

ACT AMENDING THE CRIMINAL PROCEDURE ACT (ZKP-I)

Article 1

In the Criminal Procedure Act (Official Gazette of the RS, No 32/07 – official consolidated text, 102/07 – ZSKZDČEU), in Article 25, the following new second sentence is inserted in paragraph (8): ‘The request for the protection of legality against a final decision on detention referred to in Article 420(4) shall be decided in the supreme court by a panel of three judges except when the detention was extended by a ruling of a senate of the supreme court (Article 205(2)). In such a case, the request for the protection of legality shall be decided in the supreme court by a panel of five judges.’

Article 2

In Article 52, the following new paragraphs (3) and (4) are inserted:

‘(3) Upon the filing of private charges the court fee has to be paid no later than within the period determined by the court in the order for the payment of the court fee. In the order, the court shall advise the private prosecutor of the consequences of non-payment of the court fee referred to in paragraph (4).

(4) If the court fee referred to in the preceding paragraph for private charges is not paid and the conditions for an exemption, a deferment or an instalment payment of the court fee are not present then the court shall dismiss the private charges.’

Article 3

Article 57 is amended as follows:

‘Article 57

(1) The injured party may, until the end of the main hearing, withdraw the statement submitted in court before which the proceedings are being conducted or submitted to the competent state prosecutor. If the statement is given to an authority without competence, it shall accept it and immediately send it to the competent state prosecutor or court.

(2) A private prosecutor may withdraw private charges before the end of the main hearing with a statement submitted in court.

(3) In cases referred to in the preceding paragraphs, an injured party or a private prosecutor shall lose the right to re-submit the request or private charges.’

Article 4

The following new Article 61.a is inserted:

‘Article 61.a

(1) If the case concerns a criminal offence prosecutable upon a motion of an injured party, the president of the senate of the court of first instance shall grant reinstatement of the case to the injured party who was duly summoned as a witness but for legitimate reasons could not appear at the main hearing and had informed the court in time, as a result of which it was, pursuant to Article 306(3), considered that they had withdrawn the motion for a prosecution and a judgement was issued after the main hearing commenced by which the charge was withdrawn, provided the injured party requests the reinstatement of the case within eight days from the day they were served with the judgement. In such a case, the new main hearing shall be scheduled and the judgement, issued on the basis of this new main hearing, shall repeal the previous judgement. If the invited injured party does not appear at this new main hearing as a witness, the present judgement shall remain in force.

(2) In the case referred to in the preceding paragraph the provision of Article 58(3) and (4) and of paragraph (4) of this Article apply.

(3) The provisions of Article 58(2) to (5) shall apply by analogy when, in the case referred to in the preceding paragraph, a ruling on discontinuing proceedings is issued before the main hearing, or a ruling is issued because the injured party does not appear at the hearing for interrogation in circumstances under paragraph (1) of this Article and, pursuant to Article 244(1), it is regarded they withdrew the motion for prosecution.’

Article 5

In Article 65, the number '201' in paragraph (3) is replaced with the number '192', the word 'minor' with the word 'child', and the number '387.a' with the number '133'.

The following new paragraph (4) is inserted:

'(4) In a preliminary and criminal procedure, a person trusted by the minor injured party may accompany them. Such person may also accompany another injured party who is a victim of violence.'

Article 6

In Article 76, in paragraph (1), after the words 'in writing' the words '(written submission)' are inserted and the following new sentence: 'A written submission is a submission which is written or printed and personally signed (an application in a physical format) or a submission in an electronic format which is signed by a secure electronic signature that is certified by a qualified certificate. The written submission in a physical format may be filed via post or by directly submitting it to the court. The submission in an electronic format may be filed by sending it electronically to the information system of the court which automatically confirms its receipt.'

At the end of paragraph (2) the following new sentence is inserted: 'A submission in an electronic format shall be signed by a secure electronic signature that is certified by a qualified certificate.'

At the end of paragraph (3) the following new sentence is inserted: 'When a submission in an electronic format is not adequate for a consideration by a court, the court shall communicate the prescribed format of such an application in the request to the applicant.'

The following new paragraph (5) is inserted:

'(5) The Minister responsible for justice shall lay down the condition and methods for the electronic filing of submissions in an electronic format, the format of writing of these applications, and the organisation and operation of the information system of the court.'

Article 7

In Article 77, the following new paragraph (3) is inserted:

'(3) Notwithstanding the provisions of the preceding paragraphs, submissions in an electronic format shall be sent in a single copy. The court shall make the required number of electronic copies or records in a physical format as necessary for the counterparty.'

Article 8

In Article 79, in paragraph (3), the following new sentence is inserted: 'The record may also be kept by another method when laid down by this Act.'

Article 9

In Article 83, the following new paragraph (6) is inserted:

'(6) When the record is kept in an electronic format, the excluded notifications, records and other excluded evidence shall be excluded from the record and is to be kept in the information system in a special folder whereby they are accessible in connection with the matter concerned. If the president of the court or the court of the second instance, in the case under paragraph (4) and (5) examines and uses the excluded evidence, they must store them again in the special folder in the information system and mark that it was examined. These provisions shall also apply by analogy to other provisions of this Act that deal with the exclusion of evidence.'

Article 10

In Article 84, in paragraph (1), the words 'sound or vision recording device' are replaced by the words 'appropriate technical sound or sound and vision recording devices'.

Paragraph (3) is amended as follows:

‘(3) If a recording of an investigative act is interrupted, this shall be appropriately marked together with the time of the interruption. The same shall apply to starting and finishing the recording.’

The following new paragraph (4) is inserted:

‘(4) Upon a request of the interrogated person, the recording shall be broadcasted as soon as technically possible. During the hearing, they shall have a right to provide explanations and comments which shall also be recorded.’

In the present paragraph (4) which now becomes paragraph (5), the words ‘sound or vision device’ are replaced by the words ‘appropriate technical sound or sound and vision recording devices’, and after the word ‘file’ the words ‘or automatically registered in the information system of the court’ are inserted.

The present paragraphs (5) and (6) now become paragraphs (6) and (7).

The present paragraph (7) is deleted.

In paragraph (8), the words ‘sound or vision recording device’ are replaced by the words ‘appropriate technical sound or sound and vision recording devices’.

The following new paragraph (9) is inserted:

‘(9) The Minister responsible for justice shall issue instructions to regulate in detail the conditions to be complied by the technical devices for sound or sound and vision recording of an investigative act and the main hearing, the recording process with these devices, the transcription and broadcasting of these recordings, making copies of the recordings and their storage.’

Article 11

In Article 86, the following new paragraphs (5) and (6) are inserted:

‘(5) The record on consultation and voting that is issued in an electronic format shall be signed by all members of the senate and the recorder, with their secure electronic signature and the secure electronic signature of the court that is certified by a qualified certificate. A secure electronic signature of the court is not required when the secure electronic signature of a senate member or recorder is certified with a qualified certificate that also indicates the court. A record on consultation and voting that is issued in an electronic format is kept in the information system in a special folder whereby it can be accessible in connection with the case concerned. When a higher court examines such a record when deciding on a legal remedy, it shall store it again in the special folder in the information system and mark that it was examined.

(6) The Minister responsible for justice shall lay down the methods of storage and traceability of a record on consultation and voting that is issued in an electronic format referred to in the preceding paragraph and on the excluded evidence in an electronic format referred to in Article 83(6).

Article 12

In Article 87, in paragraph (3), the words ‘or by telegraph’ are deleted and the following new sentence is inserted: ‘If a submission is filed electronically in an electronic format, the time it was received by the information system of the addressee shall be considered as the time of delivery to the addressee.’

Article 13

In Article 92, in the first point of paragraph (2), the semicolon is replaced by a comma and the words ‘expenses for the service of documents, performed by a natural person or legal entity pursuing the activity of serving documents in criminal proceedings or by police officers as authorised officials’ are inserted; in the third point, the words ‘accused or’ are replaced by the words ‘or for accompanying persons’; in the fifth point, the semicolon is replaced by a comma and the words ‘except when these expenses are paid from health insurance funds’; in the sixth point, the words ‘lump sum’ are replaced by the words ‘court fee’.

Paragraph (3) is deleted.

In the present paragraph (4) which now becomes paragraph (3), the words ‘in point 1 through 5’ are replaced by the words ‘in points 1, 2, 4 and 5’ and the words ‘with reference to expenses referred to in the third point of paragraph (2) and in the first point of paragraph (2) concerning the service of documents by police officers as authorised officials, the authority that has executed the order for bringing into custody, for accompanying or for service shall submit to the court an accounting of costs’ are inserted, and after the word ‘and’ the words ‘all these

costs' are inserted. In the second sentence, after the words 'paid' the words 'or concerning which an accounting of costs was submitted to the court' are inserted.

The present paragraphs (5) and (6) now become paragraphs (4) and (5).

Article 14

In Article 94, the words 'corresponding portion of the lump sum' in paragraph (1) are replaced by the words 'corresponding court fee'.

Article 15

In Article 95, the following new sentence is inserted in paragraph (1): 'When a judgement on a punitive order is issued the accused shall not pay the court fee.'

In paragraph (3) the words 'lump sum' are replaced by the words 'court fee'.

In paragraph (4), after the word 'senate' in the second sentence, the words 'upon a motion of the accused' are inserted, after the words 'procedure' the words 'defer the payment of costs of criminal proceedings'. The following new third sentence is added: 'The accused may submit the motion no later than before the expiry of the time for payment as determined by the court.'

The following new paragraphs (5) and (6) are inserted:

'(5) Provisions on exemption, deferment or instalment payment of costs referred to in the preceding paragraph may by analogy also be applied to other participants of criminal proceedings who may be ordered to pay the costs of criminal proceedings.

(6) The provisions on exemption, deferment or instalment of costs referred to in paragraphs (4) and (5) do not apply to cases under Article 94.

Article 16

In Article 96, paragraph (2) is deleted.

In the present paragraph (3) which now becomes paragraph (2), before the words 'necessary expenses of the accused' in the first sentence, the words 'when the proceedings terminate in a judgement by which the charge sheet is rejected or a judgement by which the charge is dismissed under points 1 to 5 of Article 92(2), when the proceedings end with a ruling by which the proceedings are discontinued or the charge sheet is dismissed, and' are inserted, and the words 'if the proceedings terminate in a judgement of acquittal or a rejection of charges, or if they terminate in a ruling under which proceedings are discontinued or the charge sheet is rejected' are deleted.

The following new paragraph (3) is inserted:

'(3) The injured party, as a prosecutor, may only be ordered to pay the costs that have occurred after taking over the prosecution from the state prosecutor and prior costs shall be borne by the budget.'

Article 17

In Article 98, in paragraph (2), the words 'lump sum' are replaced by the words 'court fee'.

Article 18

Article 117 is amended as follows:

'Article 117

(1) Documents shall, as a rule, be served by post, secure electronic means, or natural person or legal entity pursuing the activity of serving documents in criminal proceedings. Service may also be performed by court personnel upon an authorisation of a president of a court, by an official of the authority ordering the service, directly at the premises of such an authority and; exceptionally, by police officers as authorised officials when all other attempted methods of service were not successful.

(2) An accused, witness, private prosecutor, injured party as a prosecutor and injured party may inform the court they would like service of documents electronically to a secure email address stated in the submission or at a

hearing and is the equivalent of a place of residence. When these persons send the submission electronically by secure electronic means it shall be considered they would like the service by secure electronic means unless notified otherwise. If the court determines that service to a secure email address is not possible, it shall serve by another method in accordance with the preceding paragraph and state the reasons for such service.

(3) A state prosecutor and other national authorities, lawyers, court experts, court evaluators, court interpreters and others, and authorities whose reliability is deemed greater due to the nature of their work may be served the documents electronically to a secure email address when such service is possible and another method of service under paragraph (1) is not more appropriate.

(4) The minister responsible for justice shall lay down the operations of legal entities and natural persons pursuing the activity of serving documents in criminal proceedings, the content of messages when performing service and the service forms of criminal proceedings.

(5) The Minister responsible for justice shall lay down what are secure electronic means, which documents are to be sent and served via secure electronic means, what a secure email address is, the conditions, format and method of service by secure electronic means, and the organisation and operation of the court information system in criminal proceedings.

(6) The court shall orally address a summons for the main hearing and other summons to the person present and advise them of the consequences if they do not appear. A note on the summons served in such a manner shall be made on the record, which is to be signed by the person summoned except when this is already noted in the record of the main hearing. It shall be deemed the summons has been duly served.'

Article 19

The following new Article 117.a is inserted:

'Article 117.a

(1) Service of documents drafted electronically may be performed by serving the documents in a physical format or by secure electronic means.

(2) Service in a physical format of a certified copy of a document shall be performed in accordance with the provisions applicable to the service of documents in a physical format.

(3) Service of documents by secure electronic means shall be made through an information system by an intermediary organisation pursuing the activity of the electronic service of documents.

(4) The information system shall automatically send the document to the secure email address of the addressee and an information message notifying that a document is in the information system, which has to be collected within 15 days from the day it was sent to the secure email address; otherwise, the document will be deleted from the information system and the document will be served on the addressee in accordance with the provisions applicable to the service of documents in a physical format.

(5) The addressee shall collect the document from the information system by proving their identity by the use of a qualified certificate for a secure electronic signature, viewing the secure email address and electronically signing the service form.

(6) The service under paragraph (3) shall be duly completed on the day the addressee collects the document. If the document is not collected within 15 days, the information system shall delete the document and send an electronic message to the addressee and the court notifying that the document was deleted from the information system and that it will be served on the addressee in accordance with the provisions applicable to the service of documents in a physical format.

(7) The information system shall notify the court ordering the service of the service by an electronic service form.

(8) Documents whose originals are in a physical format may also be served by secure electronic means in the manner laid down in this Article when electronic (scanned) copy made on the basis of the original in a physical format has a secure court electronic signature that is certified with a qualified certificate.

(9) If the whole file managed electronically needs to be sent to the addressee it shall be sent by secure electronic means when possible.'

Article 20

In Article 118, the following new paragraph (2) is inserted:

‘(2) Personal service shall also be service by a secure electronic path in accordance with the provisions of Articles 117 and 117.a.’

Article 21

The following new Article 119.a is inserted:

‘Article 119.a

When service to the stated address of the addressee is not possible because the addressee has moved, the service provider shall find their new address, resend the document to the address and inform the court thereof.’

Article 22

In Article 120, in paragraph (3), the following new sentence is inserted at the end: ‘Judgements of a punitive order may not be served by posting it on a bulleting board.’

In paragraph (4), the words ‘preceding Article’ in the first sentence are replaced by the words ‘Article 119’.

Article 23

In Article 126, the following new paragraphs (2) and (3) are inserted:

‘(2) When costs of criminal proceedings are decided by a special ruling, the service of the ruling shall be effected according to the provisions of the law regulating administrative proceedings.

(3) When the addressee stipulates an address for service in accordance with the provisions of the law regulating registration of residence, it shall be deemed they have thereby notified the court of the change of address or residence.’

Article 24

In Article 128, the following new paragraphs (7) and (8) are inserted:

‘(7) A file in an electronic format may be inspected and transcribed by persons entitled to inspect and transcribe a file in an electronic format in the information system in which the person entitled proves their identity with their qualified certificate for an electronic signature.

(8) The persons entitled to inspect a file according to the provisions of this Act shall have a right to follow the course of proceedings in the information system.’

Article 25

In Article 130, the amount ‘10 000 tolar’ is replaced with the amount ‘42 euros’ and the following new sentence is inserted: ‘The fine laid down by this Act shall be enforced, upon a motion of the court that has issued the fine, by a competent tax authority according to the provisions of the law regulating the enforcement of taxes.’

Article 26

In Article 131, paragraph (1) is amended as follows:

‘(1) A judgement concerning costs of criminal proceedings that have to be enforced for the benefit of the budget and concerning confiscation of proceeds shall be enforced upon a motion of the court issuing the judgement, by a competent tax authority according to the provisions of the law regulating confiscation of taxes. The judgement concerning all other costs of criminal proceedings and indemnification claims shall be enforced by the competent court according to the provisions regulating enforcement proceedings.’

Paragraph (2) is deleted.

The present paragraphs (3), (4) and (5) now become paragraphs (2), (3) and (4).

Article 27

In Article 132, the words ‘and others’ in paragraph (3) are deleted.

Article 28

In Article 141.a, in paragraph (1), the words ‘(third point of Article 42 and Article 297(3))’ are replaced by the words ‘(Article 294(3))’.

Article 29

In Article 149.a, in the second point of paragraph (4), the number ‘143’ is replaced with the number ‘133’, the number ‘145’ with the number ‘135’, the number ‘217’ with the number ‘211’, the number ‘221’ with the number ‘217’, the number ‘241’ with the number ‘236’, the number ‘243’ with the number ‘238’, the number ‘250’ with the number ‘244’, the number ‘256’ with the number ‘251’, the number ‘257’ with the number ‘252’, the number ‘261’ with the number ‘257’, the number ‘266’ with the number ‘260’, the words ‘disclosure of an official secret’ with the words ‘disclosure of secret information’, the number ‘287’ with the number ‘282’, the number ‘317’ with the number ‘314’, the number ‘333’ with the number ‘332’, the word ‘destruction’ with the word ‘destroying’, the words ‘and environment’ are deleted, the number ‘335’ is replaced with the number ‘334’, the words ‘bringing of hazardous substances into the country’ with the words ‘import and export of radioactive substances’, the number ‘337’ with the number ‘336’ and the number ‘338’ with the number ‘337’.

Article 30

In Article 150, in the second point of paragraph (2), the number ‘144’ is replaced with the number ‘134’, the number ‘187’ with the number ‘176’, the number ‘196’ with the number ‘186’, the words ‘with drugs’ with the words ‘narcotic drugs, prohibited substances in sport and prohibited drug precursor’, the number ‘197’ with the number ‘187’, the words ‘drugs’ with the words ‘narcotic drugs and prohibited substances in sport’, the number ‘218’ with the number ‘213’, the number ‘243’ with the number ‘238’, the number ‘247’ with the number ‘241’, the number ‘248’ with the number ‘242’, the number ‘252’ with the number ‘245’, the number ‘255’ with the number ‘250’, the number ‘267’ with the number ‘261’, the number ‘268’ with the number ‘262’, the number ‘269’ with the number ‘263’, the word ‘gifts’ with the word ‘benefits’, the number ‘269.a’ with the number ‘264’, the number ‘297’ with the number ‘294’, the number ‘310’ with the number ‘307’, the word ‘explosives’ with the words ‘explosive’ and the number ‘319’ with the number ‘316’.

Article 31

In Article 151, in paragraph (2), the number ‘144’ is replaced with the number ‘134’, the number ‘197’ with the number ‘187’, the words ‘drugs’ with the words ‘narcotic drugs and prohibited substances in sport’, the number ‘218’ with the number ‘213’, the number ‘252’ with the number ‘245’, and the number ‘255’ with the number ‘250’.

Article 32

In Article 153, in paragraph (3), the word ‘fifth’ is replaced by the word ‘sixth’.

Article 33

In Article 155.a, at the end of the second sentence of paragraph (2), the words ‘for which a false identity may be prepared in accordance with the conditions laid down by the law regulating the police even before the order under paragraphs (3) or (4) are issued’ are inserted.

Article 34

In Article 158.a, in paragraph (1), the words ‘an official posted on a mission abroad’ are replaced by the words ‘an official with authorisations of the police in a preliminary procedure and is posted on a mission abroad’. At the end of paragraph (1), the full stop after the word ‘law’ is deleted and the words ‘and all authorisations enforceable by officials referred to in Article 158(1)’ are inserted as well as the following new sentence: ‘Police officers of a specialised department shall carry out authorisations under the preceding sentence also concerning persons who, at the time the criminal offence referred to under the preceding sentence was committed, were officials according to the preceding sentence and their status as officials with authorisations of the police in a preliminary procedure was terminated during the preliminary procedure.’

In paragraph (3), the words ‘assigned police officers’ in the last sentence are replaced with the words ‘police officers of a specialised department and the police.’

Paragraphs (4) and (5) are deleted.

Article 35

In Article 161, at the end of the first sentence in paragraph (1), the words ‘or when disproportion between the low importance of the criminal offence (its risks are insignificant due to the nature and gravity of the act, because the harmful consequences are insignificant, or for other circumstances in which the criminal offence was committed and the low degree of the perpetrator’s guilt or their personal circumstances) and the consequences of criminal prosecution’ are inserted.

Article 36

In Article 161.a, in paragraph (2), the number ‘134’ is replaced by the number ‘123’, the number ‘135’ by the number ‘124’, the number ‘212’ by the number ‘205’, the number ‘215’ with the number ‘208’ and the number ‘224’ with the number ‘220’.

Article 37

In Article 162, in paragraph (2), the number ‘197’ is replaced with the number ‘187’, the words ‘drugs’ with the words ‘narcotic drugs and prohibited substances in sport’, the number ‘212’ by the number ‘205’, the number ‘215’ by the number ‘208’, the number ‘218’ by the number ‘213’, the number ‘234.a’ by the number ‘228’, the number ‘224’ by the number ‘220’, the number ‘245’ by the number ‘209’, after the word ‘misappropriation’, the words ‘and unauthorised use of another’s property’ are inserted and the number ‘253’ is replaced by the number ‘246’.

Article 38

In Article 181, the second point of paragraph (1), the words ‘criminal liability’ are replaced by the words ‘guilt and punishability’.

The following new fifth point is inserted:

‘5. or when disproportion between the low importance of the criminal offence (its risks are insignificant due to the nature and gravity of the act, or because harmful consequences are insignificant or did not occur, or for other circumstances in which the criminal offence was committed and the low degree of the perpetrator’s guilt or their personal circumstances) and the consequences of a criminal prosecution.’

Article 39

In Article 194, in paragraph (1), after the words ‘summons’ the words ‘or judgement by which the accused was sentence to an imprisonment’ are inserted, the word ‘accused’ is replaced by the words ‘accused to service them’, and after the word ‘evade’ the words ‘when all other methods of service have failed’ are inserted.

Article 40

In Article 196, in paragraph (2), before the number ‘XV’ the number ‘XIV’ is inserted, the comma after the number ‘XXXIV’ is replaced by the word ‘and’, and the words ‘and XXXV’ are deleted.

Article 41

In Article 200, the following new paragraph (4) is inserted:

‘(4) An appeal against the order on detention, extension or cancellation of the detention shall be filed within three days from the service of the ruling except when the provisions of this Act concerning detention provide otherwise.’

Article 42

In Article 212, in paragraph (3), the word ‘operator’ is replaced by the word ‘director’.

Article 43

In Article 213.d, in paragraph (2), the word ‘guard’ is replaced by the words ‘judiciary police officers’.

Article 44

In Article 227, in paragraph (3), the words '(third point of Article 42 and Article 297(3))' are replaced by the words '(Article 294(3))'.

Article 45

In Article 239, before the brackets in paragraph (1), the words 'if it concerns a criminal offence prosecutable upon a motion, the injured party shall be invited as a witness and advised in the summons that the motion for prosecution shall be deemed withdrawn in the event of an unjustified absence' are inserted.

Article 46

In Article 240, in paragraph (4), the following new sentence is inserted: 'When interrogating witnesses younger than 14 years, a person whom the witness trusts may be present.'

Article 47

In Article 244, in paragraph (1) the following new second sentence is inserted: 'If it concerns a criminal offence prosecutable upon a motion and the injured party, who was summoned correctly as a witness, does not appear at the hearing and does not justify their absence, it shall be deemed the motion for prosecution was withdrawn and the criminal proceedings for this offence shall be discontinued if they were already instituted.'

Article 48

The following new Article 244.a is inserted:

'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.'

Article 49

In Article 271, in paragraph (1), the word 'or' before the number '3' is replaced by a comma, and after the number '3' the words 'or 5' are inserted.

Article 50

In Article 277, in the second point of paragraph (1), the words 'criminal liability' are replaced by the words 'guilt and punishability'.

The following new fifth point is inserted:

"5. or when disproportion between the low importance of the criminal offence (its risks are insignificant due to the nature and gravity of the act, because harmful consequences are insignificant or did not occur, or for other circumstances in which the criminal offence was committed and the low degree of the perpetrator's guilt or their personal circumstances) and the consequences of criminal prosecution.'

Article 51

In Article 278, in paragraph (1), the word 'or' before the number '3' is replaced by a comma, and after the number '3' the words 'or 5' are inserted.

Article 52

In Article 286, in paragraph (3), after the word 'senate' the words 'alone or upon motion of parties' are inserted.

In paragraph (4), the words 'When the senate (Article 25(6))' are replaced by the words 'When the court of second instance'.

Article 53

In Article 287, paragraph (3) is amended as follows:

'(3) The main hearing may be held in another place within the territory of the competent court if, on a motion of the president of the senate, an approval is granted by the president of the court.'

Article 54

In Article 288, in paragraph (4), the following new two sentences are inserted: 'If it concerns a criminal offence prosecutable upon a motion, the injured party shall be advised that they may withdraw the motion for prosecution before the end of the main hearing. The injured party that is summoned as a witness under the preceding sentence shall also be advised in the summons that an unauthorised absence shall be deemed as a withdrawal of the motion for prosecution.'

Article 55

In Article 294, in paragraph (3), the word 'guard' is replaced by the words 'judiciary police officers'.

Article 56

In Article 306, the following new paragraph (3) is inserted:

'(3) If it concerns a criminal offence prosecutable upon a motion and the injured party, who was summoned correctly as a witness, does not appear at the hearing and does not justify their absence, it shall be deemed the motion for prosecution was withdrawn and a ruling discontinuing criminal proceedings shall be issued before the start of the main hearing and a judgement dismissing the charge after the start of the main hearing.'

Article 57

In Article 314, in the first sentence of paragraph (3), the words 'sound or vision recording of the main hearing' shall be replaced by the words 'that the main hearing is recorded with suitable technical sound or sound and vision recording devices'. The following new third sentence is inserted: 'Notwithstanding paragraph (1), when the main hearing is recorded, the only information entered in the record is that the main hearing was recorded, the

information under Article 316(1) and (2) and Article 317, and where the recording is stored when it is not enclosed to the file or automatically registered in the information system of the court.’

In paragraph (4), the words ‘president of the senate may’ are replaced by the words ‘If the main hearing is not recorded the president of the senate may’.

In paragraph (5), the first sentence is amended as follows: ‘During the main hearing that is not recorded, the president of the senate may, when necessary, and especially when a statement is written in the record verbatim, order for this part of the record to be read out immediately.’

The following new paragraph (6) is inserted:

‘(6) Parties shall be permitted to play and obtain copies of a recording from the information system of the court as soon as technically possible. The recordings of main hearing shall, in full or in part, be transcribed upon a substantiated request of the parties or when ordered by the judge.’

Article 58

In Article 315, the following new paragraphs (5) and (6) are inserted:

‘(5) When a record is issued in an electronic format, it shall be signed by the president of the senate and the recorder of the record with their secure electronic signatures and the secure electronic signature of the court that is certified by a qualified certificate. A secure electronic signature of the court is not required when the secure electronic signature of the president of the senate or recorder is certified with a qualified certificate also indicating the court.

(6) The Minister responsible for justice shall lay down in detail the conditions, the format and the method for managing a record of a main hearing and a file in an electronic format.’

Article 59

In Article 319, in paragraph (2) the following new second sentence is inserted: ‘If it concerns a criminal offence prosecutable upon a motion, the injured party shall be advised by the president of the senate that they may withdraw the motion for prosecution before the end of the main hearing.’

Article 60

In Article 350, in paragraph (5), the words ‘third point of Article 42’ are deleted and the number ‘297’ is replaced by the number ‘294’.

Article 61

In Article 358, in the second point, the words ‘criminal liability’ are replaced by the words ‘guilt and punishability’.

The following new fourth point is inserted:

"4. or when disproportion between the low importance of the criminal offence (its risks are insignificant due to the nature and gravity of the act, because harmful consequences are insignificant or did not occur, or for other circumstances in which the criminal offence was committed and the low degree of the perpetrator’s guilt or their personal circumstances) and the consequences of criminal prosecution.’

Article 62

In Article 359, in paragraph (3), the words ‘(Article 107(3) of the Penal Code)’ are replaced with the words ‘or the sentence of imprisonment will be replaced with work for the general benefit or by a house arrest.’

Article 63

In Article 361, the following new sentence is inserted in paragraph (3): ‘The preceding sentence shall by analogy also apply to measures prohibiting approaching a certain place or person in the event a conditional sentence was issued with a supervision order and certain instructions prohibiting approaching the victim or another person, or accessing certain places.’

In paragraph (2) the following new sentence is inserted: 'Notwithstanding the preceding sentence, in the event a conditional sentence with supervision provides instructions on the prohibition against approaching the victim, or some other place or person, the provisions of paragraph (5) and (6) shall apply by analogy.'

Article 64

In Article 363, paragraph (2) is amended as follows:

'(2) A judgement drafted in a physical format shall be personally signed by the president of the senate and the recorder. A judgement drafted in an electronic format shall be signed by the president of the senate and the recorder of the record with their secure electronic signatures and the secure electronic signature of the court that is certified by a qualified certificate. A secure electronic signature of the court is not required when the secure electronic signature of the president of the senate or recorder is certified with a qualified certificate that also indicates the court.'

The following new paragraph (3) is inserted:

'(3) A judgement issued in a physical or electronic format shall be served on the parties in a certified copy, electronic (scanned) copy or in an electronic format.'

In the present paragraph (3), which now becomes paragraph (4), in the first and second sentence, after the word 'judgement', the words 'electronic (scanned) transcript or an electronic format of the judgement' are inserted.

The present paragraph (4) now becomes paragraph (5).

In the present paragraph (5), which now becomes paragraph (6), in the first and second sentence, after the word 'judgement', the words 'electronic (scanned) transcript or an electronic format of the judgement' are inserted, before the word 'transcript' in the second sentence the words 'certified' are inserted, and the number '69' is replaced with the number '73'.

In the present paragraph (6), which now becomes paragraph (7), after the word 'transcript' the words 'electronic (scanned) transcript or electronic format' are inserted.

The following new paragraph (8) is inserted:

'(8) The provisions of this Article concerning the format in which a judgement is issued, served or sent shall by analogy apply to all types of court decisions.'

Article 65

In Article 363, in paragraph (8), the words 'when it learned that it is necessary to impose a severer than prescribed sentence (Article 46 of the Penal Code), or' are deleted.

Article 66

In Article 367, in paragraph (5), the number '69' is replaced with the number '73', the number '96' with the number '75', and the number '98' with the number '77'.

Article 67

In Article 368, the second sentence in paragraph (3) is deleted.

Paragraph (5) is amended as follows:

'(5) An accused, prosecutor or injured party may waive the right to an appeal at the time the judgement is pronounced until the time limit for the appeal lapses. If an accused was sentenced to an imprisonment they may waive the right to an appeal only after the judgement has been served. Until the court of second instance issues the decision, appellants may withdraw the appeal filed. A waiver or a withdrawal of an appeal cannot be revoked.'

Article 68

In Article 372, in the second point, the words ‘criminal liability’ are replaced by the words ‘guilt and punishability’.

Article 69

In Article 392, at the end of paragraph (6), the following new sentence is inserted: ‘In such a case the court of second instance may issue a sentence for criminal offences in the non-annulled part of the judgement.’

Article 70

In Article 396, the following new paragraph (3) is inserted:

‘(3) The court of second instance shall electronically return the files to the court of first instance in an electronic format, together with its decision in an electronic format, to be served on the parties and affected persons.’

Article 71

In Article 398, in the first point of paragraph (1), before the word ‘imprisonment’ the words ‘life imprisonment or’ are added, and the word ‘twenty’ is replaced with the number ‘30’.

Article 72

In Article 400, in paragraph (3), the word ‘three’ is replaced with the word ‘eight’.

Article 73

In Article 407, in the second point of paragraph (1), the number ‘48’ is replaced with the number ‘55’.

Article 74

In Article 437, in paragraph (1), after the number ‘3’ the new words ‘and 5’ are inserted.

Article 75

The following new Article 442.a is inserted:

‘Article 442.a

(1) A judge may decide for the record of the main hearing to be drawn up by personally dictating into a sound recording device.

(2) In the case referred to in the preceding paragraph, the information in the written copy is only the information under Article 316(1) and 317 and the ruling of the judge on another method of drawing up the record.

(3) The provision of Article 84 shall apply by analogy to dictating the record of the main hearing. A transcript of the voice recorded record of the main hearing shall be prepared within three days after the judgment is announced, by which the accused is sentenced to an imprisonment and, in other instances, within three days after announcing an appeal. When the appeal is not announced the transcripts are not prepared.

(4) When the main hearing was adjourned by more than one month, transcripts of the voice recorded record of the main hearing must always be made. Transcripts may also be made upon a request of the party or when ordered by a judge.’

Article 76

In Article 443, the second sentence in paragraph (2) is deleted.

Paragraph (3) is deleted.

The present paragraphs (4), (5) and (6) now become paragraphs (3), (4) and (5).

Article 77

In Article 490, in paragraph (1), the word ‘operator’ is replaced by the word ‘director’.

Article 78

In Article 498, in paragraph (1), the number '252' is replaced with the number '245', the number '162' with the number '151', the number '168' with the number '157', the number '247' with the number '241', the number '248' with the number '242', the number '267' with the number '261', the number '268' with the number '262', the number '269' with the number '263', the number '269.a' with the number '264.', in the first point, the number '252' with the number '245.', in the second point, the number '162' with the number '151', the number '168' with the number '157', the number '247' with the number '241', the number '248' with the number '242', the number '267' with the number '261', the number '268' with the number '262', the number '269' with the number '263', the number '269. a' with the number '264'.

Article 79

In Article 500, in paragraph (1), the numbers '96 and 98' are replaced with the numbers '75 and 77'.

Article 80

In Article 507, in paragraph (2), the numbers '96 and 98' are replaced with the numbers '75 and 77'.

Article 81

In Article 508, in paragraph (1), the number '103' is replaced with the number '82'.

Article 82

In Article 511, in paragraph (1), the number '104' is replaced with the number '83'.

Article 83

In Article 513, in paragraph (1), the number '67' is replaced with the number '71', the number '68' with the number '72', and the number '101' with the number '80'.

Article 84

In Article 519, in paragraph (6), the number '252' is replaced with the number '245', the number '162' with the number '151', the number '168' with the number '157', the number '247' with the number '241', the number '248' with the number '242', the number '267' with the number '261', the number '268' with the number '262', the number '269' with the number '263'.

Article 85

In Article 548, in paragraphs (3) and (4), the word 'operator' is replaced by the word 'director'.

TRANSITIONAL AND FINAL PROVISION

Article 86

(1) The Centre for Information Technology at the Supreme Court of the Republic of Slovenia shall establish the single information system for the courts.

(2) The Minister responsible for justice shall by a decree determine the date from which submissions in an electronic format may be filed electronically after technical conditions for filing electronically are set up.

(3) The Minister responsible for justice shall by a decree determine the date from which electronic service to a secure email address may be filed electronically after technical conditions for filing electronically are set up.

(4) The Minister responsible for justice shall by a decree determine the date from which inspecting and transcribing files in an electronic format in the information system and following the course of the proceedings in the system may be possible after technical conditions for managing in an electronic format are set up.

(5) The Minister responsible for justice shall by a decree determine the date from which it will be possible to conduct an interrogation by the use of technical devices for the transmission of sound and picture (videoconference) in accordance with the instructions under Article 244.a(7) after the conditions for conducting an interrogation by the use of technical devices for the transmission of sound and vision (videoconference) are set up.

(6) The Minister responsible for justice shall by a decree determine the date from which the recording of investigative acts and the main hearing with technical sound or sound and vision recording devices will be possible in accordance with the instructions under Article 84(9) after the conditions for conducting the recording of investigative acts and the main hearing with these devices are set up.

Article 87

(1) The Minister responsible for justice shall issue implementing regulations referred to in Articles 76(5), 84(9), 86(6), 177(4) and (5), 244.a(7) and 315(6) within two years of this Act coming into force. The court shall harmonise their operations in accordance with the instructions under Article 84(9) and 244.a(7) within six months of this Act coming into force.

(2) The list of persons and authorities under Article 177(3) shall be determined and published by the Supreme Court of the Republic of Slovenia on its website after adopting implementing regulations under the preceding paragraph and after the technical conditions for electronic service are set up. Persons and authorities in the list shall open a secure email address and notify the Supreme Court of the Republic of Slovenia of the address and any changes to the secure email address. The official secure email address under Article 177(3) is deemed as the address published in the list.

(3) Legal entities and natural persons pursuing the activity of servicing documents and have a special permission of the Minister responsible for justice, issued in accordance with the provisions regulating civil procedure, shall cease to perform the activity of serving documents in criminal proceedings for a specific court when such court ensures the performance of the activity of serving documents in criminal proceedings by natural persons and legal entities that were selected in the public procurement procedure according to the law regulating public procurement.

(4) The provisions of Articles 92(2), (3), and 177(1) referring to the service of documents by police officers as authorised officials shall apply from 01 January 2010.

Article 88

In Article 20 of the Act Amending the Criminal Procedure Act (Official Gazette of the RS, No 101/05), in paragraph (1), the words 'under paragraph (2) of this Article' are deleted, the date '2.7.1990' is replaced with the date '1 January 1995' and the date '31.12.2008' with the date '31 December 2012'.

Paragraph (2) is deleted.

In the present paragraph (3) which now becomes paragraph (2), the words 'in the preceding paragraphs' are replaced with the words 'in the preceding paragraph'.

In the present paragraph (4) which now becomes paragraph (3), the words 'in the preceding paragraphs' are replaced with the words 'in paragraph (1)'.

The present paragraph (5) now becomes paragraph (4).

Article 89

(1) A revision of criminal judicial proceedings that ended with a final judgement of conviction under Article 2 of the Redressing of Injustices Act (Official Gazette of the RS, No 70/05 – ZPKri – official consolidated text) may, aside from the persons under Article 411 of the Criminal Procedure Act, also be requested until 31 December 2012 by blood relatives up to three times removed after the death of the convicted person.

(2) With regard to court proceedings against priests, monks or nuns of registered religious communities, the request for a revision of procedure referred to in the preceding paragraph may also be filed after their death by legal representatives of their registered religious communities.

Article 90

When in accordance with the Penal Code it is necessary to apply the provision of the Penal Code (Official Gazette of the RS, Nos 63/94, 70/94, 23/99 and 40/04), the provisions to be applied in the criminal procedure are the provisions of the Criminal Procedure Act (Official Gazette of the RS, Nos 32/07 – official consolidated text and 102/07 – ZSKZDČEU) that were applicable before this Act came into force and cite specific provisions of the Penal Code (Official Gazette of the RS, Nos 63/94, 70/94, 23/99 and 40/04).

Article 91

This Act shall come into force on the 15th day after it is published in the Official Gazette of the Republic of Slovenia and shall apply from 1 November 2008.

No: 713-01/93-10/128
Date: 24 July 2008
EPA 1932-IV

National Assembly
Dr France Cukjati
President