

ACT AMENDING THE CRIMINAL CODE (KZ-1C)

Article 1

Article 15 of the Criminal Code (Uradni list RS [Official Gazette of the Republic of Slovenia], No 50/12 – official consolidated version) shall be followed by a new section “3a Prosecution of criminal offences against minors” and a new 15a Article shall be added to read as follows:

“The method of prosecuting perpetrators of criminal offences committed to the disadvantage of minors Article 15a

With respect to the method of criminal prosecution, in the cases when a criminal offence referred to in chapters against life and limb, against human rights and freedoms, against sexual integrity or other criminal offence referred to in this Code with elements of violence committed against minors, the provisions of this Code concerning the filing of the proposal or private action and the perpetrator is prosecuted ex officio.”.

Article 2

Paragraph 4 of Article 56 shall be amended to read as follows: “One day of remand, one day of confinement, one day of imprisonment, two daily instalments of the fine and EUR 42 of fine imposed for a minor offence shall have the same credit as part of the sentence.”.

Article 3

In paragraph 3 of Article 65, a new point 6 shall be added after point 5 to read as follows: “6) prohibition on the establishment of direct and indirect contacts with one or more certain persons including the use of electronic means of communication;”.

The current points 6 and 7 shall be renumbered as points 7 and 8.

Article 4

In Article 69, a new point 4 shall be added after point 3 to read as follows: “4) restraining order against the victim;”

The current points 4 and 5 shall be renumbered as points 5 and 6.

Article 5

After paragraph 5 of Article 70, a new paragraph 6 shall be added to read as follows: “(6) The restraining order against the victim may be imposed if a sentence or an admonitory sanction has been imposed on the perpetrator or in the case of the withdrawal of a sentence.”

Article 6

In paragraph 1 of Article 70a the wording “punishable by a prison sentence of at least one year” shall be replaced by the wording “punishable by a prison sentence of one year or more”.

Paragraph 3 shall be followed by a new paragraph 4 to read as follows:

“(4) If a person commits a criminal offence during the serving of a sentence for which the court imposed a safety measure in accordance with paragraph 1 of this Article, the sentence should be suspended for the duration of the safety measure’s implementation.”

The current paragraph 4 shall be renumbered as paragraph 5.

7. Article 7

In paragraph 2 of Article 70b the number “4” shall be replaced with the number “5”.

8. Article 8

Article 71 shall be followed by a new Article 71a which shall read as follows:

“A restraining order against the victim of the criminal offence
Article 71a

(1) The perpetrator of a criminal offence against life and limb, against honour and reputation, against sexual integrity, against human health or other criminal offence with elements of violence may be imposed by the court with a restraining order against the victim of one of these criminal offences for the period of one month to three years.

(2) In the context of the measure referred to in the preceding paragraph, the court may determine: a restraining order against the victim and their relatives,

- a prohibition of establishing direct and indirect contacts or communicating with the victim or their relatives including using electronic means of communication,
- a ban on access to certain places that the victim or their relatives regularly visit, or a prohibition of associating with the victim or their relatives.

(3) The court may impose this measure if the perpetrator, through a criminal offence, affected the victim’s physical and mental integrity and if it assesses that the perpetrator’s contacts or communications with the victim or their relatives would pose a danger to repeating the same or other criminal offence against the victim or their relatives. The court shall select one or several methods of implementing the measure referred to in the preceding paragraph, defining in particular the persons to which this measure refers and the relationship between the victim and the perpetrator or their relatives, appropriate distances of the perpetrator to the victim or their relatives or places that have to be respected, define individual types of prohibited forms of communication and determine the prohibited forms of association.

(4) When pronouncing a suspended sentence, the court may order that such a sentence be revoked if the perpetrator violates a restraining order against the victim or their relatives.

(5) The duration of the restraining order shall apply from the day of finality of the judgment. Time spent in prison or in a health institution for medical treatment and detention shall not be counted as a part of this measure.

(6) The court may decide that such safety measure be repealed, when a period of six months dating from the day of the measure commenced has expired. The court may decide thereof on the request by the convicted person if it establishes that reasons for the imposition of such a measure have ceased to exist.

Article 9

Paragraph 2 of Article 84 shall be amended to read as follows: "(2) On the basis of a request by institutions or associations justified by law, to which the children or minors were entrusted to be educated, schooled, protected and cared for, the information from the criminal record shall be released for the removed convictions for criminal offences under Article 170, Article 171, Article 172, Article 173, Article 173a, Paragraph 2 of Article 174, Paragraph 2 of Article 174, Paragraph 2 of Article 175, committed against a minor, and under Article 176 of this Criminal Code."

Article 10

Paragraph 2 of Article 86 shall be followed by a new paragraph 3 to read as follows: "(3) If a sentence of imprisonment up to five years has been imposed on a convicted person, the court may order that the convicted shall serve their sentence in an open or semi-open prison or section; if a sentence of imprisonment of up to eight years has been imposed on a convicted person, the court may order that the convicted shall serve their sentence in a semi-open prison or section".

The current paragraphs 3 to 6 shall be renumbered as paragraphs 4 to 7.

In the current paragraph 7, which shall be renumbered as paragraph 8, the third sentence shall be amended to read as follows: "The body responsible for enforcement when determining the work for the convicted person within the work available with implementing organisations shall take into account the convicted person's professional knowledge and skills and also those urgent interests with regard to unavoidable familial, educational and vocational obligations with which failure to comply would cause serious damage in meeting these obligations that would be difficult to repair or would be irreparable."

The current paragraphs 8 to 12 shall be renumbered as paragraphs 9 to 13.

Article 11

In paragraph 5 of Article 87, the number "7" shall be replaced with the number "8" and the number "12" with the number "13".

Article 12

In paragraph 8 of Article 88, a new point 6 shall be added after point 5 to read as follows: "6) prohibition of the establishment of direct and indirect contacts with one or more certain persons including the use of electronic means of communication;"

The current points 6 and 7 shall be renumbered as points 7 and 8.

Article 13

In paragraph 3 of Article 93, the wording “a restraining order against the victim” and comma shall be added after the word “liberty”.

Article 14

Paragraph 2 of Article 94 shall be followed by paragraph 3 to read as follows: “(3) The time limit for the implementation of a sentence shall not apply during the time when the convicted person ignores an order to serve a prison sentence or when the commencement of serving sentence cannot be provided since the person is on the run, is hiding or is in any other way evading the enforcement of the sentence or is in any other way inaccessible to the national authorities or when the commencement of serving the sentence is postponed according to the law.”.

The current paragraph 3 shall be renumbered as paragraph 4.

In the current paragraph 4, which shall be renumbered as paragraph 5, the number “2” shall be followed by the words “and paragraph 3”, the amendment of the word “apply” in the Slovenian text does not apply to the English translation.

Article 15

In paragraph 1 of Article 109, the word “Articles” shall be preceded by a comma and the words “110 and 111.”.

Article 16

In paragraph 1 of Article 113, the full stop shall be preceded by the words “and a fine”.

In paragraph 2, the full stop shall be preceded by “and a fine”.

New paragraphs 3 and 4 shall be added to read as follows:

“(3) Whoever, with a view to committing an offence referred to in paragraph 1 or paragraph 2 of this Article, withholds, seizes, hides, damages or destroys the public instrument establishing the identity of the victims of trafficking in persons, shall be sentenced to up to three years of imprisonment and punished with a fine.

(4) Whoever knows that the person is a victim of human trafficking and uses such services as a result of the exploitation of this person described in paragraphs 1 and 2 of this Article, shall be sentenced to imprisonment for not more than three years and punished with a fine.”

The current paragraph 3 that shall be renumbered paragraph 5 shall be amended to read as follows:

“(5) Whoever carries out an offence from paragraphs 1, 2 and 3 of this Article as a member of a criminal association to commit such offences, or if a large property benefit was gained through committing the offence, the perpetrator shall be sentenced to imprisonment of three to fifteen years and punished by a fine.”

Article 17

Article 132 shall be followed by a new Article 132a, which shall read as follows:

“Entering into a forced marriage or setting up similar communities
Article 132a

(1) Whoever, by force or threat of force or exploitation of a subordinate or dependent position, forces another person to enter into a forced marriage or set up similar cohabitation which in accordance with the law has the same legal consequences as if a marriage had been concluded shall be sentenced to imprisonment for not more than three years.

(2) Whoever commits the offence referred to in the preceding paragraph, shall be sentenced to imprisonment for up to five years.”

Article 18

Article 134 shall be followed by a new Article 134a to read as follows:

“Stalking Article 134a

(1) Whoever stalks someone else or their neighbour with a repeating observation, chase or intrusive efforts of establishing direct contact or contact via electronic means of communication, thereby leading the person or their relatives to fear for their safety or to a feeling of being threatened, shall be given a fine or a prison sentence of up to two years.

(2) If the person being stalked is a minor or a helpless person, the perpetrator shall be punished by a fine or a prison sentence of up to three years.

(3) The prosecution of the offences referred to in paragraphs 1 and 2 shall be initiated upon a motion.

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Article 19

Paragraph 3 in Article 135 shall be amended to read as follows: “(3) The prosecution for the offence under paragraphs 1 and 2 of this Article shall be initiated upon a proposal.”

Paragraph 4 shall be deleted.

Article 20

In paragraph 2 of Article 168, the word “complaint” shall be followed by a comma and the wording “except for the officials referred to in point 1, paragraph 1 of Article 99, the highest officials of the Government of the Republic and the highest officials of local self-governing communities where the prosecution shall be initiated upon a private action.”

Article 21

The amendment to paragraph 1 of Article 187 in the Slovenian text does not apply to the English translation.

Article 22

In paragraph 1 of Article 238, the wording “regardless of whether it is placed on this market or not” shall be replaced with the wording “regardless of whether the business was concluded on this market or outside this market”.

Article 23

In paragraph 1 of Article 241, the words “five years” shall be replaced by the words “six years and required to pay a fine”.

At the end of paragraph 2, the wording “and required to pay a fine” shall precede the full stop.

In paragraph 3, the words “two years” shall be replaced by the wording “four years and required to pay a fine”.

Article 24

In paragraph 1 of Article 242, the words “five years” shall be replaced by the words “six years and required to pay a fine”.

In paragraph 2, the words “three years” shall be replaced by the words “four years and required to pay a fine”.

The full stop at the end of the wording of paragraph 3 shall be replaced by a comma and the wording “provided this is not in contravention of the rules of international law.” shall be added.

Article 25

Paragraphs 1 and 2 of Article 249 shall be amended to read as follows: “(1) Whoever, with one or more practices, with a view to either evading, in whole or in part, the payment of taxes, contributions or any other prescribed liabilities of natural or legal persons, or enabling another person to do so, or unduly acquiring tax returned in the Republic of Slovenia or in other Member States of the European Union in whole or in part, or provides false information about income, expenses, objects, goods or other circumstances relevant to taxation and other prescribed liabilities, or otherwise defrauds the tax authorities competent for the assessment or supervision of charging and paying of such liabilities, the total amount of outstanding liabilities or liabilities evaded or the undue tax recovery regardless of the type of liability or tax in a period of maximum twelve consecutive months, generates a financial gain, shall be sentenced to imprisonment for one to eight years.

(2) The same punishment shall be imposed on anyone who, with the intention referred to in the preceding paragraph fails, once or several times, of reporting the income acquired or other circumstances whose report is mandatory and which have an influence upon the assessment of tax obligations, contributions or other prescribed liabilities of natural and legal persons, the total amount of outstanding liabilities or liabilities evaded regardless of the type of liability or tax in a period of maximum twelve consecutive months, generates a financial gain.”.

Article 26

New paragraphs 3 and 4 shall be added after paragraph 2 of Article 260 which read as follows

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“(3) The person who complies with the elements of the criminal offence referred to in paragraph 1 of this Article shall not be punished if it concerns classified information revealing an unlawful violation of human rights or fundamental freedoms, other constitutional or legal rights, serious abuse of authorities or powers or other severe irregularities in exercising power and powers conferred by public law or in carrying out public services, however, the offence is not committed through greed and does not endanger human life or has no serious or irreparable adverse consequences on the security or interests of the Republic of Slovenia protected by the constitution or law.

(4) Notwithstanding the provision of paragraph 2 of this Article, whoever announces classified information publicly, acquires, submits or possesses such information with a view to disclosing the same to the public, if, depending on the circumstances of the case, the public interest in disclosing the classified information prevails over the public interest in maintaining it secret, and if this act does not directly endanger the life of one or more persons, shall not be punished.”

The current paragraph 3 that shall be renumbered paragraph 5 shall be amended to read as follows:

“(5) If the offence referred to in paragraph 1 of this Article was committed through greed or the lives of people were endangered through the publication or the publication had serious or irreparable adverse consequences on the security or interests of the Republic of Slovenia protected by the constitution or law, the perpetrator shall be punished to imprisonment for not more than eight years.”.

The current paragraph 4 shall be renumbered as paragraph 6.

Article 27

In paragraph 2 of Article 261, the wording “and required to pay a fine” shall precede the full stop.

In paragraph 3, the words “three years” shall be replaced by the wording “four years and required to pay a fine”.

Article 28

In paragraph 1 of Article 262, the words “five years” shall be replaced by the words “six years”.

In paragraph 2, the words “three years” shall be replaced by the words “four years and required to pay a fine”.

Article 29

In paragraph 1 of Article 263, the words “three years” shall be replaced by the wording “four years and required to pay a fine”.

In paragraph 3 of Article 241, the words "five years" shall be replaced by the wording "six years and required to pay a fine".

Article 30

In paragraph 1 of Article 264, the words "three years" shall be replaced by the wording "four years and required to pay a fine".

In paragraph 2, the words "five years" shall be replaced by the wording "six years and required to pay a fine".

31. Article 31

In point 2 of paragraph 1 of Article 332, the word "waste" shall be followed by the wording "or exercises the supervision of such procedures or activities after the termination of the operation of waste disposal facilities or trades in waste or forwards it".

TRANSITIONAL PROVISIONS

32. Article 32

(1) The provisions of a new Article 15a and paragraph 3 of Article 135 of the Code shall apply to criminal offences committed after the entry into force of this Act.

(2) With respect to the method of prosecution, the provisions of the Code applicable prior to the entry into force of this Act shall apply to the criminal offences referred to in Article 15a and paragraph 3 of Article 135 of the Code which were committed prior to the entry into force of this Act.

(3) Until the provisions of the Enforcement of Criminal Sanctions Act (Uradni list RS [Official Gazette of the Republic of Slovenia], Nos. 110/06 – official consolidated text, 76/08, 40/09 and 9/11 - ZP-1G, 96-12 -ZPIZ-2 and 109/12) and the Criminal Procedure Act (Uradni list RS, No. 32/12 – official consolidated text, 47/13 and 87/14) are brought in line with the provision of the new paragraph 3 of Article 86 of the Code, the provisions of Article 86 of the Criminal Code (Uradni list RS, No. 50/12 - official consolidated text) shall apply.

FINAL PROVISION

Article 33

This Act shall enter into force three months after its publication in Uradni list RS.