requests are district courts - investigative judges or district prosecutors' offices, depending on the requested investigative measure. If the request relates to criminal offences against the economic sector, subject to a punishment of five years of imprisonment or to a more severe punishment, except commercial fraud, issuing of a bad cheque and abuse of bank or credit card, use of counterfeit bank, credit or other card; subject to a punishment of ten years of imprisonment or a more severe punishment if the act has been committed within a criminal association; accepting a bribe, giving a bribe, accepting benefits for illegal intermediation, giving of gifts for illegal intermediation, unlawful acceptance of gifts, unlawful giving of gifts; terrorism, financing terrorism, instigation and public glorification of terrorist acts, recruitment and training for terrorist acts; establishing slavery relations and human trafficking the request may also be sent to the Specialised State Prosecutors' Office.

Although the direct channel through the central authority is the norm in practice, it was mentioned that requests for mutual legal assistance from Egypt and Tunisia were also transmitted through the diplomatic channel, which was accepted by Slovenia. The Ministry of Justice sent them to the competent Slovenian authorities. Replies were as well sent to the competent foreign authorities through the diplomatic channel.

Slovenia has notified the Secretary-General of the designation of its central authority.

Slovenia can accept mutual legal assistance requests that had been transmitted through INTERPOL, according to article 151 paragraph 2:

Criminal Procedure Act

Article 515

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

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

(b) Observations on the implementation of the article

Slovenia is in compliance with the provision under review.

It would be helpful to clarify the law in order to confirm that mutual legal assistance requests can be sent directly to the Ministry of Justice in its capacity as central authority.

Paragraph 14 of article 46

14. Requests shall be made in writing or, where possible, by any means capable of producing a written record, in a language acceptable to the requested State Party, under conditions allowing that State Party to establish authenticity. The Secretary-General of the United Nations shall be notified of the language or languages acceptable to each State Party at the time it deposits its instrument of ratification, acceptance or approval of or accession to this Convention. In urgent circumstances and where agreed by the States Parties, requests may be made orally but shall be confirmed in writing forthwith.

(a) Summary of information relevant to reviewing the implementation of the article

Generally, mutual legal assistance requests to Slovenia have to be made in writing. However, the use of modern means of communication is regulated by the CPA (article 515 paragraph 3). The legislation determines that modern technical facilities, in particular computer networks and devices for the transmission of picture, voice and electronic impulses, may be used.

Article 515 CPA

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

Therefore, Slovenia can accept mutual legal assistance requests submitted orally in urgent cases (by voice and picture transmission), but they must be confirmed in writing forthwith.

The acceptable languages to submit a request to Slovenia are Slovenian, English and French. Slovenia has notified the Secretary-General thereof. In practice, Slovenian authorities stated that German would also be accepted.

(b) Observations on the implementation of the article

Slovenia has implemented the provision under review.

(c) Successes and good practices

The use of modern communication means is regulated by the CPA, especially computer networks and electronic image and voice transmission devices.

Paragraphs 15 and 16 of article 46

15. A request for mutual legal assistance shall contain:

(a) The identity of the authority making the request;

(b) The subject matter and nature of the investigation, prosecution or judicial proceeding to which the request relates and the name and functions of the authority conducting the investigation, prosecution or judicial proceeding;

(c) A summary of the relevant facts, except in relation to requests for the purpose of service of judicial documents;

(d) A description of the assistance sought and details of any particular procedure that the requesting State Party wishes to be followed;

(e) Where possible, the identity, location and nationality of any person concerned; and

(f) The purpose for which the evidence, information or action is sought.

16. The requested State Party may request additional information when it appears necessary for the execution of the request in accordance with its domestic law or when it can facilitate such execution.

(a) Summary of information relevant to reviewing the implementation of the article

Slovenian law does not provide for a specific regulation about the required content of a mutual legal assistance request. In accordance with the Article 8 of the Constitution of the Republic of Slovenia the

provision is directly applicable.

With regard to paragraph 16, Slovenian authorities stated that they have already requested foreign authorities to supplement the mutual legal assistance request in accordance with the provisions of the Convention.

(b) Observations on the implementation of the article

Slovenia has implemented the provisions under review.

Paragraph 17 of article 46

17. A request shall be executed in accordance with the domestic law of the requested State Party and, to the extent not contrary to the domestic law of the requested State Party and where possible, in accordance with the procedures specified in the request.

(a) Summary of information relevant to reviewing the implementation of the article

Article 516 CPA regulates the issue and providing the possibility to apply the principle *forum regit actum*.

Article 516 CPA

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

(5) Notwithstanding the provision of the fourth paragraph of this Article, the act of assistance can be implemented in a manner as determined in the legislation of the requesting country if such manner of implementing the act is in compliance with the main principles of the national criminal proceedings.

In principle, requested measures are executed in accordance with the principle of *locus regit actum*, however upon the motion of the requesting country, the measures may be executed as well in accordance with the principle of *forum legit actum*. Article 516 of the Criminal Procedure Act determines that the permissibility of the act requested by a foreign authority and the manner of its implementation is decided on by the competent national authority pursuant to national regulations and international agreements. The request for international legal assistance may be granted if the execution of the requested measure is not in conflict with the legal order of Slovenia and does not prejudice its sovereignty and security. However the requested measure may as well be executed in a manner as determined in the legislation of the requesting country if such manner is in compliance with the main principles of the national criminal proceedings.

(b) Observations on the implementation of the article

Slovenia has implemented article 46 paragraph 17 of the Convention.

Paragraph 18 of article 46

18. Whenever possible and consistent with fundamental principles of domestic law, when an individual is in the territory of a State Party and has to be heard as a witness or expert by the judicial authorities of another State Party, the first State Party may, at the request of the other, permit the hearing to take place by video conference if it is not possible or desirable for the individual in question to appear in person in the territory of the requesting State Party. States Parties may agree that the hearing shall be conducted by a judicial authority of the requesting State Party and attended by a judicial authority of the requested State Party.

(a) Summary of information relevant to reviewing the implementation of the article

The Criminal Procedure Act allows the hearing of witnesses and even the suspect through videoconference when "the competent authority submitted an adequate request to another state in accordance with the law or an international treaty" (paragraph 2 no. 3). The suspect has to be present in person in the trial phase but can be heard by videoconference in the investigation stage.

Article 244.a CPA

(1) In accordance with the provision of this Article, an interrogation of the accused or witness may also be performed by the use of modern technical devices for transferring vision and sound (videoconference).

(2) The interrogation of the accused or witness by a videoconference shall be conducted if:

1. it concerns a protected person under the law regulating protection of witnesses and the arrival of the authority to conduct the interrogation would cause serious danger to their live or body, to life or body of persons in related to them under points 1 to 3 of Article 236(1) or persons who were suggested in accordance with the provisions of the law regulating the protection of witnesses;

2. it concerns an anonymous witness and the arrival of the authority to conduct the interrogation would cause serious danger to their life or body, to life or body of persons related to them under points 1 to 3 of Article 236(1) or persons who were suggested in accordance with the provisions of the law regulating protection of witnesses;

3. the competent authority submitted an adequate request to another state in accordance with the law or an international treaty; or

4. it is not desirable or possible for the person to come to the authority conducting the interrogation for other legitimate reasons.

3) When the conditions of point 4 in the preceding paragraph are met, the interrogation of an expert may be conducted via a videoconference.

(4) The interrogation via a videoconference shall be conducted by applying the provisions of this Act on interrogating an accused, witness or expert unless a law, binding international treaty or legal act of an international organisation provide otherwise.

(5) A competent official of the authority conducting the interrogation or another person authorised by the authority shall be present next to the accused, witness or expert who is in the territory of the Republic of Slovenia during the interrogation via a videoconference and ensure adequate identification of the person interrogated. During such interrogation, the defence counsel and persons dealing with security may be present.

(6) When the accused, witness or expert is interrogated in the territory of another state via a videoconference for the purposes of national criminal proceedings, the competent authority under point 3 of paragraph (2) of this Act shall ensure that an official of the competent authority of this state shall be present next to the accused, witness or expert who shall ensure an adequate identification of the person interrogated. During such an interrogation the defence counsel may also be present.

(7) The Minister responsible for justice shall issue instructions laying down in detail the conditions according to which technical devices for the transmission of sound and vision (videoconference) have to comply with, the method of their use, the transcription and broadcasting of recordings, making copies of recordings and their storage.'

Slovenian authorities stated that hearings through video conferencing were very often carried out. No treaty base was necessary.

(b) Observations on the implementation of the article

Slovenia has implemented article 46 paragraph 18 of the Convention.

Paragraph 19 of article 46

19. The requesting State Party shall not transmit or use information or evidence furnished by the requested State Party for investigations, prosecutions or judicial proceedings other than those stated in the request without the prior consent of the requested State Party. Nothing in this paragraph shall prevent the requesting State Party from disclosing in its proceedings information or evidence that is exculpatory to an accused person. In the latter case, the requesting State Party shall notify the requested State Party prior to the disclosure and, if so requested, consult with the requested State Party. If, in an exceptional case, advance notice is not possible, the requesting State Party shall inform the requested State Party of the disclosure without delay.

(a) Summary of information relevant to reviewing the implementation of the article

Slovenian legislation does not contain regulations on the specialty principle. However, Slovenian authorities stated that it was applied in practice – or on the basis of direct application of the Convention – and provided a case example.

Case example on receiving spontaneous information and the specialty principle:

As mentioned before (see above para. 4 and 5), the Swiss authorities spontaneously transmitted to the Ministry of Justice of Slovenia information relating to a case of money-laundering. The Ministry sent the information to the Office for the Prevention of Money-Laundering. The use of the information was limited by the specialty principle. In 2013, the Slovenian police requested the Ministry for the transmission of this information of the Swiss authority, since they obtained the information through EUROPOL Siena that relevant information was already send to the Ministry of Justice of Slovenia. Given the limitation of the information with the specialty principle, the Ministry requested the competent Swiss authorities if transmitted information may be used in another but connected procedure and be send to the Police authorities. The Swiss authorities lifted the speciality principle, so the information was sent by the Ministry of Justice to the Police.

(b) Observations on the implementation of the article

Slovenia has implemented article 46 paragraph 19 of the Convention in practice, despite the absence of special provisions in its domestic law.

Paragraph 20 of article 46

20. The requesting State Party may require that the requested State Party keep confidential the fact and substance of the request, except to the extent necessary to execute the request. If the requested State Party cannot comply with the requirement of confidentiality, it shall promptly inform the requesting State Party.

(a) Summary of information relevant to reviewing the implementation of the article

Slovenia does not have specific legislation on the confidentiality requirement. However, the investigation stage of a criminal procedure is not public anyway, so the fact and substance of the mutual legal assistance request are kept confidential normally.

In order to keep the mutual legal assistance request confidential towards the investigated or accused person, Slovenia can apply the Convention directly, according to article 8 of the Constitution.

(b) Observations on the implementation of the article

Slovenia has implemented article 46 paragraph 20 of the Convention on the basis of direct application of the Convention.

Paragraph 21 of article 46

21. Mutual legal assistance may be refused:

(a) If the request is not made in conformity with the provisions of this article;

(b) If the requested State Party considers that execution of the request is likely to prejudice its sovereignty, security, ordre public or other essential interests;

(c) If the authorities of the requested State Party would be prohibited by its domestic law from carrying out the action requested with regard to any similar offence, had it been subject to investigation, prosecution or judicial proceedings under their own jurisdiction;

(d) If it would be contrary to the legal system of the requested State Party relating to mutual legal assistance for the request to be granted.

(a) Summary of information relevant to reviewing the implementation of the article

Article 516 of the Criminal Procedure Act provides for the reasons for refusal of the MLA request:.

Article 516

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

(5) Notwithstanding the provision of the fourth paragraph of this Article, the act of assistance can be implemented in a manner as determined in the legislation of the requesting country if such manner of implementing the act is in compliance with the main principles of the national criminal proceedings.

(b) Observations on the implementation of the article

Article 516 of the Code of Criminal Procedure establishes the grounds for refusal of a mutual legal assistance request, which are in line with article 46 paragraph 21 of the Convention.

Paragraph 22 of article 46

22. States Parties may not refuse a request for mutual legal assistance on the sole ground that the offence is also considered to involve fiscal matters.

(a) Summary of information relevant to reviewing the implementation of the article

Slovenia does not have specific legislation on the issue. However, the grounds for refusal of a mutual legal assistance request (see above under paragraph 21) do not contain the reason that the offence is also considered to involve fiscal matters. Further, in accordance with the article 8 of the Constitution of the Republic of Slovenia the provision is directly applicable.

Slovenian authorities stated that they could not remember any case in which the provision had been applied.

(b) Observations on the implementation of the article

Slovenia has implemented article 46 paragraph 22 of the Convention, although there are no practical examples of its application.

Paragraph 23 of article 46

23. Reasons shall be given for any refusal of mutual legal assistance.

(a) Summary of information relevant to reviewing the implementation of the article

Slovenia does not have any specific legislation on the issue. However, the country under review provided a case example in which it refused to provide mutual legal assistance and solicited additional information from the requesting country:

Case example: Reason for the refusal of a mutual legal assistance request from Tunisia:

A request for the identification and freezing of properly from Tunisia was returned to the competent Tunisian authorities for supplementing and transmitting additional information in accordance with the provision of the Convention or another international instrument. The request did not fulfil the form nor did it contain the necessary elements of a mutual legal assistance request. Namely there was no formal mutual legal assistance request of the competent authority, but merely a diplomatic note of the Embassy of the Republic of Tunisia, which did not contain all relevant data.

There had been already a similar case (identical legal basis as well as requested measures) in which the Slovenian authorities requested that the competent authorities of the requesting State supplemented the request and issued a formal mutual legal assistance request in accordance with the provision of the Convention. The Ministry as the central authority, in order to expedite the procedure, requested the competent Tunisian authorities to submit the formal mutual legal assistance request in accordance with the applicable international instrument. However, the Tunisian authorities did not send new formal request.

(b) Observations on the implementation of the article

Slovenia has implemented article 46 paragraph 23 of the Convention.

Paragraph 24 of article 46

24. The requested State Party shall execute the request for mutual legal assistance as soon as possible and shall take as full account as possible of any deadlines suggested by the requesting State Party and for which reasons are given, preferably in the request. The requesting State Party may make reasonable requests for information on the status and progress of measures taken by the requested State Party to satisfy its request. The requested State Party shall respond to reasonable requests by the requesting State Party on the status, and progress in its handling, of the request. The requesting State Party shall promptly inform the requested State Party when the assistance sought is no longer required.

(a) Summary of information relevant to reviewing the implementation of the article

Slovenian authorities stated that all mutual legal assistance requests are treated in accordance with the principle of efficient cooperation as well as rapidity of procedure. Direct consultation between the competent authorities during the execution of request is also possible and permissible.

The average duration of mutual legal assistance proceedings in the Republic of Slovenia is 1-2 months, however the duration depends on several factors, such as the urgency of the case as well as the complexity and extensiveness of the concrete case.

(b) Observations on the implementation of the article

Slovenia is in compliance with the provision under review. All mutual legal assistance requests are treated in accordance with the principles of efficient cooperation and expeditious procedure. Direct consultations between the competent authorities during the execution of the request are possible and authorized.

(c) Successes and good practices

Slovenia makes efforts to expedite mutual legal assistance proceedings, and the average duration of mutual legal assistance proceedings in Slovenia is 1-2 months.

Paragraph 25 of article 46

25. Mutual legal assistance may be postponed by the requested State Party on the ground that it interferes with an ongoing investigation, prosecution or judicial proceeding.

(a) Summary of information relevant to reviewing the implementation of the article

Slovenia does not have specific legislation on the issue, but can postpone mutual legal assistance in the mentioned cases on the basis of direct application of the Convention, or as a matter of practice. Slovenian authorities mentioned that there had been case examples, although they were not at the disposal of the reviewers.

(b) Observations on the implementation of the article

Slovenia has implemented article 46 paragraph 25 of the Convention in practice.

Paragraph 26 of article 46

26. Before refusing a request pursuant to paragraph 21 of this article or postponing its execution pursuant to paragraph 25 of this article, the requested State Party shall consult with the requesting State Party to consider whether assistance may be granted subject to such terms and conditions as it deems necessary. If the requesting State Party accepts assistance subject to those conditions, it shall comply with the conditions.

(a) Summary of information relevant to reviewing the implementation of the article

Slovenia does not have legislation on the issue and there are no cases of application. However, nothing prevents Slovenian authorities to consult with another country on the conditions for mutual legal assistance before refusing it. Slovenia can implement the provision on the basis of direct application of the Convention. Also, the case of Tunisia (see above paragraph 21) can be used as an example to show that Slovenia can generally consult with the requesting State.

(b) Observations on the implementation of the article

Slovenia has implemented article 46 paragraph 26 of the Convention, although there are no examples of application.

Paragraph 27 of article 46

27. Without prejudice to the application of paragraph 12 of this article, a witness, expert or other person who, at the request of the requesting State Party, consents to give evidence in a proceeding or to assist in an investigation, prosecution or judicial proceeding in the territory of the requesting State Party shall not be prosecuted, detained, punished or subjected to any other restriction of his or her personal liberty in that territory in respect of acts, omissions or convictions prior to his or her departure from the territory of the requested State Party. Such safe conduct shall cease when the witness, expert or other person having had, for a period of fifteen consecutive days or for any period agreed upon by the States Parties from the date on which he or she has been officially informed that his or her presence is no longer required by the judicial authorities, an opportunity of leaving, has nevertheless remained voluntarily in the territory of the requesting State Party or, having left it, has returned of his or her own free will.

(a) Summary of information relevant to reviewing the implementation of the article

Slovenia does not have legislation on the issue. It can apply the Convention directly based on article 8 of its Constitution.

(b) Observations on the implementation of the article

Slovenia has implemented the provision, although there are no examples of application.

Paragraph 28 of article 46

28. The ordinary costs of executing a request shall be borne by the requested State Party, unless otherwise agreed by the States Parties concerned. If expenses of a substantial or extraordinary nature are or will be required to fulfil the request, the States Parties shall consult to determine the terms and conditions under which the request will be executed, as well as the manner in which the costs shall be borne.

(a) Summary of information relevant to reviewing the implementation of the article

Slovenia does not have legislation on the issue. It can apply the Convention directly based on article 8 of its Constitution.

(b) Observations on the implementation of the article

Slovenia has implemented the provision, although there are no examples of application.

Subparagraph 29(a) of article 46

29. The requested State Party:

(a) Shall provide to the requesting State Party copies of government records, documents or information in its possession that under its domestic law are available to the general public;

(b) May, at its discretion, provide to the requesting State Party in whole, in part or subject to such conditions as it deems appropriate, copies of any government records, documents or information in its possession that under its domestic law are not available to the general public.

(a) Summary of information relevant to reviewing the implementation of the article

Slovenia applies this provision on the basis of the national legislation in comparable cases, which also authorizes authorities to provide governmental records, documents or information for the purpose of mutual legal assistance:

Criminal Procedure Act

Article 142

All state agencies shall be bound to extend the necessary assistance to courts and other agencies participating in criminal procedure, especially in matters concerning the detection of crime or the tracing of perpetrators.

Article 143

(1) The personal data controller must submit to the court, at its request and free of charge, the personal data from the filing system also without a personal consent of the individual whom the data refer to if the court states that the data are required for conducting a criminal procedure.

(2) The court shall keep the data referred to in the previous paragraph confidential, if so provided by law.

(3) The court shall process the data referred to in the first paragraph of this Article for the purposes of implementing the provisions of this Act. The data shall be available to the public in compliance with the provisions of this Act.

2. Confiscation of objects

Article 220

(1) Objects which must be confiscated under the Penal Code, or which may prove to be evidence in criminal proceedings shall be confiscated and delivered to the court for safekeeping or secured in some other way.

(2) Custodians of such objects shall hand them over at the request of the court. A custodian who declines to deliver the objects may be fined under paragraph 1 of Article 78 of this Act; if after being fined he still refuses to surrender them, he may be arrested. The detention shall last until the objects have been delivered or until the end of criminal proceedings, but no longer than one month.

(3) An appeal against the decision by which a fine or imprisonment were pronounced shall be determined by the panel (sixth paragraph of Article 25). An appeal against the detention order shall not stay execution.

(4) Police officers may confiscate objects referred to in the first paragraph of this Article when proceeding under Articles 148 and 164 of this Act or when executing orders of the court.

(5) The determination of the identity of objects confiscated shall be secured by indicating, after confiscation, where they were found, by giving a description of the objects or, as the case may require, in some other way. A certificate of confiscation shall be issued for the objects confiscated.

Article 221

(1) State agencies may decline to have their documents and papers inspected or to deliver them if they consider that a disclosure of their contents would harm the general interest. If they do so, the final decision thereon shall be given by the panel (sixth paragraph of Article 25).

(2) Enterprises and other legal entities may request that information concerning their business be not published.

(b) Observations on the implementation of the article

Slovenia has implemented article 46 paragraph 29 of the Convention.

Paragraph 30 of article 46

30. States Parties shall consider, as may be necessary, the possibility of concluding bilateral or multilateral agreements or arrangements that would serve the purposes of, give practical effect to, or enhance the provisions of this article.

(a) Summary of information relevant to reviewing the implementation of the article

Slovenia has concluded the following bilateral mutual legal assistance treaties:

- Algeria: Treaty on legal assistance in civil and criminal matters of 31st March 1982
- Austria : Treaty on legal assistance in criminal matters of 1st February 1982
- Belgium : Treaty on extradition and legal assistance in criminal matters of 4th June 1971
- Cyprus: treaty on legal assistance in civil and criminal matters,
- Czech republic: Treaty on cooperation in legal matters in civil and criminal matters of 20th January 1964
- France : Treaty on mutual legal assistance in criminal matters
- Greece : Treaty on mutual legal cooperation of 18th June 1959
- Iraq : Treaty on legal and judicial cooperation
- Hungary: Treaty on mutual legal cooperation of 7th March 1968

- Mongolia: Treaty on legal assistance in civil, matrimonial and criminal matters
- Germany : Treaty on legal assistance in criminal matters of 1st October 1971
- Poland : Treaty on legal cooperation in civil and criminal matters of 6th February 1960
- Romania: Treaty on legal assistance of 18th October 1960
- Russia : Treaty on legal assistance in civil, matrimonial and criminal matters
- Spain: Treaty on legal assistance in criminal matters and extradition of 8th July 1980
- Turkey: treaty on judicial legal assistance in criminal matters of 17th November 1973

Newer treaties:

- BIH : Treaty between the Republic of Slovenia and Bosnia and Herzegovina on mutual cooperation in civil and criminal matters of 21st October 2009
- Croatia: Treaty between RS and Republic of Croatia on mutual legal assistance in civil and criminal matters of 7th February 1994
- Macedonia: Treaty between the Republic of Slovenia and the Republic of Macedonia on legal assistance in civil and criminal matters of 06.02.1996
- US: Agreement between the Government of the Republic of Slovenia and the Government of the United States of America on the instrument as referred to in third paragraph of Article 3 of the Agreement on Mutual Legal Assistance between the European Union and the United States of America, signed at Washington on 25 June 2003
- Serbia: Treaty between the Republic of Slovenia and the Republic of Serbia on legal assistance in civil and criminal matters (in the ratification process)[4]

Slovenia also has concluded the following multilateral treaties:

- European Convention on Mutual Legal Assistance in Criminal Matters (Strasbourg, 20.4.1959)
- Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters of 17th March 1978
- Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters of 8th November 2001
- Convention implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders
- Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union, 29 May 2000
- Protocol established by the Council in accordance with Article 34 of the Treaty on European Union to the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union
- Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime, 8th November 1990
- Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism of 16th May 2005
- United Nations Convention against Transnational Organized Crime,
- Agreement between the European Union and Japan on mutual legal assistance in criminal matters.

[4] Development after the joint meeting: The bilateral treaty with Serbia entered into force on 1 December 2013.

In practice the old treaties, in which Slovenia succeeded the Former Yugoslavia, are rarely used, due to their replacement by multilateral instruments adopted within the Council of Europe, European Union and United Nations which are more flexible and user-friendly. Consequently, in practice bilateral treaties used are mostly those with the countries of the Former Yugoslavia (Croatia, Bosnia and Herzegovina, Former Yugoslav Republic of Macedonia) as well as with the US. Slovenian authorities stated that some bilateral treaties may provide for some advantages that made them the more flexible documents compared to the multilateral treaties. For example, Slovenia can send requests to Croatia in its own language, based on the bilateral treaty.

In consequence, Slovenia applies the treaty that is more flexible and provides for easier cooperation.

(b) Observations on the implementation of the article

Slovenia has implemented the provision under review.

Article 47. Transfer of criminal proceedings

States Parties shall consider the possibility of transferring to one another proceedings for the prosecution of an offence established in accordance with this Convention in cases where such transfer is considered to be in the interests of the proper administration of justice, in particular in cases where several jurisdictions are involved, with a view to concentrating the prosecution.

(a) Summary of information relevant to reviewing the implementation of the article

Conditions for transferring the procedure are regulated by Articles 519 and 520 of the Criminal Procedure Act as well as Articles 54 and 55 of the Act on Cooperation between the Member States of the European Union. In the European Union, Council Framework Decision 2009/948/JHA of 30 November 2009 on prevention and settlement of conflicts of exercise of jurisdiction in criminal proceedings excludes parallel proceedings.

Procedure for transfer of criminal proceedings from another country to Slovenia

The competent authorities for the adoption of a decision for the transfer of proceedings to the Republic of Slovenia are the District Prosecutor's Offices. Preconditions for the transfer are the nationality or permanent residency of the accused, dual criminality, as well as the existence of other essential prerequisites ensuring that criminal proceeding may be successfully conducted in the Republic of Slovenia. The requirements are evaluated on a case-by-case basis by the competent prosecutor. Indemnification claims filed with the competent body of a foreign country are treated as if they have been filed with the competent authority in the Republic of Slovenia.

Article 520

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

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

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

Procedure for transfer of proceedings from Slovenia to another country

According to national legislation, criminal proceedings against a foreigner may in all stages of the proceedings be transferred to the State of the permanent residence of the accused; however, the transfer is not possible if the injured party is a citizen of the Republic of Slovenia and opposes the transfer, except

where his indemnification claim has been secured. There are also certain limitations with the transfer of proceedings in cases in which confiscation was ordered, or a provisional securing of the request for confiscation of money or property of unlawful origin or an illegally given or accepted bribe.

Competence for the adoption of the decision on the transfer of proceeding depends on the stage of the proceeding and is consequently divided between the public prosecutor (pretrial stage), investigative judge (investigative stage) or the panel of three judges of the district court (trial stage also for the proceedings before local courts).

Article 519

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

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

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

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

(5) The surrendering of criminal files shall not be permitted in instances where confiscation, or a provisional securing of the request for confiscation of money or property of unlawful origin referred to in Article 245 of the Penal Code, or an illegally given or accepted bribe referred to in Articles 151, 157, 241, 242, 261, 262 and 263 of the Penal Code was ordered, save where the court issued the aforesaid orders on the initiative of a foreign country. In these instances, and in instances where a provisional securing of the request for confiscation of proceeds was ordered in conjunction with other criminal offences, the bodies referred to in the second paragraph of this Article may only surrender criminal file to another country if, prior to surrendering it, they satisfy themselves that the country in question has an appropriate legislation in connection with the confiscation of proceeds and surrendering of criminal files to another country, and if they take into consideration the value of the provisionally secured proceeds.

(b) Observations on the implementation of the article

The conditions for transfer of criminal proceedings from Slovenia to another country are regulated under Article 519 and 520 of the Code of Criminal Procedure, with regard to alien who permanently resides in a foreign country and commit a criminal offence in the territory of the Republic of Slovenia, and with regard to citizens of Slovenia who commit criminal offences abroad. In all other cases, Slovenia can apply article 47 of the Convention directly.

Slovenia has implemented the provision, although there were no practical examples of application.

Article 48. Law enforcement cooperation

Subparagraph 1(a) of article 48

1. States Parties shall cooperate closely with one another, consistent with their respective domestic legal and administrative systems, to enhance the effectiveness of law enforcement action to combat the offences covered by this Convention. States Parties shall, in particular, take effective measures:

(a) To enhance and, where necessary, to establish channels of communication between their competent authorities, agencies and services in order to facilitate the secure and rapid exchange of information concerning all aspects of the offences covered by this Convention, including, if the States

Parties concerned deem it appropriate, links with other criminal activities;

(b) To cooperate with other States Parties in conducting inquiries with respect to offences covered by this Convention concerning:

(i) The identity, whereabouts and activities of persons suspected of involvement in such offences or the location of other persons concerned;

(ii) The movement of proceeds of crime or property derived from the commission of such offences;

(iii) The movement of property, equipment or other instrumentalities used or intended for use in the commission of such offences;

(a) Summary of information relevant to reviewing the implementation of the article

As many countries, Slovenia has no specific legislation on law enforcement cooperation.

Slovenia has concluded a number of police cooperation agreements with other countries, which include provisions on the communication and exchange of information between competent law enforcement authorities (please find the list under paragraph 2).

There are institutional agreements and arrangements of the Prosecution Office and the Police and their counterparts abroad. The Prosecution Office has signed mutual agreements with the prosecution authorities in the Russian Federation, China and Macedonia. The agreements are presented below.

Agreement on co-operation between the Prosecutor General's Office of the Russian Federation and the Prosecutor General's Office of the Republic of Slovenia, signed on 18.9.2012 in Ljubljana: AGREEMENTON CO-OPERATION BETWEEN THE PROSECUTOR GENERAL'S OFFICE OF THE RUSSIAN FEDERATION AND THE PROSECUTOR GENERAL'S OFFICE OF THE REPUBLIC OF SLOVENIA

The Prosecutor General's Office of the Russian Federation and the Prosecutor General's Office of the Republic of Slovenia,

hereinafter referred to as the Parties,

attaching particular importance on efforts to protect human rights and freedoms, recognizing the importance of enhancing and further developing of co-operation in the field of crime combating,

aware of the need to carry out co-operation in the most effective way, have agreed as follows:

Article 1

The Parties shall cooperate according to this Agreement within the limits of their powers in compliance with the legislation and international obligations of their States.

Article 2

1. The Parties shall carry out co-operation in the following forms:

exchange of experience and information on crime state and tendencies and in the field of protection of human rights and freedoms;

holding consultations on legal issues, including on the stage of preparation and examination of particular requests for extradition and requests for mutual legal assistance;

exchange of information on legal systems and national legislation;

exchange of experience in the field of crime combating including its organized forms, terrorism, corruption, illicit trafficking in arms, narcotic drugs and psychotropic substances, trade in people, economic, hi-tech and other crimes which pose a serious threat for society;

conduction of joint conferences, workshops and round tables;

arrangement of visits of experts with a view to studying and exchanging of experience of activity of prosecutor's offices;

interaction in the field of training and advanced training of prosecutors.

2. This Agreement shall not prevent the Parties from co-operation in other forms and directions, subject to the provisions of Article 1.

Article 3

1. For the purposes of the implementation of this Agreement the Parties shall communicate directly.

2. Each Party will appoint a department and/or officers responsible for maintaining contact with the other Party and inform the other Party thereof, specifying the relevant contact details within 30 days from the date of signature of this Agreement.

3. In the event of changing of the departments and/or officers above, the Parties shall promptly notify each other hereof.

Article 4

Documents forwarded in accordance with this Agreement shall be accompanied with the translation into the language of the State of the Party to which it shall be addressed or into English language unless otherwise agreed.

Article 5

1. Each Party shall take necessary measures in compliance with the legislation of its State to secure confidentiality of information and documents received from another Party.

2. Each Party in compliance with the legislation of its State shall secure confidentiality to the extent requested by another Party.

3. Information and documents received within this Agreement may be used for other purposes than those specified in the request only by prior consent of the Party which provided them.

Article 6

Each Party shall bear expenses arising from the fulfillment of this Agreement on its own, unless otherwise agreed in every particular case.

Article 7

The Parties shall settle any dispute arising from the interpretation and application of this Agreement through consultations.

Article 8

Upon mutual understanding of the Parties this Agreement may be amended by drawing up appropriate Protocols.

Article 9

This Agreement does not affect any rights and obligations of the Parties arising from international treaties where the participants are the Parties' States.

Article 10

1. This Agreement shall be concluded for an indefinite period of time and shall apply upon the date of its signature.

2. This Agreement shall be terminated 60 days after the receipt by one Party of the notice in writing of the intention to revoke it from the other Party.

3. The cessation of application of this Agreement does not lead to the termination of the obligations, arisen for the Parties in the period of its application, unless otherwise agreed by the Parties.

Done at Ljubljana, this 18th day of September 2012 in duplicate, in the Russian, Slovenian and English languages, each text being equally authentic. In case of divergence of interpretation the English text shall prevail.

For the Prosecutor General's Office of the Russian Federation: Jurij Èajka

For the Prosecutor General's Office of the Republic of Slovenia: Zvonko Fišer

and the Supreme People’s Prosecution Service of the People’s Republic of China, signed on 11.4.2002 in Ljubljana;

AGREEMENT ON COOPERATION BETWEEN THE OFFICE OF THE STATE PROSECUTOR GENERALOF THE REPUBLIC SLOVENIAAND THE SUPREME PEOPLE'S PROSECUTION SERVICE OF THE PEOPLE'S REPUBLIC OF CHINA

The Office of the State Prosecutor General of the Republic Slovenia and the Supreme People's Prosecution Service of the People's Republic of China (hereafter referred to as "the Parties"), for the purpose of strengthening the ties of friendship and cooperation between prosecution services in the two countries, on the basis of the mutual respect for sovereignty, equality and mutual benefit, and in light of actual need for their work in the two countries,

Have reached the following agreement:

1.The Parties will strengthen cooperation between themselves and their subordinate organs in the two states within the limits of their respective functions and powers.

2. For the purpose of requesting and rendering judicial assistance, theParties will communicate through the diplomatic channel.

3. The Parties may cooperate in the training of the professional prosecutorial staff and research and study of theory relating to their work. The details will be determined through consultation.

4. The Parties may send delegations to visit each other and discuss issues of common interest.

5. The Parties may exchange copies of relevant laws in effect and information about their work that both have an interest in and relevant legal publications upon the request of the other Party

6. In the process of the above cooperation, if necessary, additional arrangements may be entered into.

7. According to the principle of mutual understanding and mutual respect, both Parties should solve problems arising in the course of implementation of this Agreement through consultation.

8. Consultations with a view to revising or amending the terms of this agreement may be held at the request of either Party. The provisions of Article 9 will apply to any revision or amendment that upon signature will be deemed to incorporate into this agreement.

9. This Agreement will come into effect on signature. It will remain in effect for five years. The Agreement will remain in effect for subsequent five-year terms if neither of the Parties denounces it by giving a written notice to that effect to the other Party six months before the date of expiration of the current five-year term.

Done at Ljubljana on 2002 in two original, in Slovenian, Chinese and English, the three texts been equally authentic.

Signature

Mr. Liang Guoqing

Deputy Prosecutor-General

The Supreme People's Prosecution Service of the People's Republic of China

Mrs. Zdenka Cerar

State Prosecutor-General Office

State Prosecutor General of the Republic Slovenia

Memorandum of understanding between the Public Prosecutor’s Office of the Republic of Macedonia and the Supreme State Prosecutor General of the Republic of Slovenia, signed on 28.3.2006 in Skopje.

MEMORANDUM OF UNDERSTANDING

On mutual cooperation in the prosecution of perpetrators of grave criminal offences between the Public Prosecutor's Office of the Republic of Macedonia and the Supreme State Prosecutor General of the Republic of Slovenia.

The Public Prosecutor's Office of the Republic of Macedonia and the Supreme State Prosecutor

General of the Republic of Slovenia (hereinafter referred to as the participants),

Determined to contribute to a more efficient fight against grave criminal offences, especially organized crime, trafficking in drugs, smuggling people, trafficking in human beings, trade in arms, corruption, money laundering, international terrorism and the related criminal offences,

And convinced that a more direct and fast cooperation between the signatories will contribute to the mutual interests of their states in providing more efficient investigations, evidence and prevention of criminal offences,

Have agreed on the following:

SCOPE OF APPLICATION

1. The participants will cooperate in accordance with the provisions of the effective regulations and of this Memorandum and will assist each other on request or on their own initiative, and in doing so will act in compliance with the law and procedures of their states and international and bilateral agreements.

2. The cooperation shall include in particular:

1) Exchange of information, reports and documents, including pre-criminal statements of the suspects or other persons,

2) Exchange of information facilitating investigation or prevention of criminal activities or assisting in investigation or prevention of criminal activities,

3) Exchange of statutory and implementing acts from the field of criminal law and other fields,

4) Exchange of legal opinions and expert literature from the field of criminal law,

5) Exchange of other data required for efficient cooperation, such as telephone numbers, faxes, e-mails, etc.

3. This Memorandum between the participants shall not prevent them to use other mutually agreed methods of cooperation in accordance with their national laws, regulations and procedures.

Nothing in this Memorandum shall affect the priority use of international instruments on international legal assistance.

COMMUNICATING AND INFORMING

1. With the purpose of providing the best conditions for cooperation, the competent state prosecutors shall demand and receive requests based on this Memorandum, exchange the necessary data on the names of state prosecutors, addresses, telephone numbers to be contacted during the regular working hours and emergency telephone numbers, as well as other data required for direct communication.

2. The participants undertake to appoint, within 15 days from the signing of this Memorandum, a responsible person and his/her deputy for the coordination of cooperation and to inform each other about this in writing. The participants will inform each other in due time on any change of the persons responsible for the coordination of cooperation.

FORM AND CONTENTS OF A REQUEST FOR ASSISTANCE

6. A request for assistance (the request) shall be submitted in writing, however, in the case of emergency, such a request may be made orally or via telecommunication or multimedia information means.

The orally submitted request shall be confirmed in writing within 48 hours with a translation into the language of the participant state to whom the request is addressed, unless agreed otherwise.

7. The request shall contain:

1) Name of the state prosecutor's office that is conducting the proceedings or other measures related to the request;

2) Shortlist of facts about the case and the nature of the pre-criminal proceedings, including the description of a particular criminal offence, followed by the respective statutory articles and the legal

description of the offence;

3) Reasons for requesting information, documents and other assistance;

4) Description of the contents of the information or other requested assistance;

5) Depending upon circumstances, information about the identity, citizenship and location of the person possessing the information or listing the suspects.

8. When necessary and to the possible extent, the request will also contain:

1) List of questions for the person who is being examined/interrogated;

2) Description of the proceedings that are to be followed during the execution of the request;

3) Any other information that might be useful for accomplishing the request.

EXECUTION OF THE REQUEST

9. The request will be executed as soon as possible according to the proceedings determined by the legislative and regulatory framework regulating the acting of the state prosecutor's offices to which the request is addressed. The state prosecutor's office to which the request is addressed may ask for additional information if this is necessary for the execution of therequest.

10.The state prosecutor's office to whom the request is addressed shall endeavor to act in accordance with the requests of the state prosecutor's office that submitted the request, provided it is not in conflict with the national regulations of the state prosecutor's office to which the request is addressed.

11.The state prosecutor's office to which the request is addressed shall bear the regular expenses for the execution of the request. Extraordinary expenses shall be subject to a prior agreement.

USE OF INFORMATION AND DOCUMENTS

12.The state prosecutor's office to which the request is submitted will take all the necessary measures to ensure the confidentiality of the request and/or its contents, if the state prosecutor who submits the request asks for its confidentiality.

If the execution of the request might or will lead to the breach of confidentiality, the state prosecutor's office that submitted the request must be informed about this before the execution of the request. The state prosecutor submitting the request may demand that the request be executed notwithstanding the notification.

13.The state prosecutor's office to which the request is submitted, shall inform the state prosecutor's office that submitted the request, on the progress made regarding the execution of the request, if that is required.

14.If the execution of the request is not within the competence of the state prosecutor's office to whom the request is submitted, the latter will immediately inform about that the state prosecutor's office that submitted the request.

EXCLUSION FROM THE OBLIGATION FOR LEGAL ASSISTANCE

15.The state prosecutor to whom the request is submitted may refuse the execution of the request for assistance:

1) If the execution of the request might harm the sovereignty, safety and/or other fundamental interests of the state of the state prosecutor's office that is providing assistance, or if it is in conflict with the law of the latter's state;

2) If the state prosecutor's office to which the request is submitted believes that the execution of the request will affect the pre-criminal or criminal procedure in its state;

16. Before the refusal of cooperation based on Article 15, the state prosecutor's office to which the request is submitted will consult the state prosecutor's office that submitted the request in order to determine whether the assistance may be offered under certain conditions. If the state prosecutor's office that submitted the request accepts these conditions, it shall be obligated to act upon them.

17. If the state prosecutor's office to whom the request is submitted refuses to execute the request,

the participant who submitted the request will be notified orally about that as soon as possible and in any case in writing within 15 days.

LIMITATIONS IN THE USE OF RESULTS OF THE EXECUTED REQUESTS

18. The results of the executed request based on this Memorandum may not be used without the approval of the state prosecutor's office that executed the request for the purposes different from the one for which assistance was requested and given.

19. Information referring to persons might be given to other competent bodies only if the state

prosecutor's office to whom the request was submitted expressly agrees to it in writing, and if the national legislation of the state prosecutor's office receiving the request allows that kind of use.

20. The state prosecutor's office to which the request is submitted may ask that the results from the executed request based on this Memorandum are kept confidential or are used strictly in the agreed manner. If the state prosecutor's office that submitted the request agrees to accept the result of the executed request under these conditions, it will take all the necessary measures to comply with these conditions.

21. Nothing in this Memorandum shall prevent the use or disclosure of the results of the executed request when this is necessary on the basis of the legislation determining the procedures of the participant who submitted the request in pre-criminal or criminal procedure. The participant who submitted the request shall inform in advance the participant to whom the request was submitted about the possible or proposed use or disclosure of results.

22. The results of the executed request announced by the participant who submitted the request in accordance with Point 18 may be further used for every legally approved purpose of use within the limitations as specified under Points 19 - 21 of this Memorandum.

ACCESS TO THE RECORDS AND DETERMINING IDENTITY AND WHEREABOUTS OF THE PERSONS AND PROPERTY

23. A participant may demand to be delivered records of the other participant, relevant for implementation of the proceedings and publicly accessible.

24. The participant to whom the request has been submitted may deliver copies of his records which are not accessible to the public only to the extent and under the same conditions as they are accessible to the competent authorities of that state, and if this is not in conflict with the national legislation of the participant to whom the request is submitted.

25. If a request is being submitted to determine the identity and the whereabouts of a certain person is or to acquire information on the property which is located in the territory of the state of the participant to whom the request is submitted, the participant to whom the request is submitted shall do everything in his power to execute that request in accordance with the law and regulations of his state.

RETURN OF DOCUMENTS, MATERIALS AND ITEMS

26. If it is possible and if the participant to whom the request was submitted asks for it, the participant who submitted the request shall return the documents, materials and items that were delivered to him for the purpose of the execution of the request.

27. The participant who submitted the request may, with the consent of the participant to whom the request was submitted, suspend the return of any requested documents, materials or items if this is vital for conducting the criminal or other judicial proceeding.

28. The participant to whom the request is submitted may ask the participant who submitted the request to agree on the conditions that are necessary to protect the interests of third parties regarding the documents, materials and other items that need to be delivered.

COMPLIANCE WITH THE PRINCIPLES ESTABLISHED IN THE EUROPEAN CONVENTION FOR THE PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

29. The participants offer mutual assurances that their cooperation and proceedings undertaken within the framework of this Memorandum will be in compliance with the principles established in the European Convention for the Protection of Human Rights and Fundamental Freedoms.

CONSULTING

30. The participants will consult each other in order to provide an efficient implementation of this Memorandum. Any difficulties encountered during the implementation of this Memorandum will be resolved by the participants by mutual consulting and seeking agreement.

FINAL PROVISIONS, ENTRY INTO FORCE AND TERMINATION

31. A participant of this Memorandum who no longer wishes to cooperate shall inform of this the other participant in writing three months in advance. In this case the Memorandum will cease to apply three months after the delivery of the notice of termination.

32. Amendments to this Memorandum may be made with the written consent of the participants. Other forms of cooperation may be integrated in this Memorandum under the mutual consent of the participants.

33. One year after the date of entering into force of this Memorandum, or earlier if requested by any of the participants, the participants shall meet to evaluate the implementation of this Memorandum, unless they inform each other in writing that such evaluation is not necessary.

34. This Memorandum will produce legal action after its signing.

Signed in Skopje, on 28th March 2006, in two originals in the Macedonian and Slovenian languages, both texts being equally authentic.

Barbara Brezigar, State Prosecutor General, Republic of Slovenia

Aleksander Prcevski, Public Prosecutor, Republic of Macedonia

The Slovenian police also cooperates with other police forces through Europol and Interpol.

The Europol National Unit (Department of International Operations), which is an integral part of the International Police Cooperation Unit in the Criminal Police, is the national point of connection between Europol and the competent national authorities in Slovenia. It liaises with the internal organizational units of the Police, the Customs Administration and the Office of prevention of money laundering.

Slovenia was accepted as a member of Interpol 4 November 1992, at the plenary session of the Interpol General Assembly in Dakar, Senegal.

On the basis of the article 206 of the Law on the Prosecutor's Office, a unit with exclusive competence for international cooperation in criminal matters for the purpose of short-term securing, forfeiture and seizure of items, the proceeds of crime an property of illegal origin has been established as a focal point.

Slovenia cooperates through the Camden Asset Recovery Inter-agency (CARIN) Network whose Secretariat is situated in EUROPOL, with a contact point in the police and one in the prosecutor’s office.

Slovenian Customs cooperate further on the basis of the Naples Convention. Slovenia is a member in the World Customs Organization (WCO).

The Slovenian FIU is member of the EGMONT Group.

Examples of application:

In 2012,the Slovenian Prosecution office exchanged information with the following countries for offences covered by the Convention:

- Austria: Money-laundering (Art 245 of the Criminal Code), Unlawful Manufacture and Trade of Narcotic Drugs, Illicit Substances in Sport and Precursors to Manufacture Narcotic Drugs (Art 186 of the Criminal Code), Fraud (Art 211 of the Criminal Code), Prohibited Crossing of State Border or Territory (Art 308 of the Criminal Code);
- Bosnia and Herzegovina: Money Laundering (article 245 of the Criminal Code), Unlawful Manufacture and Trade of Narcotic Drugs, Illicit Substances in Sport and Precursors to Manufacture Narcotic Drugs (Art 186 of the Criminal Code), Fraud (Art 211 of the Criminal Code), Defrauding Creditors (Art 227 of the Criminal Code), Abuse of Position or Trust in Business Activity (Art 240 of the Criminal Code), Prohibited Crossing of State Border or Territory

(Art 308 of the Criminal Code) ;

- Croatia: Unlawful Manufacture and Trade of Narcotic Drugs, Illicit Substances in Sport and Precursors to Manufacture Narcotic Drugs (Art 186 of the Criminal Code), Abuse of Position or Trust in Business Activity (Art 240 of the Criminal Code), Threatening the Security of Another Person (Art 135 of the Criminal Code), Prohibited Crossing of State Border or Territory (Art 308 of the Criminal Code) ;
- France: Business Fraud (Art 228 of the Criminal Code) ;
- Germany: Money Laundering (article 245 of the Criminal Code), Unlawful Manufacture and Trade of Narcotic Drugs, Illicit Substances in Sport and Precursors to Manufacture Narcotic drugs (Art 186 of the Criminal Code) ;
- Hungary: Prohibited Crossing of State Border or Territory (Art 308 of the Criminal Code), Grand Larceny (Art 205 of the Criminal Code) ;
- Italy: Money Laundering (article 245 of the Criminal Code), Unlawful Manufacture and Trade of Narcotic Drugs, Illicit Substances in Sport and Precursors to Manufacture Narcotic Drugs (Art 186 of the Criminal Code), Abuse of Position or Trust in Business Activity (Art 240 of the Criminal Code), Illegal Manufacture of and Trade in Weapons or Explosive Materials (Art 307 of the Criminal Code), Conterfeiting Money (Art 243 of the Criminal Code), Prohibited Crossing of State Border or Territory (Art 308 of the Criminal Code) ;
- Liechtenstein: Money Laundering (Art. 245 of the Criminal Code) , Fraud (Art 211 of the Criminal Code) ;
- Montenegro: Threatening the Security of Another Person (Art 135 of the Criminal Code)
- The Netherlands: Concealment (Art 217 of the Criminal Code)
- Serbia: Unlawful Manufacture and Trade of Narcotic Drugs, Illicit Substances in Sport and Precursors to Manufacture Narcotic Drugs (Art 186 of the Criminal Code), Prohibited Crossing of State Border or Territory (Art 308 of the Criminal Code), -
- Turkey: Prohibited Crossing of State Border or Territory (Art 308 of the Criminal Code),
- Spain: Unlawful Manufacture and Trade of Narcotic Drugs, Illicit Substances in Sport and Precursors to Manufacture Narcotic Drugs (Art 186 of the Criminal Code),
- United Kingdom: Fraud (Art 211 of the Criminal Code),
- United States of America: Unlawful Manufacture and Trade of Narcotic Drugs, Illicit Substances in Sport and Precursors to Manufacture Narcotic drugs (Art 186 of the Criminal Code), Fraud (Art 211 of the Criminal Code)
- Uruguay: Unlawful Manufacture and Trade of Narcotic Drugs, Illicit Substances in Sport and Precursors to Manufacture Narcotic drugs (Art 186 of the Criminal Code),

(b) Observations on the implementation of the article

Slovenia has implemented article 48 paragraphs 1 (a) and (b) of the Convention.

(c) Successes and good practices

Slovenia has provided many examples of law enforcement cooperation in money-laundering and other cases; it can be concluded that Slovenia is active in law enforcement cooperation and the exchange of information.

Subparagraph 1(c) of article 48

1. *States Parties shall cooperate closely with one another, consistent with their respective domestic legal and administrative systems, to enhance the effectiveness of law enforcement action to*

combat the offences covered by this Convention. States Parties shall, in particular, take effective measures:

(c) To provide, where appropriate, necessary items or quantities of substances for analytical or investigative purposes;

(a) Summary of information relevant to reviewing the implementation of the article

Slovenia has not implemented the provision.

(b) Observations on the implementation of the article

It is recommended that Slovenia takes measures to enable its authorities to cooperate with foreign States to enhance the effectiveness of law enforcement action in corruption cases by providing, where appropriate, necessary items or quantities of substances for analytical or investigative purposes.

Subparagraph 1(d) of article 48

1. States Parties shall cooperate closely with one another, consistent with their respective domestic legal and administrative systems, to enhance the effectiveness of law enforcement action to combat the offences covered by this Convention. States Parties shall, in particular, take effective measures:

(d) To exchange, where appropriate, information with other States Parties concerning specific means and methods used to commit offences covered by this Convention, including the use of false identities, forged, altered or false documents and other means of concealing activities;

(a) Summary of information relevant to reviewing the implementation of the article

The exchange of information on specific means and methods used to commit corruption offences is included in many bilateral agreements on cooperation between law enforcement agencies (see answers under article 48(2).

As an example, the agreement between the Government of the Republic of Slovenia and the Government of the Republic of Slovakia on cooperation in the fight against terrorism, illicit trafficking in drugs, psychotropic substances and precursor and organised crime foresees:

Article 2

The competent authorities of both Contracting States shall in terms of article 1 of this agreement:

[...]

c) exchange information and experience on methods and new forms used by perpetrators of international crime,

d) exchange knowledge about criminal and criminological methods, experiences gained in the investigation of criminal offenses, as well as on ways and means of work with the purpose of their further development,

e) upon request exchange information or samples of objects derived from an offense, and the objects with which the acts were committed [...].

Further, the agreement between the Republic of Slovenia and the Republic of Hungary on cross-border co-operation of law enforcement authorities states:

Article 6 – exchange of information

With a view to effectively suppressing crime and in response to a request, the authorised co-operating authorities of the Contracting Parties shall send this information in particular:

a) data about the persons involved in organised crime, information with regard to perpetrators' connections with the criminal act committed, organised crime associations and groups of criminals,

typical conduct of perpetrators and groups, criminal acts that have been planned or attempted or committed, and notably, information about the time, place and modus operandi, the facilities attacked, special circumstances and measures taken, where necessary, for crime suppression;

b) methods and new forms of international crime;

[...]

d) information about the objects, or their reproductions, used for the commission of criminal acts or containing traces of criminal acts, used or intended to be used as instruments of crime, or originating from criminal acts.

The agreement between the Government of the Republic of Slovenia and the Council of Ministers of Bosnia and Herzegovina on police cooperation foresees:

Article 2 – forms of cooperation:

(1) Cooperation under this Agreement includes in particular:

a) exchange of information on the circumstances, knowledge of which may contribute to the protection of public order and security and the prevention and combating of crime;

b) exchange of experiences on enforcement of regulations, preventive action against crime as well as the methods, tools, and forensic technology used.

The agreement on cooperation between the Government of the Republic of Slovenia and the Government of the Republic of Croatia in the fight against terrorism, trafficking and abuse of drugs, as well as organised crime contains the following provision:

Article 2:

The Contracting Parties shall, for the purpose of detecting and preventing crime, particularly organized crime, in this collaboration:

(1) exchange information on persons involved in organized crime, on the links between the perpetrators, on criminal organizations and the creation of new criminal groups, on the typical behavior of the perpetrators and groups, especially time, place and the way of committing an offense, on objects attacked, on special circumstances, criminal regulations violated and the appropriate measures, if necessary to prevent criminal activities;

[...]

(4) exchange information and experiences on new methods and forms used by the perpetrators of international crime;

[...]

(6) on request, exchange findings and objects or examples of objects deriving from a criminal offence or with which the acts were committed.

(b) Observations on the implementation of the article

Slovenia has implemented the provision under review.

Subparagraph 1(e) of article 48

1. States Parties shall cooperate closely with one another, consistent with their respective domestic legal and administrative systems, to enhance the effectiveness of law enforcement action to combat the offences covered by this Convention. States Parties shall, in particular, take effective measures:

(e) To facilitate effective coordination between their competent authorities, agencies and services and to promote the exchange of personnel and other experts, including, subject to bilateral agreements or arrangements between the States Parties concerned, the posting of liaison officers;

(a) Summary of information relevant to reviewing the implementation of the article

Slovenia as a Liaison Office at Europol, which, as part of the Europol national unit, is located at the headquarters of Europol. The assignments are carried out by the liaison officers, who are members of the Slovenian police. Liaison offices at the headquarters of Europol are part of a single platform, which brings together representatives of the authorities from the countries participating in the framework of Europol, and allows rapid and operational exchange of information.

Further, Slovenia exchanges personnel via the training activities of the CEPOL network (European police college).Each year, CEPOL organizes about 80 trainings in different Member States; the working language is English. The Slovenian Police is actively involved in these activities.

Furthermore, Slovenian police has a number of officials deployed to international peacekeeping missions, liaison officers, seconded officials and police attachés:

		Country/Place	Number of police officers	
			2012	2013
The police in international peacekeeping missions	European Union Police Mission in Bosnia and Herzegovina [EUPM]	Bosnia and Herzegovina	1	0
	Organization for Security and Cooperation in Europe [OSCE] Mission to Serbia	Serbia	1	0
	European Union Rule of Law Mission in Kosovo [EULEX]	Kosovo	15	19
	European Union Monitoring Mission [EUMM]	Georgia	2	0
	European Union Coordinating Office for Palestinian Police Support [EUPOLL COPPS]	Palestine	2	2
	Total		**21**	**21**
Liaison officers	Europol	Netherlands/Den Haag	2	2
	Selec*	Romania/Bucharest	1	0
	Total		**3**	**2**
Seconded officials	Interpol	France/Lyon	1	1
	Evropska komisija	Belgium/Brussels	1	0
	Frontex	Poland/Warsaw	2	2
	Spezial representative EU for BIH [EUSR BiH]	BiH/Sarajevo	-	1
	The Geneva Centre for the Democratic Control of Armed Forces [DCAF], Institute DCAF Ljubljana Slovenia / Ljubljana	Slovenia/Ljubljana	2	0
	Total		**6**	**4**
Police attachés	Embassy of the Republic of Slovenia in Belgrade	Serbia	1	1
	Embassy of the Republic of Slovenia in Podgorica	Montenegro	1	0
	Embassy of the Republic in Rome	Italy	1	1
	Embassy of the Republic of Slovenia in Zagreb	Croatia	0	0

	Embassy of the Republic of Slovenia in Sarajevo	Bosnia and Herzegovina	0	1
	Total		**3**	**3**

(b) Observations on the implementation of the article

Slovenia has implemented the provision under review.

Subparagraph 1(f) of article 48

1. States Parties shall cooperate closely with one another, consistent with their respective domestic legal and administrative systems, to enhance the effectiveness of law enforcement action to combat the offences covered by this Convention. States Parties shall, in particular, take effective measures:

(f) To exchange information and coordinate administrative and other measures taken as appropriate for the purpose of early identification of the offences covered by this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

Slovenian authorities stated that Slovenia is active in the networks within the European Union for administrative cooperation. Outside the European Union, Slovenia can cooperate and coordinate administrative and other measures on the basis of the direct application of the Convention.

(b) Observations on the implementation of the article

Slovenia has implemented the provision under review, although there are no cases of practical application.

Paragraph 2 of article 48

2. With a view to giving effect to this Convention, States Parties shall consider entering into bilateral or multilateral agreements or arrangements on direct cooperation between their law enforcement agencies and, where such agreements or arrangements already exist, amending them. In the absence of such agreements or arrangements between the States Parties concerned, the States Parties may consider this Convention to be the basis for mutual law enforcement cooperation in respect of the offences covered by this Convention. Whenever appropriate, States Parties shall make full use of agreements or arrangements, including international or regional organizations, to enhance the cooperation between their law enforcement agencies.

(a) Summary of information relevant to reviewing the implementation of the article

Slovenia has concluded a number of relevant treaties.

- Agreement between the Government of the Republic of Slovenia and the Government of the Republic of Albania on cooperation in the fight against terrorism, illicit drug trafficking and organised crime
- Agreement between the Republic of Slovenia and the Republic of Austria on police cooperation
- Agreement between the Government of the Republic of Slovenia and the Government of the Kingdom of Belgium on police cooperation
- Agreement between the Government of the Republic of Slovenia and the Council of Ministers of Bosnia and Herzegovina on police cooperation
- Agreement between the Government of the Republic of Slovenia and the Government of the Republic of Bulgaria on co-operation in the fight against organised crime, illicit drugs,

psychotropic substances and precursors trafficking, terrorism and other serious crimes

- Agreement on cooperation between the Government of the Republic of Slovenia and the Government of the Republic of Croatia in the fight against terrorism, trafficking and abuse of drugs, as well as organised crime
- Agreement between the Government of the Republic of Slovenia and the Government of the Republic of Croatia on cross-border police cooperation
- Agreement between the Government of the Republic of Slovenia and the Government of the Republic of Cyprus concerning the co-operation in the fight against terrorism, illicit drug trafficking and organized crime
- Agreement between the Government of the Republic of Slovenia and the Government of the Czech Republic on cooperation in the fight against illicit trafficking in drugs and psychotropic substances, organised crime and terrorism
- Agreement between the Government of the Republic of Slovenia and the Government of the Republic of Estonia on co-operation in the fight against organised crime, illicit drugs, psychotropic substances and precursors trafficking and terrorism
- Agreement on cooperation in the field of internal security between the Government of the Republic of Slovenia and the Government of the French Republic
- Agreement between the Government of the Republic of Slovenia and the Government of the Federal Republic of Germany on cooperation in the fight against serious crimes
- Agreement between the Government of the Republic of Slovenia and the Government of the Hellenic Republic on cooperation in fighting crime, especially terrorism, illicit drug trafficking and organized crime
- Agreement between the Republic of Slovenia and the Republic of Hungary on cross-border co-operation of law enforcement authorities
- Agreement between the Government of the Republic of Slovenia and the Government of the Republic of Italy on cross-border police cooperation
- Agreement between the Government of the Republic of Slovenia and the Government of the Republic of Latvia on co-operation in combating terrorism, organized crime, illicit trafficking in narcotic drugs, psychotropic substances and precursors and other serious crimes
- Agreement between the Government of the Republic of Slovenia and the Government of the Republic of Macedonia on cooperation in the fight against terrorism, illicit drug trafficking and organised crime
- Agreement between the Government of the Republic of Slovenia and the Government of Malta on co-operation in the fight against organised crime, trafficking in illicit drugs, psychotropic substances and precursors, terrorism and other serious crimes
- Agreement between the Government of the Republic of Slovenia and the Government of the Republic of Montenegro on cooperation in the fight against organised crime, people trafficking and illegal migrations, trafficking in illicit drugs and precursors, terrorism and other crimes
- Agreement between the Government of the Republic of Slovenia and the Government of the Republic of Poland on cooperation in combating terrorism, organized crime and illicit trafficking in narcotic drugs, psychotropic substances and precursors
- Agreement between the Government of the Republic of Slovenia and the Government of Romania on Cooperation in Fighting against Organized Crime, Illicit Drugs, Psychotropic Substances and Precursors Trafficking, Terrorism and other Serious Crimes
- Agreement between the Government of the Republic of Slovenia and the Government of the Russian Federation concerning the co-operation in the fight against organized crime, illicit drug trafficking, terrorism and other forms of crime
- Agreement between the Government of the Republic of Slovenia and the Government of the

Republic of Serbia on police cooperation

- Agreement between the Government of the Republic of Slovenia and the Government of the Republic of Slovakia on cooperation in the fight against terrorism, illicit trafficking in drugs, psychotropic substances and precursor and organised crime
- Agreement between the Government of the Republic of Slovenia and the Government of the Kingdom of Sweden on cooperation in the fight against organised crime, illicit trafficking in drugs and precursors, terrorism and other serious crimes
- Agreement between the Government of the Republic of Slovenia and the Government of the Republic of Turkey on cooperation in the fight against organized crime, illicit drug trafficking, international terrorism and other serious crimes
- Agreement between the Government of the Republic of Slovenia and the Cabinet of ministers of Ukraine on cooperation in the fight against crime
- Agreement between the Government of the Republic of Slovenia and the Government of the United States of America On Enhancing Cooperation in Preventing and Combating Serious Crime.
- Convention between the Kingdom of Belgium, the Federal Republic of Germany, the Kingdom of Spain, the French Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands and the Republic of Austria on the on the stepping up of cross-border cooperation, particularly in combating terrorism, cross-border crime and illegal migration

All agreements have been published in the Official Gazette of the Republic of Slovenia.

Slovenia considers the Convention as the legal basis for mutual law enforcement cooperation in respect of corruption offences.

(b) Observations on the implementation of the article

Slovenia has implemented the provision under review.

Paragraph 3 of article 48

3. States Parties shall endeavour to cooperate within their means to respond to offences covered by this Convention committed through the use of modern technology.

(a) Summary of information relevant to reviewing the implementation of the article

Slovenia has expressed its awareness of the fact that the use of modern technologies calls for initiative from the side of the police and constant training, and stated that Slovenian criminal inspectors are acquainted with the latest developments and findings in the area of modern technologies in order to facilitate international cooperation.

(b) Observations on the implementation of the article

Slovenia has generally expressed that it makes efforts to cooperate to respond to offences covered by the Convention committed through the use of modern technology. However, no concrete examples were given. Slovenia is encouraged to strengthen its efforts in this area.

Article 49. Joint investigations

States Parties shall consider concluding bilateral or multilateral agreements or arrangements whereby, in relation to matters that are the subject of investigations, prosecutions or judicial proceedings in one or more States, the competent authorities concerned may establish joint investigative bodies. In the absence of such agreements or arrangements, joint investigations may be undertaken by agreement on a case-by-case basis. The States Parties involved shall ensure that the

sovereignty of the State Party in whose territory such investigation is to take place is fully respected.

(a) Summary of information relevant to reviewing the implementation of the article

Slovenia has regulations regarding joint investigation teams in two legal acts, namely the Act on International Co-operation in Criminal Matters between the Member States of the European Union and the Criminal Procedure Act. They are the basis for the formation of joint investigation teams.

Criminal Procedure Act

Article 160b

(1) In the case which is the subject to the pre-trial procedure, investigation or criminal procedure in one or more countries, the police may cooperate with the police staff of the other country in the territory or outside the territory of the Republic of Slovenia in carrying out tasks and measures in the pre-trial procedure and investigation procedure for which it is responsible following the provisions of this Act.

(2) In carrying out the tasks and measures referred to in the previous paragraph, the police shall be directed by the State Prosecutor pursuant to Article 160.a of this Act and may cooperate with the State Prosecutors of the other country in the territory and outside the territory of the Republic of Slovenia in carrying out the stated activity and in exercising other powers in compliance with the provisions of this Act (joint investigation team).

(3) The tasks, measures, guidance and other powers referred to in the previous paragraphs of this Article must be carried out in accordance with the agreement on the establishment and operation of joint investigation team in the territory of the Republic of Slovenia or other countries that shall be concluded on a case by case basis by the State Prosecutor General or under his authorisation by his deputy with the State Prosecution Office, Court, Police or other competent authorities of other states as set out in the Council Framework Decision of 13 June 2002 on joint investigation teams (Official Journal of the European Union, No. L 162/1, 20.6.2002) or in the existing international treaty concluded with a country not being a member of the European Union after obtaining the opinion of the Director General of the Police. The agreement shall be concluded on the initiative of the State Prosecutor General, the Head of the District State Prosecution Office or the Head of the Group of State Prosecutors for Special Affairs or on the initiative of the competent authority of another state.

(4) The agreement referred to in the previous paragraph shall lay down which authorities are to conclude the agreement, in which case the joint investigation team will act, the purpose of functioning of the team, the State Prosecutor of the Republic of Slovenia who is its Head in the territory of the Republic of Slovenia, other team members and the duration of its functioning. The State Prosecutor General must notify in writing the Ministry of Justice of the concluded agreement.

(5) The police personnel, State Prosecutors or other competent authorities of other states shall carry out tasks, measures, guidance and/or other powers referred to in the first and second paragraphs of this Article in the territory of the Republic of Slovenia only within the framework of the joint investigation team in compliance with the provisions of the agreement on the establishment and operation of the joint investigation team referred to in the third paragraph of this Article.

(6) If so provided for in the agreement on the establishment and operation of the joint investigation team referred to in the third paragraph of this Article, the representatives of competent authorities of the European Union such as for instance EUROPOL, EUROJUST and OLAF may participate in the joint investigation team. The representatives of competent authorities of the European Union shall exercise their powers in the territory of the Republic of Slovenia only within the framework of the joint investigation team in compliance with the provisions of the agreement as stipulated in the third paragraph of this Article.

(7) The police organisation units and State Prosecution Offices of the Republic of Slovenia are obliged to offer all the necessary assistance to the joint investigation team.

(8) The head of the joint investigation team shall make a report in writing to all its members and the General State Prosecutor upon the collection of the work done by the Joint investigation team.

Act on International Co-operation in Criminal Matters between the Member States of the European Union (ACCMEU-1)

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.

Slovenia also ratified the Convention established by the Council in accordance with Article 34 of the treaty

of the European Union on Mutual Assistance in Criminal matters between the Member States of the European Union.

Convention established by the Council in accordance with Article 34 of the treaty of the European Union on Mutual assistance in Criminal matters between the Member States of the European Union

Article 13

Joint investigation teams

1. By mutual agreement, the competent authorities of two or more Member States may set up a joint investigation team for a specific purpose and a limited period, which may be extended by mutual consent, to carry out criminal investigations in one or more of the Member States setting up the team. The composition of the team shall be set out in the agreement.

A joint investigation team may, in particular, be set up where:

(a) a Member State's investigations into criminal offences require difficult and demanding investigations having links with other Member States;

(b) a number of Member States are conducting investigations into criminal offences in which the circumstances of the case necessitate coordinated, concerted action in the Member States involved.

A request for the setting up of a joint investigation team may be made by any of the Member States concerned. The team shall be set up in one of the Member States in which the investigations are expected to be carried out.

2. In addition to the information referred to in the relevant provisions of Article 14 of the European Mutual Assistance Convention and Article 37 of the Benelux Treaty, requests for the setting up of a joint investigation team shall include proposals for the composition of the team.

3. A joint investigation team shall operate in the territory of the Member States setting up the team under the following general conditions:

(a) the leader of the team shall be a representative of the competent authority participating in criminal investigations from the Member State in which the team operates. The leader of the team shall act within the limits of his or her competence under national law;

(b) the team shall carry out its operations in accordance with the law of the Member State in which it operates. The members of the team shall carry out their tasks under the leadership of the person referred to in subparagraph (a), taking into account the conditions set by their own authorities in the agreement on setting up the team;

(c) the Member State in which the team operates shall make the necessary organisational arrangements for it to do so.

4. In this Article, members of the joint investigation team from Member States other than the Member State in which the team operates are referred to as being 'seconded' to the team.

5. Seconded members of the joint investigation team shall be entitled to be present when investigative measures are taken in the Member State of operation. However, the leader of the team may, for particular reasons, in accordance with the law of the Member State where the team operates, decide otherwise.

6. Seconded members of the joint investigation team may, in accordance with the law of the Member State where the team operates, be entrusted by the leader of the team with the task of taking certain investigative measures where this has been approved by the competent authorities of the Member State of operation and the seconding Member State.

7. Where the joint investigation team needs investigative measures to be taken in one of the Member States setting up the team, members seconded to the team by that Member State may request their own competent authorities to take those measures. Those measures shall be considered in that Member State under the conditions which would apply if they were requested in a national investigation.

8. Where the joint investigation team needs assistance from a Member State other than those which have set up the team, or from a third State, the request for assistance may be made by the competent

authorities of the State of operations to the competent authorities of the other State concerned in accordance with the relevant instruments or arrangements.

9. A member of the joint investigation team may, in accordance with his or her national law and within the limits of his or her competence, provide the team with information available in the Member State which has seconded him or her for the purpose of the criminal investigations conducted by the team.

10. Information lawfully obtained by a member or seconded member while part of a joint investigation team which is not otherwise available to the competent authorities of the Member States concerned may be used for the following purposes:

(a) for the purposes for which the team has been set up;

(b) subject to the prior consent of the Member State where the information became available, for detecting, investigation and prosecuting other criminal offences. Such consent may be withheld only in cases where such use would endanger criminal investigations in the Member State concerned or in respect of which that Member State could refuse mutual assistance;

(c) for preventing an immediate and serious threat to public security, and without prejudice to subparagraph (b) if subsequently a criminal investigation is opened;

(d) for other purposes to the extent that this is agreed between Member States setting up the team.

11. This Article shall be without prejudice to any other existing provisions or arrangements on the setting up or operation of joint investigation teams.

12. To the extent that the laws of the Member States concerned or the provisions of any legal instrument applicable between them permit, arrangements may be agreed for persons other than representatives of the competent authorities of the Member States setting up the joint investigation team to take part in the activities of the team. Such persons may, for example, include officials of bodies set up pursuant to the Treaty on European Union.

The rights conferred upon the members or seconded members of the team by virtue of this Article shall not apply to these persons unless the agreement expressly states otherwise.

Further regulations for joint investigation teams in the European Union are contained in the Framework decision of the Council of the EU date of 13 June 2002 on joint investigation teams.

Examples of application

Slovenia signed a joint investigation team agreement in 2008 with Finland (in 2009 Austria joined), related to a corruption case.

Another joint investigation team agreement was signed in 2012 with Germany, Hungary, Austria and Finland regarding criminal acts of the acceptance of bribes and giving of bribes.

(b) Observations on the implementation of the article

Slovenia has implemented article 49 of the Convention and gave two examples of application in corruption cases.

Article 50. Special investigative techniques

Paragraph 1 of article 50

1. In order to combat corruption effectively, each State Party shall, to the extent permitted by the basic principles of its domestic legal system and in accordance with the conditions prescribed by its domestic law, take such measures as may be necessary, within its means, to allow for the appropriate use by its competent authorities of controlled delivery and, where it deems appropriate, other special investigative techniques, such as electronic or other forms of surveillance and undercover operations, within its territory, and to allow for the admissibility in court of evidence derived therefrom.

(a) Summary of information relevant to reviewing the implementation of the article

The characteristics of the fight against corruption showed that, for reasons of efficiency, it is considered necessary in Slovenia to apply undercover investigation measures to enable more effective work to be carried out by prosecution authorities in investigating such cases. The measures represent only some of the methods of proactive operations of the police in detecting corruption offences.

The following special investigative techniques are possible in the Republic of Slovenia according to the provisions of Criminal procedure Act (CPA):

- Secret surveillance (Art 149.a CPA),
- Obtaining information on electronic communication (Art 149.b CPA),
- Monitoring of electronic communications (Art 150 CPA),
- Bugging and surveillance in premises (Art 151),
- Feigned giving of bribes (Art 155 CPA),
- Undercover operations (Art 155.a CPA),
- Controlled delivery (Art 159 CPA)
- Undercover operation is regulated also in the Act on International Co-operation in Criminal Matters between the Member States of the European Union in Art (Art 58 and 59).

Electronic or other forms of surveillance

Criminal Procedure Act

Article 149a

(1) If there are reasonable grounds for suspecting that a certain person has committed, is committing, is preparing to commit or is organising the commission of any of the criminal offences specified in the fourth paragraph of this article and if it is reasonable to conclude that police officers would be unable to uncover, prevent or prove this offence using other measures, or if these other measures would give rise to disproportionate difficulties, secret surveillance of this person may be ordered.

(2) Secret surveillance may also exceptionally be ordered against a person who is not a suspect if it is reasonable to conclude that surveillance of this person will lead to the identification of a suspect from the preceding paragraph whose personal data is unknown, to the residence or whereabouts of a suspect from the preceding paragraph, or to the residence or whereabouts of a person who was ordered into custody, ordered to undergo house arrest or had an arrest warrant or an order to appear issued against him but who escaped or is in hiding and police officers are unable to obtain this information by other measures, or if these other measures would give rise to disproportionate difficulties.

(3) Secret surveillance shall be carried out as continual or repeat sessions of surveillance or pursuit using technical devices for establishing position or movement and technical devices for transmitting and recording sound, photography and video recording, and shall focus on monitoring the position, movement and activities of a person from the preceding paragraphs. Secret surveillance may be carried out in public and publicly accessible open and closed premises, as well places and premises that are visible from publicly accessible places or premises. Under conditions from this article, secret surveillance may also be carried out in private premises if the owner of these premises so allows.

(4) The criminal offences for which secret surveillance may be ordered are as follows:

1) criminal offences for which the law prescribes a prison sentence of five or more years;

2) criminal offences from point 2 of the second paragraph of Article 150 of this Act and thecriminal offences of false imprisonment (Article 143 of the Penal Code), threatening the safety of another person (Article 145), fraud (Article 217), concealment (Article 221), disclosure of and unauthorised access to trade secrets (Article 241), abuse of inside information (Article 243), fabrication and use of counterfeit stamps of value or securities (Article 250), forgery (Article 256), special cases of forgery (Article 257), abuse of office or official rights (Article 261), disclosure of an official secret (Article

266), being an accessory after the fact (Article 287), endangering the public (Article 317), pollution and destruction of the environment (Article 333), bringing of hazardous substances into the country (Article 335), pollution of drinking water (Article 337), and tainting of foodstuffs or fodder (Article 338).

(5) Secret surveillance shall be permitted by the state prosecutor on the basis of a written order and at the written request of the police, except in cases from the sixth paragraph of this article, when an order must be obtained from the investigating judge.

(6) Secret surveillance shall be ordered in writing by the investigating judge, at the written request of the state prosecutor, in the following cases:

1) if he envisages the use of technical devices for the transmission and recording of sound in the application of the measure, where this measure may be ordered only for criminal offences from the second paragraph of Article 150 of this Act;

2) if application of the measure requires the installation of technical devices in a vehicle or in other protected or closed premises or objects in order to establish the position and movements of a suspect;

3) for application of a measure in private premises, if the owner of these premises so allows;

4) for the application of a measure against a person who is not a suspect (second paragraph of this article).

(7) Proposals and orders shall be constituent parts of criminal files and must contain:

1) information that allows the person against whom the measure is being requested or ordered to be identified accurately;

2) reasonable grounds or the adducement of reasonable grounds for suspicion;

3) in the case from the second paragraph of this article, information that allows a suspect from the first paragraph of this article to be identified accurately, and the establishment of probability that application of the measure will lead to the identification of the suspect, his whereabouts or his place of residence;

4) the written consent of the owner of the private premises in which the measure will be applied; 5) the method of application, the scope and the duration of the measure, and other important circumstances that dictate use of the measure;

6) the grounds for or establishment of need to use the measure in question as opposed to another method of gathering information.

(8) In exceptional cases, if written orders cannot be obtained in time and if a delay would present a risk, the state prosecutor may, in the case from the fifth paragraph of this article and at the verbal request of the police, allow the measure to commence on the basis of a verbal order; in the case from the sixth paragraph of this article, the investigating judge may, at the verbal request of the state prosecutor, allow the measure to commence on the basis of a verbal order. The body that issued the verbal order shall make an official note of the verbal request. A written order, which must contain the reason why the measure has been commenced before time, must be issued within 12 hours of the issuing of the verbal order at the latest. Reasonable grounds must exist for application of the measure before time; if this is not the case, the court shall always act in accordance with the fourth paragraph of Article 154 of this Act regardless of whether the use of measures is otherwise justified.

(9) If a person against whom a measure is being applied comes into contact with an unidentified person in relation to whom there are reasonable grounds for suspecting that he is involved in criminal activity connected with the criminal offences for which the measure is being applied, the police may also place this person under secret surveillance without the need to obtain the order from the fifth or sixth paragraphs of this article if this is urgently required in order to establish the identity of this person or obtain other information important for criminal proceedings. The police must obtain prior verbal permission from the state prosecutor for such surveillance, unless it is impossible to obtain permission on time and any delay would present a risk. In this case the police shall, as soon as possible and within six hours of commencement of application of the measure at the latest, inform the state prosecutor, who may prohibit further application of the measure if he believes that there are no reasonable grounds for it. This measure may last for a maximum of 12 hours from contact with

the person against whom the measure is being applied. When applying the measure from this paragraph, the police may not use technical equipment and devices from points 1 and 2 of the sixth paragraph of this article, nor may they apply the measure in private premises. The police shall make an official note immediately after the cessation of such surveillance and send it without delay to the state prosecutor that granted the permission from this paragraph and to the body that issued the original secret surveillance order. The official note shall become part of the criminal file.

(10) Application of a measure may last a maximum of two months. If due cause is adduced, it may be extended every two months by means of a written order. The measure may last a total of:

1) six months in the case from the sixth paragraph of this article;

2) 24 months in cases from the fifth paragraph of this article if they relate to criminal offences from the fourth paragraph of this article, and 36 months if they relate to criminal offences from the second paragraph of Article 151 of this Act.

(11) The police shall cease application of the measure as soon as the reasons for which the measure was ordered are no longer in place. The police shall notify the body that ordered the measure of the cessation without delay and in writing. The police shall send the body that ordered the measure a monthly report on the progress of the measure and the information obtained. The body that ordered the measure may, at any time and on the basis of this report or ex officio, order in writing that application of the measure be halted if it assesses that the reasons for the measure are no longer in place or if the measure is being applied in contravention of its order.

(12) If a measure is applied against the same person for more than six months, the panel (sixth paragraph of Article 25) shall review the legality of and grounds for application of the measure upon the first extension over six months and every further six months thereafter. The body that issued the extension order shall send the panel all the relevant material; the panel shall decide within three days. If the panel assesses that there are no grounds for application of the measure or that all the legal conditions have not been fulfilled, it shall issue a decision ordering that the measure come to an end. There shall be no appeal against this decision.

(13) The police must carry out secret surveillance in a way that encroaches on the rights of persons that are not suspects to the smallest possible extent.

Article 149b

(1) If there are reasonable grounds for suspecting that a criminal offence for which a perpetrator is prosecuted ex officio has been committed, is being committed or is being prepared or organised, and information on communications using electronic communications networks needs to be obtained in order to uncover this criminal offence or the perpetrator thereof, the investigating judge may, at the request of the state prosecutor adducing reasonable grounds, order the operator of the electronic communications network to furnish him with information on the participants in and the circumstances and facts of electronic communications, such as: number or other form of identification of users of electronic communications services; the type, date, time and duration of the call or other form of electronic communications service; the quantity of data transmitted; and the place where the electronic communications service was performed.

(2) The request and order must be in written form and must contain information that allows the means of electronic communication to be identified, an adducement of reasonable grounds, the time period for which the information is required and other important circumstances that dictate use of the measure.

(3) If there are reasonable grounds for suspecting that a criminal offence for which a perpetrator is prosecuted ex officio has been committed or is being prepared, and information on the owner or user of a certain means of electronic communication whose details are not available in the relevant directory, as well as information on the time the means of communication was or is in use, needs to be obtained in order to uncover this criminal offence or the perpetrator thereof, the police may demand that the operator of the electronic communications network furnish it with this information, at its written request and even without the consent of the individual to whom the information refers.

(4) The operator of electronic communications networks may not disclose to its clients or a third

party the fact that it has given certain information to an investigating judge (first paragraph of this article) or the police (preceding paragraph), or that it intends to do so.".

Article 150

(1) If there are well-founded grounds for suspecting that a particular person has committed, is committing or is preparing or organising to commit any of the criminal offences listed in the second paragraph of this Article, and if there is a well-founded suspicion that such person is using for communications in connection with this criminal offence a particular means of communication or computer system or that such means or system will be used, wherein it is possible to reasonably conclude that other measures will not permit the gathering of data or that the gathering of data could endanger the lives or health of people, the following may be ordered against such person:

1) the monitoring of electronic communications using listening and recording devices, and the control and protection of evidence on all forms of communication transmitted over the electronic communications network;

2) control of letters and other parcels;

3) control of the computer systems of banks or other legal entities which perform financial or other commercial activities;

4) wire-tapping and recording of conversations with the permission of at least one person participating in the conversation.

(2) The criminal offences in connection with which the measures from the previous paragraph may be ordered are:

1) criminal offences against the security of the Republic of Slovenia and its constitutional order, and crimes against humanity and international law for which the law prescribes a prison sentence of five or more years;

2) the criminal offence of kidnapping under Article 134, sexual assault on a person below fifteen years of age under Article 173a, exploitation through prostitution under Article 175, the showing, possession, manufacture and distribution of pornographic material under Article 176 , unlawful manufacture of, and trade in, narcotic drugs, illicit substances in sport and precursors to manufacture narcotic drugs under Article 186, rendering opportunity for consumption of narcotic drugs or illicit substances in sport under Article 187, extortion and blackmail under Article 213, abuse of inside information under Article 238, unlawful acceptance of gifts under Article 241, unauthorised giving of gifts under Article 242, money laundering under Article 245, smuggling under Article 250, abuse of public funds under Article 257.a, acceptance of bribes under Article 261, giving bribes under Article 262, acceptance of benefits for illegal intermediation under Article 263, giving gifts for illegal intermediation under Article 264, criminal association under Article 294, illegal manufacture of, and trade in, weapons or explosive materials under Article 307, and unlawful handling of radioactive or other dangerous substances under Article 334 of the Criminal Code;

3) other criminal offences for which the law prescribes a prison sentence of eight or more years.

Article 151

(1) If there exist well-founded reasons to suspect that a particular person has committed, is committing, or is preparing or organising the committing of any of the criminal offences listed in the second paragraph of this Article, wherein it is possible to reasonably conclude that it will be possible in a precisely defined place to obtain evidence which more lenient measures, including the measures from Articles 149a, 149b and 150 of this Act, would not be able to obtain or the gathering of which could endanger the lives of people, bugging and surveillance in another person's home or in other areas with the use of technical means for documentation and where necessary secret entrance into the aforementioned home or area may exceptionally be ordered against such person.

(2) Measures from the previous paragraph may be ordered in connection with all criminal offences from the first clause of the second paragraph of the previous Article, criminal offences from the second clause of the same paragraph, except for the criminal offence of kidnapping under Article 134, enabling the taking of narcotic drugs and prohibited substances in sport under Article 187, blackmail under Article 213, money laundering under the first, second, third and fifth paragraphs of Article 245 and smuggling under Article 250 of the Penal Code of the Republic of Slovenia, and in connection with other criminal offences from the third clause of the same paragraph for which the

law prescribes a prison sentence of eight or more years only if there exists a real danger to the lives of people.

Surveillance techniques are admissible for some but not all corruption offences. In particular:

Article 149 a (Secret surveillance of a person) refers in its paragraph 4 to crimes "for which for which the law prescribes a prison sentence of five or more years". This refers to the minimum penalty and therefore not to any corruption offences (see above art. 30). However, paragraph 4 also refers to the list contained in paragraph 2 of article 150, which contains the following corruption offences:

- unlawful acceptance of gifts under Article 241,
- unauthorised giving of gifts under Article 242,
- money laundering under Article 245,
- accepting of a bribe under Article 261,
- giving of a bribe under Article 262,
- acceptance of gifts to secure unlawful intervention under Article 263,
- giving of gifts to secure unlawful intervention under Article 264,

Secret surveillance has to be ordered by a prosecutor (article 149 a paragraph 5) and in some cases by the judge (article 149 a paragraph 6).

Obtaining information on electronic communication (Art 149.b CPA) is applicable to all criminal offences, and has to be authorized by a judge.

Article 150 regulates phone tapping for the list of offences mentioned above (article 150 paragraph 2), and for all offences that carry 8 years or more of deprivation of liberty. Phone tapping has to be ordered by a judge.

Article 151 (surveillance of premises) is applicable to the list mentioned above (article 150 paragraph 2) except for, inter alia, some of the money laundering offences. It has to be ordered by a judge.

Controlled delivery

Article 155

(1) If it is possible to justifiably conclude that a particular person is involved in criminal activities relating to criminal offences from the second paragraph of Article 150 of this Act, the public prosecutor may, pursuant to a reasoned proposal from the internal affairs bodies, by written order permit measures of feigned purchase, feigned acceptance or giving of gifts or feigned acceptance or giving of bribes. The proposal and order shall become constituent parts of the criminal record.

(2) The order from the public prosecutor may only refer to one-off measures. Proposals for each further measure against the same person must contain the reasons which justify their use.

(3) In the implementation of measures from the first paragraph of this Article, internal affairs bodies and their staff may not incite criminal activities. In determining whether the criminal activity was incited, primary consideration must be given to whether the measure as implemented led to the committing of a criminal offence by a person who would otherwise not have been prepared to commit this type of criminal offence.

(4) If the criminal activity was incited, this shall be a circumstance which excludes the initiation of criminal proceedings for criminal offences committed in connection with the measures from the first paragraph of this Article.

(5) The provisions of Article 110, 131, 498 and 498a of this Act shall apply to items obtained through measures from the first paragraph of this Article.

Article 159

The arrest of a suspect and the execution of other measures provided by this Act may be temporarily postponed with a view to discovering a major criminal activity but only if, and as long as, the lives and health of third persons are not thereby endangered. Permission to postpone these measures shall

upon a properly reasoned proposal by the internal affairs agency be granted by the public prosecutor with appropriate jurisdiction.

Controlled delivery is admissible for the offences contained in the list mentioned above (article 150 paragraph 2) and can be authorized by the prosecutor.

Undercover operations

Article 155a

(1) If there are reasonable grounds for suspecting that a certain person has committed any of the criminal offences from the fourth paragraph of Article 149a of this Act, or if it is reasonable to conclude that a certain person is involved in criminal activity connected with the criminal offences from the fourth paragraph of Article 149a of this Act and that other measures will not yield evidence or will give rise to disproportionate difficulties, undercover operations may be used against this person.

(2) Undercover operations shall be carried out by undercover operatives and involve the continual gathering of information or repeat sessions of information gathering on a person and his criminal activities. Undercover operations shall be carried out by one or more undercover operatives under the direction and supervision of the police, using false information about an operative, false information in databases and false documents in order to prevent the information gathering process or the status of the operative from being disclosed. An undercover operative may be a police officer, a police employee of a foreign country or exceptionally, if undercover operations cannot be carried out in any other way, by another person. An undercover operative may, under conditions from this article, participate in legal transaction using false documents. When information is being gathered under the conditions from this article, technical devices for transmitting and recording sound, photography and video recording may also be used.

(3) An undercover operation measure shall be permitted by the state prosecutor on the basis of a written order and at the written request of the police, except in cases from the fourth paragraph of this article, where the order must be issued by the investigating judge. The order may also encompass permission to manufacture, obtain and use false information and documents.

(4) An undercover operation measure where the undercover police employee will use technical devices for transmitting and recording sound, photography and video recording may only be ordered in connection with criminal offences from the second paragraph of Article 150 of this Act. The measure shall be ordered by the investigating judge in writing, at the written request of the state prosecutor.

(5) Proposals and orders shall be constituent parts of criminal files and must contain:

1) information that allows the person against whom the measure is being requested or ordered to be identified accurately;

2) reasonable grounds or the adducement of reasonable grounds for suspicion;

3) the method of application, the scope and the duration of the measure, and other important circumstances that dictate use of the measure;

4) the type, purpose and scope of use of false information and documents;

5) if the undercover operative will take part in legal transactions, the permitted scope of this participation;

6) if the undercover operative is not a police officer or police employee from another country but another person, the adducement of reasonable grounds for deploying this person;

7) in the case from the preceding paragraph, determination of the type and method of use of technical devices for transmitting and recording sound, photography and video recording; 8) the grounds for or establishment of need to use the measure in question as opposed to another method of gathering information.

(6) Application of the measure may last a maximum of two months. If due cause is adduced, it may be extended every two months by means of a written order, but to a maximum of 24 months. In the

case of the use of a measure for criminal offences from the second paragraph of Article 151 of this Act, the maximum duration shall be 36 months.

(7) The provisions of the eleventh and twelfth paragraphs of Article 149a of this Act shall be applied mutatis mutandis to the cessation of application of undercover operations, the compilation of monthly reports by the police and the review of extension by the panel (sixth paragraph of Article 25).

(8) Measures from this article must be carried out in a way that encroaches on the rights of persons that are not suspects to the smallest possible extent.

(9) When carrying out a measure, an undercover police officer may not encourage criminal activity to take place. The provisions of the third and fourth paragraphs of Article 155 of this Act shall be applied mutatis mutandis to encouraging criminal activity to take place.

Article 156a

The body responsible for the issuing of a written order that orders or permits the application of measures from Articles 149a, 149b, 150, 151, 155, 155a and 156 of this Act must decide within 48 hours of receipt of the written request and must send its decision to the body that submitted the request without delay. Undercover operations under the CPA (art. 155 a) are admissible for the offences contained in the list above (art. 149 a paragraph 4, article 150 paragraph 2). They can be authorized by the prosecutor (paragraph 3) and in some cases require authorization by the judge (paragraph 4)

The information collected through special investigative techniques is kept for up to two years.

Case example

In the above-mentioned case of bribery of a judge (see above articles 15 b) and article 30 paragraph 2)), the police used various covert investigation measures on the basis of the Criminal Procedure Act which have been ordered by the court and the prosecution. Activities used against three suspects included undercover operations, secret surveillance, surveillance of telecommunication with listening to and recording of conversations and the feigned giving of a bribe. The feigned giving of a bribe was carried out by the police. The suspects took 18,000 EUR, although they requested 50,000 EUR. The suspects later split the money among themselves, but the money was later recovered as the bank notes were marked. The investigation was concluded successfully and all three suspects were brought with criminal charges before the investigating judge.

Statistical information

In 2009 special investigative techniques were use in 158 cases.

In 2010 they were used in 164 cases.

In 2011 and 2012 they were used in 157 (2011) and 174 (2012) cases.

Special investigative techniques are mostly used in drug related cases, also in cases of exploitation through prostitution and enslavement.

Slovenian authorities mentioned that in corruption cases evidence derived from SIT was frequently used. Mostly SITs were used in cases of money-laundering and concealment. However, also a case of undercover operations was used in a bribery case. Controlled delivery had not yet been used in corruption cases.

There is no statistical information on the number of cases in which the use of special investigative techniques was admitted in court. In some cases the evidence that was gathered with the use of special investigative techniques was dismissed due to procedural mistakes in the process of granting the measures.

(b) Observations on the implementation of the article

It is possible to use the following special investigative techniques in the Republic of Slovenia according to the provisions of the Code of Criminal Procedure (CPA):obtaining of information related to electronic

communications (Art 149.b CPA), secret surveillance (Art 149.a CPA), infiltration operations (Art 155.a CPA), control of electronic communications (Art 150 CPA), the simulated provision of bribes (Art 155 CPA), interference and surveillance (Art 151), obtaining information on bank transactions (Art 156 CPA), controlled delivery (Art 149.a et 159 CPA)

These special investigative techniques refer to some but not all corruption offences. It is recommended that Slovenia expand the scope of application of these measures to all corruption offences.

Paragraph 2 of article 50

2. For the purpose of investigating the offences covered by this Convention, States parties are encouraged to conclude, when necessary, appropriate bilateral or multilateral agreements or arrangements for using such special investigative techniques in the context of cooperation at the international level. Such agreements or arrangements shall be concluded and implemented in full compliance with the principle of sovereign equality of States and shall be carried out strictly in accordance with the terms of those agreements or arrangements.

(a) Summary of information relevant to reviewing the implementation of the article

At the level of domestic legislation, Slovenia has regulated special investigative techniques in the Act on International Cooperation in Criminal Matters between the Member States of the European Union (ACCMEU-1)

ACCMEU-1

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.

Slovenia ratified the Convention established by the Council in accordance with Article 34 of the treaty of

the European Union on Mutual assistance in Criminal matters between the Member States of the European Union, and the Protocol established by the Council in accordance with Article 34 of the Treaty on European Union to the Convention on Mutual Assistance on Criminal matters between the Member States of the European Union.

Convention established by the Council in accordance with Article 34 of the treaty of the European Union on Mutual assistance in Criminal matters between the Member States of the European Union

Article 12

Controlled deliveries

1. Each Member State shall undertake to ensure that, at the request of another Member State, controlled deliveries may be permitted on its territory in the framework of criminal investigations into extraditable offences.

2. The decision to carry out controlled deliveries shall be taken in each individual case by the competent authorities of the requested Member State, with due regard for the national law of that Member State.

3. Controlled deliveries shall take place in accordance with the procedures of the requested Member State. The right to act and to direct and control operations shall lie with the competent authorities of that Member State.

Article 14

Covert investigations

1. The requesting and the requested Member State may agree to assist one another in the conduct of investigations into crime by officers acting under covert or false identity (covert investigations).

2. The decision on the request is taken in each individual case by the competent authorities of the requested Member State with due regard to its national law and procedures. The duration of the covert investigation, the detailed conditions, and the legal status of the officers concerned during covert investigations shall be agreed between the Member States with due regard to their national law and procedures.

3. Covert investigations shall take place in accordance with the national law and procedures of the Member States on the territory of which the covert investigation takes place. The Member States involved shall cooperate to ensure that the covert investigation is prepared and supervised and to make arrangements for the security of the officers acting under covert or false identity.

4. When giving the notification provided for in Article 27(2), any Member State may declare that it is not bound by this Article. Such a declaration may be withdrawn at any time.

Interception of Telecommunications

Article 17

Authorities competent to order interception of telecommunications

For the purpose of the application of the provisions of Articles 18, 19 and 20, ‘competent authority’ shall mean a judicial authority, or, where judicial authorities have no competence in the area covered by those provisions, an equivalent competent authority, specified pursuant to Article 24(1)(e) and acting for the purpose of a criminal investigation.

Article 18

Requests for interception of telecommunications

1. For the purpose of a criminal investigation, a competent authority in the requesting Member State may, in accordance with the requirements of its national law, make a request to a competent authority in the requested Member State for:

(a) the interception and immediate transmission to the requesting Member State of telecommunications; or

(b) the interception, recording and subsequent transmission to the requesting Member State of the recording of telecommunications.

2. Requests under paragraph 1 may be made in relation to the use of means of telecommunications by the subject of the interception, if this subject is present in:

(a) the requesting Member State and the requesting Member State needs the technical assistance of the requested Member State to intercept his or her communications;

(b) the requesting Member State and his or her communications can be intercepted in that Member State;

(c) a third Member State which has been informed pursuant to Article 20(2)(a) and the requesting Member State needs the technical assistance of the requested Member State to intercept his or her communications.

3. By way of derogation from Article 14 of the European Mutual Assistance Convention and Article 37 of the Benelux Treaty, requests under this Article shall include the following:

(a) an indication of the authority making the request;

(b) confirmation that a lawful interception order or warrant has been issued in connection with a criminal investigation;

(c) information for the purpose of identifying the subject of this interception;

(d) an indication of the criminal conduct under investigation;

(e) the desired duration of the interception; and

(f) if possible, the provision of sufficient technical data, in particular the relevant network connection number, to ensure that the request can be met.

4. In the case of a request pursuant to paragraph 2(b), a request shall also include a summary of the facts. The requested Member State may require any further information to enable it to decide whether the requested measure would be taken by it in a similar national case.

5. The requested Member State shall undertake to comply with requests under paragraph 1(a):

(a) in the case of a request pursuant to paragraph 2(a) and 2(c), on being provided with the information in paragraph 3. The requested Member State may allow the interception to proceed without further formality;

(b) in the case of a request pursuant to paragraph 2(b), on being provided with the information in paragraphs 3 and 4 and where the requested measure would be taken by it in a similar national case. The requested Member State may make its consent subject to any conditions which would have to be observed in a similar national case.

6. Where immediate transmission is not possible, the requested Member State shall undertake to comply with requests under paragraph 1(b) on being provided with the information in paragraphs 3 and 4 and where the requested measure would be taken by it in a similar national case. The requested Member State may make its consent subject to any condition which would have to be observed in a similar national case.

7. When giving the notification provided for in Article 27(2), any Member State may declare that it is bound by paragraph 6 only when it is unable to provide immediate transmission. In this case the other Member State may apply the principle of reciprocity.

8. When making a request under paragraph 1(b), the requesting Member State may, where it has a particular reason to do so, also request a transcription of the recording. The requested Member State shall consider such requests in accordance with its national law and procedures.

9. The Member State receiving the information provided under paragraphs 3 and 4 shall keep that information confidential in accordance with its national law.

Article 19

Interceptions of telecommunications on national territory by the use of service providers

1. Member States shall ensure that systems of telecommunications services operated via a gateway on their territory, which for the lawful interception of the communications of a subject present in another Member State are not directly accessible on the territory of the latter, may be made directly

accessible for the lawful interception by that Member State through the intermediary of a designated service provider present on its territory.

2. In the case referred to in paragraph 1, the competent authorities of a Member State shall be entitled, for the purposes of a criminal investigation and in accordance with applicable national law and provided that the subject of the interception is present in that Member State, to carry out the interception through the intermediary of a designated service provider present on its territory without involving the Member State on whose territory the gateway is located.

3. Paragraph 2 shall also apply where the interception is carried out upon a request made pursuant to Article 18(2)(b).

4. Nothing in this Article shall prevent a Member State from making a request to the Member State on whose territory the gateway is located for the lawful interception of telecommunications in accordance with Article 18, in particular where there is no intermediary in the requesting Member State.

Article 20

Interception of telecommunications without the technical assistance of another Member State

1. Without prejudice to the general principles of international law as well as to the provisions of Article 18(2)(c), the obligations under this Article shall apply to interception orders made or authorised by the competent authority of one Member State in the course of criminal investigations which present the characteristics of being an investigation following the commission of a specific criminal offence, including attempts in so far as they are criminalised under national law, in order to identify and arrest, charge, prosecute or deliver judgment on those responsible.

2. Where for the purpose of a criminal investigation, the interception of telecommunications is authorised by the competent authority of one Member State (the 'intercepting Member State'), and the telecommunication address of the subject specified in the interception order is being used on the territory of another Member State (the 'notified Member State') from which no technical assistance is needed to carry out the interception, the intercepting Member State shall inform the notified Member State of the interception:

(a) prior to the interception in cases where it knows when ordering the interception that the subject is on the territory of the notified Member State;

(b) in other cases, immediately after it becomes aware that the subject of the interception is on the territory of the notified Member State.

3. The information to be notified by the intercepting Member State shall include:

(a) an indication of the authority ordering the interception;

(b) confirmation that a lawful interception order has been issued in connection with a criminal investigation;

(c) information for the purpose of identifying the subject of the interception;

(d) an indication of the criminal conduct under investigation; and

(e) the expected duration of the interception.

4. The following shall apply where a Member State is notified pursuant to paragraphs 2 and 3:

(a) Upon receipt of the information provided under paragraph 3 the competent authority of the notified Member State shall, without delay, and at the latest within 96 hours, reply to the intercepting Member State, with a view to:

(i) allowing the interception to be carried out or to be continued. The notified Member State may make its consent subject to any conditions which would have to be observed in a similar national case;

(ii) requiring the interception not to be carried out or to be terminated where the interception would not be permissible pursuant to the national law of the notified Member State, or for the reasons specified in Article 2 of the European Mutual Assistance Convention. Where the notified Member State imposes such a requirement, it shall give reasons for its decision in writing;

(iii) in cases referred to in point (ii), requiring that any material already intercepted while the subject was on its territory may not be used, or may only be used under conditions which it shall specify. The notified Member State shall inform the intercepting Member State of the reasons justifying the said conditions;

(iv) requiring a short extension, of up to a maximum period of eight days, to the original 96-hour deadline, to be agreed with the intercepting Member State, in order to carry out internal procedures under its national law. The notified Member State shall communicate, in writing, to the intercepting Member State, the conditions which, pursuant to its national law, justify the requested extension of the deadline.

(b) Until a decision has been taken by the notified Member State pursuant to points (i) or (ii) of subparagraph (a), the intercepting Member State:

(i) may continue the interception; and

(ii) may not use the material already intercepted, except:

- if otherwise agreed between the Member States concerned; or

- for taking urgent measures to prevent an immediate and serious threat to public security. The notified Member State shall be informed of any such use and the reasons justifying it.

(c) The notified Member State may request a summary of the facts of the case and any further information necessary to enable it to decide whether interception would be authorised in a similar national case. Such a request does not affect the application of subparagraph (b), unless otherwise agreed between the notified Member State and the intercepting Member State.

(d) The Member States shall take the necessary measures to ensure that a reply can be given within the 96-hour period. To this end they shall designate contact points, on duty twenty-four hours a day, and include them in their statements under Article 24(1)(e).

5. The notified Member State shall keep the information provided under paragraph 3 confidential in accordance with its national law.

6. Where the intercepting Member State is of the opinion that the information to be provided under paragraph 3 is of a particularly sensitive nature, it may be transmitted to the competent authority through a specific authority where that has been agreed on a bilateral basis between the Member States concerned.

7. When giving its notification under Article 27(2), or at any time thereafter, any Member State may declare that it will not be necessary to provide it with information on interceptions as envisaged in this Article.

Article 21

Responsibility for charges made by telecommunications operators

Costs which are incurred by telecommunications operators or service providers in executing requests pursuant to Article 18 shall be borne by the requesting Member State.

Council of Europe Criminal Law Convention on Corruption

Article 23 - Measures to facilitate the gathering of evidence and the confiscation of proceeds

1. Each Party shall adopt such legislative and other measures as may be necessary, including those permitting the use of special investigative techniques, in accordance with national law, to enable it to facilitate the gathering of evidence related to criminal offences established in accordance with Article 2 to 14 of this Convention and to identify, trace, freeze and seize instrumentalities and proceeds of corruption, or property the value of which corresponds to such proceeds, liable to measures set out in accordance with paragraph 3 of Article 19 of this Convention.

2. Each Party shall adopt such legislative and other measures as may be necessary to empower its courts or other competent authorities to order that bank, financial or commercial records be made available or be seized in order to carry out the actions referred to in paragraph 1 of this article.

3. Bank secrecy shall not be an obstacle to measures provided for in paragraphs 1 and 2 of this article.

Slovenia also signed a number of cooperation agreements with third countries, which define the use of special investigative techniques:

- Contract between the Republic of Slovenia and the Republic of Austria on Police Cooperation
- Agreement between the Republic of Hungary and the Republic of Slovenia on Cross-border Co-operation of Law Enforcement Authorities
- Agreement between the Republic of Slovenia and the Republic of Italy on Cross-border Police Cooperation
- Agreement between the Government of the Republic of Slovenia and the Government of the Russian Federation concerning the Co-operation in the Fight against Organized Crime, Illicit Drug Trafficking, Terrorism and other Forms of Crime
- Agreement between the Government of the Republic of Slovenia and the Government of the Republic of Serbia on Police Cooperation.
- Agreement between the Government of the Republic of Slovenia and the Cabinet of Ministers of Ukraine on Cooperation in the Fight against Crime

CONTRACT BETWEEN THE REPUBLIC OF SLOVENIA AND THE REPUBLIC OF AUSTRIA ON POLICE COOPERATION

Article 3

Cooperation upon request

(4) By virtue of the national legislation, the requests mentioned in the first and third paragraphs of this Article may, in particular, concern:

d) identification of the owners of telephone connections or other communication devices,

e) establishment of identity,

h) covert and secret surveillance measures, controlled deliveries and secret operation,

AGREEMENT BETWEEN THE REPUBLIC OF HUNGARY AND THE REPUBLIC OF SLOVENIA ON CROSS-BORDER CO-OPERATION OF LAW ENFORCEMENT AUTHORITIES

Article 11

Cross-border Surveillance

1. In the course of investigation in their national territory, the authorised co-operating authorities of the Contracting Parties shall be authorised to continue surveillance in the territory of the other Contracting Party if its central contact point has authorised this in response to a prior request and if this concerns a person who has been suspected of engagement in an organised criminal group or suspected of intentionally committing a criminal act sanctioned with imprisonment of at least five years or a person who has been associated with them or is about to establish contact with them. Conditions may be attached to the authorisation.

2. In case of suspicion of criminal acts specified in Paragraph (1), the authorised co-operating authorities of the Contracting Parties may pursue the surveillance of the person in contact with the perpetrator when there is reason to believe that this person may assist in the identification or finding of the perpetrator or may lead to the perpetrator.

3. Upon request of the authorised co-operating authorities of the requested Contracting Party, the continuation of surveillance shall be transferred immediately to the authorised co-operating authority of the requested Contracting Party. Upon request, the Contracting Parties may mutually assist one another in conducting surveillance.

4. The authorisation for surveillance shall be valid to the entire territory of the states of the Contracting Parties. In the course of surveillance the common state border of the Contracting Parties

may also be crossed outside border crossing points and business hours.

5. In the event that a delay would give rise to danger or jeopardise the interests of criminal investigation, surveillance may be continued even without the advance authorisation stipulated in Paragraph (1). In this case the competent authorised co-operating authorities of the requested

Contracting Party shall be notified immediately upon crossing the state border. The request shall be sent subsequently but without delay to the central contact point of the requested Contracting Party. The request shall indicate the reasons for crossing the border without prior authorisation.

6. The competent authorised co-operating authorities referred to in Paragraph (5) shall be: a) for the Slovenian Contracting Party:

- Ministry of the Interior, Police, General Police Directorate; b) for the Hungarian Contracting Party:

- National Police Headquarters.

7. Surveillance according to Paragraph (5) shall cease immediately if so requested by the authorised co-operating authority of the requested Contracting Party, or where the authorisation, necessary for the execution of the request, has not been obtained within five hours from crossing the border.

8. Surveillance may be carried out only under the following conditions:

a) the officers conducting surveillance shall comply with the provisions of this Article and with the internal laws and regulations of the Contracting Party on whose territory they are operating; they shall act in accordance with the instructions of the authorised co-operating authority with territorial competence;

b) except in situations provided for in Paragraph (5), the officer conducting surveillance shall carry a document verifying that the surveillance has been authorised;

c) the officer conducting surveillance must be able at all times to prove that he is acting in an official capacity;

d) the officer conducting surveillance may not enter a private home or places not accessible to the public, but may enter work premises, service and business premises and areas which are accessible to the public during working hours;

e) the officer conducting surveillance shall submit a report to the central contact point of the requested Contracting Party;

f) when technical instruments are also needed for conducting surveillance, they may be used when that is permitted under the laws and regulations of the requested Contracting Party. The request according to Paragraph (1) shall specify the technical instruments of surveillance to be applied;

g) the use of vehicles for surveillance shall be subject to the traffic regulations of the requested Contracting Party.

Article 13 Controlled Delivery

1. Based on request, the authorised co-operating authorities of the Contracting Parties shall enable controlled delivery within the territory of their own states in accordance with the conditions set forth in this Article. Controlled delivery is a covert activity of the authorised co-operating authorities, in the course of which - within the framework of international

co-operation - they enable the passing of a thing in possession of a person subject to surveillance to and from the territory of the Contracting Parties to another state and its transit through the territory of the Contracting Parties with a view to enabling the detection of criminal acts and the identification of persons participating in the perpetration of criminal acts in the widest range possible.

2. In addition to the data set forth in Article 4 (1) of this Agreement, the request sent to the central contact points for controlled delivery shall include:

a) the content of the consignment, the expected route of travel, the time frame and means of transportation, the information enabling the identification of a vehicle;

b) the mode of escort;

c) the technical instruments to be used;

d) the number of participants in the escort on the part of the requesting Contracting Party; e) the mode of maintaining contact with the participants of the controlled delivery;

f) the circumstances of handing over and taking over the consignment; g) the measures to be carried out upon arrest;

h) the measures to be carried out in unexpected circumstances.

3. If the delay could pose a risk or threaten the interests of crime suppression activities, the request for controlled delivery may be directly sent or received by the authorised co-operating authorities. Such a request shall be sent subsequently as soon as possible to the central contact points of the Contracting Parties. The request shall contain documents substantiating controlled delivery.

4. The authorised co-operating authorities shall agree on the date and modus operandi of the controlled delivery and the extent of their involvement on each occasion. The authorised

co-operating authority of the requested Contracting Party may restrict or refuse controlled delivery if it could endanger the persons participating in it or public security to an unacceptable extent.

5. The authorised co-operating authority of the requested Contracting Party shall be in command of the controlled delivery; the requesting Contracting Party shall be informed of the person in charge. The controlled delivery shall be carried out in a manner that will allow easy interception at any time. Following takeover, the authorised co-operating authority of the requesting Contracting Party may escort the consignment but may not exercise official powers. In the course of this, the authorised co-operating authority of the requesting Contracting Party shall act in accordance with the provisions of this Article, the laws and regulations of the requested Contracting Party and the instructions of the person in charge of the authorised co-operating authority of the requested Contracting Party.

6. The Contracting Parties shall also enable the execution of controlled deliveries starting out from a third country to a further country. In this case, the requesting Contracting Party shall obtain the prior authorisation of the states concerned, of which the requested Contracting Party shall be notified.

7. The participation of an undercover agent in the controlled delivery is possible only with the authorisation of the judicial authorities of the Contracting Party which is using the undercover agent.

AGREEMENT BETWEEN THE REPUBLIC OF SLOVENIA AND THE REPUBLIC OF ITALY ON CROSS-BORDER POLICE COOPERATION

Article 6

Cross-border surveillance

1. The law enforcement authorities of the Contracting Party which during an investigation into a criminal offence in their country keep under surveillance a person suspected of committing a criminal offence who is subject to extradition may continue their surveillance in the territory of the other Contracting Party if this has been approved by a previous request. The approval may contain additional requirements. Upon a request by the competent authorities of the Contracting Party in the territory of which surveillance is carried out, the surveillance shall be either surrendered to these authorities or terminated immediately.

2. The request referred to in the previous paragraph shall be sent:

- in the Republic of Slovenia: to the Ministry of the Interior, Police, General Police Directorate - Criminal Police Directorate;

- in the Republic of Italy: to the Ministry of the Interior, Public Security Administration, Central Criminal Police Directorate - International Police Cooperation Service.

3. If due to a particular emergency it is not possible to request the other Contracting Party in advance to issue an approval, the cross-border surveillance may continue across the state border on condition that the competent authority of the Contracting Party in the territory of which surveillance is carried out is notified during the crossing of the state border and while surveillance is still being carried out.

On crossing the border, it is necessary to notify:

- in the Republic of Slovenia: the Ministry of the Interior, Police, General Police Directorate - Criminal Police Directorate, International Police Cooperation Division;

- in the Republic of Italy: the Ministry of the Interior, Public Security Administration, Central Criminal Police Directorate - International Police Cooperation Service and Centre for Police Cooperation Vrata - Megvarje.

The request referred to in the first paragraph, in which the reasons for crossing the border without previous approval must be indicated, shall be sent without any delay.

Surveillance shall be interrupted immediately if so requested by the Contracting Party in the territory of which it is taking place based upon notification or request or if the approval has not been obtained within twelve hours of the crossing of state border.

4. In order to perform surveillance the Contracting Party may also use aircrafts and vessels with the approval of the other Contracting Party.

5. Surveillance under the first and third paragraphs of this Article shall be permitted solely under the following terms and conditions:

a) Officials shall comply with the provisions of this Article and the national legislation of the contracting party in the territory of which they are operating. They shall comply with the orders of the competent local authorities.

b) Except in cases referred to in the third paragraph, the officials shall carry a personal identification document showing that the approval was granted.

c) Officials shall always be able to prove their formal status.

d) Officials performing covert surveillance shall be permitted to carry their service weapons unless the requested Contracting Party explicitly objects. The use of weapons is allowed only in self-defence

e) It shall not be allowed to enter apartments and publicly inaccessible places; Publicly accessible places, operational and business premises can only be entered during working or business hours

f) Officials have no power whatsoever to apprehend or arrest the person during surveillance.

g) Officials of the Contracting Party shall report any surveillance in the territory of the other Contracting Party to the authorities of the country mentioned in the second paragraph. If so required by the circumstances of the case, it is also possible to request that the officials who performed surveillance are present in person.

h) The authorities of the Contracting Party whose officials perform surveillance shall provide, on request, their assistance in further investigations

i) Technical means for surveillance may be used to the degree necessary if this is in line with the national legislation of the Contracting Party in the territory of which the operation is taking place. The technical means used in surveillance shall be indicated in the request mentioned in the first paragraph.

j) In terms of traffic limitations and exemptions, the vehicles used are treated equally as vehicles of law enforcement authorities of the Contracting Party in the territory of which they are used. Signalisation can be used if this is necessary for the purpose of covert surveillance.

6. Cross-border surveillance is performed without territorial limitations.

Article 7

Cross-border surveillance for other purposes

If so permitted by the national legislation of the Contracting Parties, cross-border surveillance can also be performed in order to prevent:

a) criminal offences committed by individuals subject to extradition,

b) the establishment of criminal groups or development of organised crime.

In these cases the procedure mentioned in Article 6 shall apply by analogy.

Article 10

Controlled delivery and covert operation

1. Complying with the applicable legislation in both Contracting Parties and following relevant previous detailed agreements concluded between the two competent authorities, the Contracting Parties undertake to facilitate the performance of »controlled deliveries« and »covert operation« and provide assistance.

2. A request referred to in the previous paragraph shall be sent:

- in the Republic of Slovenia: to the Ministry of the Interior, Police, General Police Directorate - Criminal Police Directorate;

- in the Republic of Italy: to the Ministry of the Interior, Public Security Administration and Central administration for the fight against drugs and activities regarding the investigations into drugs and psychoactive substances as well as drug precursors.

Any other requests shall be under the jurisdiction of the Central Criminal Police Directorate - International Police Cooperation Service.

AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF SLOVENIA AND THE GOVERNMENT OF THE RUSSIAN FEDERATION CONCERNING THECO-OPERATION IN THE FIGHT AGAINST ORGANIZED CRIME, ILLICIT DRUG TRAFFICKING, TERRORISM AND OTHER FORMS OF CRIME

Article 7

The competent authorities of the Parties may upon mutual agreement and in accordance with the national legislation of the States of the Parties use method of controlled delivery of goods which can be intact, removed or replaced in whole or in part.

AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF SLOVENIA AND THE GOVERNMENT OF THE REPUBLIC OF SERBIA ON POLICE COOPERATION

Article 2

Forms of Cooperation

(1) Police cooperation between the Contracting Parties shall be based on the principle of reciprocity and shall encompass the exchange of information, including personal data, and other measures in accordance with the purpose of this Agreement and the national legislation of the Contracting Parties and international obligations undertaken.

(2) Police cooperation, in accordance with the principle of reciprocity, shall also encompass cooperation in all forms of police surveillance, controlled delivery, undercover operations, witness protection, joint investigation teams, cooperation in cases of hostage taking situations and negotiations, public security threat assessments for major events, road traffic safety, training and secondment of liaison officers.

(3) Police cooperation, in accordance with the principle of reciprocity, shall also encompass the exchange of experience on measures for preventing and combating crime, joint analyses of the crime situation, exchange visits by experts, sharing information and facts on the crime situation and trends in the two states.

AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF SLOVENIA AND THE CABINET OF MINISTERS OF UKRAINE ON COOPERATION IN THE FIGHT AGAINST CRIME

Article 5 Coordination

The competent authorities of the States of the Parties shall take all necessary measures to ensure coordination of the joint activities on their territory for the following purposes:

a) searching for persons and objects, including implementation of measures aimed at finding and confiscating of the illegally obtained proceeds;

b) implementation of special investigative techniques;

c) protection of witnesses, victims and other persons in order to avert danger to life or any other serious danger in connection with criminal proceedings;

d) planning and implementation of the joint programs aimed at crime prevention; e) ensuring public security at major events of international significance.

Slovenia can use information collected by foreign authorities through special investigative techniques in criminal proceedings in Slovenia, as long as it is collected following the domestic law of the foreign country, even if in Slovenia further requirements have to be met (for example, a judicial authorization).

(b) Observations on the implementation of the article

Slovenia has implemented article 50 paragraph 2 of the Convention.

Paragraph 3 of article 50

3. In the absence of an agreement or arrangement as set forth in paragraph 2 of this article, decisions to use such special investigative techniques at the international level shall be made on a case-by-case basis and may, when necessary, take into consideration financial arrangements and understandings with respect to the exercise of jurisdiction by the States Parties concerned.

(a) Summary of information relevant to reviewing the implementation of the article

Slovenia can authorize the use of special investigative techniques at the international level case by case, on the basis of the Convention and also without a treaty base.

(b) Observations on the implementation of the article

Slovenia has implemented the provision under review.

Paragraph 4 of article 50

4. Decisions to use controlled delivery at the international level may, with the consent of the States Parties concerned, include methods such as intercepting and allowing the goods or funds to continue intact or be removed or replaced in whole or in part.

(a) Summary of information relevant to reviewing the implementation of the article

Controlled delivery is performed by using two measures, feigned purchase, acceptance or giving, and suspension of the arrest of a suspect - Art 155 CPA and Art 159 CPA.

Controlled delivery is also regulated in Act on International Co-operation in Criminal Matters between the Member States of the European Union (Art 57).

Criminal Procedure Act

Article 155

(1) If it is possible to justifiably conclude that a particular person is involved in criminal activities relating to criminal offences from the second paragraph of Article 150 of this Act, the public prosecutor may, pursuant to a reasoned proposal from the internal affairs bodies, by written order permit measures of feigned purchase, feigned acceptance or giving of gifts or feigned acceptance or giving of bribes. The proposal and order shall become constituent parts of the criminal record.

(2) The order from the public prosecutor may only refer to one-off measures. Proposals for each further measure against the same person must contain the reasons which justify their use.

(3) In the implementation of measures from the first paragraph of this Article, internal affairs bodies and their staff may not incite criminal activities. In determining whether the criminal activity was incited, primary consideration must be given to whether the measure as implemented led to the committing of a criminal offence by a person who would otherwise not have been prepared to commit this type of criminal offence.

(4) If the criminal activity was incited, this shall be a circumstance which excludes the initiation of criminal proceedings for criminal offences committed in connection with the measures from the first paragraph of this Article.

(5) The provisions of Article 110, 131, 498 and 498a of this Act shall apply to items obtained through measures from the first paragraph of this Article.

Article 159

The arrest of a suspect and the execution of other measures provided by this Act may be temporarily postponed with a view to discovering a major criminal activity but only if, and as long as, the lives and health of third persons are not thereby endangered. Permission to postpone these measures shall upon a properly reasoned proposal by the internal affairs agency be granted by the public prosecutor with appropriate jurisdiction.

Article 159

The arrest of a suspect and the execution of other measures provided by this Act may be temporarily postponed with a view to discovering a major criminal activity but only if, and as long as, the lives and health of third persons are not thereby endangered. Permission to postpone these measures shall upon a properly reasoned proposal by the internal affairs agency be granted by the public prosecutor with appropriate jurisdiction.

Act on International Co-operation in Criminal Matters between the Member States of the European Union

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.

Statistical information

Controlled delivery is mostly granted in cases for drug related offences.

In the year 2012 State prosecutor’s offices authorised one case of controlled delivery. The criminal act for which the controlled delivery was authorised was not an offence established by the Convention, but the

Unlawful Manufacture and Trade of Narcotic Drugs, Illicit Substances in Sport and Precursors to Manufacture Narcotic Drugs (Art 186 of the Criminal Code).

In 2011, no cases of controlled delivery were implemented.

(b) Observations on the implementation of the article

Slovenia has implemented the provision under review explicitly in the Act on International Co-operation in Criminal Matters between the Member States of the European Union. In cooperation with other countries, the elements of article 50 paragraph 4 are not specifically regulated, however, nothing prevents the interpretation of these provisions in the way that controlled delivery may include intercepting and allowing the goods or funds to continue intact or be removed or replaced in whole or in part.