AT ITS SESSION OF 9 APRIL 2004, THE NATIONAL ASSEMBLY OF THE REPUBLIC OF SLOVENIA ADOPTED THE ACT AMENDING THE CRIMINAL PROCEDURE ACT (ZKP-F), AS FOLLOWS:

ACT AMENDING THE CRIMINAL PROCEDURE ACT (ZKP-F)

Article 1

In the fourth paragraph of Article 4, the first paragraph of Article 124, the third paragraph of Article 147, the third paragraph of Article 172, the fourth paragraph of Article 511, the third paragraph of Article 513 and Article 547 of the Criminal Procedure Act (Uradni list Republike Slovenije, 116/03 – official consolidated text), the words "interior affairs authority" shall be replaced with the word "police".

Article 2

The first sentence of the second paragraph of Article 40 shall be amended, to read as follows:

"As soon as a judge or court assessor finds any reason warranting his exclusion under points 1 to 4 or point 5 of the preceding article, or if he believes that a reason from points 4a or 6 of the preceding article exists that warrants his exclusion, he must cease all work on the case in question and notify the president of the court, who shall decide on the exclusion and, if he excludes the judge, order that the case be assigned to another judge in accordance with the court rules.".

The second paragraph shall be amended, to read as follows:

"(2) There shall be no appeal against the decision from the preceding paragraph upholding the request for exclusion. A judge or court assessor may appeal against a decision rejecting a request for exclusion. The panel (sixth paragraph of Article 25) shall decide on any appeal against a decision of the president of a local or district court; an appeal against a decision of the president of a high court or the Supreme Court shall be decided by a panel of three high court or Supreme Court judges.".

A new third paragraph shall be added, to read as follows:

"(3) If it is necessary to perform an act in a case and postponement of that act would present a risk, the president of the court shall order that the act be performed by another judge until the decision on the request for exclusion of the judge is taken, in accordance with the court rules on the assigning of cases.".

Article 3

The second and third paragraphs of Article 41 shall be amended, to read as follows:

"(2) A party must request that a judge or court assessor be excluded as soon as he becomes aware of the reason warranting his exclusion, and in any case by the end of the main hearing at the latest. He may only request that a judge or court assessor be excluded during the main hearing for the reasons from points 4a or 6 of Article 39 of this Act if the reason warranting exclusion arose after the main hearing had commenced and, if it arose earlier, only if the party did not know or could not have known about it.

(3) A party shall only have until the beginning of the session of the panel to request that a high court judge be excluded. If the hearing is being held before a court of second instance (Article 380), the provisions of the preceding paragraph shall be used *mutatis mutandis* with regard to the party's request that a judge be excluded.".

The fullstop at the end of the fifth paragraph shall be replaced with a comma and the following words added: "or cite the reasons already cited by the judge, court assessor or other party in the case on the basis of which the request was rejected.".

Article 4

The fifth paragraph of Article 42 shall be amended, to read as follows:

"(5) If the party acted in a manner contrary to the provisions of the second to fifth paragraphs of the preceding article, or if it is clear from its contents that the request is obviously without foundation and has been submitted in order to delay proceedings or undermine the authority of the court, the request shall be rejected wholly or in part. The decision rejecting the request shall be issued by the investigating judge, the judge or the panel hearing the case. The judge or president of the court whose exclusion is being requested may take part in the decision-making. There shall be no appeal against a decision rejecting the request.".

Article 5

Article 43 shall be amended, to read as follows:

"Article 43

(1) As soon as a judge or court assessor learns that his exclusion has been requested, he must immediately discontinue any further action in connection with the case, unless it involves an unlawful or clearly groundless request for exclusion which is rejected (fifth paragraph of Article 42). If it is necessary to perform an act in a case and postponement of that act would present a risk, the provisions of the third paragraph of Article 40 of this Act shall be applied.

(2) If the request for the exclusion of the judge or court assessor is upheld, the acts performed by that judge or court assessor after he learned that reasons for his exclusion had been adduced shall not be procedurally valid.".

Article 6

A new sentence shall be added to the end of the first paragraph of Article 44, to read as follows:

"The exclusion of a state prosecutor may not be requested for reasons from points 4a or 6 of Article 39 of this Act.".

Article 7

Article 141a shall be amended, to read as follows:

"Article 141a

(1) The personal safety of a defendant who may, in certain cases, have his punishment mitigated (point 3 of Article 42 and the third paragraph of Article 297 of the Penal Code) and the safety of his immediate family (points 1 to 3 of the first paragraph of Article 236), and the safety of witnesses from Article 240a of this Act and of their immediate family (points 1 to 3 of the first paragraph of Article 236), must be secured to the greatest possible extent in cases where there are grounds for believing that their lives are in danger in pre-criminal proceedings, during criminal proceedings and after criminal proceedings have been concluded.

(2) Measures for securing personal safety (protective measures) or a protection programme shall be introduced at the request of the state prosecutor.

(3) The Act shall lay down procedures and conditions for inclusion in a protection programme and for termination of the protection programme, the competent bodies, the protection measures, records and data protection, funding and supervision of the implementation of protection programmes.".

Article 8

New Articles 149a and 149b shall be added after Article 149, to read as follows:

"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 the criminal 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) Requests and orders shall be constituent parts of criminal case records 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 case records.

(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 9

Point 1 of the first paragraph of Article 150 shall be amended, to read as follows:

"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;".

Point 5 shall be deleted.

In point 2 of the second paragraph the words "the showing, possession, manufacture and distribution of pornographic material (Article 187)," shall be added after the words “(Article 144),”; the words "abuse of inside information (Article 243)," shall be added after the words "(Article 218),"; the word "unauthorised” shall be replaced with the word "unlawful"; the words "unlawful intervention" shall be replaced with the words "acceptance of gifts to secure unlawful intervention"; and the words "giving of gifts to secure unlawful intervention (Article 269a)" shall be added after the words “(Article 269)”.

Article 10

In the first paragraph of Article 151 the words "preceding article" shall be replaced with the words "Articles 149a, 149b and 150 of this Act".

Article 11

In point 1 of the first paragraph of Article 152, a comma shall be added after the word "information" and the words "on the person" shall be replaced with the words "that allows the person to be identified accurately". In point 3 the words "communications or telecommunications" shall be replaced with the words "electronic communications".

The last sentence of the fourth paragraph shall be deleted.

In the fifth paragraph the words "Enterprises engaged in information transmission," shall be replaced with the words "Operators of electronic communications networks".

New sixth and seventh paragraphs shall be added, to read as follows:

"(6) The police shall cease application of measures from Articles 150 and 151 of this Act as soon as the reasons for which they were ordered are no longer in place. The police shall notify the investigating judge of the cessation without delay and in writing. The investigating judge may at any time, *ex officio*, order in writing that application of the measure be halted if he assesses that the reasons for the measure are no longer in place or if the measure is being applied in contravention of his order.

(7) The police must apply the measures from Articles 150 and 151 of this Act in a way that encroaches on the rights of persons that are not suspects to the smallest possible extent.".

Article 12

In the first paragraph of Article 153, the words "Articles 150 and 151" shall be replaced with the words "Articles 149a, 150, 151, 155 and 155a".

In the second paragraph a comma shall be added after the word "material", followed by the words "collected using measures ordered by the investigating judge,". The second and third sentences shall be deleted.

New third and fourth paragraphs shall be added, to read as follows:

"(3) The body that ordered the measure may order that the recordings of telephone conversations and other forms of communication be copied in whole or in part. The provisions of the fifth paragraph of Article 84 of this Act shall be applied with regard to these recordings.

(4) If the state prosecutor declares that he will not commence criminal prosecution against a suspect, or if the state prosecutor does not issue such a declaration within two years of the end of application of measures ordered by him, he shall submit all the material gathered on the basis of these measures to the investigating judge. The investigating judge shall then act according to the second paragraph of Article 154 of this Act.".

Article 13

The first paragraph of Article 154 shall be amended, to read as follows:

"(1) Information, messages, recordings or evidence obtained by means of the measures from Article 149a, the first paragraph of Article 149b and Articles 150, 151, 155, 155a and 156 of this Act shall be kept by the court for as long as the criminal case files are kept, or until their destruction according to the second paragraph of this article.".

The second paragraph shall be amended, to read as follows:

"(2) If the state prosecutor declares that he will not commence criminal prosecution against a suspect, or if he does not issue such a declaration within two years of the end of application of the measures from Article 149a, the first paragraph of Article 149b and Articles 150, 151, 155,

155a and 156 of this Act, the material from the preceding paragraph shall be destroyed under the supervision of the investigating judge. The investigating judge shall make an official note of the destruction. Before destruction the investigating judge shall inform the suspect of the use of these measures or, in cases from the second or ninth paragraphs of Article 149a of this Act, the person against whom the measure was applied, who shall have the right to be informed of the material obtained and, in cases where this material was of greater scope, of the report from the first paragraph of Article 153 of this Act. In cases where the measures from the second or ninth paragraphs of Article 149a of this Act were used and the state prosecutor commenced criminal prosecution, the investigating judge shall inform the person against whom the measures were applied, who shall have the right to be informed of the material obtained, of the use of the measures by submission of the charge at the latest or immediately after the person on whose account the measure was applied is arrested. If it is reasonable to conclude that informing the person of the material could threaten human life and health or if due cause of a different nature is adduced, the investigating judge may decide, at the request of the state prosecutor or *ex officio*, not to inform the suspect, or in cases from the second or ninth paragraphs of Article 149a of this Act the person against whom the measure was applied, of part or all of the material obtained.".

The third paragraph shall be amended, to read as follows:

"(3) Information, messages, recordings or other evidence may not be used as evidence if they were obtained by means of any of the measures from Articles 149a, 150, 151, 155, 155a and 156 of this Act and they do not relate to any of the criminal offences for which an individual measure may be ordered.".

The fourth paragraph shall be amended, to read as follows:

"(4) If measures from Articles 149a, 149b, 150, 151, 155, 155a and 156 of this Act were carried out without an order from the state prosecutor (fifth and ninth paragraphs of Article 149a, first paragraph of Article 155, third paragraph of Article 155a) or an order from an investigating judge (sixth paragraph of Article 149a, first paragraph of Article 149b, Article 153, fourth paragraph of Article 155a, first and third paragraphs of Article 156), or in contravention of such an order, or if extension of application of the measures was not reviewed by the panel (twelfth paragraph of Article 149a), the court may not base its decision on information, messages, recordings or evidence obtained in this manner.".

In the fifth paragraph the words "Articles 150 and 151" shall be replaced with the words "Articles 150, 151 and 155a".

A new sixth paragraph shall be added, to read as follows:

"(6) If measures from Articles 149a, 150, 151, 155 and 155a of this Act were applied in a case that forms the subject of investigation, criminal prosecution or court proceedings in one or more countries, they must be carried out in accordance with existing bilateral or multilateral agreements or treaties; if these do not exist, agreement shall be reached for each individual case, where the sovereignty and domestic legislation of the contracting party on whose territory such investigation will take place must be observed in full.".

Article 14

A new Article 155a shall be added after Article 155, to read as follows:

"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) Requests and orders shall be constituent parts of criminal case records 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 15

A new Article 156a shall be added after Article 156, to read as follows:

"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.".

Article 16

In the first paragraph of Article 161a the words “and for criminal offences from the second paragraph of this article” shall be added after the words "three years".

A new second paragraph shall be added, to read as follows:

"(2) If special circumstances exist, settlement may also be permitted for the criminal offences of aggravated bodily harm (first paragraph of Article 134 of the Penal Code), grievous bodily harm

(fourth paragraph of Article 135), grand larceny (point 1 of the first paragraph of Article 212), misappropriation (fourth paragraph of Article 215) and damage to property (second paragraph of Article 224). If the charge is brought against a minor, this may also apply for criminal offences for which the Penal Code prescribes a prison sentence of up to five years.".

The previous second paragraph shall become the third paragraph.

A new fourth paragraph shall be added, to read as follows:

"(4) If the content of the agreement relates to the performance of community service, implementation of the agreement shall be organised and managed by centres for social work in collaboration with the person that led the settlement procedure and the state prosecutor.".

The previous third and fourth paragraphs shall become the fifth and sixth paragraphs.

In the previous fifth paragraph, which becomes the seventh paragraph, the words “and the special circumstances from the second paragraph of this article” shall be added after the words "of this article".

Article 17

In the first paragraph of Article 162 the words “and for criminal offences from the second paragraph of this article” shall be added after the words "up to three years".

New second and third paragraphs shall be added, to read as follows:

"(2) If special circumstances exist, criminal prosecution may also be suspended for the criminal offences of rendering an opportunity for the consumption of drugs (first paragraph of Article 197 of the Penal Code), grand larceny (point 1 of the first paragraph of Article 212), misappropriation (fourth paragraph of Article 215), blackmail (first and second paragraphs of Article 218), damage to property (second paragraph of Article 244), business fraud (first paragraph of Article 234a), embezzlement (first paragraph of Article 245) and the presentation of bad cheques and the abuse of bank or credit cards (first and second paragraphs of Article 253). If the charge is brought against a minor, this may also apply for criminal offences for which the Penal Code prescribes a prison sentence of up to five years.

(3) If the state prosecutor imposes the task of rectifying damage from point 1 or the task from point 3 of the first paragraph of this article, the work shall be organised and managed by centres for social work, in collaboration with the state prosecutor.".

The previous second and third paragraphs shall become the fourth and fifth paragraphs.

A new sixth paragraph shall be added, to read as follows:

"(6) The special circumstances that have a bearing on the decision of the state prosecutor relating to the suspension of criminal prosecution shall be laid down in more detail in general instructions issued by the State Prosecutor General's Office.".

Article 18

In the first and second paragraphs of Article 214, the words "there are reasonable grounds for suspecting" shall be replaced with the words "reasonable grounds were adduced for suspecting".

Article 19

The third paragraph of Article 227 shall be amended, to read as follows:

"(3) If criminal offences for which the Penal Code lays down that the defendant may have his punishment mitigated in certain cases (point 3 of Article 42 and the third paragraph of Article 297 of the Penal Code) are involved, he must also be told of this.".

Article 20

A new sentence shall be added to the end of the third paragraph of Article 240, to read as follows:

"A police officer who appears as a witness shall, as a rule, be asked the address and name of the unit to which he belongs rather than his address of residence. A person who has carried out measures from Articles 149a, 150, 151, 155 and 155a of this Act directly shall not, as a rule, be required to give his personal data but it shall suffice that he identifies himself by means of his official working name and an official document that proves his identity.".

The fifth, sixth and seventh paragraphs shall be deleted.

Article 21

A new Article 240a shall be added after Article 240, to read as follows:

"Article 240a

(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 those of his immediate family (points 1 to 3 of the first paragraph of Article 236), the court may order one or more of the following measures to protect him or his immediate family:
1) deletion of all or certain data from the third paragraph of Article 240 of this Act from the criminal case records;
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 defendant, his counsel and the injured party or his legal representative and counsel 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 devices).

(2) Protective measures from the preceding paragraph shall be ordered in writing by the investigating judge at the request of the state prosecutor, the witness, the injured party, the defendant, his legal representatives and counsel, or *ex officio*. The decision may not contain data that could lead to the disclosure of data that is the subject of the protective measure.

(3) Prior to the issuing of the decision on the use of protective measures, the investigating judge shall obtain from the witness the data from 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 records and kept as an official secret immediately after identification of the witness and before his testimony is taken. Its inspection and use shall be permitted only in procedures for deciding on an appeal against a decision from the second paragraph of this article.

(4) The decision on the use of protective measures by means of which the identity of the witness is entirely concealed from the defendant and his advocate (anonymous witness) may be issued by the investigating judge only after a special hearing has been held, if he assesses:
1) that there are reasonable grounds for believing that the witness's life or that of his immediate family are in danger;
2) that the witness's testimony is important to the criminal proceedings;
3) that the witness shows a sufficient level of credibility;
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 state 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 records immediately after the hearing, and kept as an official secret. They may only be inspected and used in procedures relating to decision-making on an appeal against the decision from the second paragraph of this article.

(6) While testimony is being taken from a witness in relation to whom the measures from the first paragraph of this article have been ordered, the investigating judge shall prohibit all questions whose answers could disclose protected information.

(7) After the charge 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 president of the panel.

(8) 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,

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. He shall enter his findings in the records.".

Article 22

The seventh paragraph of Article 331 shall be deleted.

Article 23

The fifth paragraph of Article 350 shall be amended, to read as follows:

"(5) The provision of point 3 of Article 42 or of the third paragraph of Article 297 of the Penal Code on the mitigation of punishment may only be applied in cases where the defendant has, by the end of the main hearing, prevented the further commission of criminal offences within a criminal association or a criminal offence by a criminal association, or if he has disclosed by the end of the main hearing information of importance to the investigation of and production of evidence for criminal offences already committed.".

Article 24

The second paragraph of Article 466 shall be amended, to read as follows:

"(2) Under conditions from the preceding paragraph and from Articles 161a and 162 of this Act, the state prosecutor may decide to refer the charge to a settlement procedure or suspend criminal prosecution.".

Article 25

A new Article 529a shall be added after Article 529, to read as follows:

"Article 529a

(1) If an international treaty so determines, the extradition of a foreign person may be permitted at the request of the foreign extradition or remand body, with the purpose of effecting extradition without implementation of the procedure from Articles 526 to 529 of this Act if the foreign person, after being cautioned by the investigating judge, states that he agrees with his extradition.

(2) In the case from the preceding paragraph the foreign person may, after being cautioned by the investigating judge, terminate application of the provisions from Article 531 of this Act.

(3) Consent to extradition may be withdrawn until the decision from the fifth paragraph of this article is taken by the minister responsible for justice.

(4) When taking testimony the investigating judge shall inform the foreign person of the possibility of consenting to extradition, caution him that consent to extradition is voluntary and

that it is possible to withdraw consent only 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 caution 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 advocate and the competent state prosecutor may be present at the hearing. The caution 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 foreign person that his consent and termination were given voluntarily and in the presence of counsel shall be entered in the records.

(5) After testing the conditions from points 1 to 6 of the first paragraph of Article 522 of this Act, the investigating judge shall send the case records to the minister responsible for justice without delay, who shall decide on extradition and inform the foreign country of his decision. If any of the conditions from points 1 to 6 of the first paragraph of Article 522 of this Act have not been fulfilled or if the foreign person has withdrawn his consent, the regular extradition procedure shall take place.".

TRANSITIONAL AND FINAL PROVISIONS

Article 26

On the day this Act enters into force, Article 49 of the Police Act (Uradni list RS, 110/03 – official consolidated text) and Articles 96 to 107 of the Rules on Police Powers (Uradni list RS, 51/2000) shall cease validity.

An order from the competent body must be obtained for measures which, on the day this Act enters into force, are being carried out on the basis of permission from the director-general of the police or the competent state prosecutor pursuant to the second paragraph of Article 49 of the Police Act within two months of the entry into force of this Act, in accordance with the provisions of this Act.

Article 27

The State Prosecutor General shall harmonise the general instructions from the seventh paragraph of Article 161a within three months of the entry into force of this Act.

Article 28

The State Prosecutor General shall issue the general instructions from the sixth paragraph of Article 162 within three months of the entry into force of this Act.

Article 29

This Act shall enter into force on 23 May 2004.