

ACT AMENDING THE CODE OF CRIMINAL PROCEDURE (ZKP-D)

Article 1

In the first and fourth paragraphs of Article 70 of the Code of Criminal Procedure (Official Gazette RS, No. 63/94, 70/94, 25/96 - CC ruling, 5/98 - CC ruling, 49/98 – the Police Act, 72/98, 6/99 and 66/00) the words “twenty years” shall be replaced by the words “thirty years”.

Article 2

In the fourth paragraph of Article 83, the words “Article 155” shall be replaced by the words “Article 154”.

Article 3

Article 85 shall be amended to read:

“As regards records of the main hearing, the provisions of Articles 314 to 317 inclusive of the present Code shall also apply.”

Article 4

In the third paragraph of Article 97, the text “the costs of the authorised person” shall be replaced by the text “the costs of the appointed authorised person.”

Article 5

In the first paragraph of Article 117, the text “by an agency authorised for delivery” shall be replaced by the text “by a legal or natural person, carrying out delivery as a registered activity and having a special permit from the minister responsible for justice, issued in line with the provisions applying to civil procedures”.

A new second paragraph shall be added, and shall read:

“(2) The minister responsible for justice shall determine the rules for the activities of legal and natural persons carrying out delivery on the basis of the special permit specified in the previous paragraph, as well as the content of the notice of delivery and acknowledgement of delivery.”

The present second paragraph shall become the third paragraph.

Article 6

The second paragraph of Article 119 shall be amended to read:

“(2) If a document cannot be delivered to persons referred to in the preceding paragraph, the document shall be handed in at the court which ordered the delivery, and in the case of delivery by post, the post office covering the area in which lies the residence of the addressee. A notification of the delivery shall be left for the addressee, stating at which court or post office and within what period of time it can be collected. Documents not collected within the specified time period shall be returned.”

Article 7

In the first paragraph of Article 141, the text “the rules of International Law” shall be replaced by the text “the provisions of the ratified and published international agreements”.

Article 8

In the first indent of article 144, after the words “the suspect”, a comma and the words “either male or female” shall be added.

In the fifth indent, after the words “the accused”, a comma and the text “used to denote either a male or female” shall be added.

In the sixth indent, after the words “the injured party”, a comma and the text “either male or female” shall be added.

In the seventh indent, after the words “the prosecutor”, a comma and the text “either male or female” shall be added.

At the end of Article 144, the full stop shall be replaced by a semicolon and the following text shall be added:

“ the term “authorised officer of an internal affairs agency”, in line with the provisions of the Police Act, means a policeman.

the terms “internal affairs agency” and “Ministry of the Interior”, in line with the Police Act, refer to the Police.”

Article 9

In the first paragraph of Article 150, the full stop at the end of subparagraph 4) shall be replaced by a semicolon and a new subparagraph shall be added, and shall read:

“5) control of messages conveyed by electronic mail system and other forms of information technology.”

Article 10

The first paragraph of Article 152 shall be amended to read:

(1) The measures from Articles 150 and 151 of this Code shall be ordered by means of a written injunction by the investigating judge following the public prosecutor’s written proposal. The proposal and the injunction must contain:

- 1) data on the person against whom the measure is proposed or ordered;
- 2) the justification or determination of the grounds for suspicion concerning the committing, preparation or organisation of the criminal offences stipulated in Articles 150 or 151 of this Code;
- 3) the measure being proposed or ordered, the method of implementation of the measure, the scope and duration of the measure, precise specification of the area or place in which the measure will be implemented, the means of communication or telecommunication and other important circumstances which require the use of an individual measure;
- 4) the justification or determination of the unavoidable necessity of the use of individual measures in relation to the collection of evidence in another manner and the use of less severe measures;
- 5) justification of the grounds for the early implementation of the order in instances from the second paragraph of this Article.”

The first sentence in the second paragraph of Article 152 shall be replaced by the following text:

“(2) By way of exception, if a written order cannot be obtained in due time and when there is a danger of deferment, the investigating judge may, following an oral proposal by the public prosecutor, order the execution of the measures stipulated in Article 150 of this Code by means of an oral injunction. The investigating judge writes an official note on the public prosecutor’s oral proposal.”

Article 11

Article 156 shall be amended to read:

“(1) If justified grounds exist for the suspicion that a particular person has committed a criminal offence which is prosecuted ex officio, the investigating judge may, based on a reasoned proposal by the public prosecutor, order banks, savings banks or savings-credit services to report confidential data on deposits, account balances and transactions or any other dealings of this person and of other persons for whom it is possible to reasonably conclude that they are participants in the financial transactions or other deals of the suspect or accused person, if these data could represent evidence in the criminal procedure or if they are needed for the seizure of possessions or the securing of a request for a deprivation of pecuniary advantage or of possessions to the value of the pecuniary advantage.”

(2) A bank, savings bank or savings-credit service must provide the requested data and documentation specified in the preceding paragraph to the investigating judge without delay.

(3) A bank, savings bank or savings-credit service must not reveal to its client or a third party that it has or will send the data and documentation to the investigating judge.”

Article 12

In the third paragraph of Article 157 the following text shall be added at the end:

“When the person who has been deprived of freedom is a foreign citizen, the person shall be informed that, on the basis of his or her request, the body responsible must notify the consulate of the country in question about the person’s deprivation of freedom.”

Article 13

In the first sentence of the second paragraph of Article 161, the words “to collect” shall be replaced by the text “to collect, within a time period determined by him”.

Article 14

In the first paragraph of Article 161a the text “the report of a crime” shall be replaced by the text “the report of a crime or a charge being brought”.

Article 15

In the first paragraph of Article 203, the following text shall be added after the first sentence:

“In case of a foreign citizen, the investigating judge must also inform the arrested that the relevant body shall, following a request by the arrested, be obliged to notify the consulate of the relevant country about the arrest.”

Article 16

The fourth paragraph of Article 213b shall be amended, and shall read:

“(4) Detainees may correspond or have other contacts with persons outside the institute. If dictated by the reasons for which detainment was ordered, the investigating judge, following a proposal by the public prosecutor may, by means of a written decision, order supervision of letters and other packages as well as other contacts a detainee has with persons outside the institute. The investigating judge may prohibit a detainee from sending and receiving letters and other packages or from establishing contacts which are harmful to the procedure, but may not prohibit detainees from sending requests or complaints.”

Article 17

Article 314 shall be amended to read:

“(1) A record of the main hearing shall be kept, with the essential details of the entire course of action entered therein.

(2) The presiding judge may order that the entire course of the main hearing or parts thereof be taken down in shorthand. The stenographic notes shall within forty-eight hours be transcribed, checked and enclosed with the record.

(3) The presiding judge may order audio or video recording of the main hearing. With regard to the recording, the provisions of Article 84 of the present Code shall apply *mutatis mutandis*.

(4) The presiding judge may upon a motion of a party or *ex officio* order that statements which he considers particularly important be entered in the record *verbatim*.

(5) When necessary, and especially where a statement has been entered in the record *verbatim*, the presiding judge may order that particular part of the record to be read out at once. Statements shall always be read out forthwith if so requested by a party, counsel or the person whose statement has been entered in the record.”

Article 18

In the first paragraph of Article 315 the text “on the proceedings of the main hearing” shall be deleted.

Article 19

The third paragraph of Article 316 shall be amended to read:

“(3) Statements by the defendant, witnesses and experts shall be entered in the record by presenting their essential content. They shall be entered in the record only insofar as they contain a change of or an amendment to their previous statements. Upon a request of a party, the presiding judge shall order that the record of a previous statement, or a part thereof, be read out.

A new fourth paragraph shall be added to read:

(4) Upon a request of a party a question or an answer which the panel had dismissed shall also be entered in the record.”

Article 20

In the first and second paragraph of Article 317 the text “of the proceedings of the main hearing” shall be replaced by “of the main hearing”.

Article 21

In the third paragraph of Article 361, the text “by its finality” shall be replaced by “by its finality or the commencement of the sentence”.

In the sixth paragraph of Article 361, the text “by the finality of the judgement” shall be replaced by “by the finality of the judgement or the commencement of the sentence”.

Article 22

After Article 443, a new Article 443a shall be added to read:

“Article 443a

(1) The judge may adjourn the main hearing for a maximum of six months if the public prosecutor announces that the matter shall be transferred to a settlement procedure (Article 161a).

(2) When the public prosecutor receives notification of the fulfilment of an agreement, he shall withdraw the charge. If the public prosecutor has not withdrawn the charge within the specified time period, the judge shall continue the main hearing on the basis of the previous hearing.”

Article 23

In the first paragraph of Article 475, the text “under paragraphs one and two of Article 466” shall be replaced by “under paragraphs one and three of Article 466”.

Article 24

Article 506a shall be amended to read:

“(1) The court which ordered the storage of seized items or the temporary securing of a request for the deprivation of pecuniary advantage or property to the value of the pecuniary advantage, shall be obliged in such instances to proceed with particular despatch. It must act as a good manager with respect to the seized items and property serving as temporary security, as well as to items and property given as bail (Articles 196 to 199).

(2) If the storage of the seized items or the temporary securing of a request from the previous paragraph involves disproportionate costs or if the value of the property or the items is decreasing, the court may order that such property or items be sold, destroyed or donated for the public benefit. Prior to taking a decision on this, the court must obtain an opinion from the owner of the property or items. If the owner is not known or it is not possible to service the owner with the summons for the opinion, the court shall display the summons on the notice 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 or she has consented to the property or items 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 seized items and bail and of the temporary securing of requests from the first paragraph of this Article.

(4) The procedure for managing seized items and property from the first paragraph of this article shall be prescribed by the Government of the Republic of Slovenia.”

Article 25

In Article 564, the text “under Articles 191 and 213” shall be replaced by “under Articles 191 and 213c”.

TRANSITIONAL AND FINAL PROVISIONS

Article 26

The minister responsible for justice shall issue the rules specified in the second paragraph of Article 117 of the Code within three months of this Act entering into force.

Article 27

Within three months of this Act entering into force, the minister responsible for justice shall amend the rules on the execution of detainment (Official Gazette RS, No. 36/95) in line with the provision in the fourth paragraph of Article 213b of the Code.

Article 28

On the day this Act enters into force, the provision of Article 82 of the Law on Amendments and Additions to the Law on the Criminal Procedure (Official Gazette, No. 72/98), the Act Amending the Law on the Amendments and Additions to the Law on the Criminal Procedure (Official Gazette RS, No. 6/99) and the Act Amending the Law on Amendments and Additions to the Law on the Criminal Procedure (Official Gazette RS, No. 66/00) shall cease to apply.

Article 29

This Act shall enter into force fifteen days after its publication in the Official Gazette of the Republic of Slovenia.

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Ljubljana, 21st December 2001

President of the
National Assembly
of the Republic of
Slovenia
Borut Pahor