THE EPPO/OLAF XXV

Compendium of National Procedures

Desktop Codes on the Procedural Law of the
Member States with Annotations by National Experts

Pierre Hauck and Jan-Martin Schneider

Slovenia

λογος

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Volume XXV – Slovenia

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Desktop Codes on the Procedural Law of the Member States
with Annotations by National Experts,
Volumes I (Austria) – XXVII (Sweden)

Volume XXV – Slovenia

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This volume has been reviewed and updated for accuracy of content with the kind assistance of Prof Dr Benjamin Flander. Nevertheless, the authors take full responsibility for the content.

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The EPPO/OLAF Compendium of National Procedures

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* The Lithuanian chapter was also revised by a national expert. However, due to his or her prominent professional position, this person does not wish to be named so as not to give the impression that the chapter reflects the official position of the Lithuanian state authorities. Nevertheless, we thank this person very much for this valuable contribution.

Preface and Acknowledgements

Every year, millions of euros of taxpayers' money are lost to fraud against the European Union budget. The fight against fraud has therefore been a key element in protecting the Union's financial interests for decades, and it still is. Since then, many different political and legal approaches have been taken to create a secure situation.

In essence, this financial protection by way of fighting crime is nowadays not only provided by the national judiciary, but also to a significant extent by the EU's own investigative bodies of the European Public Prosecutor's Office (EPPO) and the European Anti-Fraud Office (OLAF).

These two authorities work on the basis of their own EU regulations, each of which has in common to refer to the national legal situation with regard to the conduct of investigations. This concerns the law of the EPPO as a whole, insofar as the EPPO Regulation in Art. 30 para. 1 and para. 4 refers to nationally to be created (para. 1) or nationally existing powers (para. 4). This also applies to OLAF's right to carry out so-called external investigations, which are so important, in the event that an economic operator refuses to participate in the investigation, so that in this case it is not Union law but national law that forms the basis for the investigation (cf. Art. 3 para. 6 OLAF Regulation).

However, these references to national law are not enough; the problems of applying the law are only just beginning: Knowledge of national rules is usually reserved for those familiar with the national legal system, and at the level of the EU authorities these are very few. EU authorities, including the investigative authorities in question here, are rather characterized by the fact that they are made up of many employees from the most diverse member states. It is true that for both authorities, certain mechanisms (namely the EDPs as part of the EPPO and the AFCOS for OLAF) have been put in place to ensure that national legal competence is conveyed. But by and large, the respective national investigative procedure law remains a closed book in terms of criminal procedure or administrative law, not to mention the language barrier that threatens to become insurmountable for most people within the EU when seeking access to the law of other countries.

This publication series aims to remedy these shortcomings. It presents the law of criminal procedure and administrative investigation for all 27 Member States in English and in the language of the Member State. It thus provides easy access to the procedural rules of a foreign legal system, which are so important for EU investigative work. However, this presentation does not stop there, but explains these national rules, which are printed in bilingual form, from a competent source, namely from national experts. In this way, an explanatory work has been created that clearly ensures access to and understanding

of foreign areas of law in the field of criminal procedural and administrative fraud investigations.

The editors would like to thank the European Commission for generously supporting the research underlying this work with funds from the EU's Hercule III programme, and they would like to thank the Justus Liebig University of Giessen for generously supporting the open access publication of this work with funds from its Open Access Publication Fund.

Our sincere thanks go to our team at the University of Giessen, in particular Nur Sena Karakocaoglu and Alastair Laird, who have borne the main burden. Julian Doerk, Felina Frkic Wegener, Maike Kappes, Luca Kloft and Sophie Meyer have greatly supported the project with a variety of research and formatting work. Corinna Haas and Vanessa Runge have accompanied the project from the beginning and have always backed us up with their sure eye for work-relevant aspects and processes, thus continuously supporting this ambitious project from start to finish.

The project was also successful because the third-party funding administration of the Justus Liebig University in the shape of Dr Christian Maarten Veldman, Anja Daßler and Jochen Stein took a lot of work off our shoulders.

Last but not least, our thanks go to the wonderful supervision and support of the publisher Volkhard Buchholtz and the production coordinator Katharina Kruse from Logos Verlag in Berlin for everything it takes to bring a book to life.

Fair comments and suggestions for improving the work are always welcome at eppo.olaf@web.de.

Giessen/Germany, in November 2023

Pierre Hauck & Jan-Martin Schneider

Suggested citation:

The suggested citation for the entire work is always “Hauck/Schneider, EPPO/OLAF CNP, Vol. [I–XXVII] [Member State], p., margin number”, but for the introductory chapters contributed by national experts with individual author references in the title it is “[Name of the national expert], in: Hauck/Schneider, EPPO/OLAF CNP, Vol. [I–XXVII] [Member State], p., margin number”.

Executive Summary: This chapter presents in the first part (A.) a general collection of material for the following parts B and C. Collected case law, sources of law as well as the relevant institutions have been compiled. In second part of the present Country Chapter on Slovenia is a Compendium (B.) of national staturory law in relation to the EPPO investigations. The chapter presents the matching legal information for the references made in the EPPO-Regulation to national law. Part B. is introduced by the national expert. How criminal investigations are initiated and conducted has been summed up and can be navigated through each investigation-related Article of the EPPO-Regulation. The third and last part (C.) is dedicated for OLAF Investigations in Slovenia. It is intended, for its part, to focus on the fact-finding missions carried out by the European Anti-Fraud Office (OLAF) and its national partners as part of external investigations. In order to provide for an added value, the body of the text is translated into English while the footnotes take up the original Slovene legal text.

Povzetek: To poglavje v prvem delu (A.) predstavlja splošno zbirko gradiva za dela B in C. Zbrali smo relevantno sodno prakso in predpise ter pripravli seznam pristojnih institucije. V poglavju so predstavljene ustrezne pravne informacije za sklicevanja na nacionalno zakonodajo v uredbi EPPO. Del B. predstavi nacionalni strokovnjak. Povzeli smo način uvedbe in vodenja kazenskih preiskav, v luči posameznih členov Uredbe EPPO, ki se nanašajo na preiskave. Tretji in hkrati zadnji del (C.) je namenjen preiskavam Evropskega urada za boj proti goljufijam (OLAF) v Sloveniji. Njegov namen je osredotočiti se na ugotavljanje dejanskega stanja, ki ga OLAF in njegovi nacionalni partnerji izvajajo v okviru zunanjih preiskav. Zaradi zagotavljanja dodane vrednosti je besedilo prevedeno v angleščino, medtem ko je v opombah pod črto povzeto izvirno slovensko pravno besedilo.

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Author of the special introduction as well as national expert: Assoc. Prof. Dr. Benjamin Flander.

Questionnaire experts/organizations (AFCOS, OAFCN members) consulted with a Questionnaire: AFCOS Slovenia

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Abbreviations

AFCOS	Anti-fraud coordination service
COCOLAF	Advisory Committee for the Coordination of Fraud Prevention
ECHA	European Chemicals Agency
ECHR/ECtHR	European Court of Human Rights
ECJ	European Court of Justice
ECJ/CJEU	European Court of Justice (now CJEU)
ECJN	European Judicial Network against Cybercrime
ECON	European Parliament's Committee on Economic and Monetary Affairs
ECP	European Chief Prosecutor
EDF	European Development Fund
EDMS	Electronic Document Management System
EDO	European Data Officer
eDP	ePrivacy Directive
EDP	European Delegated Prosecutor
EEAS	European External Action Service
EEC	European Economic Community
EIO	European Investigation Order
EJN	European Judicial Network
EP	European Prosecutor
EPPO	European Public Prosecutor's Office
EUACR	EU Anti-Corruption Report
EUCFR	Charter of Fundamental Rights of the European Union
EuCLR	European Criminal Law Review
EUROJUST	European Union Agency for Criminal Justice Cooperation
EUROPOL	European Police Office
FDA	Financial Administration Act
GC (aka CFI ex-2009)	General Court of the EU / formerly Court of First Instance
IRP	Internal Rules of Procedure
KZ-1 / CC-1	Criminal Code / Kazenski zakonik

OAFCN (-Member)	OLAF Anti-Fraud Communicators' Network
OLAF	European Anti-fraud office
PIF	Protection of the EU's Financial Interests
SDT	Specialised State Prosecutor's Office of the Republic of Slovenia
URS	Ustava Republike Slovenije
VAT	Value Added Tax
WCO	World Customs Organization
ZBan-3	Banking Act
ZDavP-2	Tax Procedure Act / Zakon o davčnem postopku
ZDDPO-2	Corporate Income Tax Act / Zakon o davku od dohodkov pravnih oseb
ZDDV-1	Value Added Tax Act / Zakon o davku na dodano vrednost
ZDOdv	State Attorney's Office Act/Zakon o državnem odvetništvu
ZDoh-2	Personal Income Tax Act / Zakon o dohodnini
ZDT-1	State Prosecution Service Act/Zakon o državnem tožilstvu
ZDT-1D	Act Amending the State Prosecution Service Act
ZDT-1E	Act on Amendments and Supplements to the State Prosecutor's Office Act
ZDUPŠOP	Act on additional measures to prevent the spread, mitigation, control, recovery and elimination of the consequences of COVID-19
ZFisP	Fiscal Rule Act / Zakon o fiskalnem pravilu
ZFO-1	Financing of Municipalities Act/Zakon o financiranju občin
ZFU	Financial Administration Act/Zakon o finančni upravi
ZIKS-1	Enforcement of Criminal Sanctions Act/Zakon o izvrševanju kazenskih sankcij

ZIN	Inspection Control Act / Zakon o inšpekcijskem nadzoru
ZIntPK	Integrity and Preventio of Corruption Act/Zakon o integriteti in preprečevanju krupcije
ZJF	Public Finance Act / Zakon o javnih financah
ZJN-3	Public Procurement Act / Zakon o javnem naročanju
ZJZP	Public-Private Partnership Act / Zakon o javno-zasebnem partnerstvu
ZKP / CPA	Criminal Procedure Act/Zakon o kazenskem postopku
ZKP-O	Act Amending the Criminal Procedure Act
ZNKP	Act on Certain Concession Agreements
ZNPPol	Police Tasks And Powers Act / Zakon o nalogah in pooblastilih policije
ZODPol	Organisation and Work of the Police Act / Zakon o organiziranosti in delu v policiji
ZOPNI	Confiscation of Assets of Illicit Origin Act / Zakon o odvzemu premoženja nezakonitega izvora
ZOPOKD	Liability of Legal Persons for Criminal Offences Act / Zakon o odgovornosti pravnih oseb za kazniva dejanja
ZOSRIMP	Act on the strengthening of the joint reserve fund with the guarantee of the Republic of Slovenia for the provision of extraordinary macro-financial assistance to Ukraine
ZP-1	Minor Offences Act / Zakon o prekrških
ZPPDFT-1	Prevention of Money Laundering and Terrorist Financing Act / Zakon o preprečevanju pranja denarja in financiranju terorizma
ZPro	Probation Act / Zakon o probacji
ZR	Accounting Act / Zakon o računovodstvu

ZRacS-1	Court of Audit Act / Zakon o računskem sodišču
ZS	Courts Act / Zakon o sodiščih
ZSKZDČEU-1	Cooperation in Criminal Matters with the Member States of the European Union Act / Zakon o sodelovanju v kazenskih zadevah z državami članicami Evropske unije
ZSS	Judicial Service Act / Zakon o sodniški službi
ZSSve	Judicial Council Act / Zakon o sodnem svetu
ZTFI	Market in Financial Instruments Act / Zakon o trgu finančnih instrumentov
ZTro-1	Excise Duty Act/Zakon o trošarinah
ZUP	General Administrative Procedure Act / Zakon o splošnem upravnem postopku
ZUS-1	Administrative Dispute Act / Zakon o upravnem sporu
ZUstS	Constitutional Court Act / Zakon o ustavnem sodišču

Tables and Figures

Explanation of Symbols & Highlighting

Text passages highlighted in grey show Union law.
Text passages marked with boxes show relevant national law.
Plain Tables display either a synopsis of a foreign law text and the English translation or a summary of institutions and relevant case law.
Tables with symbols in the first row contain case studies (EPPO & OLAF cases) or relevant jurisprudence.
Margin numbers (1, 2, 3…) in the General Margin enable citation.

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Pictures/Figures/Symbols Used:

 = Expert/Introduction to national law

 = Customs legislation/Customs cases

 = Examples

 = Nota bene/General note

 Case Law/Access to files

 = Tax police/tax-related matters

 = Excerpt

 = Arrest, pre-trial detention (e.g. Art. 33)

 = Problems resulting from national law

 = (Important) National Sections

 = (criminal) police); relevant for investigators

 = Funds area (e.g maritime)

 = procurement area

 = judicial authorisation required (e.g. Art. 30)

 = urgent measures (e.g. Art. 27, 28)

Π = Plaintiff (Pi)

Δ = (Delta) Defendant

 = Case Studies (Overviews)

 = Expert comment

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National transposition measures communicated by the Member States concerning: Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law OJ L 198, 28/07/2017, p. 29–41 (BG, ES, CS, DA, DE, ET, EL, EN, FR, GA, HR, IT, LV, LT, HU, MT, NL, PL, PT, RO, SK, SL, FI, SV). The member states bear sole responsibility for all information on this site provided by them on the transposition of EU law into national law. This does not, however, prejudice the results of the verification by the Commission of the completeness and correctness of the transposition of EU law into national law as formally notified to it by the member states. The collection National transposition measures is updated weekly. https://eur-lex.europa.eu/legal-content/EN/NIM/?uri=CELEX:32017L1371. Art. 15 TFEU and Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents.

A. General Collection of Material for Part A and Part B

I. Collection of Cases for OLAF and EPPO concerning PIF Investigations

Nota bene: Reaching first-instance judgements

The Slovenian judiciary publishes judgements on https://www.sodnapraksa.si/. Although first instance judgements have been promised to be published just like judgements and certain decisions by the higher courts, the higher labor and social court as well as Administrative Court and the Supreme Court of the Republic of Slovenia, this promise has not been fulfiled yet. The first instance judgements can be reached individually on the basis of the Public Information Access Act (https://www.ip-rs.si/en/legislation/access-to-public-information-act/). Therefore, the first instance judgement should be requested (in written form) from the right court (issuer of the requested document). The addressee may be the competent official or the president of the court. The decisions has to be made within 20 working days (max.) but may be extended by 30 working days. The result of this request should be positive. Nevertheless, the process of finding the individual judgements, addressing a request to the right court, the lengthy procedure (to anonymize the judgement) and possible fees make the obtaining of first instance judgements challenging – but possible – for now.

1. EPPO Regulation Examples concerning the Material Scope and Investigation Measures from National Case-Law

Articles referred to	Judgement, ECLI etc.	Content
CJEU and National Courts		
Art. 22–26 EPPO-Regulation		
	First first-instance judgement in a Slovenian EPPO case, July 2022	The judgement concerns the conviction of three defendants for attempted fraud to the detriment of the EU budget by submitting false statements and documents to the public tender.

Art. 26, 27 EPPO-Regulation	UPRS, Judgment III U 130/2015, 10.06.2016	An exception to the limitation period specified in the third paragraph of Article 221 of the CZS is provided by the fourth paragraph of Article 221 of the CZS, according to which the amount of the customs debt can be communicated to the debtor even after the expiration of the three-year period, if the customs debt is the result of an act that took place at the moment when happened, so that the customs authorities are obliged to initiate criminal proceedings in court. According to the court's opinion, in the contested decision, the defendant correctly concluded that the definition of actions as "actions that are liable to initiate criminal proceedings in court" does not mean a decision that a criminal act has actually been committed, but rather a suspicion that actions have been committed, which can be prosecuted. Definition of actions as such that can be criminalised pursuant to the provision of the fourth paragraph of Article 221 of the CZS, prosecutions are carried out by the customs authorities, and this only with the aim of eliminating incorrect or incomplete calculation of customs duties.
	VSRS Judgment I IPS, 31094/2011 of 24/01/2019 by the Supreme Court (*Vrhovno sodišče Sodba* I Ips 31094/2011) ECLI:SI:VSRS:2019:I.IPS.31094.2011	The violation of criminal law involves fraud against the European Communities through the omission of disclosing information. The act constitutes a crime of omission, as stated in Article 229 of the Criminal Code-1. The legal provisions encompass the entire description of the act, without relying on additional rules from other legal domains. The specific details of the undisclosed information may vary from case to case, and must be specified within the crime's description. The perpetrators intentionally concealed the information, fulfilling the necessary requirements for the crime. The term "overpriced or inflated offers" indicates that the offers submitted did not reflect the true values or prices of the commercial machines. The submitted prices were higher

		compared to the actual purchase prices from suppliers, as confirmed by the mentioned percentages in the verdict. According to the second paragraph of Article 229, acquiring assets is considered a criminal offense. The perpetrator can acquire assets for themselves or a third party using misleading information on the value or price of economic machines. This fulfills the legal elements of the offense outlined in both the first and second paragraphs of Article 229. In conclusion, the defendants committed a crime by not disclosing information, manipulating prices, and gaining assets through fraudulent means.
	VSRS Judgment I IPS 28751/2017 of 13/02/2020 by the Supreme Court (*Vrhovno sodišče Sodba* I Ips 28751/2017) ECLI:SI:VSRS:2020:I.IPS.28751.2017	violation of the criminal law, existence of a criminal act, legal signs of a criminal act, self-interest, unlawfully obtained financial benefit, criminal sanction, collateral fine, fraud to the detriment of the EU, linguistic, logical, systematic and purposeful interpretation of the law Core A criminal act is committed out of self-interest, even when the perpetrator committed it in order to obtain a financial benefit for someone else. The court discusses the interpretation of "out of self-interest" and argues that it is unclear whether it only refers to one's own gain or includes benefiting others. The court compares the imposition of collateral fines (Art. 45 CC) with the confiscation of property benefits (Art. 74 and 75 CC) and suggests that there is no valid reason to differentiate between the two based on the intention of personal enrichment. According to the court, even the logical and purposeful interpretation suggests that a collateral fine should not be limited to cases where the perpetrator seeks personal

		benefit, as that would exclude criminals who benefit others from fines without justification.
Art. 28 EPPO-Regulation	Supreme Court, Criminal Division ECLI:SI:VSRS:2019:I.IPS.11736.2015	Fraud to the detriment of the EU, legal elements of the crime, management of EU funds, financial interest. With the fact that the funds were according to the so-called investment system paid from the budget of the Republic of Slovenia, did not lose the nature of EU funds. It is necessary to start from the budget in which the funds are provided, which in this particular case was the budget of the European Social Fund. The same applies to the question of whether the budget of the Republic of Slovenia submitted a request for reimbursement to the European budget for the funds, and whether the funds were paid to our budget. The essence of the criminal act according to Art. 229 of the CC-1 is the transfer of public funds according to the rules and from the budget of the EU.
Art. 30 EPPO-Regulation	UPRS judgment III U 130/2015 of 10.06.2016 by the Administrative court (*Upravno sodišče, Javne finance*) ECLI:ECLI:SI:UPRS:2016:III.U.130.2015	Investigation measures in the area of customs duties fraud, customs, subsequent calculation of customs duties, origin of goods, statute of limitations, criminal offence of fraud to the detriment of the European Communities, suspicion of committing a criminal offence. Core “An exception to the limitation period laid down in Article 221(3) of the CZS is provided for in Article 221(4) of the CZS, according to which the amount of the customs debt may be communicated to the debtor even after the expiry of the three-year limitation period if the customs debt is the result of an act which, at the time when it occurred, was such as to oblige the customs authorities to initiate criminal proceedings in court. In

		the view of the Court of First Instance, the defendant correctly held in the contested decision that the characterisation of the acts as 'acts liable to be prosecuted in a criminal court' does not imply a decision that a criminal offence has actually been committed, but rather a suspicion that acts liable to be prosecuted have been committed. The identification of acts as prosecutable, in accordance with Article 221 para 4 of the CZS, is carried out by the customs authorities, and only for the purpose of correcting incorrect or deficient customs duties." Although the case concerns administrative legal issues, the case also implies suspicion – expressed by the Financial administration in the proceedings of administrative character – that the person committed a criminal offence against financial interests of the EU. More specifically, the person involved allegedly evaded the anti-dumping tax imposed by the EU on certain steel fasteners originating in the People's Republic of China.

2. OLAF Regulation: Examples concerning the Material Scope and Investigation Measures from ECJ and National Case-Law

Relates to following Art. of the Regulation	Judgement, ECLI, etc.	Content
CJEU and National Courts		
Art. 3 OLAF-Regulation	Supreme Court, Administrative department ECLI:SI:VSRS:2019:X.DOR.172.2018	Audit allowed, evidence proposal, appointment of an expert, European Anti-Fraud Office (OLAF), anti-dumping duty, reference to the judgment of the CJEU.
Art. 3 OLAF-Regulation	Administrative court, Administrative department, ECLI:SI:UPRS:2013:IU838.2013	In accordance with case law, national authorities and courts must reject the deduction of VAT if there is concrete evidence that this deduction has been fraudulently or abusively claimed. To maintain the right to deduct input VAT, entities must take all necessary measures to prevent their transactions from being involved in VAT evasion or other types of fraud. While it is permitted to request reasonable actions from these entities to avoid tax evasion, the specific measures required will depend on the circumstances of each case.
Art. 3 OLAF-Regulation	Higher court in Celje, Economic department ECLI:SI:VSCE:2019:CPG.43.2019	This case deals with the eturn of dedicated funds of the European Union, bankruptcy of a legal entity, unjustified use of received funds
	Supreme Court, Administrative department ECLI:SI:VSRS:2015:X.IPS.262.2013	VAT, missing trader, supply of vehicles, legal standard prudent businessman, abuse of the VAT system, knowledge of abuse, knew or

		should have known, subjective element, objective circumstances, burden of proof
Art. 1–4 OLAF-Regulation	ECJ, C-615/19 P, 25.2.2021, John Dalli v European Commission, ECLI:EU:C:2021:133	Allegedly illegal conduct of the European Commission and the European Anti-Fraud Office (OLAF), Procedural rules governing the OLAF investigation, Opening of an investigation, Right to be heard
Art. 4 Internal Investigations OLAF-Regulation	Judgment of the Court (First Chamber) of 10 June 2021. Judgment of the Court (First Chamber) of 10 June 2021. European Commission v Fernando De Esteban Alonso. Case C-591/19 P. ECLI:EU:C:2021:468	Appeal, Civil service, Internal investigation by the European Anti-fraud Office (OLAF), Forwarding of information by OLAF to the national judicial authorities, Filing of a complaint by the European Commission, Concepts of an official who is 'referred to by name' and 'implicated', Failure to inform the interested party, Commission's right to file a complaint with the national judicial authorities before the conclusion of OLAF's investigation, Action for damages.
Art. 7 OLAF-Regulation	ECJ, C-650/19 P, Vialto Consulting Kft. v. European Commission, ECLI:EU:C:2021:879	Appeal, Investigation by the European Anti-Fraud Office (OLAF), On-the-spot checks, Regulation (Euratom, EC) No 2185/96, Article 7, Access to computer data, Digital forensic operation, Principle of legitimate expectations, Right to be heard, Non-material damage
	First Instance: GC, Case T-617/17, 7.9.2017, Vialto Consulting v. Commission, ECLI:EU:T:2019:446	Article 7(1) of Regulation (EC) No 2185/96, Principle of sound administration, Legitimate expectations, Proportionality, Right to be heard; National public procurement, Devolved management, De-

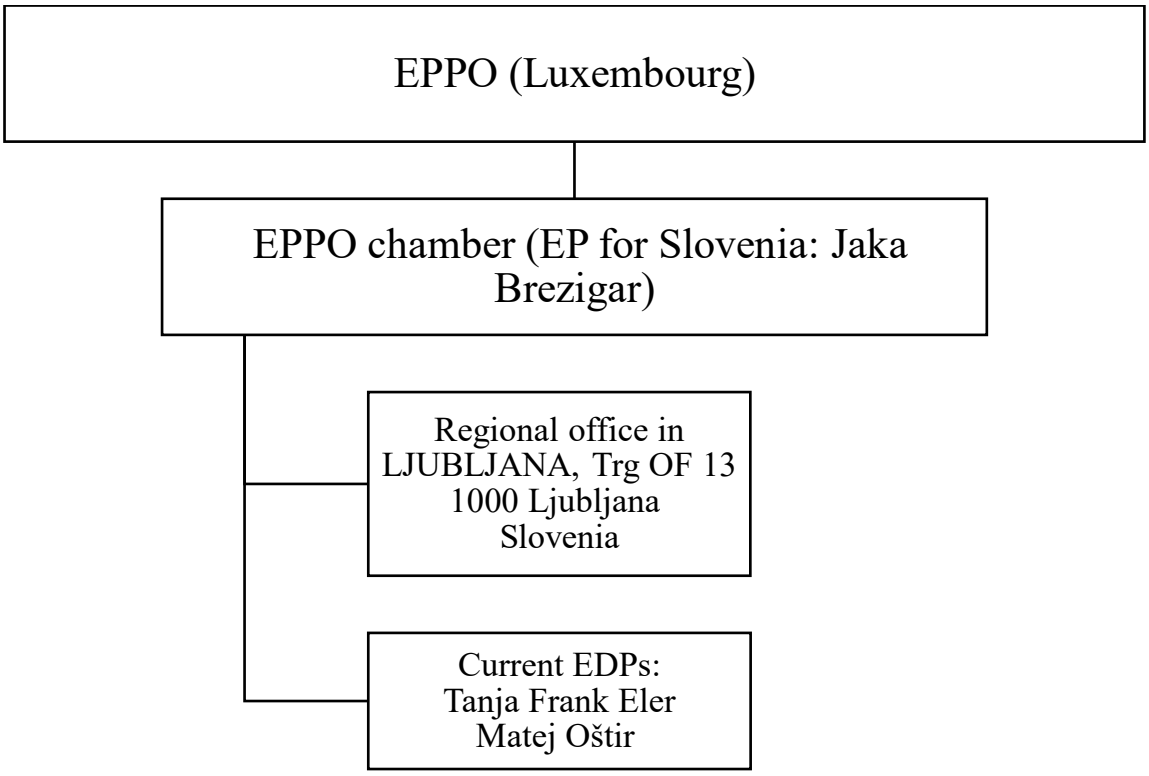
		cision of a national authority, Investigations by OLAF, Non-material damage, Sufficiently serious breach of a rule of law conferring rights on individuals.
Art. 10 OLAF-Regulation	Judgment of the General Court (Eighth Chamber) of 26 May 2016. International Management Group v. European Commission. Case T-110/15. Digital reports (Court Reports – general) ECLI:EU:T:2016:322 Judgment of the Court of First Instance (Second Chamber) of 30 May 2006. Bank Austria Creditanstalt AG v Commission of the European Communities. Case T-198/03. ECLI:EU:T:2006:136	Access to documents, Regulation (EC) No 1049/2001, Documents relating to an OLAF investigation, Access refused, Exception concerning the protection of the purpose of inspections, investigations and audits, Obligation to carry out a specific and individual examination, Category of documents.
Art. 11 OLAF-Regulation	Higher court in Celje, Economic department ECLI:SI:VSCE:2019:CPG.43.2019	return of dedicated funds of the European Union, bankruptcy of a legal entity, unjustified use of received funds
	UPRS judgment III U 350/2015, 23/12/2016	Customs, subsequent calculation of customs duties, preferential origin of goods, OLAF report, certificate of origin of goods, language in the procedure, Goods that are imported from one country to another, are only transhipped here and then exported to the next country, do not acquire a new origin simply because of transhipment.

	Administrative court, Public finance ECLI:SI:UPRS:2016:II.U.164.2015	Court: Administrative court Department: Public finance ECLI:SI:UPRS:2016:II.U.164.2015.
	Administrative court, Administrative department ECLI:SI:UPRS:2018:IU1318.2016.15	Sufficiency of Evidence, Customs, subsequent calculation of customs duties, silicon in question originates from the People's Republic of China is proven in the present case, since, as it follows from the challenged decision and the decision on appeal, the evidence for the cases in question was provided by BOFT (Taiwan's Bureau of Foreign Trade), actual origin of goods, declared origin of goods, OLAF report, principle of material truth, free assessment of evidence.

II. Institutions

1. The EPPO in Slovenia

Table 1: The EPPO regional offices in Slovenia



2. Organization of the criminal justice system in

Table 2: National authorities involved in PIF investigations

Criminal investigation and prosecution authorities	**Investigative teams established by the competent state prosecutor**
- Supreme State Prosecutor's Office of the Republic of Slovenia - Specialised State Prosecutor's Office of the Republic of Slovenia - District State Prosecutor's Office Celje - District State Prosecutor's Office Koper - District State Prosecutor's Office Kranj	- Specialiced and joint investigation teams, consisting of representatives of other state bodies and institutions (such as institutions in the field of taxes, customs, financial operations, securities, protection of competition, prevention of money laundering, prevention of corruption, illicit drugs and inspection supervision)

- District State Prosecutor's Office Krško - District State Prosecutor's Office Ljubljana - District State Prosecutor's Office Maribor - District State Prosecutor's Office Murska Sobota - District State Prosecutor's Office Nova Gorica - District State Prosecutor's Office Novo mesto - District State Prosecutor's Office Ptuj - District State Prosecutor's Office Slovenj Gradec - Ministry of Interior - Police authorities: · General Police Directorate, Criminal Police Directorate, National Bureau of Investigation · Police Directorate Celje · Police Directorate Koper · Police Directorate Kranj · Police Directorate Ljubljana · Police Directorate Maribor · Police Directorate Murska Sobota · Police Directorate Nova Gorica · Police Directorate Novo mesto	- Financial investigative teams The specialiced and joint investigation teams are established by a competent state prosecutor (as "the authority"), usually at the proposal of the police and less often at the proposal of other authorities or entities that also participate in these teams. The legal basis for the establishment of these teams are the Criminal Procedure Act and the Decree on the cooperation of the state prosecutorial service, Police and other competent state bodies and institutions in detection and prosecution of perpetrators of criminal offences and operation of specialised and joint investigation teams. The same applies to "financial investigation teams" under the Confiscation of Assets of Illicit Origin Act, which are also established by the competent state prosecutor.[1]
Administrative authorities and independent bodies - Financial Administration (tax and customs administration of the General Financial Office, tax and customs sectors of the regional financial offices)	**Courts**[2] 44 local courts (okrajno sodišče) and 11 district courts (okrožno sodišče) → Investigating judges as important officials i. e. at the district courts

[1] For the role of the specialised investigation teams in investigating economic crime, see Bobnar (former Director General of the Slovenian Police) 2013, pp 163–168.
[2] For court system see https://www.sodisce.si/sodisca/sodni_sistem/. Accessed 18 March 2024.

- Office for Money Laundering Protection - Commission for the Prevention of Corruption Court of Audit	

3. AFCOS – The Partner of OLAF in Slovenia

1 See → Article 12a Anti-fraud coordination services Regulation in Part C.

III. Sources of law

2 The following pages present a list of the applicable sources of law:

3 The law codes have been researched on the websites of the Legal Information System of the Republic of Slovenia[3] and Official Gazette of the Republic of Slovenia.[4]

1. National laws – lex generalis: EPPO and OLAF

a) EPPO & PIF-Investigation related Laws and administrative Documents

4
- Confiscation of Assets of Illicit Origin Act/Zakon o odvzemu premoženja nezakonitega izvora (ZOPNI)
- Constitutional Court Act/Zakon o ustavnem sodišču (ZUstS)
- Court of Audit Act/Zakon o računskem sodišču (ZRacS-1)
- Cooperation in Criminal Matters with the Member States of the European Union Act/Zakon o sodelovanju v kazenskih zadevah z državami članicami Evropske unije (ZSKZDČEU-1)
- Courts Act/Zakon o sodiščih (ZS)
- Judicial Council Act/Zakon o sodnem svetu (ZSSve)
- Criminal Code/Kazenski zakonik (KZ-1)
- Criminal Procedure Act/Zakon o kazenskem postopku (ZKP)
- Accounting Act/Zakon o računovodstvu (ZR)
- Excise Duty Act/Zakon o trošarinah (ZTro-1)
- Financial Administration Act/Zakon o finančni upravi (ZFU)

[3] See http://pisrs.si/Pis.web/. Accessed 18 March 2024.
[4] See https://www.uradni-list.si/. Accessed 18 March 2024.

- Enforcement of Criminal Sanctions Act/Zakon o izvrševanju kazenskih sankcij (ZIKS-1)
- Probation Act/Zakon o probacji (ZPro)
- Judicial Service Act/Zakon o sodniški službi (ZSS)
- Liability of Legal Persons for Criminal Offences Act/Zakon o odgovornosti pravnih oseb za kazniva dejanja (ZOPOKD)
- State Attorney's Office Act/Zakon o državnem odvetništvu (ZDOdv)
- State Prosecution Service Act/Zakon o državnem tožilstvu (ZDT-1)
- Minor Offences Act / Zakon o prekrških (ZP-1)
- Organisation and Work of the Police Act / Zakon o organiziranosti in delu v policiji (ZODPol)
- Police Tasks And Powers Act / Zakon o nalogah in pooblastilih policije (ZNPPol)
- Prevention of Money Laundering and Terrorist Financing Act/Zakon o preprečevanju pranja denarja in financiranju terorizma (ZPPDFT-1)
- Decree on the cooperation of the state prosecutorial service, Police and other competent state bodies and institutions in detection and prosecution of perpetrators of criminal offences and operation of specialised and joint investigation teams/Uredba o sodelovanju državnega tožilstva, policije in drugih pristojnih državnih organov in institucij pri odkrivanju in pregonu storilcev kaznivih dejanj ter delovanju specializiranih in skupnih preiskovalih skupin
- Integrity and Preventio of Corruption Act/Zakon o integriteti in preprečevanju krupcije (ZIntPK)

b) Most relevant national Laws concerning OLAF investigations:

- General Administrative Procedure Act / Zakon o splošnem upravnem postopku (ZUP) **5**
- Corporate Income Tax Act / Zakon o davku od dohodkov pravnih oseb (ZDDPO-2)
- Excise Duty Act / Zakon o trošarinah (ZTro-1)
- Financial Administration Act / Zakon o finančni upravi (ZFU)
- Fiscal Rule Act / Zakon o fiskalnem pravilu (ZFisP)
- Market in Financial Instruments Act / Zakon o trgu finančnih instrumentov (ZTFI)
- Personal Income Tax Act / Zakon o dohodnini (ZDoh-2)
- Public Finance Act / Zakon o javnih financah (ZJF)
- Public Procurement Act / Zakon o javnem naročanju (ZJN-3)

- Rules on breaking down and measuring revenues and expenditures of legal entities under public law / Pravilnik o razčlenjevanju in merjenju prihodkov in odhodkov pravnih oseb javnega prava
- Rules on the implementation of the Corporate Income Tax Act / Pravilnik o izvajanju Zakona o davku od dohodkov pravnih oseb
- Rules on the implementation of the Tax Procedure Act / Pravilnik o izvajanju Zakona o davčnem postopku
- Tax Procedure Act / Zakon o davčnem postopku (ZDavP-2)
- Value Added Tax Act / Zakon o davku na dodano vrednost (ZDDV-1)
- Prevention of Money Laundering and Terrorist Financing Act/Zakon o preprečevanju pranja denarja in financiranju terorizma (ZPPDFT-1)
- Court of Audit Act/Zakon o računskem sodišču (ZRacS-1)
- Administrative Dispute Act / Zakon o upravnem sporu (ZUS-1)
- Constitutional Court Act / Zakon o ustavnem sodišču (ZUstS)
- Courts Act / Zakon o sodiščih (ZS)
- Financing of Municipalities Act/Zakon o financiranju občin (ZFO-1)
- Public-Private Partnership Act/Zakon o javno-zasebnem partnerstvu (ZJZP)
- Rules on the single chart of accounts for the budget, budget spending units and other entities under public l/Pravilnik o enotnem kontnem načrtu za proračun, proračunske uporabnike in druge osebe javnega prava

2. National laws

Nota bene: The ZDT-1D amended the State Prosecution Service Act in order to provide statutory framework for the implementation of the "institutional" provisions of the Regulation. There was another Amendment provided by the Act Amending the Criminal Procedure Act (ZKP-O, Official Gazette of the Republic of Slovenia, No. 200/20, dated 29 December 2020) that is of importance here as well.

6 *Synopsis 1: EPPO Adoption Act for Slovenia Original vs. English Translation*

"**Zakon o spremembah in dopolnitvah Zakona o državnem tožilstvu (ZDT-1D), stran 5710.**[5]	"**Act Amending the State Prosecution Service Act (ZDT-1D)**
Na podlagi druge alinee prvega odstavka 107. člena in prvega odstavka 91. člena Ustave Republike Slovenije izdajam	Based on the second indent of the first paragraph Article 107 and the first paragraph of Article 91 of the Constitution I issue to the Republic of Slovenia the

[5] Cf. for the original in the official journal: https://www.uradni-list.si/_pdf/2020/Ur/u2020139.pdf. Accessed 18 March 2024.

U K A Z o razglasitvi Zakona o spremembah in dopolnitvah Zakona o državnem tožilstvu (ZDT-1D)	DECREE on the promulgation of the Act on Amendments and further amendments to the State prosecutor's Office Act (ZDT-1D)
Razglašam Zakon o spremembah in dopolnitvah Zakona o državnem tožilstvu (ZDT-1D), ki ga je sprejel Državni zbor Republike Slovenije na seji dne 29. septembra 2020.	I promulgate the Amendments Act and Further amendments to the State prosecutor's Office Act (ZDT-1D), adopted by the National Assembly of the Republic Slovenia at its meeting on 29th September 2020.
Št. 003-02-7/2020-16 Ljubljana, dne 7. oktobra 2020 Borut Pahor predsednik Republike Slovenije	No. 003-02-7 / 2020-16 Ljubljana, 7 October 2020 Borut Pahor the President Of the Republic of Slovenia
Z A K O N O SPREMEMBAH IN DOPOLNITVAH ZAKONA O DRŽAVNEM TOŽILSTVU (ZDT-1D)	**ACT AMENDING THE STATE PROSECUTION SERVICE ACT (ZDT-1D)**
1. člen V Zakonu o državnem tožilstvu (Uradni list RS, št. 58/11, 21/12 – ZDU-1F, 47/12, 15/13 – ZODPol, 47/13 – ZDU-1G, 48/13 – ZSKZDČEU-1, 19/15, 23/17 – ZSSve in 36/19) se 1.a člen spremeni tako, da se glasi:	Article 1 In the State prosecutor's Office Act (Official Gazette of the Republic of Slovenia, no. 58/11, 21/12 – ZDU-1F, 47/12, 15/13 – ZODPol, 47/13 – ZDU-1G, 48/13 – ZSKZDČEU-1, 19/15, 23/17 – ZSSve and 36/19) are 1.a Article is amended to read as follows:
»1.a člen (izvajanje pravnih aktov Evropske unije) (1) S tem zakonom se za izvajanje Uredbe (EU) 2018/1727 Evropskega parlamenta in Sveta z dne 14. novembra 2018 o Agenciji Evropske unije za pravosodno	»Article 1.a. (implementation of legal acts of the European Union) (1) For the implementation of Regulation (EU) 2018/1727 of the European Parliament and of the Council of 14 November 2018 on the

sodelovanje v kazenskih zadevah (Eurojust) ter nadomestitvi in razveljavitvi Sklepa Sveta 2002/187/PNZ (UL L št. 295 z dne 21. 11. 2018, str. 138; v nadaljnjem besedilu: Uredba 2018/1727/EU) določajo postopek in pogoji za imenovanje ter pooblastila in pravice nacionalnega predstavnika, njegovega namestnika in pomočnika v Agenciji Evropske unije za pravosodno sodelovanje v kazenskih zadevah.	European Union Agency for judicial cooperation in criminal matters (Eurojust) and replacing and repealing the Decision Council 2002/187 / JHA (OJ L 295, 21.11.2018, p. 138; hereinafter referred to as the Regulation 2018/1727 / EU) determine the procedure and conditions for designation and the powers and rights of the National Representative, his deputy and assistant in the European Union Agency for Justice cooperation in criminal matters.
(2) S tem zakonom se za izvajanje Uredbe Sveta (EU) 2017/1939 z dne 12. oktobra 2017 o izvajanju okrepljenega sodelovanja v zvezi z ustanovitvijo Evropskega javnega tožilstva (UL L št. 283 z dne 31. 10. 2017, str. 1; v nadaljnjem besedilu: Uredba 2017/1939/EU) določajo kandidacijski postopek in pogoji za uvrstitev na listo kandidatov za imenovanje evropskega tožilca in evropskih delegiranih tožilcev v Evropskem javnem tožilstvu, njihovo število, pristojnosti, položaj in pravice.«.	(2) This Act provides for the implementation of the Regulation Council (EU) 2017/1939 of 12 October 2017 o implementation of enhanced cooperation on the establishment of the European Public Prosecutor's Office (OJ no. 283 of 31.10.2017, p. 1; hereinafter text: Regulation 2017/1939 / EU) provide application procedure and conditions for admission to list of candidates for the appointment of a European Prosecutor and European Delegated Prosecutors in the European public prosecutor's office, their number, competencies, position and rights."
2. člen V 30. členu se v drugem odstavku v tretji alineji besedilo »državnem pravobranilstvu« nadomesti z besedilom »državnem odvetništvu«.	Article 2 In Article 30, in the second paragraph in the third indent the text "State Attorney's Office" is replaced by referred to as the "State Attorney's Office".
3. člen V 44. členu se peti odstavek črta.	Article 3 In Article 44, the fifth paragraph is deleted.

4. člen 45. člen se spremeni tako, da se glasi: »45. člen (pripravljenost in dežurstvo) (1) Za sodelovanje državnega tožilstva s policijo ter drugimi pristojnimi državnimi organi v predkazenskem postopku, ki obsega medsebojno obveščanje in usmerjanje predkazenskega postopka, za zagotovitev udeležbe pri nujnih procesnih dejanjih in drugih opravilih predkazenskega ali kazenskega postopka ter za druga nujna dejanja v predkazenskem postopku se zunaj poslovnega časa državnega tožilstva organizira dežurna služba. (2) Dežurna služba se zagotavlja s pripravljenostjo za delo in dežurstvom. (3) Pripravljenost za delo pomeni dosegljivost državnega tožilca po telefonu ali z uporabo drugih komunikacijskih sredstev za potrebe opravljanja dejanj iz prvega odstavka tega člena oziroma prihod na delovno mesto ali na kraj, kjer je treba opraviti nujno procesno dejanje. Ure pripravljenosti za delo se ne štejejo v delovni čas. (4) V času dežurstva državni tožilec opravlja dejanja iz prvega odstavka tega člena na delovnem mestu ali na drugem kraju, kjer je treba opraviti dejanje iz prvega odstavka tega člena. Ure dežurstva se štejejo v delovni čas.	Article 4 Article 45 is amended to read as follows: »45. member (standby and on call) (1) For the participation of the State Prosecutor's Office s police and other competent state authorities in pre-trial proceedings involving each other informing and directing pre-trial procedure to ensure participation in emergencies procedural acts and other tasks pre-trial or criminal proceedings and for other urgent actions in pre-trial proceedings are outside the business hours of the State prosecutor's Office organized by the duty service. (2) The on-call service shall be provided by readiness for work and on call. (3) Readiness for work means the availability of the state prosecutor by telephone or using others means of communication for the purposes of performing acts referred to in the first paragraph of this Article or arrival at work or where necessary perform an urgent procedural action. Hours readiness for work is not counted as working time. (4) During the duty period, the state prosecutor shall perform acts referred to in the first paragraph of this Article at work place or other place where it is to be carried out the act referred to in the first paragraph of this Article. Hours on-call time is counted during working hours.

(5) Vodja državnega tožilstva lahko zaradi njihove pogostosti odredi opravljanje dejanj iz prvega odstavka tega člena izključno z dežurstvom. Načrt opravljanja dežurstva mora predhodno odobriti generalni državni tožilec na podlagi obrazloženega pisnega predloga vodje državnega tožilstva in o tem obvestiti ministrstvo.	(5) The head of the state prosecutor's office may, due to their frequency orders the performance of actions from of the first paragraph of this Article exclusively by on duty. The on-call duty plan must previously approved by the Attorney General on the basis of a reasoned written proposal from the leader the State prosecutor's Office and inform the Ministry thereof.
(6) Ko državni tožilec v času odrejenega dežurstva iz prejšnjega odstavka ne opravlja dejanj iz prvega odstavka tega člena, mora biti dosegljiv na delovnem mestu.	(6) When the state prosecutor at the time of the order on duty referred to in the preceding paragraph shall not perform any acts referred to in the first paragraph of this Article must be available at work.
(7) Izvajanje pripravljenosti za delo in dežurstva, najdaljši sprejemljivi čas prihoda na delovno mesto ali kraj, kjer se opravlja nujno procesno dejanje, pogoji in način odrejanja se natančneje določijo z Državnotožilskim redom.«.	(7) Implementation of readiness for work and on-call time, the maximum acceptable time of arrival at the place of work or place where the emergency is performed procedural act, conditions and manner of ordering determined in more detail by the State Prosecutor's Order."
5. člen V 46. členu se drugi odstavek spremeni tako, da se glasi: »(2) Določba prejšnjega odstavka se uporablja tudi, če je državni tožilec izvoljen za poslanca evropskega parlamenta ali evropskega varuha človekovih pravic, imenovan za člana Evropske komisije, imenovan za evropskega glavnega tožilca ali napoten v mednarodno civilno misijo ali mednarodno organizacijo.«.	Article 5 In Article 46, the second paragraph is amended so that it reads: "(2) The provision of the preceding paragraph shall apply even if the state prosecutor is elected deputy European Parliament or the European Ombudsman appointed a member of the European Commission, appointed European Chief prosecutor or seconded to an international civilian mission, or international organization.".

6. člen V 50. členu se drugi odstavek spremeni tako, da se glasi: »(2) Če državni tožilec med pripravljenostjo za delo prevzame opravljanje dejanj iz prvega odstavka 45. člena tega zakona, se ta čas evidentira in vrednoti kot delovni čas.«.	Article 6 In Article 50, the second paragraph is amended so that it reads: "(2) If the state prosecutor during the readiness for the work assumes the performance of the acts referred to in the first paragraph of Article 45 of this Act, this time shall be recorded and valued as working time.".
7. člen V 62. členu se šesti odstavek črta.	Article 7 In Article 62, the sixth paragraph is deleted.
8. člen V 65. členu se v drugem odstavku besedilo »po izteku dodelitve« črta. Tretji odstavek se spremeni tako, da se glasi: »(3) Državni tožilec iz prvega odstavka tega člena ima na podlagi dodelitve pravico do dodatkov, določenih z zakonom, ki ureja sistem plač v javnem sektorju. Pri oceni državnotožilske službe za čas dodelitve se upoštevata poročilo o delu, ki ga izdela državni tožilec in mnenje o delu državnega tožilca, ki ga za namene ocene državnotožilske službe izdela predstojnik organa, pri katerem je oziroma je bil državni tožilec dodeljen.«.	Article 8 In Article 65, in the second paragraph, the text "after expiry of the allocation" is deleted. The third paragraph is amended to read as follows: "(3) The state prosecutor referred to in the first paragraph of this Article is entitled to allowances provided for by the law governing the system wages in the public sector. In the assessment of the state prosecutor services for the duration of the secondment, the report on work prepared by the state prosecutor and an opinion on the work the state prosecutor for the purposes of the assessment the state prosecutor's office is prepared by the head of the body, in which he is or was a state prosecutor assigned.".
9. člen Za 67. členom se naslov 8. oddelka spremeni in doda nov 67.a člen, ki se glasi: »8. oddelek	Article 9 After Article 67, the title of Section 8 is amended and adds a new Article 67.a, which reads:

Nacionalni predstavnik, njegov namestnik in pomočnik v Eurojustu 67.a člen (nacionalni člani v Eurojustu) (1) Nacionalni člani v Eurojustu so nacionalni predstavnik, njegov namestnik in pomočnik. (2) Nacionalni predstavnik in njegov namestnik opravljata naloge na sedežu Eurojusta, pomočnik pa na vrhovnem državnem tožilstvu. Če je to potrebno, lahko na obrazložen predlog nacionalnega predstavnika pomočnik opravlja naloge tudi na sedežu Eurojusta.«.	"8. section The National Representative, his Deputy and Assistant at Eurojust Article 67a (national members of Eurojust) (1) The national members of Eurojust shall be national representative, his deputy and assistant. (2) The National Representative and his Deputy perform their duties at the seat of Eurojust, Assistant and at the Supreme State Prosecutor's Office. If it is necessary, on a reasoned proposal the national representative shall be assisted by an assistant tasks also at Eurojust headquarters.".
10. člen 68. člen se spremeni tako, da se glasi: »68. člen (pogoji in imenovanje) (1) Za nacionalnega predstavnika v Eurojustu in njegovega namestnika se lahko imenuje vrhovni ali višji državni tožilec ali okrožni državni tožilec, ki izpolnjuje pogoje za imenovanje v naziv višjega državnega tožilca in izkaže z javno priznanim preizkusom potrjeno višjo raven znanja najmanj enega uradnega jezika Evropske unije, ki je delovni jezik v Eurojustu. (2) Za pomočnika nacionalnega predstavnika je lahko imenovan okrožni državni tožilec ali okrajni državni tožilec, ki izpolnjuje pogoje za imenovanje v naziv okrožnega državnega tožilca in izkaže z javno priznanim preizkusom potrjeno	Article 10 Article 68 is amended to read as follows: "68. member (conditions and appointment) (1) For the National Representative at Eurojust and his deputy may be called supreme or a senior state prosecutor or district attorney, who meets the conditions for appointment to the title of senior state prosecutor and proves to be publicly recognized tests confirmed a higher level of knowledge at least one official language of the European Union, which is working language at Eurojust. (2) He shall be the Assistant National Representative may be appointed district or district attorney a state prosecutor who meets the conditions for appointment to the title of District Attorney and prove by

višjo raven znanja najmanj enega uradnega jezika Evropske unije, ki je delovni jezik v Eurojustu.«.	publicly recognized tests confirmed a higher level knowledge of at least one official language of the European Union, which is the working language of Eurojust.”.
11. člen 69. člen se spremeni tako, da se glasi: »69. člen (doba imenovanja) Nacionalni predstavnik, njegov namestnik in pomočnik se za izvajanje pooblastil in strokovnih nalog Eurojusta imenujejo za pet let. Po poteku navedene dobe sta nacionalni predstavnik in njegov namestnik lahko še enkrat ponovno imenovana.«.	Article 11 Article 69 is amended to read as follows: “69. member (appointment period) The National Representative, his Deputy and assistant to exercise authority and professional Eurojust shall be appointed for a term of five years. After the expiration those periods are the national representative and his deputy may again be named.”
12. člen Za 69. členom se dodajo novi 69.a, 69.b in 69.c člen, ki se glasijo: »69.a člen (postopek imenovanja nacionalnega predstavnika in njegovega namestnika) (1) Nacionalnega predstavnika in njegovega namestnika imenuje Vlada Republike Slovenije na predlog Državnotožilskega sveta po predhodnem mnenju generalnega državnega tožilca. (2) Poziv k prijavam za imenovanje nacionalnega predstavnika ali njegovega namestnika objavi ministrstvo v Uradnem listu Republike Slovenije po prejemu predloga generalnega državnega tožilca za uvedbo postopka imenovanja. Pozivni rok ne sme biti krajši od 15 dni.	Article 12 New Articles 69a, 69b and 69c are added after Article 69 the following articles: “Article 69.a (procedure for appointing a national representative and his deputy) (1) The National Representative and his the Deputy is appointed by the Government of the Republic of Slovenia on proposal of the State Prosecutor’s Council after the previous one opinion of the Attorney General. (2) Call for applications for appointment national representative or his Deputy shall be published by the Ministry in the Official Gazette of the Republic of Slovenia upon receipt of the

	proposal the Attorney General to institute proceedings appointments. The call period may not be less than 15 days.
(3) Ministrstvo najpozneje v petih dneh po izteku pozivnega roka Državnotožilskemu svetu pošlje vse prijave, ki jih ni zavrglo.	(3) The Ministry shall, no later than five days after expiration of the call-up period to the State Prosecutor's Council sends all applications that were not rejected.
(4) Za postopek z nepopolnimi prijavami in prijavami, vloženimi po izteku pozivnega roka se smiselno uporablja določba 71.č člena tega zakona.	(4) For the procedure with incomplete applications and applications submitted after the call deadline the provision of Article 71c of this Act shall apply mutatis mutandis.
(5) Državnotožilski svet se po pridobitvi mnenja generalnega državnega tožilca do prijavljenih kandidatov opredeli in oblikuje predlog za imenovanje nacionalnega predstavnika in njegovega namestnika ter o tem obvesti prijavljene kandidate in predlog posreduje Vladi Republike Slovenije.	(5) The State Prosecutor's Council shall, after acquisition opinion of the Attorney General by identified and formulated applicants proposal for the appointment of a national representative and his deputy and shall inform him accordingly the registered candidates and forward the proposal to the Government of the Republic of Slovenia.
(6) Vlada Republike Slovenije vroči in objavi odločbo o imenovanju nacionalnega predstavnika in njegovega namestnika v skladu s 34. členom tega zakona.	(6) The Government of the Republic of Slovenia shall serve and publish decision appointing a national representative and his deputy in accordance with Article 34 of this Act.
69.b člen (postopek imenovanja pomočnika nacionalnega predstavnika)	Article 69b (procedure for appointing a national assistant) representative)
(1) Pomočnika nacionalnega predstavnika imenuje Državnotožilski svet na predlog generalnega državnega tožilca po predhodnem mnenju nacionalnega predstavnika.	(1) Assistant National Representative appointed by the State Prosecutorial Council on a proposal the Attorney General after the previous one opinion of the national representative.
(2) Generalni državni tožilec se po pridobitvi mnenja nacionalnega predstavnika do prijavljenih kandidatov opredeli in oblikuje predlog za imenovanje	(2) The General State Prosecutor shall, after acquisition opinions of the national representative to the applicants candidates identifies and formulates a

pomočnika nacionalnega predstavnika ter o tem obvesti prijavljene kandidate in predlog posreduje Državnotožilskemu svetu.

(3) Za postopek s pozivom k prijavam, z nepopolnimi prijavami in prijavami vloženimi po izteku pozivnega roka ter za vročitev odločbe o imenovanju pomočnika nacionalnega predstavnika se uporabljajo drugi, tretji, četrti in šesti odstavek prejšnjega člena.

69.c člen (prenehanje mandata)
(1) Nacionalnemu predstavniku, njegovemu namestniku in pomočniku preneha članstvo v Eurojustu pred potekom mandata:
1. z odstopom;
2. s prenehanjem državnotožilske funkcije ali razrešitvijo državnega tožilca;

3. če mu je izrečena disciplinska sankcija zaradi hujše disciplinske kršitve.

(2) Nacionalnemu predstavniku, njegovemu namestniku in pomočniku preneha članstvo v Eurojustu:

– po 1. točki prejšnjega odstavka z dnem, ki ga državni tožilec predlaga v odstopni izjavi, vendar ne prej kot 30. dan po prispetju odstopne izjave k organu, ki je pristojen za imenovanje;

– po 2. točki prejšnjega odstavka z dnem, ko je nastopilo prenehanje ali z dnem pravnomočnosti odločitve o razrešitvi in

proposal for the appointment of an Assistant National Representative and inform the registered candidates and the proposal accordingly forwards to the State Prosecutor's Council.
(3) For the procedure with the call for applications, incomplete applications and applications submitted after expiry of the summons and for service of the decision on the appointment of an Assistant National Representative the second, third, fourth and sixth paragraphs shall apply of the previous article.

Article 69.c (termination of office)
(1) The National Member, the Deputy and the Assistant shall cease to be a member of Eurojust before the end of their term of office:
1. by resignation;
2. by termination of the state prosecutor's office or dismissal of the state prosecutor;
3. if a disciplinary sanction has been imposed on him for serious disciplinary offences.
(2) The National Representative, his the deputy and assistant shall cease to be members of
Eurojust:
- according to point 1 of the previous paragraph with the date the state prosecutor proposes in the resignation statement, however not earlier than the 30th day after the arrival of the resignation statement the appointing authority;
- after point 2 of the previous paragraph with the day when termination or on the date of finality dismissal decisions and

– po 3. točki prejšnjega odstavka z dnem pravnomočnosti odločbe pristojnega organa. (3) O prenehanju članstva pred potekom mandata nacionalnemu predstavniku, njegovemu namestniku in pomočniku organ pristojen za imenovanje, izda ugotovitveno odločbo.«.	- after point 3 of the previous paragraph with the date finality of the decision of the competent authority. (3) On termination of membership before expiration the mandate of the national representative, his the authority responsible for the deputy and the assistant appointment, issue a declaratory decision.”.
13. člen V 70. členu se tretji odstavek spremeni tako, da se glasi: »(3) Državnemu tožilcu z imenovanjem za nacionalnega predstavnika v Eurojustu mirujejo pravice in dolžnosti iz državnotožilske službe, razen državnotožilska funkcija, varovane so vse njegove pravice do napredovanja v skladu s tem zakonom. Pri oceni državnotožilske službe za čas imenovanja se upoštevata poročilo o delu, ki ga izdela državni tožilec in mnenje o delu državnega tožilca, ki ga za namene ocene državnotožilske službe izdela predstojnik Eurojusta. Državni tožilec obdrži pravico uporabljati doseženi naziv in položaj. Nacionalni predstavnik opravlja funkcijo državnega tožilca s pooblastili, ki jih ima kot član Eurojusta iz Republike Slovenije, v skladu s tem zakonom in pravnimi akti Evropske unije, ki urejajo delovanje Eurojusta.«. Peti odstavek se spremeni tako, da se glasi: »(5) Plačo nacionalnega predstavnika v Eurojustu, namestnika in pomočnika nacionalnega predstavnika uredi vlada z	Article 13 In Article 70, the third paragraph is amended so that reads: “(3) To the State Prosecutor by appointment for the national representative at Eurojust rights and duties from the state prosecutor’s office, except for the state prosecutor’s office, all are protected his right to advance accordingly by law. In the assessment of the State Prosecutor’s Office for time appointments shall take into account the report on the work prepared by the state prosecutor and an opinion on the work of the state prosecutor for the purposes of the assessment by the state prosecutor the head of Eurojust. State the prosecutor reserves the right to use the title obtained and position. The national representative shall hold office the state prosecutor with the powers he has as a member Eurojust from the Republic of Slovenia, accordingly laws and regulations of the European Union which governing the operation of Eurojust.” The fifth paragraph is amended to read as follows: “(5) The salary of the na-

uredbo na način, kot jo ureja zakon, ki ureja plače v javnem sektorju za funkcionarje, ki so napoteni na delo v tujino ter jim v skladu z zakonom v času napotitve funkcija miruje.«.	tional representative in Eurojust, Deputy and National Assistant the representative shall be regulated by the Government by decree in the manner prescribed by it governed by the law governing public sector wages for officials seconded to work abroad and to them in accordance with the law at the time of posting the function it is at rest.”
Za petim odstavkom se dodata nova šesti in sedmi odstavek, ki se glasita:	After the fifth paragraph, a new sixth and the seventh paragraph, which reads as follows:
»(6) Pomočniku nacionalnega predstavnika pripada plača v skladu s prejšnjim odstavkom, kadar opravlja naloge na sedežu Eurojusta.	“(6) To the Assistant National Representative the salary is due in accordance with the previous paragraph, when performing tasks at Eurojust headquarters.
(7) Ne glede na peti in šesti odstavek tega člena nacionalnemu predstavniku v Eurojustu, namestniku in pomočniku nacionalnega predstavnika pripada najmanj takšna plača, kakršno bi prejemal, če bi opravljal državnotožilsko službo v Republiki Sloveniji.«.	(7) Notwithstanding the fifth and sixth paragraphs of this Article, the national representative to Eurojust, the deputy national representative and the assistant national representative shall be entitled to a salary at least equal to the salary he or she would have received if he or she had been a member of the civil service of the Republic of Slovenia.”.
14. člen V 71.b členu se v drugem odstavku besedilo »po izteku imenovanja« črta, na koncu odstavka pa se za piko doda nov tretji stavek, ki se glasi: »Pri oceni državnotožilske službe za čas imenovanja se upoštevata poročilo o delu, ki ga izdela evropski tožilec in mnenje o delu evropskega tožilca, ki ga za namene ocene državnotožilske službe izdela predstojnik Evropskega javnega tožilstva.«.	Article 14 In Article 71.b, the second paragraph reads “After the expiration of the appointment” is deleted, and at the end of the paragraph a new third sentence is added after the full stop, which reads: “At the assessment of the state prosecutor’s office for the time of appointment shall be take into account the report on the work produced by the European Prosecutor and an opinion on the work

Za tretjim odstavkom se doda novi četrti odstavek, ki se glasi:	of the European Prosecutor for the purposes of the assessment of the state prosecutor's office the Head of the European Public Prosecutor's Office.". A new fourth is added after the third paragraph the following paragraph:
»(4) Pri oceni državnotožilske službe za evropskega delegiranega tožilca se v delu, v katerem opravlja naloge iz pristojnosti EJT upoštevata poročilo o delu, ki ga izdela evropski delegirani tožilec in mnenje o delu evropskega delegiranega tožilca, ki ga za namene ocene državnotožilske službe izdela predstojnik EJT.«. Dosedanji četrti do osmi odstavek postanejo peti do deveti odstavek.	"(4) In the assessment of the State Prosecutor's Office for the European Delegated Prosecutor, in part, performing tasks within the competence of the EJT take into account the report on the work produced by the European delegated prosecutor and opinion on the work of the European delegated prosecutor appointed for evaluation purposes the state prosecutor's office is prepared by the head of the EJT.". The current fourth to eighth paragraphs become fifth to ninth paragraphs.
15. člen V 77. členu se v petem odstavku beseda »pravobranilstvo« nadomesti z besedo »odvetništvo«.	Article 15 In Article 77, in the fifth paragraph, the word "Attorney's Office" is replaced by the word "Advocacy."
16. člen V 102. členu se v prvem odstavku šestnajsta alineja črta. Dosedanja sedemnajsta do enaindvajseta alineja postanejo šestnajsta do dvajseta alineja.	Article 16 In Article 102, the first paragraph shall be sixteen indent line. So far seventeen to twenty-one indents become the sixteenth to twentieth indents.
17. člen V 124. členu se tretji odstavek spremeni tako, da se glasi: »(3) Na okrožnem državnem tožilstvu, pri katerem je določeno najmanj 50 državnotožilskih mest, ima lahko vodja tega tožilstva dva namestnika. Če ima	Article 17 In Article 124, the third paragraph is amended as follows: to read: "(3) At the District State Prosecutor's Office, at which designates at least 50 prosecutors positions, the head

okrožno državno tožilstvo več kot enega namestnika vodje, vodja okrožnega državnega tožilstva pooblasti enega izmed njiju za nadomeščanje, če pooblastila ni, vodjo nadomešča namestnik vodje, ki dalj časa opravlja državnotožilsko službo.«.	of this prosecution may have two deputy. If the district attorney's office has more as one deputy head, district head the State prosecutor's Office authorizes one of them to replacement, if there is no authorization, replaces the manager a deputy head who performs for a longer period of time the State Prosecutor's Office."
V petem odstavku se za besedo »imenovanje« doda besedilo »in usposabljanje«.	In the fifth paragraph, after the word "appointment" add the words "and training".
18. člen 129. člen se spremeni tako, da se glasi: »129. člen (razrešitev funkcije namestnika) (1) O razrešitvi namestnika generalnega državnega tožilca odloči Vlada Republike Slovenije na obrazložen predlog generalnega državnega tožilca po predhodnem mnenju Državnotožilskega sveta. (2) O razrešitvi namestnika vodje okrožnega državnega tožilstva odloči Državnotožilski svet na obrazložen predlog vodje okrožnega državnega tožilstva po predhodnem mnenju generalnega državnega tožilca.«.	Article 18 Article 129 shall be amended to read as follows: "129. member (dismissal of a deputy) (1) On dismissal of the Deputy General the State Prosecutor is decided by the Government of the Republic Slovenia on the reasoned proposal of the General the state prosecutor after a preliminary opinion of the State Prosecutor's Council. (2) On dismissal of the deputy head of the district of the State prosecutor's Office is decided by the State Prosecutorial Council on reasoned proposal of the head of the district state the Prosecutor's Office after the prior opinion of the General the state prosecutor.".
19. člen V 132. členu se v prvem odstavku besedilo »strokovni sodelavci in direktor« nadomesti z besedilom »direktor in strokovni sodelavci«.	Article 19 In Article 132, the first paragraph reads "Professional Associates and Director" is replaced by hereinafter referred to as "Director and Professionals".

20. člen V 133. členu se v drugem odstavku za besedo »sodelujejo« doda besedilo »generalni direktor in«.	Article 20 In Article 133, in the second paragraph after the word “Participate” adds the words “Director-General in”.
21. člen Za 137. členom se doda nov 137.a člen, ki se glasi: »137.a člen (sodelovanje pri opravljanju nujnih procesnih dejanj) (1) Državnotožilskemu osebju, ki sodeluje pri opravljanju nujnih procesnih dejanj izven delovnega časa, se lahko odredita opravljanje dela v manj ugodnem delovnem času in pripravljenost za delo. (2) Delo v manj ugodnem delovnem času je: - izmensko delo, - delo v neenakomerno razporejenem delovnem času, - delo prek polnega delovnega časa in - delo ponoči, v nedeljo in na dan, ki je z zakonom določen kot dela prost dan ali praznik. (3) Pripravljenost za delo je poseben delovni pogoj, ki pomeni dosegljivost po telefonu ali drugih komunikacijskih sredstvih za potrebe sodelovanja pri opravljanju nujnih procesnih dejanj. Pripravljenost za delo se ne šteje v delovni čas. (4) Čas, ko državnotožilsko osebje sodeluje pri opravljanju nujnih procesnih dejanj, se šteje v delovni čas. (5) Najdaljši sprejemljivi čas prihoda na delovno mesto ali kraj, kjer se opravlja	Article 21 After Article 137, a new Article 137a is added, which is reads: “Article 137.a. (participation in the performance of urgent procedural demand) (1) To the state prosecutor’s staff participating in performing urgent procedural acts outside working hours, work may be ordered in less favourable working hours and readiness for work. (2) Working in less favourable working hours is: - shift work, - work in an uneven distribution working hours, Full-time work, and - work at night, on Sunday and on the day that is with defined by law as a day off or public holiday. (3) Readiness for work is a special job a condition implying availability by telephone or other means of communication for needs cooperation in the performance of urgent procedural actions. Willingness to work is not considered work time. (4) The time when the state prosecutor ‘s staff participates in performance of urgent procedural acts shall be considered in Working time. (5) Maximum acceptable time of arrival at the place of work or place where the emergency is performed procedural act

nujno procesno dejanje, se določi z Državnotožilskim redom. (6) Za opravljeno delo v manj ugodnem delovnem času in za čas pripravljenosti za delo državnotožilskemu osebju pripadajo dodatki v skladu z zakonom, ki ureja sistem plač v javnem sektorju. Višina dodatkov iz tega člena se določi s Kolektivno pogodbo za javni sektor. Dodatki iz tega člena pripadajo državnotožilskemu osebju le za čas opravljanja dela v času, ki je manj ugoden oziroma le za čas pripravljenosti za delo.«.	shall be determined by the State Prosecutor in a row. (6) For work performed in less favourable working time and standby time State Prosecutor's Staff is entitled to allowances in in accordance with the law governing the public pay system sector. The amount of allowances referred to in this Article shall be determined by Collective agreement for the public sector. Accessories from of this article belong to the state prosecutor's staff only for the time of performing work at a time that is less favourable or only for the time of readiness for work. ".
22. člen V drugi alineji drugega odstavka 138. člena, drugem odstavku 147. člena, drugi alineji prvega odstavka 149. člena, tretji alineji tretjega odstavka 150. člena, osmi alineji drugega odstavka 151. člena in prvi alineji prvega odstavka 158. člena se besedilo »tožilskega osebja« nadomesti z besedilom »državnotožilskega osebja«.	Article 22 In the second indent of the second paragraph of Article 138, the second paragraph of Article 147, the second indent of the first paragraph of Article 149, third indent of the third paragraph of Article 150, eighth indent of the second paragraph of Article 151 and the first indent of the first paragraph of Article 158, the words "prosecutorial staff" replaced by the words "state prosecutor staff".
23. člen V 142. členu se prvi odstavek spremeni tako, da se glasi: »(1) Vodja državnega tožilstva z letnim razporedom dela določi razporeditev državnih tožilcev v oddelke oziroma notranje organizacijske enote, njihovo pravno področje dela, vodje in namestnike vodij oddelkov oziroma notranjih organizacijskih enot. V letnem razporedu vodja	Article 23 In Article 142, the first paragraph is amended so that it know reads: "(1) The Head of the State Prosecutor's Office with an annual schedule of work determines the distribution of state prosecutors in departments or internal organizational units, their legal field of work, managers and deputy heads of

državnega tožilstva določi tudi izhodišča in okvirni način odrejanja razporeda dežurstev ter časa izrabe letnih dopustov.«.	departments or internal departments organizational units. In the annual schedule of the head the State prosecutor's Office also determines the starting points and framework the method of ordering the duty schedule and the time of use annual leave."
24. člen V 169. členu se za prvim odstavkom doda nov drugi odstavek, ki se glasi:	Article 24 In Article 169, a new paragraph is added after the first paragraph and the second paragraph, which reads as follows:
»(2) Za kazniva dejanja, za katera je v zakonu predpisana kazen zapora več kot tri leta, mora državni tožilec pred odločitvijo o zavrženju ovadbe, kadar je razlog za zavrženje, da naznanjeno kaznivo dejanje ni kaznivo dejanje, za katero se storilec preganja po uradni dolžnosti, ali če ni podan utemeljen sum, da je osumljenec storil naznanjeno kaznivo dejanje, predložiti osnutek tega akta na vpogled vodji državnega tožilstva. Vodja državnega tožilstva se po predložitvi osnutka akta iz prejšnjega stavka posvetuje z dvema državnima tožilcema o razlogih za zavrženje ovadbe, če gre za kaznivo dejanje, za katero je v zakonu predpisana kazen zapora več kot osem let.«.	"(2) For criminal offences for which imprisonment for more than three years is prescribed the state prosecutor must before the decision to dismiss complaints where the reason for the rejection is yes the reported offence is not a criminal offence, for which the perpetrator is being prosecuted ex officio, or if there is no reasonable suspicion that the suspect has committed reported offence, submit a draft of this act for inspection by the head of the state prosecutor's office. The head of the state prosecutor's office after the submission must consult the draft act referred to in the previous sentence with two state prosecutors on the reasons for dismissal of the complaint, in the case of a criminal offence, for which the law prescribes a prison sentence of more than eight years."
V dosedanjem drugem odstavku, ki postane tretji odstavek, se besedilo »prejšnjega odstavka« nadomesti z besedilom »prvega ali drugega odstavka tega člena«.	In the second paragraph so far, which becomes know the third paragraph, the words "previous paragraph" must be replaced by the words "first or second paragraph of this Article".

Doda se nov četrti odstavek, ki se glasi: »(4) Državni tožilec lahko izda akt iz prvega in drugega odstavka tega člena šele potem, ko je vodja državnega tožilstva oziroma pooblaščena oseba s podpisom na osnutku označil, da ga je pregledal.«. V dosedanjem tretjem odstavku, ki postane peti odstavek, se za besedo »prvega« doda besedilo » in drugega«. Doda se nov šesti odstavek, ki se glasi: »(6) Podrobnejša pravila o evidentiranju in poslovanju v zadevah iz tega člena se predpišejo z Državnotožilskim redom.«.	A new fourth paragraph is added to read as follows: “(4) The state prosecutor may issue the act referred to in the first and the second paragraph of this article only after the head of the state prosecutor’s office or authorized the person signing the draft indicated that he reviewed.”. In the current third paragraph, which becomes the fifth paragraph, the words “and the other”. A new sixth paragraph is added to read as follows: “(6) More detailed rules on recording and operations in the matters referred to in this Article shall be prescribed by The State Prosecutor’s Order.”
25. člen V 173. členu se v petem odstavku besedilo »tožilsko osebje« nadomesti z besedilom »državnotožilsko osebje«, besedilo »15 dneh« pa se nadomesti z besedilom »osmih dneh«.	Article 25 In Article 173, in the fifth paragraph, the text “Prosecutor’s staff” is replaced by the text “State Prosecutor’s Staff” and the wording “15 days” is replaced by the text “eight days”.
26. člen V 188. členu se v drugem odstavku besedilo »Oddelka za preiskovanje in pregon zlorabe policijskih pooblastil« nadomesti z besedilom »Oddelka za preiskovanje in pregon uradnih oseb s posebnimi pooblastili«.	Article 26 In Article 188, the text is in the second paragraph “Department of Investigation and Prosecution of Abuse police powers” is replaced by the text “Department of Investigation and Prosecution of Officials with special powers”.
27. člen V 196. členu se v prvem odstavku četrta alineja spremeni tako, da se glasi: »– okrožnemu državnemu tožilcu svetniku, višjemu državnemu tožilcu ter vrhovnemu državnemu tožilcu plača vrhovnega državnega tožilca svetnika.«.	Article 27 In Article 196, the fourth indent of the first paragraph is amended to read as follows: “- to the district state prosecutor councillor,

V drugem odstavku se četrta alineja spremeni tako, da se glasi:	the senior state prosecutor and the supreme prosecutor the state prosecutor is paid by the Supreme State". In the second paragraph, the fourth indent is amended so that reads:
»– okrožnemu državnemu tožilcu svetniku, višjemu državnemu tožilcu ter vrhovnemu državnemu tožilcu plača vrhovnega državnega tožilca svetnika.«.	"- to the district state prosecutor councillor, the senior state prosecutor and the supreme prosecutor the state prosecutor is paid by the Supreme State".
V četrtem odstavku se drugi stavek črta.	In the fourth paragraph, the second sentence is deleted.
28. člen	Article 28
V 198. členu se v prvem odstavku besedilo »drugega in četrtega« nadomesti z besedilom »drugega, četrtega in petega«.	In Article 198, the first paragraph shall read "Second and fourth" is replaced by the text "Second, fourth, and fifth."
Drugi odstavek se spremeni tako, da se glasi:	The second paragraph is amended to read as follows:
»(2) Vodja krajevno pristojnega okrožnega državnega tožilstva oziroma vodja pristojne uprave oziroma enote Policije morata nemudoma obvestiti vodjo SDT o zadevah, glede katerih je podana pristojnost SDT po drugem in petem odstavku 192. člena tega zakona, in mu brez odlašanja izročiti spise zadev z vsemi zbranimi dokazi. Evropski delegirani tožilec mora pred odstopom zadeve, glede katere je po 22. in 25. člena Uredbe 2017/1939/EU podana pristojnost EJT, in pred prenosom pristojnosti z EJT na pristojni organ v skladu s 34. členom Uredbe 2017/1939/EU obvestiti vodjo SDT in mu brez odlašanja izročiti spis zadeve z vsemi zbranimi dokazi.«.	"(2) The head of the locally competent district the state prosecutor's office or the head of the competent administration or Police Units must be notified immediately the head of the MMF on the matters in respect of which it is given jurisdiction of the MMF under paragraphs 2 and 5 Article 192 of this Act, and to him without delay hand over the case files with all the evidence gathered. The European Delegated Prosecutor must resign matters in respect of which, under Articles 22 and 25 of the Regulation 2017/1939/EU given the competence of the EJT, and cede the transfer of competences from the EJT to the competent authority in in accordance with Article 34 of Regulation 2017/1939 / EU inform the head of the
V tretjem odstavku se za piko doda nov tretji stavek, ki se glasi: »Vodja SDT na zahtevo generalnega državnega tožilca,	

lahko pa tudi na lastno pobudo, pred odločitvijo generalnega državnega tožilca poda dodatno pojasnilo o razlogih za dodelitev.«. Šesti odstavek se črta. Dosedanja sedmi in osmi odstavek postaneta šesti in sedmi odstavek.	MMF and hand it over to him without delay case file with all the evidence gathered.”. In the third paragraph, a new third is added after the full stop a sentence that reads: “Head of the MMF on request the Attorney General, but may also be at on its own initiative, before the decision of the General the state prosecutor provides additional clarification on reasons for the award.”. The sixth paragraph is deleted. The current seventh and eighth paragraphs become sixth and seventh paragraphs.
29. člen V 203.a členu se v naslovu besedilo »in dodelitev« črta. Tretji do šesti odstavek se črtajo.	Article 29 In Article 203.a, the title “and allocation” is deleted. The third to sixth paragraphs are deleted.
30. člen V 204. členu se v tretjem odstavku besedilo »tožilsko osebje« nadomesti z besedilom »državnotožilsko osebje«. Četrti odstavek se črta.	Article 30 In Article 204, the text is in the third paragraph “Prosecutor’s staff” is replaced by the text “State prosecutor’s staff”. The fourth paragraph is deleted.
PREHODNI IN KONČNA DOLOČBA	TRANSITIONAL AND FINAL PROVISION
31. člen (uskladitev aktov) (1) Generalni državni tožilec uskladi Nacionalni sistem za usklajevanje dejavnosti Eurojusta in nacionalne korespondente Eurojusta z Uredbo 2018/1727/EU in ga objavi na spletni strani državnega tožilstva najpozneje v šestih mesecih po uveljavitvi tega zakona.	Article 31 (harmonization of acts) (1) The General State Prosecutor shall coordinate National system for coordination of activities Eurojust and the national correspondents of Eurojust with Regulation 2018/1727 / EU and publish it online by the State prosecutor’s Office no later than six months after the entry into force of this Act.

(2) Državna tožilstva uskladijo letne razporede ob prvi njihovi spremembi, najpozneje pa ob pripravi letnega razporeda za naslednje koledarsko leto.	(2) State prosecutor's offices shall coordinate annual schedules at the time of their first change, and at the latest at prepare an annual schedule for the following calendar summer.
32. člen (dokončanje postopkov) Postopki imenovanja nacionalnega predstavnika v Eurojustu, njegovega namestnika ali pomočnika, ki so bili začeti pred začetkom veljavnosti tega zakona, se nadaljujejo in dokončajo po določbah Zakona o državnem tožilstvu (Uradni list RS, št. 58/11, 21/12 – ZDU-1F, 47/12, 15/13 – ZODPol, 47/13 – ZDU-1G, 48/13 – ZSKZDČEU-1, 19/15, 23/17 – ZSSve in 36/19).	Article 32 (completion of procedures) Procedures appointments national representative in Eurojust, his alternate or assistant who were started before the start validity of this Act shall continue and completed in accordance with the provisions of the State Act Prosecutor's Office (Official Gazette of the Republic of Slovenia, No. 58/11, 21/12 – ZDU-1F, 47/12, 15/13 – ZODPol, 47/13 – ZDU-1G, 48/13 – ZSKZDČEU-1, 19/15, 23/17 – ZSSve in 36/19).
33. člen (začetek veljavnosti) Ta zakon začne veljati petnajsti dan po objavi v Uradnem listu Republike Slovenije.	Article 33 (entry into force) This Act shall enter into force on the fifteenth day after its publication in Official Gazette of the Republic of Slovenia.
Št. 700-07/20-5/20 Ljubljana, dne 29. septembra 2020 EPA 1260-VIII Državni zbor Republike Slovenije Igor Zorčič Predsednik"	No. 700-07 / 20-5 / 20 Ljubljana, 29 September 2020 EPA 1260-VIII National Assembly Of the Republic of Slovenia Igor Zorčič The President"
"Zakon o spremembah in dopolnitvah Zakona o kazenskem postopku (ZKP-O)"	**"The Act on Amendments to the Criminal Procedure Act (ZKP-O)"**
Na podlagi druge alinee prvega odstavka 107. člena in prvega odstavka 91. člena Ustave Republike Slovenije izdajam	On the basis of the second indent of the first paragraph of Article 107 and the

U K A Z
o razglasitvi Zakona o spremembah in dopolnitvah Zakona o kazenskem postopku (ZKP-O)

Razglašam Zakon o spremembah in dopolnitvah Zakona o kazenskem postopku (ZKP-O), ki ga je sprejel Državni zbor Republike Slovenije na seji dne 17. decembra 2020.

Št. 003-02-10/2020-13
Ljubljana, dne 25. decembra 2020

Borut Pahor
predsednik
Republike Slovenije

Z A K O N
O SPREMEMBAH IN DOPOLNITVAH ZAKONA O KAZENSKEM POSTOPKU (ZKP-O)

21. člen
Za 165. členom se doda nov a165.a člen, ki se glasi:
»a165.a člen
(1) V postopku, ki teče na podlagi Uredbe Sveta (EU) 2017/1939 z dne 12. oktobra 2017 o izvajanju okrepljenega sodelovanja v zvezi z ustanovitvijo Evropskega javnega tožilstva (UL L št. 283 z dne 31. 10. 2017, str. 1; v nadaljnjem besedilu: Uredba 2017/1939/EU), se preiskava po XVI. poglavju tega zakona ne opravi. Določbe XVI. poglavja tega zakona se v takšnem postopku uporabljajo, če niso v

first paragraph of Article 91 of the Constitution of the Republic of Slovenia, I issue

D E C R E E
on the promulgation of the Act on Amendments and Supplements to the Act on Criminal Procedure (ZKP-O)

I am announcing the Act on Amendments and Supplements to the Criminal Procedure Act (ZKP-O), which was adopted by the National Assembly of the Republic of Slovenia at its meeting on December 17, 2020.
No. 003-02-10/2020-13
Ljubljana, on December 25, 2020

Borut Pahor
the president
of the Republic of Slovenia

L A W
ON AMENDMENTS AND AMENDMENTS TO THE ACT ON CRIMINAL PROCEDURE (ZKP-O)

Article 21
After Article 165, a new Article a165.a is added, which reads:
“Article a165.a
(1) In the procedure proceeding on the basis of Council Regulation (EU) 2017/1939 of 12 October 2017 on the implementation of enhanced cooperation in connection with the establishment of the European Public Prosecutor’s Office (OJ L No. 283 of 31 October 2017, p 1; hereinafter: Regulation 2017/1939/EU), the investigation according to XVI. does not comply with

nasprotju s tem in 165.a členom tega zakona.

(2) Državni tožilec sam ali s pomočjo policije obvesti osumljenca o poteku postopka po Uredbi 2017/1939/EU, takoj ko je to mogoče. Če je to neizogibno zaradi izvedbe preiskovalnih dejanj ali ukrepov iz 149.a, 149.b, 149.c, 149.č, 149.e, 150., 150.a, 150.b, 151., 155., 155.a in 156. člena tega zakona, osumljenca obvesti takoj, ko je to mogoče brez škode za njihovo izvedbo.

(3) Obvestilo osumljencu vsebuje opis dejanja, iz katerega izhajajo zakonski znaki kaznivega dejanja, zakonsko označbo kaznivega dejanja in dejstvo, da poteka postopek po Uredbi 2017/1939/EU, ter pouk o pravicah iz četrtega odstavka tega člena in petega odstavka 165.a člena tega zakona. Čas in način obveščanja se zaznamujeta v spisu.

(4) Od obveščanja dalje ima osumljenec pravico do vpogleda v spis (drugi in peti odstavek 128. člena tega zakona) in dokazno gradivo pri državnem tožilcu ter je upravičen do brezplačne pravne pomoči v skladu z določbami zakona, ki ureja brezplačno pravno pomoč.

(5) Če v zadevi že poteka preiskava po XVI. poglavju tega zakona, državni tožilec o poteku postopka po Uredbi 2017/1939/EU obvesti tudi sodišče, ki se

the chapter of this law. Provisions XVI. the chapters of this Act are used in such a procedure, if they do not conflict with this Act and Article 165a of this Act.

(2) The state prosecutor, either alone or with the help of the police, informs the suspect about the progress of the procedure under Regulation 2017/1939/EU as soon as possible. If this is unavoidable due to the implementation of investigative actions or measures from 149.a, 149.b, 149.c, 149.č, 149.e, 150, 150.a, 150.b, 151, 155, 155.a and Article 156 of this law, inform the suspect as soon as possible without harming their implementation.

(3) The notice to the suspect contains a description of the act from which the legal signs of the crime are derived, the legal designation of the crime and the fact that the procedure is under way according to Regulation 2017/1939/EU, as well as instructions on the rights from the fourth paragraph of this article and the fifth paragraph of 165.a of the article of this law. The time and method of notification shall be noted in the file.

(4) From the moment of notification, the suspect has the right to inspect the file (paragraphs two and five of Article 128 of this Act) and evidentiary material with the state prosecutor and is entitled to free legal aid in accordance with the provisions of the law governing free legal aid.

(5) If the case is already being investigated according to XVI. chapter of this law, the state prosecutor also informs

izreče za nepristojno in zadevo po pravnomočnosti sklepa pošlje državnemu tožilcu.	the court about the progress of the procedure according to Regulation 2017/1939/EU, which declares that it does not have jurisdiction and sends the case to the state prosecutor after the decision becomes final.
(6) V postopku, ki teče na podlagi Uredbe 2017/1939/EU, mora državni tožilec vložiti obtožnico zoper priprtega osumljenca (četrti odstavek 204.a člena tega zakona) najpozneje v šestih mesecih od odreditve pripora, sicer preiskovalni sodnik odpravi pripor in priprtega izpusti. Preiskovalni sodnik, ki je pripor odredil, je v skladu z določbami tega zakona pristojen tudi za nadzor nad izvrševanjem pripora.	(6) In proceedings based on Regulation 2017/1939/EU, the state prosecutor must file an indictment against the detained suspect (fourth paragraph of Article 204.a of this Act) no later than six months from the order of detention, otherwise the investigating judge shall terminate the detention and the detainee release. In accordance with the provisions of this law, the investigating judge who ordered the detention is also responsible for supervising the execution of the detention.
(7) V postopku, ki teče na podlagi Uredbe Sveta (EU) 2017/1939, skupno trajanje začasnega zavarovanja pred vložitvijo obtožnice (502.b člen tega zakona) ne sme biti daljše od štirih let.«.	(7) In the procedure proceeding on the basis of Council Regulation (EU) 2017/1939, the total duration of the temporary insurance before the filing of the indictment (Article 502b of this Act) may not be longer than four years.”
22. člen V 165.a členu se za tretjim odstavkom dodata nova četrti in peti odstavek, ki se glasita: »(4) Če državni tožilec predlaga preiskovalno dejanje zaradi izvajanja pristojnosti na podlagi Uredbe 2017/1939/EU, to navede v predlogu skupaj s podatki iz tretjega odstavka a165.a člena tega zakona. Na zahtevo preiskovalnega sodnika predlogu priloži tudi kazensko ovadbo ali drugo zbrano gradivo. Če preiskovalni	Article 22 In Article 165a, new fourth and fifth paragraphs are added after the third paragraph, which read: “(4) If the state prosecutor proposes an investigative act due to the exercise of powers based on Regulation 2017/1939/EU, he shall state this in the proposal together with the information from the third paragraph of Article a165.a of this Act. At the request of the investigating judge, he shall also attach

sodnik meni, da niso podani zakonski pogoji za opravo preiskovalnega dejanja, obvesti o razlogih za svojo odločitev državnega tožilca. Preiskovalni sodnik ne presoja smotrnosti oprave dejanj, ki jih predlaga državni tožilec.	a criminal complaint or other collected material to the proposal. If the investigating judge considers that the legal conditions for conducting the investigative act are not met, he informs the state prosecutor of the reasons for his decision. The investigating judge does not judge the expediency of carrying out actions proposed by the state prosecutor.
(5) Osumljenec, zoper katerega teče postopek na podlagi Uredbe 2017/1939, sme predlagati preiskovalnemu sodniku izvedbo preiskovalnega dejanja. Predlog mora biti obrazložen in mora vsebovati podatek o obvestilu iz tretjega odstavka a165.a člena tega zakona. Preiskovalni sodnik pred odločitvijo pozove državnega tožilca, da se v določenem roku izjavi o predlogu. Če se preiskovalni sodnik ne strinja s predlogom osumljenca za opravo preiskovalnega dejanja, ga obvesti o razlogih za svojo odločitev.«.	(5) A suspect against whom proceedings are ongoing based on Regulation 2017/1939 may propose to the investigating judge that an investigative act be carried out. The proposal must be explained and must contain information about the notification referred to in the third paragraph of Article a165.a of this Act. Before making a decision, the investigating judge asks the state prosecutor to make a statement about the proposal within a certain period. If the investigating judge does not agree with the suspect's proposal to conduct an investigative act, he shall inform him of the reasons for his decision."
24. člen V 170. členu se v tretjem odstavku beseda »osem« nadomesti s številko »15«. Na koncu šestega odstavka se doda besedilo, ki se glasi: »Državni tožilec vloži obtožnico brez preiskave tudi, kadar postopek teče na podlagi Uredbe 2017/1939/EU.«.	Article 24 In Article 170, in the third paragraph, the word "eight" is replaced by the number "15". At the end of the sixth paragraph, the following text is added: "The state prosecutor files an indictment without an investigation even when the procedure is based on Regulation 2017/1939/EU.".

57. člen Ta zakon začne veljati petnajsti dan po objavi v Uradnem listu Republike Slovenije, uporabljati se začne štiri mesece po njegovi uveljavitvi, razen spremenjenih in novih določb a165.a člena, 165.a člena in 170. člena zakona, ki se začnejo uporabljati od dneva začetka delovanja Evropskega javnega tožilstva po Uredbi 2017/1939/EU, ki ga s sklepom določi Evropska komisija, do takrat pa se uporabljajo dosedanji predpisi.	Article 57 This law enters into force on the fifteenth day after its publication in the Official Gazette of the Republic of Slovenia, it comes into force four months after its entry into force, except for the amended and new provisions of Article a165.a, Article 165.a and Article 170 of the law, which come into force from the date of commencement of the operation of the European Public Prosecutor's Office according to Regulation 2017/1939/EU, which is determined by the decision of the European Commission, until then the current regulations are applied.

3. Notification pursuant to Art. 117 EPPO Regulation

Table 3: Notification pursuant to Art. 117 EPPO Regulation (excerpt) **7**

36(6)	The national authorities that are to be notified about the decision to prosecute: - the police authority that filed a report to the EPPO, - other national authorities that received directions by the prosecutor to conduct certain activity regarding the case, - the competent court when the decision is related to other proceedings before the court (temporary measure securing a claim for the confiscation of proceeds, pre-trial detention, proceedings aimed at forfeiture of assets of illegal origin etc.).
39(4)	The national authorities that are to be officially notified when dismissing a case: - the police authority that filed a report to the EPPO, - other national authorities that received directions by the prosecutor to conduct certain activity regarding the case, - in cases the covert measures (Art. 153 para 4 of the Criminal Procedure Act), the pre-trial detention and/or the securing of a claim for the confiscation of proceeds were ordered (Art.

	206 and Art. 502c para 3 of the Criminal Procedure Act): the court of law (investigating judge), - if the proceedings before the court are ongoing, the competent court is informed about the withdrawal of the indictment, - when the act of the perpetrator does not constitute a criminal offence but a misdemeanour: the national authority competent for the misdemeanour procedure.
96(6)	Specialised State Prosecutor's Office of the Republic of Slovenia Trg OF 13 1000 Ljubljana.
104(7)	If criminal proceedings are pending in the Republic of Slovenia against a person who resides in a foreign country, or if that person has been punished by a domestic court, the minister responsible for justice may file a request for his or her extradition (Art. 534 para 1 of the Criminal Procedure Act/ZKP). Bilateral or multilateral agreements may provide different rules of the extradition request procedure. The EAW provisions apply *mutatis mutandis* to the surrender procedure between the Republic of Slovenia, the Republic of Iceland and the Kingdom of Norway, pursuant to the Agreement between the European Union and the Republic of Iceland and the Kingdom of Norway on the surrender procedure between the Member States of the European Union and Iceland and Norway. *Nota bene:* Art. 534 of the CPA applies to the third countries only. For the EU Member States, the Cooperation in Criminal Matters with the Member States of the European Union Act[6] applies.

[6] See https://www.uradni-list.si/glasilo-uradni-list-rs/vsebina?urlid=2007102&stevilka=5065. Accessed 18 March 2024.

B. EPPO-Regulation

I. General Introduction to the European Public Prosecutor's Office in Slovenia

Introduction by Assoc. Prof. Dr. Benjamin Flander

On June 1, 2021, the European Public Prosecutor's Office (EPPO) was formally established, marking the conclusion of political and legislative process that started with the adoption of Regulation (EU) 2017/1939 of 12 October 2017 (Regulation)[7] and lasted more than 20 years. The EPPO's operations started with the College's appointment and the choice of 140 EDPs from the participating Member States, including Slovenia. While Jaka Brezigar's selection as Slovenia's European Public Prosecutor went off without a hitch, the same cannot be said for the appointment of candidates for EDPs. The State Prosecutorial Council[8] recommended two candidates in December 2020 who met all legal requirements, but the government chose not to confirm them. According to some renowned media commentators and independent legal experts, the two candidates were unsuitable for Prime Minister *Janez Janša* and his political party because of the investigations they had conducted in the past. The State Prosecutorial Council was asked to reopen the selection process because, according to government officials, "*not enough candidates had been proposed*". **1**

High-ranking members of the judiciary, the State Attorney General and a great number of legal experts harshly criticized the government's move. Laura Codruta Kövesi, the European Chief Prosecutor, also voiced her concern with the Slovenian government's actions, arguing that the difficulties in proposing and selecting EDPs jeopardize the credibility of the EPPO and the confidence in the oversight of the EU funds. After several months of delays, the government decided to repeat the candidate selection process, claiming that at least six candidates should apply.[9] At the second public call, Matej Oštir and Tanja Frank Eler, who were nominated in the initial process, were the only candidates who applied. The government finally confirmed both as candidates, outlining that it was "*only a temporary proposition*". This government's action was also not well received, but it turned out that the appointment was final in the end. Matej Oštir and Tanja **2**

[7] Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO'), *OJ L 283, 31.10.2017.*

[8] In the Slovenian justice system, the State Prosecutorial Council is an autonomous authority that performs the tasks and duties of state prosecution self-governance and participates in safeguarding the autonomy of state prosecutors.

[9] This claim was repudiated by the President of the State Prosecutorial Council, and by legal professionals who raised their voices publicly, as bizarre and clearly unfounded.

Frank Eler were appointed to a five-year term by the College of the EPPO at the end of November 2021.

3 The State Prosecution Service Act and Criminal Procedure Act were amended by the Slovenian parliament to ensure the EPPO's effective operation. Adopted in September 2020, the amendments to the former address matters pertaining to the selection of the European Public Prosecutor from Slovenia and the requirements for the candidates for EDPs, their number, authority, position and rights.[10] The Criminal Procedure Act was amended in December 2020, with new provisions that are applicable to criminal cases that fall under the competence of EPPO/EDPs.[11]

4 The Criminal Procedure Act's new Art. a165a specifies that the judicial investigation shall not be conducted in criminal cases that are under the EPPO's jurisdiction. Simply stated, this means that when it comes to criminal offences to the detriment of the EU budge the investigation is entirely in the hands of EPPO/EDPs while the role of the investigating judge remains to order or decline the investigative measures proposed either by EPPO/EDPs or by the suspect. The EDP must notify the suspect that a legal action has been taken against him or her on the basis of the Regulation as soon as possible, either by himself or with the help of the police. If and for as long as it is required for the performance of investigative measures, the suspect's notification may be postponed. The notice to the suspect must include a description of the crime, information about how the procedure is being carried out in accordance with the Regulation, instructions on the right to inspect the file and evidence that has been gathered, and information about the suspect's right to free legal representation in accordance with the rules governing free legal representation. In the procedure based on the Regulation, the state prosecutor must file an indictment against the detained suspect no later than six months following the detention order. The investigating judge must end the detention and release the detainee if the indictment has not been brought within that time.[12]

5 In contrast to neighboring Croatia, which is currently dealing with a considerable number of fraud investigations regarding harm to the EU budget, in Slovenia the EPPO's jurisdiction has only been involved in a very small number of cases thus far. According to the EPPO annual report for 2021, the Slovenian EDPs received 20 reports from national authorities; three EDP cases had active investigations; 18 times the EDPs chose not to use their authority; and no judgements were issued in the EPPO's cases. The

[10] Act Amending the State Prosecution Service Act (*Zakon o spremembah in dopolnitvah Zakona o državnem tožilstvu* [ZDT-1D]), Official Gazette of the Republic of Slovenia, No. 139/20, dated 29 September 2020.
[11] Act Amending the Criminal Procedure Act **(***Zakon o spremembah in dopolnitvah Zakona o kazenskem postopku* [ZKP-O]), Official Gazette of the Republic of Slovenia, No. 200/20, dated 17 December 2020.
[12] *Ibid*.

estimated total loss resulting from fraud and other illegal activities committed against the EU is €600,806.[13]

The Maribor Local Court broke the ice by delivering the first ruling in an EPPO case at the start of July 2022. The three defendants – two natural persons and one legal entity – were found guilty of attempted fraud to the detriment of the EU budget. The Slovenian Ministry of Infrastructure released a public tender in order to co-finance from the EU Cohesion Fund projects related to the purchase and installation of equipment for producing electricity. **6**

The first defendant, a company director, and the second defendant, a director of another company, conspired and submitted false statements and documents to the public tender. To secure a non-reimbursable grant of €31,300 for the company that the first defendant directed, the two defendants attempted to deceive the ministry. The ministry, however, caught the planned scam in time and decided not to award the funding. Each of the two accused is given a suspended sentence of seven months in prison and two years of probation and the defendant legal person is given a punishment of paying a fine of ten thousand euros and two years of probation. The decision of the court is not yet final.[14] **7**

The establishment of the EPPO marks a shift from a horizontal approach to cooperation in criminal matters (governed by the principle of mutual recognition of judicial decisions), to a vertical one. While the horizontal approach is based on cooperation between the authorities of the Member States, the EPPO brings the concept of coordination of national jurisdictions. Thus, the hybrid nature of the EPPO implies a variety of challenges for both the central office and EDPs. One of the challenges concerns the exclusionary rule. In the Commission's proposal, the rule was meant to be uniform, the Regulation as it has been adopted, however, forbids the exclusion of evidence merely because it was obtained outside of the nation. It stays unclear how much foreign evidence will actually be used. It will largely depend on the interpretation used by the national courts. Slovenian courts, for instance, never solely base their assessment of foreign evidence on the source of the evidence, but also look at their compliance with fundamental constitutional principles.[15] **8**

Even after the EPPO was formally founded, the challenge remains how to understand the provision of the Treaty on the Functioning of the EU that it shall be established "from" Eurojust. These are two very different mechanisms, both in terms of powers and tasks, as well as in terms of the criminal acts for which they are competent. So, should the EPPO completely replace Eurojust, or should they work side by side after EPPO was **9**

[13] See https://www.eppo.europa.eu/sites/default/files/2022-03/CH2.21_EPPO-Annual-Report-2021-SI.pdf. Accessed 18 March 2024.
[14] See https://www.eppo.europa.eu/en/news/first-verdict-eppo-case-slovenia-three-found-guilty-attempted-fraud. Accessed 18 March 2024.
[15] See Gorkič P 2010, p 29.

established? Perhaps the most "flexible" answer was offered more than a decade ago by *John A. E. Vervaele* from the University of Utrecht. According to him, first the two would exist side by side, and in the second phase the EPPO would completely replace Eurojust, with the simultaneous expansion of its powers.[16]

10 Other challenges that may be common for the EPPO offices in all participating countries are independent, effective, and transparent operation, the prevention and management of conflicts of interest, and improvements in prevention, detection and investigation methods, as well as collaboration with the European Court of Auditors and the European Anti-Fraud Office (OLAF). The potential obstruction of the criminal investigation (if a member state participates in the investigation but does not take part in the enhanced cooperation related to the establishment of EPPO), should also not be overlooked. Last but not least, it will be crucial in the future to establish firm relations among the European Prosecutors in the Central Office and EDPs and a clear line of authority between EPPO and OLAF.

11 On the whole, the establishment of the EPPO and its integration into the Slovenian criminal justice system should be viewed as a significant step toward improving standards of the rule of law by more effectively safeguarding the financial interests of both the EU and Slovenia, notwithstanding the general concerns about EPPO and unfortunate delay in nominating EDPs. However, given that EPPO/EDPs have just recently begun to function in the country "*on the sunny side of the Alps*" and no final judgments from the courts have yet been issued, time will tell what real benefits this innovation to the EU and Member States criminal law will bring.

[16] *Ibid.*

II. The Start of Criminal Investigations according to the EPPO Regulation based on National Law (Measures)

[…]
SECTION 1
Rules on investigations

1. Article 26 Initiation of investigations and allocation of competences within the EPPO

1. Where, **in accordance with the applicable national law,** there are **reasonable grounds to believe that** an offence within the competence of the EPPO is being or has been committed, a European Delegated Prosecutor in a Member State which **according to its national law** has jurisdiction over the offence shall, without prejudice to the rules set out in Article 25(2) and (3), initiate an investigation and note this in the case management system.2. Where upon verification in accordance with Article 24(6), the EPPO decides to initiate an investigation, it shall without undue delay inform the authority that reported the criminal conduct in accordance with Article 24(1) or (2).
3. Where no investigation has been initiated by a European Delegated Prosecutor, the Permanent Chamber to which the case has been allocated shall, under the conditions set out in paragraph 1, instruct a European Delegated Prosecutor to initiate an investigation.
4. A case shall as a rule be initiated and handled by a European Delegated Prosecutor from the Member State where the focus of the criminal activity is or, if several connected offences within the competences of the EPPO have been committed, the Member State where the bulk of the offences has been committed. A European Delegated Prosecutor of a different Member State that has jurisdiction for the case may only initiate or be instructed by the competent Permanent Chamber to initiate an investigation where a deviation from the rule set out in the previous sentence is duly justified, taking into account the following criteria, in order of priority:
(a) the place of the suspect's or accused person's habitual residence;
(b) the nationality of the suspect or accused person;
(c) the place where the main financial damage has occurred.
5. Until a decision to prosecute under Article 36 is taken, the competent Permanent Chamber may, in a case concerning the jurisdiction of more than one Member State and after consultation with the European Prosecutors and/or European Delegated Prosecutors concerned, decide to:
(a) reallocate the case to a European Delegated Prosecutor in another Member State;
(b) merge or split cases and, for each case choose the European Delegated Prosecutor handling it,
if such decisions are in the general interest of justice and in accordance with the criteria for the choice of the handling European Delegated Prosecutor in accordance with paragraph 4 of this Article.
6. Whenever the Permanent Chamber is taking a decision to reallocate, merge or split a case, it shall take due account of the current state of the investigations.
7. The EPPO shall inform the competent national authorities without undue delay of any decision to initiate an investigation.

Table 4: Overview Box: Art. 26 EPPO Regulation (PIF offences etc.)

Overview	
Relevant national law	Sources: Confiscation of Assets of Illicit Origin Act/Zakon o odvzemu premoženja nezakonitega izvora (ZOPNI Constitutional Court Act/Zakon o ustavnem sodišču (ZUstS) Cooperation in Criminal Matters with the Member States of the European Union Act/Zakon o sodelovanju v kazenskih zadevah z državami članicami Evropske unije (ZSKZDČEU-1) Courts Act/Zakon o sodiščih (ZS) Criminal Code/Kazenski zakonik (KZ-1) State Attorney's Office Act/Zakon o državnem odvetništvu (ZDOdv) State Prosecution Service Act/Zakon o državnem tožilstvu (ZDT-1) Tax Procedure Act/Zakon o davčnem postopku (ZDavP-2)Value Added Tax Act/Zakon o davku na dodano vrednost (ZDDV-1)
"An offence within the competence of the EPPO"	For the text of the offences that are mentioned by Art. 26 EPPO Regulation "an offence within…"
Sanctions for legal persons	Liability of Legal Persons for Criminal Offences Act/Zakon o odgovornosti pravnih oseb za kazniva dejanja
"[Competence of] a European Delegated Prosecutor in a Member State [Slovenia]"	The State Prosecution Service Act regulates this matters, see **Article 1a (Implementation of legal acts of the European Union)** (1) With this Act, for the implementation of Regulation (EU) 2018/1727 of the European Parliament and of the Council of 14 November 2018 on the European Union Agency for Judicial Cooperation in Criminal Matters (Eurojust) and the replacement and repeal of Council Decision 2002/187/PNZ (OJ L No. 295 of

	21/11/2018, p. 138; hereinafter: Regulation 2018/1727/EU) determine the procedure and conditions for the appointment as well as the powers and rights of the national representative, his deputy and assistant in the Agency of the European Union for judicial cooperation in criminal matters. (2) With this Act, for the implementation of Council Regulation (EU) 2017/1939 of 12 October 2017 on the implementation of enhanced cooperation in connection with the establishment of the European Public Prosecutor's Office (OJ L No. 283 of 31 October 2017, p. 1; hereinafter: Regulation 2017/1939/EU) determine the candidacy procedure and conditions for inclusion on the list of candidates for the appointment of the European Prosecutor and European Delegated Prosecutors in the European Public Prosecutor's Office, their number, competences, position and rights.
"Jurisdiction"	Cf. Criminal Code (KZ-1), Art. 229: Fraud against the European Union and cf. Art. 11 of the PIF Directive

a) Initiation of Investigations by virtue of Art. 26 para 1 EPPO Regulation

Article 26 needs to be seen independent from Article 27. Article 26 stands on its own and describes a **principle of legality at Union level**, which has the effect of protecting the Unions's (own) financial interests. Slovenia has so-called pre-trial proceedings (*predkazenski postopkek*).[17] The state prosecutor has the position of a *dominus litis*.[18] The Prosecutor may be obliged, or just may have to share his investigative work with the investigating judge (*preiskovalni sodnik*)[19], inquire with him, have actions approved by or leave the investigation entirely to him.

12 However, to give a rough idea of the Slovenian situation, the relationship between the prosecutor and the investigation judge is quite complex. Due to its socialist past, Slovenian criminal procedure is indeed based on the assumptions of the inquisitorial model of criminal process, but changes were introduced, especially in the last decade and a half, with numerous amendments to the CPA/ZKP. The tendency regarding the status

[17] Cf. Part Two Procedure A. Preliminary Procedure, XV. Chapter Precision Proceedings (Drugi Del Potek Postopka A. Predhodni Postopek XV. Poglavje Predkazenski Postopek, Art. 145 et seq.).
[18] Cf. Sluga 2011, p 14.
[19] The Slovenian Criminal System is part of countries that still have an investigating judge.

of the investigating judge is to reduce his investigative role and strengthen his guarantor role in ensuring the defendant's fundamental rights and procedural guarantees.

The explicit provisions of the CPA/ZKP on the INVESTIGATION concern the formal investigation (also called the judicial investigation) which is issued and managed by the investigating judge at the proposal of the state prosecutor. The investigating judge issues it when, on the basis of the activities of the police and the state prosecutor, ***enough facts have been established*** and ***enough evidence has been gathered to justify the reasonable suspicion*** that the person has committed a criminal offence. **13**

If the state prosecutor has entered into a plea agreement/bargaining with the defendant, or if the law prescribes a prison sentence of up to eight years for the crime, the state prosecutor may file an indictment even without an investigation (i.e. without the judicial investigation), if the collected data and evidence provide sufficient grounds for an indictment. **14**

In practice, in the vast majority of cases state prosecutors do not propose the formal (judicial) investigation. While the investigation is carried out by the state prosecutor and the police alone, the investigating judge performs the role of judicial control over the legality of the conduct of investigators and over interferences with fundamental rights. For example, the investigating judge, as a representative of the judicial authority, on the proposal of the state prosecutor, orders detention on remand if the conditions stipulated by the CPA/ZKP are met (*nota bene*: Detention on remand normally follows police arrest and detention, which is limited to a maximum of 48 hours). **15**

In addition, the investigating judge, at the proposal of the state prosecutor, if the conditions specified by the CPA/ZKP are met, also orders a personal and home search, search of electronic devices, covered investigative measures, etc. As a rule, the investigating judge orders all the mentioned measures in writing, only exceptionally (i.e. under certain conditions) also orally, but he or she must subsequently issue a written order. In practice in most cases (when no judicial investigation has been ordered) the state prosecutor proposes to the investigating judge to carry out one or more individual investigative actions/measures (more accurately, the investigative measures are carried out by the police under the prosecutor's guidance). **16**

The amendment to the CPA/ZKP (*ZKP-O*), which introduced **Article a165.a** and certain other provisions related to EPPO, determined that in cases that fall under the Regulation (i.e. in cases within the jurisdiction of EPPO) ***the (judicial) investigation shall not be conducted***. ***This means that the investigation is entirely in the hands of the state prosecutor (i.e. /EPPO/EDPs), while the role of the investigating judge is to order (or decline) the investigative measures proposed by EPPO/EDPs***. **17**

18 The EPPO Regulation brought some amendments to the Slovenian Legislation and e.g. Article a165a CPA now applies in case the EPPO evocates an investigation or considers by itself via its Slovenian EDPs to start an investigation:

19 **Article a165.a CPA**[20] (1) In proceedings pending under Council Regulation (EU) 2017/1939 of 12th October 2017 implementing enhanced cooperation regarding the establishment of a European Public Prosecutor's Office (OJ L 283, 31.10.2017, p. 1) (Hereinafter: Regulation 2017/1939 / EU), the investigation under XVI. Chapter of this Act does not [apply]. Provisions of XVI. Chapters of this Act shall apply in such proceedings, provided that they are not in conflict with this and Article 165.a of this Act [below].
(2) The state prosecutor himself or with the assistance of the police shall inform the suspect of the course of the procedure under Regulation 2017/1939 / EU as soon as possible. If this is unavoidable due to the implementation of investigative acts or measures referred to in Articles 149a, 149b, 149c, 149c, 149e, 150, 150a, 150b, 151, 155, 155. a and Article 156 of this Act, shall inform the suspect as soon as possible without prejudice to their execution.

Article 165.b. CPA (1) Before filing a request for an investigation or an indictment without an investigation, the state prosecutor may propose to the investigating judge to perform one or more individual investigative acts, if this is necessary for his decision or to dismiss the criminal complaint or initiate criminal prosecution.

[20] **a165.a člen ZKP**
(1) V postopku, ki teče na podlagi Uredbe Sveta (EU) 2017/1939 z dne 12. oktobra 2017 o izvajanju okrepljenega sodelovanja v zvezi z ustanovitvijo Evropskega javnega tožilstva (UL L št. 283 z dne 31. 10. 2017, str. 1; v nadaljnjem besedilu: Uredba 2017/1939/EU), se preiskava po XVI. poglavju tega zakona ne opravi. Določbe XVI. poglavja tega zakona se v takšnem postopku uporabljajo, če niso v nasprotju s tem in 165.a členom tega zakona.
(2) Državni tožilec sam ali s pomočjo policije obvesti osumljenca o poteku postopka po Uredbi 2017/1939/EU, takoj ko je to mogoče. Če je to neizogibno zaradi izvedbe preiskovalnih dejanj ali ukrepov iz 149.a, 149.b, 149.c, 149.č, 149.e, 150., 150.a, 150.b, 151., 155., 155.a in 156. člena tega zakona, osumljenca obvesti takoj, ko je to mogoče brez škode za njihovo izvedbo.
(3) Obvestilo osumljencu vsebuje opis dejanja, iz katerega izhajajo zakonski znaki kaznivega dejanja, zakonsko označbo kaznivega dejanja in dejstvo, da poteka postopek po Uredbi 2017/1939/EU, ter pouk o pravicah iz četrtega odstavka tega člena in petega odstavka 165.a člena tega zakona. Čas in način obveščanja se zaznamujeta v spisu.
(4) Od obveščanja dalje ima osumljenec pravico do vpogleda v spis (drugi in peti odstavek 128. člena tega zakona) in dokazno gradivo pri državnem tožilcu ter je upravičen do brezplačne pravne pomoči v skladu z določbami zakona, ki ureja brezplačno pravno pomoč.
(5) Če v zadevi že poteka preiskava po XVI. poglavju tega zakona, državni tožilec o poteku postopka po Uredbi 2017/1939/EU obvesti tudi sodišče, ki se izreče za nepristojno in zadevo po pravnomočnosti sklepa pošlje državnemu tožilcu.
(6) V postopku, ki teče na podlagi Uredbe 2017/1939/EU, mora državni tožilec vložiti obtožnico zoper priprtega osumljenca (četrti odstavek 204.a člena tega zakona) najpozneje v šestih mesecih od odreditve pripora, sicer preiskovalni sodnik odpravi pripor in priprtega izpusti. Preiskovalni sodnik, ki je pripor odredil, je v skladu z določbami tega zakona pristojen tudi za nadzor nad izvrševanjem pripora.
(7) V postopku, ki teče na podlagi Uredbe Sveta (EU) 2017/1939, skupno trajanje začasnega zavarovanja pred vložitvijo obtožnice (502.b člen tega zakona) ne sme biti daljše od štirih let.

(2) The state prosecutor, the injured party, the suspect and the defence counsel may be present during the performance of the investigative act, and the investigating judge must inform them in an appropriate manner. If the questioning of a suspect is proposed as a specific investigative act, the provisions of this Act on summoning and questioning the accused [see Article 240 et seq. CPA/ZKP] shall apply.

(3) If the investigating judge does not agree with the proposal of the state prosecutor to carry out the investigative act, he shall inform the state prosecutor of the reasons for his decision, who may propose the commission of such an act in the request for investigation or indictment [see Article 268 et seq. CPA/ZKP].

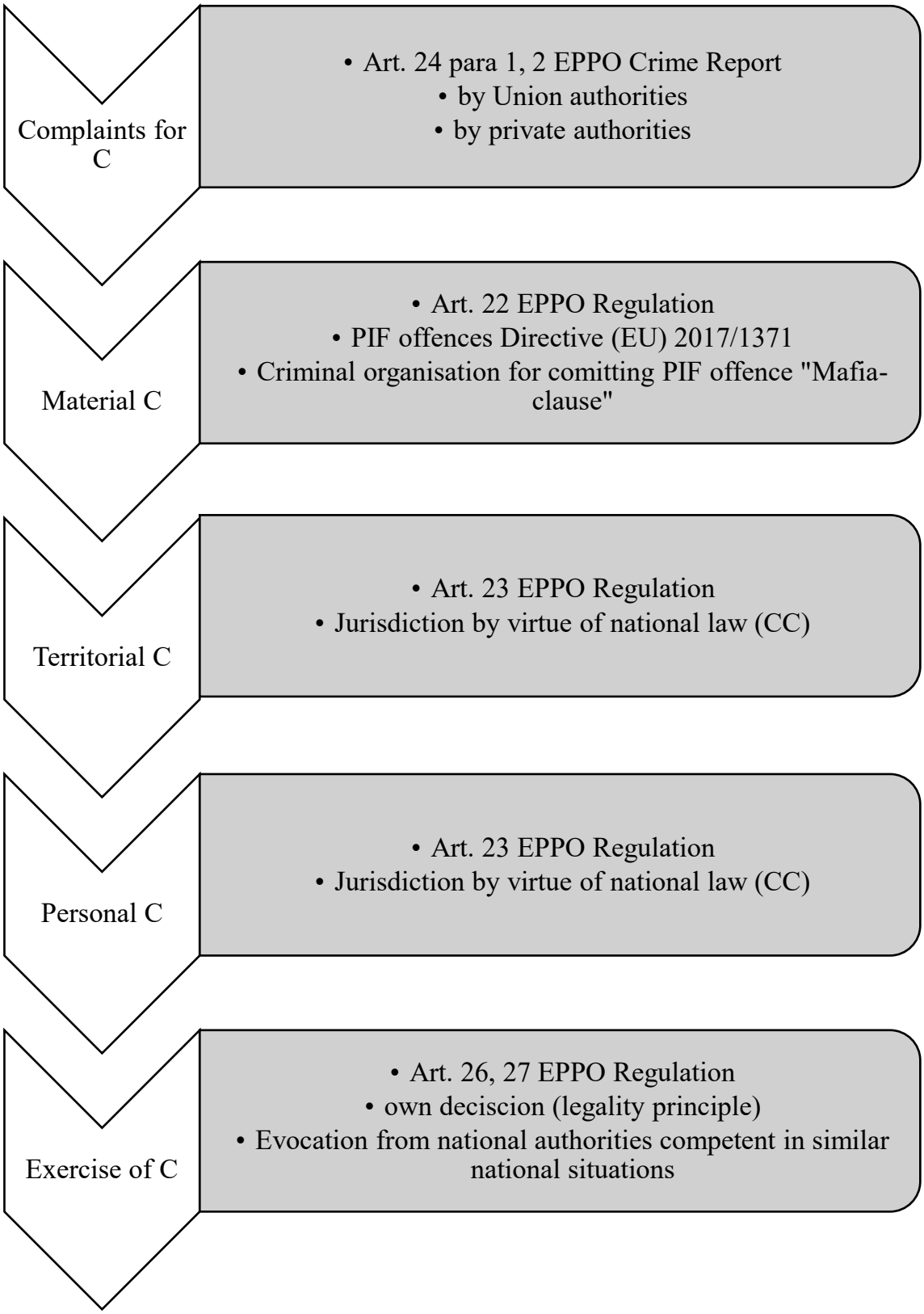
(4) If the state prosecutor proposes an investigative act for the purpose of exercising competences on the basis of Regulation (EU) 2017/1939, he shall state this in the proposal together with the data referred to in the third paragraph of Article a165.a of this Act. At the request of the investigating judge, the proposal shall also be accompanied by a criminal complaint or other collected material. If the investigating judge considers that the legal conditions for carrying out the investigative act have not been met, he shall inform the state prosecutor of the reasons for his decision. The investigating judge does not assess the expediency of performing the actions proposed by the state prosecutor.

(5) A suspect against whom proceedings are pending pursuant to Regulation (EU) 2017/1939 may propose to the investigating judge to carry out an investigative act. The proposal must be reasoned and must contain information on the notification referred to in the third paragraph of Article a165.a of this Act. Prior to the decision, the investigating judge shall invite the state prosecutor to state his / her opinion on the motion within a specified time limit. If the investigating judge does not agree with the suspect's proposal to carry out an investigative act, he shall inform him of the reasons for his decision.

The rules on the investigation are given in XVI. Chapter Investigation[21] of the CPA/ZKP (*see below*). The EPPO and the Regional Office in Slovenia will receive so-called EPPO Crime Reports (they exist in Slovenian language – the EPPO Legal Secretariat may be contacted or informed online). **20**

[21] XVI. poglavje Preiskava. ZKP.

Figure 1: EPPO – Exercise of competence in general



Source: The authors.

But what is the effect of the reference to national law in Article 26 EPPO Regulation nowadays? Does it suffice to start investigations into VAT fraud, customs duties fraud etc.? How have the cases been exercised in practice and what is the situation after one year of operational work? **21**

The EPPO Annual Report 2021 provides information on the exercise of jurisdiction under Articles 26 and 27 EPPO Regulation. **22**

If there is **reasonable suspicion** that a criminal offence of VAT fraud, customs duties fraud etc. has been committed, it does suffice to start investigations into VAT fraud, customs duties fraud etc. "Reasonable suspicion" is one of the four evidentiary standards (i.e. standards of proof) relied on by the Slovenian CPA/ZKP. The standards of proof follow from bottom to top as follows: grounds for suspicion, reasonable grounds for suspicion, reasonable suspicion and beyond a reasonable doubt (please note that for the standard "beyond a reasonable doubt" in the Slovenian language another term is used, which doesn't have sense if translated into English).

Reasonable suspicion means a high level of articulated, concrete and specific probability that a certain person has committed a crime. Reasonable suspicion takes place if the degree of probability that a certain person has committed a crime is greater than the probability that he or she has not committed it, and the suspicion must be based on concrete facts and evidence.[22] 23

In order to establish **reasonable suspicion** that a person has committed a crime, the police (with the cooperation of the state prosecutor) must have gathered evidence that justifies the existence of this relatively high standard of proof. As soon as there are **reasons for suspicion** that a crime has been committed, the police can and should initiate activities listed in Article 148 of the CPA/ZKP (see below). However, if the behaviour of a person (or more persons) does not have elements of a criminal offence, but only a minor offence, then the Financial administration (i.e. its tax or customs department) would initiate some form of administrative investigation/inspection procedure or financial investigation in administrative matters (according to Article 100 of the Financial Administration Act, the latter would be initiated in cases involving the most serious violations of tax rules and other rules under the jurisdiction of the financial administration and for the implementation of actions and measures to ensure mutual assistance to EU authorities and EU Member States). **24**

[22] See Supreme Court judgment XI Ips 45612/2010-237 (XI Ips 58/2010).

b) Relevant sources of the indications for a criminal offence falling within the competence of the EPPO

"In order to achieve its goals, the EPPO will need to establish smart information flows between the central office in Luxembourg, delegated prosecutors, and national authorities and, at the same time, avoid causing delays in the information exchange. […]In this regard, some of the existing EU mechanisms concerning de facto reporting of PIF crimes seem to be obsolete, as well as national law duties to report such information to a national prosecution office in advance or in parallel to the EPPO."[23]

25 The normal national provisions regarding reporting criminal offences to a prosecutor a slightly changed for the EPPO but still the national provision describes how EPPO Reports function as well: Anyone seeing, hearing or suspecting that he/she has seen a criminal conduct can report this directly to the EPPO or its Regional Office in Slovenia:

26

Article 146 CPA[24] (1) Anyone can report a criminal act for which the perpetrator is prosecuted ex officio.
(2) At the same time, with the complaint, the complainant shall state the evidence of which he is aware. Irrespective of the provisions of the laws governing various forms of secrecy or confidentiality, legal entities under private or public law, independent entrepreneurs, individuals and branches of foreign companies in Slovenia, when reporting a criminal offence, also provide data that is generated or obtained during or in connection with their activity, but it is stipulated by law or by a decision of the entity's competent authority that they must protect them as secret or confidential or that they must not disclose them to others.
(3) The law determines when the failure to report a criminal offence constitutes a criminal offence itself.

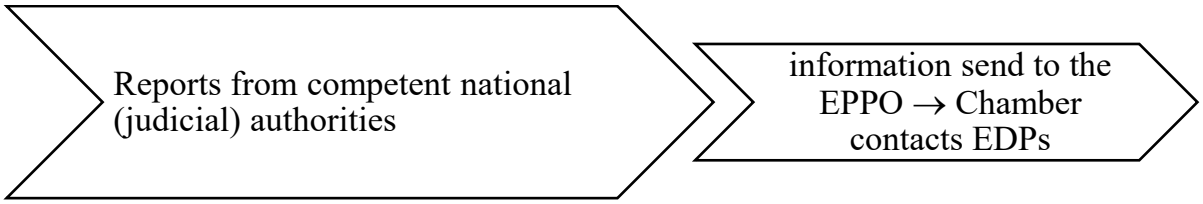
[23] Klement 2021, p. 51–52.
[24] **146. člen ZKP**
(1) Vsakdo lahko naznani kaznivo dejanje, za katero se storilec preganja po uradni dolžnosti.
(2) Obenem z ovadbo ovaditelj navede dokaze, za katere ve. Ne glede na določbe zakonov, ki urejajo različne oblike tajnosti oziroma zaupnosti, pravne osebe zasebnega ali javnega prava, samostojni podjetniki posamezniki in podružnice tujih podjetij v Sloveniji z naznanitvijo kaznivega dejanja posredujejo tudi podatke, ki nastanejo ali jih pridobijo pri ali v zvezi s svojo dejavnostjo, pa je z zakonom ali s sklepom pristojnega organa subjekta določeno, da jih morajo varovati kot tajne oziroma zaupne oziroma da jih ne smejo razkriti drugim.
(3) Zakon določa, kdaj pomeni opustitev ovadbe kaznivega dejanja sama kaznivo dejanje.

A distinction can be made between the direct and the indirect path for the transfer of infromation related to the competence: **27**

Article 145 CPA[25]
(1) All state bodies and organizations with public powers are obliged to report criminal acts for which the perpetrator is prosecuted ex officio, if they are informed about them or if they learn about them in any other way.
(2) Simultaneously with the complaint, the authorities and organizations from the previous paragraph must state the evidence they know about and ensure that the traces of the criminal act and objects on which or with which the criminal act was committed are preserved, as well as other evidence.

Nota bene: The EPPO offers special so-called **EPPO Crime Report** files in Slovene language on its Website.

Figure 2: National (indirect way of) Obtaining information for the EPPO competence and the exercise of jurisdiction **28**



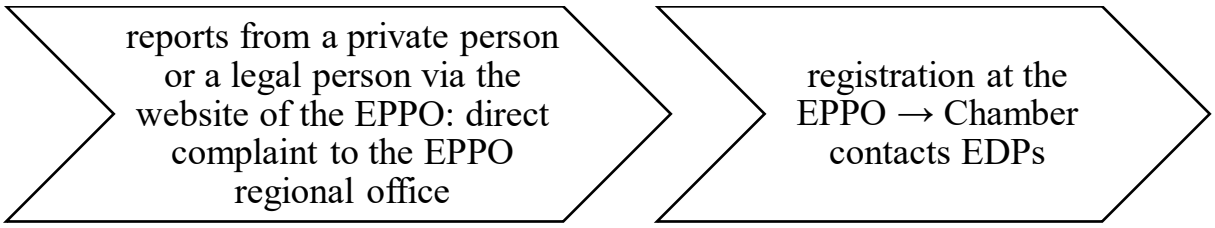
Art. 24 para 8[26]: **29**

24(8)	- Specialised State Prosecutor's Office of the Republic of Slovenia Trg OF 13 1000 Ljubljana - District State Prosecutor's Office Celje - District State Prosecutor's Office Koper - District State Prosecutor's Office Kranj - District State Prosecutor's Office Krško - District State Prosecutor's Office Ljubljana - District State Prosecutor's Office Maribor

[25] **145. člen ZKP**
(1) Vsi državni organi in organizacije z javnimi pooblastili so dolžni naznaniti kazniva dejanja, za katera se storilec preganja po uradni dolžnosti, če so o njih obveščeni, ali če kako drugače zvedo zanje.
(2) Obenem z ovadbo morajo organi in organizacije iz prejšnjega odstavka navesti dokaze, za katere vedo, in poskrbeti, da se ohranijo sledovi kaznivega dejanja in predmeti, na katerih ali s katerimi je bilo kaznivo dejanje storjeno, ter druga dokazila.
[26] See the Notification below.

	- District State Prosecutor's Office Murska Sobota - District State Prosecutor's Office Nova Gorica - District State Prosecutor's Office Novo mesto - District State Prosecutor's Office Ptuj - District State Prosecutor's Office Slovenj Gradec

30 *Figure 3: Supranational (direct way of) Obtainting information for the EPPO competence and the exercise of jurisdiction*



31 **Another, third source of information** are the Union bodies, which are obliged to report either to OLAF or to the EPPO (e.g. by obliged by Working Agreements) – depending on the seriousness of the suspected conduct: irregularities only or clear foundations for potential criminal offences. National authorities, who report to OLAF need to obey the "Guidelines on how to report irregularities and fraud to the European Commission".

32 OLAF will either way report conduct that falls in the EPPO's competence by virtue of Article 12c OLAF Reg.

33

Chapter 4 (IV. Poglavje Državni Tožilec), 16 et seq. (XVI. Poglavje Preiskava) of the CPA IV. Chapter CP: State Prosecutor
Article 45[27] **[Zakon o kazenskem postopku]**
(1) The main right and main duty of the state prosecutor is it to prosecute perpetrators of criminal offences.

[27] **IV. poglavje**
Državni Tožilec
45. člen ZKP
(1) Glavna pravica in glavna dolžnost državnega tožilca je preganjanje storilcev kaznivih dejanj.
(2) Glede kaznivih dejanj, za katera se storilec preganja po uradni dolžnosti, je državni tožilec pristojen:
1) da ukrene, kar je potrebno v zvezi z odkrivanjem kaznivih dejanj in izsleditvijo storilcev ter za usmerjanje predkazenskega postopka;
2) da zahteva preiskavo;
3) da vloži in zastopa obtožnico oziroma obtožni predlog pred pristojnim sodiščem;
4) da vlaga pritožbe zoper nepravnomočne sodne odločbe in izredna pravna sredstva zoper pravnomočne sodne odločbe.
(3) Državni tožilec opravlja tudi druga dejanja, ki so določena v tem zakonu.
(4) Državni tožilec ima v kazenskem postopku kot stranka enake pravice kot obdolženec, razen tistih, ki jih ima kot državni organ.

(2) With regard to criminal offences for which the perpetrator is being prosecuted *ex officio*, the state prosecutor shall be competent:
1) to take such measures as may be necessary with regard to the detection of criminal offences and the tracing of perpetrators and to direct the pre-trial proceedings;
2) to request an investigation;
3) to file and represent the indictment or indictment before the competent court;
4) to file appeals against non-final court decisions and extraordinary legal remedies against final court decisions.
(3) The state prosecutor shall also perform other acts specified in this Act.
(4) The state prosecutor shall have the same rights as the accused in criminal proceedings as a party, except for those he has as a state body.
[…]

Article 145
See above → Art. 26 Relevant sources of the indications for a criminal offence falling within the competence of the EPPO, mn. 26.

Article 146
See above → Art. 26 Relevant sources of the indications for a criminal offence falling within the competence of the EPPO, mn. 25.
[…]

Article 160a[28] (1) In exercising his powers under this Act, the State Prosecutor may direct the work of the police, the work of a competent body designated by law in the

[28] **160.a člen ZKP**
(1) Državni tožilec pri izvrševanju svojih pooblastil po tem zakonu lahko usmerja delo policije, delo z zakonom določenega pristojnega organa v ministrstvu, pristojnem za obrambo (158. člen), delo članov skupne preiskovalne skupine (160.b člen) ter delo drugih pristojnih državnih organov in institucij s področij davkov, carin, finančnega poslovanja, vrednostnih papirjev, varstva konkurence, preprečevanja pranja denarja, preprečevanja korupcije, prepovedanih drog in inšpekcijskega nadzora, in sicer z obveznimi navodili, strokovnimi mnenji in predlogi za zbiranje obvestil ter izvedbo drugih ukrepov, za katere so pristojni, z namenom, da se odkrijeta kaznivo dejanje in storilec oziroma da se zberejo podatki, potrebni za njegovo odločitev o kazenskem pregonu.
(2) V posameznih zadevah zahtevnih kaznivih dejanj, zlasti s področij gospodarstva, korupcije in organiziranega kriminala, ki so predmet predkazenskega postopka in ki terjajo dalj časa trajajoče, usmerjeno delovanje več organov in institucij iz prejšnjega odstavka, lahko vodja pristojnega državnega tožilstva po uradni dolžnosti ali na pisno pobudo policije s predstojniki posameznih organov in institucij iz prejšnjega odstavka ustanovi specializirano preiskovalno skupino.
(3) Specializirano preiskovalno skupino vodi in usmerja pristojni državni tožilec, člane pa imenujejo predstojniki organov in institucij iz prejšnjega odstavka. Po odredbi ali s predhodnim soglasjem državnega tožilca je lahko član specializirane preiskovalne skupine navzoč oziroma lahko svetuje državnemu tožilcu pri izvedbi posameznih preiskovalnih dejanj.
(4) O ustanovitvi specializirane preiskovalne skupine, njeni sestavi, nalogah in načinu delovanja odloči vodja pristojnega državnega tožilstva s pisno odredbo po predhodnem soglasju predstojnikov organov in institucij iz

ministry responsible for defence (Article 158), the work of members of a joint investigation team (Article 160b) and the work of other competent state bodies and institutions in the fields of taxes, customs, financial operations, securities, protection of competition, prevention of money laundering, prevention of corruption, illicit drugs and inspections, namely with mandatory instructions, expert opinions and proposals for collecting notifications and implementing other measures, for which they are competent, in order to discover the crime and the perpetrator or to gather the information necessary for his decision to prosecute.
(2) In individual cases of complex criminal offences, especially in the fields of economy, corruption and organized crime, which are the subject of pre-trial proceedings and which require long-term, targeted operation of several bodies and institutions referred to in the previous paragraph, the head of the competent state prosecutor's office or, at the written initiative of the police, establish a specialised investigation group with the heads of individual bodies and institutions referred to in the preceding paragraph.
(3) The specialised investigation group shall be led and directed by the competent state prosecutor, and the members shall be appointed by the heads of the bodies and institutions referred to in the preceding paragraph. By order or with the prior consent of the state prosecutor, a member of a specialised investigation team may be present or may advise the state prosecutor in carrying out individual investigative actions.
(4) The head of the competent state prosecutor's office shall decide on the establishment of a specialised investigation group, its composition, tasks and manner of operation by a written order with the prior consent of the heads of bodies and institutions referred to in the second paragraph of this Article. The order shall also specify the operational manager and his operational management tasks. The head of the competent state prosecutor's office shall immediately forward a copy of the order to the general state prosecutor.
(5) The procedure, cases, deadlines and manner of directing and informing referred to in the first paragraph of this Article shall be prescribed by the Government of the Republic of Slovenia.

For the Articles 166 et seq., especially Article 168 CPA, on the judicial investigations led by the investigating judge:
These provisions from Section XVI. of the CPA/ZKP concern the judicial investigation as a special type of investigation which is issued and supervised by the investigation judge. The investigating judge issues the investigation when, on the basis of the activities of the police and the state prosecutor, enough facts and evidence has been gathered

drugega odstavka tega člena. V odredbi se določi tudi operativni vodja in njegove naloge operativnega vodenja. Izvod odredbe vodja pristojnega državnega tožilstva nemudoma posreduje generalnemu državnemu tožilcu.
(5) Postopek, primere, roke in način usmerjanja in obveščanja iz prvega odstavka tega člena predpiše Vlada Republike Slovenije.

that there is a reasonable suspicion that the person has committed a criminal act. **Pursuant to Article a165.a of the CPA/ZKP, in cases that fall under the Regulation (i.e. in cases within the jurisdiction of EPPO) the judicial investigation shall not be conducted.** This means that the investigation is entirely in the hands of the state prosecutor (i.e. EDP), Hence, these and other provisions on the „investigation" are actually irrelevant for EPPO cases.

XIX. chapter Indictment and Objection against the Indictment
[see further Article 39 et seq. EPPO Regulation]
Article 268 CPA[29] (1) When the investigation is completed, as well as when an indictment may be filed without investigation (Article 170), proceedings may be instituted before a court only on the basis of the indictment of the state prosecutor or the injured party as prosecutor.
(2) The provisions on an indictment and on an objection against an indictment shall also apply mutatis mutandis to a private action if it is filed for a criminal offence within the jurisdiction of the district court.

aa. Determination of the competence and verification of Crime Reports

The first task of the EDPS in an Italian regional office is to determine whether the EPPO has competence and jurisdiction or can obtain competence and exercise jurisdiction (see below, Art. 27 → p. 129). **34**

These are formal but essential questions. They are determined by means of Union secondary legislation and special delegated guidelines required by secondary legislation, the so-called **Internal Rules on Procedure [of the EPPO]**.

This depends on the criteria of the Regulation (see → Art. 22, 23). **35**

Nota bene: There are rules issued by the EPPO Chamber but they apply for Article 27 Right of evocation. Article 26 para 5 and 6 refer to special rules on splitting or merging cases on Italian territory if different regional offices have intiated an investigation in similar cases.

(1) The Union standards, Art. 24 para 6 et seq. EPPO Regulation

For the EPPO to be competent, the requirements of the Regulation must be met. Either an examination according to Article 24 para 6 must show that the EPPO is competent or the delegated prosecutor carries out an examination and assessement by virtue of **36**

[29] XIX. Poglavje Obtožnica In Ugovor Zoper Obtožnico
268. člen ZKP
(1) Ko je končana preiskava, kot tudi kadar se brez preiskave lahko vloži obtožnica (170. člen), sme teči postopek pred sodiščem samo na podlagi obtožnice državnega tožilca oziroma oškodovanca kot tožilca.
(2) Določbe o obtožnici in o ugovoru zoper obtožnico se uporabljajo smiselno tudi za zasebno tožbo, če se ta vloži za kaznivo dejanje iz pristojnosti okrožnega sodišča.

Article 26 para 1 EPPO Regultion himself/herself without informing the Permanent Chamber and initiates an investigation about which he/she subsequently informs the Permanent Chamber.

Article 40 of the Internal Rules of Procedure outlines the process of verification of information by the EPPO. The verification is conducted to determine whether the reported conduct constitutes a criminal offense within the jurisdiction of the EPPO, if there are reasonable grounds to believe that an offense has been committed, and if there are any legal barriers to prosecution. Additionally, the verification for evocation considers factors such as the maturity and relevance of the investigation, cross-border aspects, and whether the EPPO is better suited to continue the investigation. The EPPO utilizes all available sources of information, including those available to the Slovene European Delegated Prosecutor. The verification must be completed within certain time limits, and if not finalized, the European Prosecutor may extend the time or issue instructions. Failure to issue a decision within the time limit is considered a non-evocation of the case.

37 The IRP rules of the EPPO state the following:

Article 40: Verification of information [Internal Rules of Procedure, 2020-12-/2020.003 IRP – EPPO]

1. The verification for the purpose of initiating an investigation shall assess whether:

a) the reported conduct constitutes a criminal offence falling under the material, territorial, personal and temporal competence of the EPPO;

b) ***there are reasonable grounds*** **under** ***the applicable national law*** to believe that an offence is being or has been committed;

c) there are obvious legal grounds that bar prosecution;

d) where applicable, the conditions prescribed by Article 25(2), (3) and (4) of the Regulation are met.

2. The verification for the purpose of evocation shall additionally assess:

a) the maturity of the investigation;

b) the relevance of the investigation with regard to ensuring the coherence of the EPPO's investigation and prosecution policy;

c) the cross-border aspects of the investigation;

d) the existence of any other specific reason, which suggests that the EPPO is better placed to continue the investigation.

3. The ***verification shall be carried out using all sources of information available*** to the EPPO as well as any sources ***available to the European Delegated Prosecutor***, ***in accordance with applicable national law***, including ***those otherwise available to him / her if acting in a national capacity***. The European Delegated Prosecutor may make use of the staff of the EPPO for the purpose of the verification. Where appropriate, the EPPO may consult and exchange information with Union institutions, bodies, offices or agencies, as well as national authorities, subject to the protection of the integrity of a possible future criminal investigation.

4. The European Delegated Prosecutor shall finalise the verification related to the evocation of an investigation at least 2 days before the expiration of the deadline prescribed by Article 27(1) of the Regulation. The verification related to initiating an investigation shall be finalised no later than 20 days following the assignment.
5. If the European Delegated Prosecutor does not finalise the verification on whether or not to initiate an investigation within the prescribed time limit, or he/she informs their inability to do so within the foreseen time limit, the European Prosecutor shall be informed and where deemed appropriate extend the time available or issue an appropriate instruction to the European Delegated Prosecutor.
6. Where it concerns a decision on evocation, the European Delegated Prosecutor may ask the European Chief Prosecutor to extend the time limit needed to adopt a decision on evocation by up to 5 days.
7. Where the European Delegated Prosecutor does not issue a decision within the time limit, it shall be treated as a consideration not to evoke a case, and Article 42 applied accordingly.

The requirements of Article 25 paras 2 and 3 must be observed but he/she can still initiate an investigation "without prejudice to the rules set out in Article 25(2) and (3)". The EPPO's competence is restricted for offenses that result in damages of less than €10,000, unless certain requirements are fulfilled, such as the involvement of EU authorities.[30] For the exercise of competence, the regulations, orders of the Luxembourg Chamber, jurisdiction (e.g., territory), and thresholds (e.g., the sum) of the Regulation must exist. The general scheme is as follows: **38**

Article 22 Material competence of the EPPO **39**

- PIF Implementation is required (see below → p. 94).
- National databases and information according to Article 40 para 3 IRP

Article 23 Territorial and personal competences of the EPPO **40**

- The EPPO is competent if:

- the criminal offences were committed, in whole or in part, on the territory of one or more participating EU Member States;
- the criminal offences were committed by a national of a participating EU Member State,
- the criminal offences were committed by a person subject to the Staff Regulations or rules applicable to EU officials.

SECTION 2 Exercise of the competence of the EPPO **41**
Article 24 Communication, registration and verification of information

- The transfer of information to the relevant EDPs or the chamber of the EPPO is mainly regulated by Article 24 EPPO Regulation. This provision has been made

[30] See the lessons learned in Spain Márton 2022, p. 286 (286).

public to all authorities in Italy by virtue of the EPPO Adoption Act, which indicates how the transfer of information should take place in order to comply with the supranational law. The transfer of information that could establish an inital suspicion for a PIF offence depends on the suspected concrete offence.

- Two sources can help to understand the transfer of information:
- Notification of the Government from 2021 by virtue of Article 117 EPPO Regulation.[31]

(2) Jurisdiction of the European Delegated Prosecutor

42 **Article 46 CPA**[32] The public prosecutor is competent for proceedings before the relevant court in accordance with the State Prosecution Service Act.

Article 47 CPA[33] The territorial jurisdiction of the state prosecutor shall be determined in accordance with the provisions applicable to the jurisdiction of the court of the area for which the prosecutor is appointed.

Article 48 CPA[34] If it would be dangerous to delay, the incompetent state prosecutor shall also perform procedural acts, but he must immediately inform the competent state prosecutor.

Article 49 CPA[35] The state prosecutor performs all procedural acts for which he is entitled by law, alone or by persons who are entitled under the state prosecutor's office law to represent him in criminal proceedings.

Article 50 CPA[36] Disputes over jurisdiction between state prosecutors are decided by a joint direct senior state prosecutor.

[31] From the point-of-view of Brodowski/Herrnfeld 2022, in Herrnfeld/Esser (eds) EUStA-Handbuch, Art. 117 EPPO is only an indication for PIF implementation laws and has no legal validity character.

[32] **46. člen ZKP**
Državni tožilec je pristojen za postopek pred ustreznim sodiščem v skladu z zakonom o državnem tožilstvu.

[33] **47. člen ZKP**
Krajevna pristojnost državnega tožilca se določa po določbah, ki veljajo za pristojnost sodišča tistega območja, za katero je tožilec postavljen.

[34] **48. člen ZKP**
Če bi bilo nevarno odlašati, opravi procesna dejanja tudi nepristojen državni tožilec, mora pa to takoj sporočiti pristojnemu državnemu tožilcu.

[35] **49. člen ZKP**
Državni tožilec opravlja vsa procesna dejanja, za katera je po zakonu upravičen, sam ali po osebah, ki so po zakonu o državnem tožilstvu upravičene, da ga zastopajo v kazenskem postopku.

[36] **50. člen ZKP**
O sporih o pristojnosti med državnimi tožilci odloča skupni neposredno višji državni tožilec. ZKP

Article 51 CPA[37] The state prosecutor may withdraw from the prosecution until the end of the main hearing before the court of first instance and before the higher court in the cases specified in this Act.

The state prosecutor has the authority to file criminal charges, direct the police, use deferred prosecution and settlements, and perform other tasks related to criminal proceedings. They can also submit motions and legal remedies for misdemeanours and handle procedural documents in civil, court, and administrative proceedings if allowed by law:

State Prosecution Service Act / *Zakon o državnem tožilstvu* **43**
Part Two The Public Law Office
Chapter One General Competence And Powers
Article 19[38] **(Jurisdictions of state prosecutors)**
(1) Within the framework of the basic function of filing and representing criminal charges, the state prosecutor is competent to perform all procedural acts of a legitimate prosecutor, to direct the police and other competent authorities, to use deferred prosecution and settlements, and to perform other tasks in accordance with the law governing criminal proceedings.
(2) The state prosecutor submits motions and legal remedies in cases of misdemeanours, if the law so provides.
(3) The state prosecutor files procedural documents and performs other tasks in civil and other court proceedings and in administrative proceedings, if the law so provides.

bb. How to assess and verify the suspicion level according to Art. 26 para 1 and the CPA for a criminal offence falling within the competence of the EPPO

The initial suspicion is only to determine the impetus, so to speak, the ball that metaphorically gets the criminal proceedings rolling. **44**

The way in which the state prosecutor's office learns, for example, of the suspicion of subsidy fraud or an offence detrimental to the Union's financial interests according to **45**

[37] **51. člen ZKP**
Državni tožilec lahko odstopi od pregona do konca glavne obravnave pred sodiščem prve stopnje, pred višjim sodiščem pa v primerih, ki so določeni v tem zakonu.
[38] Drugi Del
Državnotožilska Služba
Prvo poglavje
Splošna Pristojnost In Pooblastila
19. člen ZDT-1
(pristojnosti državnih tožilcev)
(1) Državni tožilec je v okviru temeljne funkcije vlaganja in zastopanja kazenske obtožbe pristojen opravljati vsa procesna dejanja upravičenega tožilca, usmerjati policijo in druge pristojne organe, uporabljati odložen pregon in poravnavanje ter opravljati druge naloge v skladu z zakonom, ki ureja kazenski postopek.
(2) Državni tožilec vlaga predloge in pravna sredstva v zadevah prekrškov, če tako določa zakon.
(3) Državni tožilec vlaga procesne akte ter opravlja druge naloge v civilnih in drugih sodnih postopkih ter v upravnih postopkih, če tako določa zakon.

the *Act Amending the State Prosecution Service Act (ZDT-1E) and PIF Implementation Decree Law*, is addressed by Union law and the communication with the national authorities and Article 40 para 3 IRP [2020.003 EPPO].

(1) The PIF offences in Slovenia

Sources and national sections 1: PIF offences in Slovenia

CC fraud offences	CC corruption + AML offences	Tax and Customs (Decree/Code) offences
• Art. 229 Fraud to the detriment of the European Union • Tax evasion • Article 249 • Smuggling • Article 250 • Embezzlement and unauthorised use of another's property • Article 209 • Article 257a • Defrauding of public funds	• Money laundering • Article 245 • Acceptance of bribes • Article 261 • Giving bribes • Article 262 • Criminal association • Article 294 • Perpetrator and accomplice • Article 20 • Attempt • Article 34 • Inappropriate Attempt • Article 35 • Participant • Article 36a • Incitement to crime • Article 37 • Criminal Support • Article 38 • Punishability of instigators or supporters of a criminal attempt	• Art. 229 Tax evasion

Codes	Zakon o kazenskem postopku (ZKP)[39], the Slovene Criminal Procedure Code;

For the offences that are mentioned by Article 26 EPPO Regulation cf. the EU Fraud Commentary and see the notification paper of the Slovene Ministry of Justice: **46**

"**SLOVENIA**	
Articles EPPO Regulation	**Competent national authorities**
5(6), 28(1)–(2)/(4), 31(4), 91(6)	Republic of Slovenia Ministry of the Interior POLICE Štefanova 2 1501 Ljubljana Based on their jurisdiction the police authorities may be: - General Police Directorate Criminal Police Directorate National Bureau of Investigation - Police Directorate Celje - Police Directorate Koper - Police Directorate Kranj - Police Directorate Ljubljana - Police Directorate Maribor - Police Directorate Murska Sobota - Police Directorate Nova Gorica - Police Directorate Novo mesto Please note that there is also a possibility to form a so-called specialised investigation team, which consists of representatives of other state bodies and institutions (such as institutions in the field of taxes, customs, financial operations, securities, protection of competition, prevention of money laundering, prevention of corruption, illicit drugs and inspection supervi-

[39] The development of the ZKP is going back to 1953. There have been several amendments. The most important ones were 1994 and 2006. The latest developments, i.e. amendments can be retrieved from the Webpage http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO362#. Accessed 18 March 2024. Cf. Horvat 2004.

	sion). Such team is supervised and instructed by the state prosecutor (can be also European Delegated Prosecutor in EPPO related matters; article 160.a of the Criminal Procedure Act).  On the basis of Article 160.a of the CPA/ZKP, the *Decree on the cooperation of the state prosecutorial service, Police and other competent state bodies and institutions in detection and prosecution of perpetrators of criminal offences and operation of specialised and joint investigation teams* stipulates that two types of investigation teams may be formed: joint investigation teams and specialised investigation teams. A joint investigation team shall be established when the police cooperate with the police officers of another country and representatives of the competent authorities of the EU in the implementation of tasks and measures in the pre-trial proceedings and the investigation procedure. Concerning the specialised investigation teams, the Decree stipulates that these groups are formed especially if the committed crime requires a comprehensive investigation with the participation of experts from other state bodies and institutions, or if the circumstances require coordinated and connected actions by the police and individual state bodies and institutions under the leadership and guidance of the competent state prosecutor. In this sense, by analogy, such teams can also be formed by EDPs.
10(3)(d), 24(2)–(3), 25(1) to (5), 26(7), 27(2) to (8), 34(1) to (3)/(5) to (7)	- Specialised State Prosecutor's Office of the Republic of Slovenia Trg OF 13 1000 Ljubljana - District State Prosecutor's Office Celje - District State Prosecutor's Office Koper - District State Prosecutor's Office Kranj - District State Prosecutor's Office Krško - District State Prosecutor's Office Ljubljana - District State Prosecutor's Office Maribor - District State Prosecutor's Office Murska Sobota - District State Prosecutor's Office Nova Gorica - District State Prosecutor's Office Novo mesto

	- District State Prosecutor's Office Ptuj - District State Prosecutor's Office Slovenj Gradec
24(1)	All state authorities and organisations with public authority shall be obliged to report criminal offences which are prosecutable *ex officio* if they have been informed of them or if they have been brought to their notice in some other way (Article 145 para 1 of the Criminal Procedure Act /ZKP/).  If they fail to do so, under certain conditions, the responsible individuals may be charged for „Failure to Inform Authorities of Preparations for Crime" (CC-1/KZ-1, Article 280) or „Failure to Provide Information of Crime or Perpetrator" (CC-1/KZ-1, Article 281).
24(8)	- Specialised State Prosecutor's Office of the Republic of Slovenia Trg OF 13 1000 Ljubljana - District State Prosecutor's Office Celje - District State Prosecutor's Office Koper - District State Prosecutor's Office Kranj - District State Prosecutor's Office Krško - District State Prosecutor's Office Ljubljana - District State Prosecutor's Office Maribor - District State Prosecutor's Office Murska Sobota - District State Prosecutor's Office Nova Gorica - District State Prosecutor's Office Novo mesto - District State Prosecutor's Office Ptuj - District State Prosecutor's Office Slovenj Gradec
25(6) (cross-referenced in Art. 39(3))	In the cases referred to in paragraphs two and three of Article 22 and Article 25 of Regulation 2017/1939/EU, a decision on conflict of jurisdiction between the state prosecutor's office and the European Public Prosecutor's Office shall be rendered by the State Prosecutor General (Article 71e of the State Prosecution Service Act /ZDT-1).
33(2)	The national court conducting criminal proceedings, or the national court having jurisdiction for executing a sentence, shall issue a warrant on the form provided by Annex 1 of this Act (Article 42 para 1 of the Cooperation in Criminal Matters with the Member States of the European Union Act/ZSKZDČEU-1).

	There are 44 local courts (*okrajno sodišče*) and 11 district courts (*okrožno sodišče*) in Slovenia: Okrožno sodišče v Celju · Okrajno sodišče v Celju · Okrajno sodišče v Šmarju pri Jelšah · Okrajno sodišče v Slovenskih Konjicah · Okrajno sodišče v Velenju · Okrajno sodišče v Žalcu · Okrajno sodišče v Šentjurju Okrožno sodišče v Kopru · Okrajno sodišče v Kopru · Okrajno sodišče v Ilirski Bistrici · Okrajno sodišče v Piranu · Okrajno sodišče v Postojni · Okrajno sodišče v Sežani Okrožno sodišče v Novi Gorici · Okrajno sodišče v Novi Gorici · Okrajno sodišče v Ajdovščini · Okrajno sodišče v Idriji · Okrajno sodišče v Tolminu Okrožno sodišče v Kranju · Okrajno sodišče v Kranju · Okrajno sodišče na Jesenicah · Okrajno sodišče v Radovljici · Okrajno sodišče v Škofji Loki Okrožno sodišče v Krškem · Okrajno sodišče v Krškem · Okrajno sodišče v Brežicah · Okrajno sodišče v Sevnici Okrožno sodišče v Ljubljani · Okrajno sodišče v Ljubljani · Okrajno sodišče v Domžalah · Okrajno sodišče v Grosupljem · Okrajno sodišče v Kamniku · Okrajno sodišče v Kočevju · Okrajno sodišče v Cerknici · Okrajno sodišče v Trbovljah · Okrajno sodišče na Vrhniki

	· Okrajno sodišče v Litiji Okrožno sodišče v Novem mestu · Okrajno sodišče v Novem mestu · Okrajno sodišče v Črnomlju · Okrajno sodišče v Trebnjem Okrožno sodišče v Mariboru · Okrajno sodišče v Mariboru · Okrajno sodišče v Lenartu · Okrajno sodišče v Slovenski Bistrici Okrožno sodišče v Murski Soboti · Okrajno sodišče v Murski Soboti · Okrajno sodišče v Gornji Radgoni · Okrajno sodišče v Lendavi · Okrajno sodišče v Ljutomeru Okrožno sodišče na Ptuju · Okrajno sodišče na Ptuju · Okrajno sodišče v Ormožu Okrožno sodišče v Slovenj Gradcu · Okrajno sodišče v Slovenj Gradcu

According to Article 117 of the EPPO Regulation, please find below the list of the Criminal Code provisions that apply to the offences defined in Directive (EU) 2017/1371 (PIF) as well as some other relevant provisions of the national law.

Fraud to the detriment of the European Union

Article 229 (1) Whoever avoids expenses by way of using or submitting false, incorrect, or incomplete statements or documents, or fails to reveal data and thus misappropriates or unlawfully holds or inappropriately uses the funds of the general budget of the European Union or of the budgets managed by the European Union or managed on their behalf, shall be sentenced to imprisonment for not less than three months and not more than three years.

(2) Whoever obtains funds through offences and from the budgets referred to in the preceding paragraph shall be punished to the same extent.

(3) If the offence referred to in the preceding paragraphs results in large property proceeds or large damage to of property, the perpetrator shall be sentenced to imprisonment for not less than one and not more than eight years.

(4) Punishments referred to in the preceding paragraphs of this Article shall be imposed to managers of companies or other persons authorised to make decisions or exercise control in enterprises if they enable perpetrators who are subordinated to

them and act on behalf of the company to commit or fail to prevent them from committing the criminal offences referred to in the preceding paragraphs.

Tax evasion

Article 249 (1) Whoever 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, provides on a single or multiple occasions 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, and 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, to report the income earned or other circumstances impacting the assessment of tax obligations, contributions or other prescribed liabilities of natural and legal persons, and the total amount of outstanding liabilities or liabilities evaded notwithstanding the type of liability in a period of maximum twelve consecutive months generates a financial gain.

(3) Whoever, with the intention of preventing the establishment of actual tax liability fails to provide or keep information, submit books of account and records which he is obliged to keep upon the request of the competent tax authority or if the books and records are substantially incorrect, or fails to provide explanations relating to the subject of tax inspection, or obstructs tax inspection, shall be sentenced to imprisonment to up to two years.

(4) If the act referred to in paragraphs one or two of this Article is committed within a criminal association, the perpetrator shall be sentenced to imprisonment for not less than three and not more than twelve years.

Smuggling

Article 250 (1) Whoever transports goods of high value across the customs border of the European Union and thus avoids customs control, or whoever transports such goods by using force or threats to do so, shall be sentenced to imprisonment for not more than five years and punished with a fine.

(2) Whoever is engaged in the transportation of goods into the customs territory of the European Union, thereby avoiding customs control measures, or transports such goods through such territory, provides hiding places or store places, offers or achieves the

sale of such goods, whose total value constitutes a high financial value, shall be sentenced to imprisonment for not less than one and not more than ten years and punished with a fine.
(3) Any official who, by abusing his or her official position or rights, enables the smuggling of goods into the customs territory of the European Union or transport therein, shall receive the punishment referred to in the preceding paragraph.
(4) If the perpetrator gains major proceeds are for himself, or herself, or a third person by committing offences referred to in paragraphs two or three of this Article, or if he poses a threat to human life or health, or offers support to terrorist activities, or commits such acts as a member of the criminal association, he or she shall be sentenced to imprisonment for not less than three and not more than fifteen years and punished with a fine.
(5) Whoever acquires or collects smuggled goods of high of high financial value for the purpose of their transport at into the customs territory of the European Union, provides forged documents or transport in and through the customs territory of the European Community, or organises in any other way the concealment, storage or sale of the smuggled goods, shall be sentenced to imprisonment for not less than three and not more than twelve years and punished with a fine.
(6) The preceding paragraph shall also apply to criminal offences committed abroad if the country where such offences are committed adopted, in the same way as the Republic of Slovenia, a common international legal obligation to prevent such criminal offences, regardless of the place of their commitment, and has appropriately defined such acts as criminal offences by its law.
(7) The value of goods referred to in this Article shall be determined according to their market value in the territory of the Republic of Slovenia.
(8) Smuggled goods shall be seized.

Embezzlement and unauthorised use of another's property
Article 209 (1) Whoever unlawfully appropriates money, a movable object, or any other part of another's property entrusted to him or her by virtue of employment or the performance of an economic, financial, or business activity, or while performing the obligations of a guardian, or has been left these as an official on duty, shall be sentenced to imprisonment for not more than three years.
(2) If an official commits the offence referred to in the preceding paragraph against another's property available to him or her during the search of a dwelling, premises or persons, or in the course of judicial or administrative proceedings, or in relation to the tasks of protection of persons or property, he or she shall be sentenced to imprisonment for not more than five years.

(3) If the offence referred to in paragraph one of this Article involves property of low value, and if the perpetrator intended to appropriate this property, he or she shall be punished with a fine or sentenced to imprisonment for not more than one year.
(4) If the offence referred to in paragraphs one or two of this Article involves property of high value and if the perpetrator intended to appropriate this property, he or she shall be sentenced to imprisonment for not less than one and not more than eight years.
(5) If the perpetrator uses the objects that are entrusted or accessible to him or her as referred to in paragraphs one or two of this Article, he or she shall be punished with a fine or sentenced to imprisonment for not more than three years.

Defrauding of public funds
Article 257a (1) An official, a public officer, or any other person authorised by the user of public funds, who by orders, acquisition, management and disposal of these funds knowingly violates regulations, fails to exercise due supervision or otherwise causes or enables illegal and ineligible use of public funds even though he predicts or should and could predict that such conduct might cause a major property damage to public funds and such damage actually occurs, shall be punished with a fine and a prison sentence of between three months and five years.
(2) If the offence referred to in the preceding paragraph results in substantial damage to property, the perpetrator shall be punished with a fine and a prison sentence of between one and eight years.
(3) A user of public funds under this Article shall be a legal person under public law or a unit thereof, or a legal person under private law or a private individual, who by means of private funds or at the expense of public funds provides a public service or performs other activities in the public interest, or provides public goods on the basis of a concession or other exclusive or special right.
(4) Public funds under this Article shall mean immovable and movable property, cash, accounts receivable, equity investments, and other forms of financial assets of the general government, self-governing local community, the European Union or other legal person under public law.

Money laundering
Article 245 (1) Whoever accepts, exchanges, stores, holds, uses in an economic activity or in any other manner determined by the act governing the prevention of money laundering, conceals or attempts to conceal by laundering the origin of money or property that was, to his or her knowledge, acquired through the commission of a criminal offence, shall be punished by imprisonment of up to five years.
(2) Whoever commits the offence referred to in the preceding paragraph and is simultaneously the perpetrator of or participates in the criminal offence with which the

money or property under the preceding paragraph was acquired, shall be punished to the same extent.
(3) If the money or the property referred to in paragraphs one or two of this Article is of high value, the perpetrator shall be punished by imprisonment of up to eight years and by a fine.
(4) If the act referred to in the preceding paragraphs is committed within a criminal association for the commission of such criminal offences, the perpetrator shall be punished by imprisonment of one up to ten years and by a fine.
(5) Whoever should and could have known that the money or property had been acquired through a criminal offence, and who commits the offences referred to in paragraphs one or three of this Article, shall be punished by imprisonment of up to two years.
(6) The money and the property referred to in the preceding paragraphs shall be seized.

Acceptance of bribes
Article 261 (1) An official or a public officer who requests or agrees to accept for himself, or herself, or any third person an award, gift or other proceeds or a promise or offer of such proceeds in order to perform an official act within the scope of his or her official duties that should not be performed, or in order not to perform an official act which should or could be performed, or in order to otherwise abuse his or her position, or whoever serves as an intermediary in the bribe shall be sentenced to imprisonment for not less than one and not more than eight years and punished with a fine.
(2) An official or a public officer who requests or agrees to accept for himself, or herself, or any third person an award, a gift or other proceeds, or a promise or offer of such proceeds, in order to perform an official act within the scope of his or her official duties that should or could be performed, or in order not to perform an official act that should not be performed, or in order to otherwise abuse his or her position, or whoever serves as an intermediary in the bribe shall be sentenced to imprisonment for not less than one and not more than five years and required to pay a fine.
(3) An official or a public officer who requests or accepts an award, gift or other proceeds with respect to the performance of the official act referred to in the preceding paragraphs after having committed the official act shall be punished with a fine or sentenced to imprisonment for not more than four years and required to pay a fine.
(4) The accepted award, gift and other proceeds shall be seized.

Giving bribes
Article 262 (1) Whoever promises, offers or gives an award, a gift or other proceeds to an official or a public officer for him, or her, or any third person in order to either

perform an official act within the scope of his or her official duties that should not be performed, or in order not to perform an official act which should or could be performed, or in order to otherwise abuse his or her position, or whoever serves as an intermediary in the bribe shall be sentenced to imprisonment for not less than one and not more than six years and punished with a fine.
(2) Whoever promises, offers or gives an award, a gift or other proceeds to an official or a public officer or any third person in order to either perform an official act within the scope of his or her official duties that should or could be performed, or in order not to perform an official act that should not be performed, or in order to otherwise abuse his or her position shall be sentenced to imprisonment for not less than six months and not more than four years and required to pay a fine.
(3) If the perpetrator of the offence referred to in the preceding paragraphs who gave an award, gift or other proceeds at the request of an official or public officer, reports the commission of such offence in advance before it is detected or before he or she becomes aware that it has been detected, his or her punishment may be remitted, provided that it is not in contravention of the rules of international law.

Criminal association
Article 294
(1) Whoever participates in a criminal organisation whose purpose is to commit criminal offences punishable by imprisonment of more than three years or a life sentence shall be punished by imprisonment of three months up to five years.
(2) Whoever establishes or leads an organisation as referred to in the preceding paragraph shall be punished by imprisonment of six months up to eight years.
(3) A perpetrator of a criminal offence from the preceding paragraphs who prevents further commission of these offences or discloses information which is relevant to investigating and proving the already committed criminal offences may receive a reduced pursuant to Article 51 of this Criminal Code.

Perpetrator and accomplice
Article 20 (1) Perpetrator of a criminal offence shall be any person, who commits it in person or by using and directing the actions of another person (indirect perpetrator).
(2) A perpetrator of a criminal offence is also any person who, together with another person commits a criminal offence by wilfully collaborating in the execution thereof or in any other way decisively contributes thereto (hereinafter: accomplice).

Attempt
Article 34 (1) Any person, who intentionally initiated a criminal offence but did not complete it, shall be punished for the criminal attempt, provided that such an attempt

involved a criminal offence, for which the sentence of three years' imprisonment or a more severe sentence may be imposed under the law; attempts involving any other criminal offences shall be punishable only when so expressly provided by law.
(2) A perpetrator who attempts to commit a criminal offence shall be the sentenced within the limits prescribed for such an offence or it may be reduced.

Inappropriate Attempt
Article 35 If the perpetrator attempts to commit a criminal offence by inappropriate means or to harm an inappropriate object, his or her sentence may be withdrawn.

Voluntary abandonment of attempt
Article 36 (1) If the perpetrator attempts to commit a criminal offence but voluntarily desists to go through with it, his or her sentence may be withdrawn.
(2) If the perpetrator voluntarily desists from committing a criminal offence, he or she shall be punished for those acts which present some other independent criminal offence.
(3) The perpetrator may be granted a remission of his or her sentence if he or she has sincerely and appropriately endeavoured to prevent the consequences of his or her act – even if the consequences did not occur for another reason.

Participant
Article 36a The provisions of this Code that are applicable to the perpetrator shall also apply to a participant who solicits or supports a criminal offence, unless otherwise provided by the law.

Incitement to crime
Article 37 (1) Any person who intentionally solicits another person to commit a criminal offence shall be punished as if he himself or herself had committed it.
(2) Any person who intentionally incites another person to commit a criminal offence, for which the sentence of three years' imprisonment or a heavier sentence may be imposed under the statute, shall be punished for the criminal attempt even if the comment of such an offence had never been attempted.

Criminal Support
Article 38 (1) Anyone who intentionally supports another person in committing a criminal offence shall be punished as if he himself or herself had committed it, or his or her sentence shall be reduced, as the case may be.
(2) Support in committing a criminal offence shall be deemed to be provided, particularly by the following: counselling or instructing the perpetrator on how to carry out

a criminal offence; providing the perpetrator with instruments for committing a criminal offence or removing the obstacles to committing criminal offence; a priori promising to conceal the perpetrator's criminal offence or any traces thereof; instruments of the criminal offence or objects gained through committing a criminal offence.

Punishability of instigators or supporters of a criminal attempt
Article 39 If the perpetration of a criminal offence falls short of the intended consequence, those instigating (hereinafter: instigator) or supporting (hereinafter: aide) the criminal attempt shall be punished according to the prescriptions that apply to the criminal attempt.

The liability of legal persons is established by the Article 42 of the Criminal Code and by the provisions of the Liability of Legal Persons for Criminal Offences Act, as follows:

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

Limits of the Liability of a Legal Person for a Criminal Offence
Article 5 (1) Under the conditions under the preceding Article a legal person shall also be liable for a criminal offence if the perpetrator is not guilty or if he committed the offence under the influence of force or threat from the legal person for the committed criminal offence.
(2) The liability of a legal person does not preclude the criminal liability of natural persons or responsible persons for committed criminal offence.
(3) A legal person may only be liable for criminal offences committed out of negligence under the conditions from Point 4 of Article 4 of this Act. In this case the legal person may be given a reduced punishment.

(4) If a legal person has no other body besides the perpetrator who could lead or supervise the perpetrator, the legal person shall be liable for the committed criminal offence within the limits of the perpetrator's guilt.

Liability in the Case of a Change in the Status of a Legal Person
Article 6 (1) A legal entity in receivership may be held criminally liable regardless of whether the criminal offence was committed before the initiation of or during receivership proceedings; however, the sanction imposed shall take the form not of a fine, but rather the forfeiture of proceeds and the preventive measure of the forfeiture of items.
(2) If a legal person has been wound up before the legal completion of criminal proceedings it may be deemed liable and the punishment and other sanctions are imposed on the on the entity, which is its legal successor, if its management or supervisory bodies knew of the committed criminal offence prior to the winding-up of the convicted legal person.
(3) An entity which is the legal successor of a convicted legal person, but whose management or supervisory bodies were not aware of the committed criminal offence, shall only be sanctioned by the forfeiture of proceeds and the preventive measure of the forfeiture of items.
(4) If the legal person is wound up after the legal completion of criminal proceedings, the imposed sanction shall be carried out in accordance with the provisions of the second and third paragraphs of this Article.

Criminal Offences from the Criminal Code
Article 25 Legal persons shall be liable for the following criminal offences from the specific part of the Criminal Code: […]
8) under Chapter 23 for criminal offences referred to in Articles 204 to 223;
9) under Chapter 24 for criminal offences referred to in Articles 225 to 250;
9) under Chapter 25 for criminal offences referred to in Articles 251 to 256;
11) under Chapter 26 for criminal offences referred to in Article 260 and Articles 262 to 264; […].

Punishments for Criminal Offences
Article 26 (1) The following types of punishments may be imposed on legal persons committing the criminal offences under the preceding paragraph:
1) For criminal offences for which a punishment of up to three years' imprisonment is prescribed for the perpetrator, a fine of up to 500,000 euros, or up to 100 (one hundred) times the amount of damage caused or property benefit obtained through the criminal offence;

2) For criminal offences for a which a punishment of over three years' imprisonment is prescribed for the perpetrator, a fine of at least 50,000 euros, or up to a maximum of 200 (two hundred) times the amount of damage caused or unlawful property benefit obtained through the criminal offence.
(2) For criminal offences for which a punishment of five years' imprisonment or harsher punishment is prescribed for the perpetrator, a punishment of confiscation of property may be imposed instead of a fine.
(3) For criminal offences under the first paragraph of this Article, a punishment of winding-up of the legal person may be applied instead of a fine if the conditions under Article 15 of this Act are met.

The Criminal Procedure Act establishes the conditions that must be met before the investigating judge may issue order to intercept electronic communications to and from the suspect or accused person, over any electronic communication means that the suspect or accused person is using:

Article 150 (1) If reasonable grounds exist for the suspicion that a particular person has committed, is committing or is preparing or organising the commission of any of the criminal offences referred to in paragraph two of this Article, and if a reasonable suspicion exists that a particular means of communication or computer system is used or will be used by this person for communication relating to this criminal offence, whereby it may be reasonably concluded that evidence could not be collected by applying other measures or that their collection could threaten human life or health, the following may be ordered against such a person:
1) surveillance of electronic communications including interception and recording, and the control and safeguarding of evidence on all forms of communication transmitted over the electronic communications network;
2) control of letters and other postal items;
3) control of the computer systems of banks or other legal entities engaged in financial or other commercial activities;
4) interception and recording of conversations subject to the approval of at least one person engaged in such conversation.
(2) The criminal offences in respect of which the measures referred to in the preceding paragraph may be ordered shall be the following:
1) criminal offences against the security of the Republic of Slovenia and its constitutional order, and crimes against humanity and international law punishable by a sentence of imprisonment of five or more years prescribed by an Act;

2) a criminal offence of abduction under Article 134, solicitation of persons under fifteen years of age for sexual purposes under Article 173a, exploitation through prostitution under Article 175, presentation, manufacture, possession and distribution of pornographic material under Article 176, illicit manufacture and trade in narcotic drugs, illicit substances in sport and illicit drug precursors under Article 186, facilitating the consumption of narcotic drugs or illicit substances in sport under Article 187, extortion and blackmail under Article 213, abuse of insider information under Article 238, unauthorised acceptance of gifts under Article 241, money laundering under Article 245, smuggling under Article 250, defrauding of public funds under Article 257a, acceptance of bribes under Article 261, giving bribes under Article 262, acceptance of proceeds of unlawful intermediation under Article 263, giving of gifts for unlawful intermediation under Article 264, criminal association under Article 294, illegal manufacturing of and trafficking in weapons or explosives under Article 307, and unlawful management of nuclear and other hazardous radioactive substances under Article 334 of the Criminal Code;
3) other criminal offences punishable by a sentence of imprisonment of eight or more years prescribed by an Act.

Article 152 (1) The measures referred to in Articles 150, 150a, 150b, and 151 of this Act shall be imposed by a written order of the investigating judge on the state prosecutor's written motion. The motion and the order must contain:
1) information enabling the identification of the person against whom the measure is requested or ordered;
2) reasoning and/or the establishment of reasonable grounds for a suspicion that the criminal offences referred to in Articles 150, 150a, 150b and 151 of this Act are being committed, prepared or organised, and in imposing the measure referred to in Article 150b of this Act, it shall also be stated that the bringing in forcibly, house arrest, pretrial detention or an arrest warrant has been ordered;
3) which measure is requested or ordered, the method of implementation of the measure, its scope and duration, the precise specification of the premises or place where the measure will be implemented, electronic communications means and other important circumstances that warrant the use of a particular measure;
4) reasoning and/or the establishment of an inevitable need to use the measure concerned as opposed to another method of evidence collection and the use of less severe measures;
5) justification of the reasons for an early enforcement of the order in the cases referred to in paragraph two of this Article.
(2) Exceptionally, if a written order cannot be obtained in due time and of there is a risk of delay, the investigating judge may, upon an oral motion of the state prosecutor,

order the implementation of the measures referred to in Articles 150, 150a, 150b and 151 of this Act by means of an oral order. The investigating judge shall make an official note of the state prosecutor's oral motion. A written order must be issued not later than within twelve hours of the issue of the oral order. There must be reasonable grounds for its early enforcement, otherwise the court shall, even if the application of the measure is justified, always act pursuant to paragraph four of Article 154 of this Act.
(3) If during the implementation of the measure referred to in point 2 of paragraph one of Article 150 of this Act, the police assess that the content of a letter or another postal item is such that it could be used as evidence in criminal proceedings, they shall immediately inform the investigating judge thereof, and he or she shall decide how to deal with such a postal item. The investigating judge shall draw up a separate record thereon.
(4) The implementation of the measures referred to in Article 150 of this Act, point 1 of paragraph one of Article 150a of this Act and the preceding Article may not exceed one month, but their duration may be extended by one month at a time for valid reasons; however, the implementation of the measures referred to in Article 150 of this Act and point 1 of paragraph one of Article 150a of this Act may not exceed a total of six months, and of the measures referred to in the preceding Article a total of three months. The implementation of the measures referred to in point 2 of paragraph one of Article 150a of this Act and Article 150b of this Act may not exceed one month.
(5) The order referred to in paragraph one of this Article shall be enforced by the police. Operators of electronic communications networks are bound to enable the police to enforce the order.
(6) The police shall cease to implement the measures referred to in Articles 150, 150a, 150b and 151 of this Act as soon as the reasons for which they were ordered cease to exist. The police shall notify in writing the investigating judge thereof without delay. The investigating judge may order ex officio by a written order at any time that the implementation of the measures be terminated if he or she assesses that the reasons for the implementation of the measures ceased to exist or if the measures are implemented in contravention of his or her order.
(7) The police must carry out the measures referred to in Articles 150, 150a, 150b and 151 of this Act in such a way as to minimise the interference with the rights of the persons who are not suspects.

Controlled delivery is regulated in the **Cooperation in Criminal Matters with the Member States of the European Union Act**:

Controlled delivery
Article 55 (1) Controlled delivery shall mean an agreed covert surveillance of transport or the transfer of persons, items or goods the trade in which is limited or prohibited, to, from or through the territory of the Republic of Slovenia, where the competent authorities, for the purpose of revealing a large-scale criminal activity, temporarily postpone the execution of the deprivation of liberty and other measures provided by the law governing criminal procedure.
(2) Rendering a decision on controlled delivery shall fall within the competences of a district state prosecutor through whose area of authority the controlled delivery is envisaged to cross the state border, or from the area of whom it is dispatched, or a Specialised Office of the State Prosecutor of the Republic of Slovenia.
(3) A controlled delivery shall be permitted at the request of a competent authority of a Member State, or in agreement with another Member State, if criminal offences are involved which meet the conditions for issuing a European Arrest Warrant.
(4) In the territory of the Republic of Slovenia, controlled delivery shall be exercised by the competent Slovenian authorities in a manner which ensures permanent supervision and appropriate action.
5) Controlled delivery shall not be permitted, or its further execution shall be discontinued if:
1. or until there is a risk to people's life or health; or
2. it is likely that further supervision or action in another Member State is not ensured or will not be effective.
(6) After the execution of a controlled delivery, a competent state prosecutor must establish that the conditions exist for referring criminal prosecution to the Member State in which suspects have been deprived of liberty."[40]

Source: Notification of the Government, CC. 4.0.

This list should also contain provisions of Articles 149a (the provisions of this article explicitly state that fraud to the detriment of the EU according to Article 229 of the CC-1/KZ-1 is a criminal offence for which a secret surveillance measure may be ordered), 149.b, 149.c, 149.č, 149.e, 150.a, 151, 155, 155.a, and 156. These articles/provisions concern different covert investigation measures that can be used when investigating criminal offences (at last some if not all) defined in the Directive. Also relevant are provisions of the CPA/ZKP on investigation measures (Section XVIII), including provisions on "Investigation of electronic devices" (Articles 219.a and 223.a) and a lot of other provisions. **47**

[40] The Slovene Ministry of Justice provided us with this material in late September 2021 (we are very thankful for this help and that they foster academia and penal practitioners in their daily work herewith), which has been eventually published by the EPPO itself, too, according to Art. 117 EPPO Regulation.

48 "Provisions that apply to the offences defined in Directive" and "other relevant provisions of national law" can be also found in other national laws listed in III./1. of the chapter. Particularly important, in my opinion, are provisions of the Confiscation of Assets of Illicit Origin Act/Zakon o odvzemu premoženja nezakonitega izvora (ZOPNI).

(2) Methods of investigation, Collecting information and documenting the initiation of an investigation for an Indictment (Art. 34 et seq. EPPO Regulation, Art. 40 para 3 IRP)

(a) Impetus of fraud knowledge patterns

49 Recent studies have analysed and frequently analyse the peculiarities and typologies of (EU) frauds quite extensively and they are therefore highly important for EDPs and their knowledge about the structures of this crime area (criminological insights):

50 - EU-level: PIF Reports, Rule of law Report, "Impact of Organised Crime on the EU's Financial Interests"[41]

Nota bene: The Anti-Fraud Knowledge Centre hosted by the EU Commission/OLAF provides information on fraud patterns, prevention tools and case studies.

(b) Special national databases for PIF offences/Digital investigations, Art. 40 para 3 IRP 2020.003

51 Slovenia has no special databases that relate to PIF offences alone but White Collar Criminality is displayed by the Slovene Crime Statistics.

cc. Examples and precedents

(1) In national case-law

52 There are different types of fraud against the EU budget. A basic distinction must be made between fraud on the revenue side and fraud on the expenditure side. This separation applies not only to investigations by the delegated public prosecutors, but also to OLAF investigators (*see → p. 287*) and national authorities in administrative procedures (especially on the expenditure side, for example in the case of subsidies). The first EPPO crime report therefore correctly distinguishes between:

53 * All information, which is not taken from a judgement, is taken from the EPPO's first crime report (published March 2022) and serves as a basis for explaining the initial suspicion scenarios in this area. References can be made to national case law.

[41] See Malan, Bosch Chen 2021.

- Non-procurement expenditure fraud **54**
- Procurement expenditure fraud
- VAT revenue fraud
- Non-VAT revenue fraud
- corruption cases (4% in 2021).

(a) Revenue frauds

Revenue frauds are manifold. First, the scheme should be identified. For this, it is worthwhile to compare the suspected behaviour with known behaviour patterns. From a legal as well as a police point of view, the overview of crime patterns is useful. Especially during the Covid crisis there has been an increase in characteristics. Assessment can also be based on known cases and the professional groups suspected in these cases. **55**

(b) Expenditure frauds

The main area of these frauds in punished by Article 257a Slovene Criminal Code, which stipulates penalties for defrauding of public funds. **56**

Case Study 1: Fraud to the detriment of the EU

Example of a Case Study[42]: Supreme Court, Criminal Division ECLI:SI:VSRS:2019:I.IPS.11736.2015. Fraud to the detriment of the EU – legal elements of the crime – management of EU funds – financial interest.

"Core

When the funds were disbursed from the budget of the Republic of Slovenia under this investment system, they did not lose the nature of funds of the European Community. It is necessary to start from the budget in which the funds are provided, which in this particular case was the budget of the European Social Fund. The same applies to the question of whether the budget of the Republic of Slovenia submitted a request for reimbursement to the European budget for the funds, and whether the funds were paid to our budget. The essence of the criminal act according to Article 229 of the CC-1 is the transfer of public funds according to the rules and from the budget of the European Community.

Theorem

The request for the protection of legality is granted and it is established that the judgment of the High Court in Ljubljana VII Kp 11736/2015 of 7 February 2018 violated

[42] See http://sodnapraksa.si/?q=Goljufije%20EU&database[SOVS]=SOVS&database[IESP]=IESP&database[VDSS]=VDSS&database[UPRS]=UPRS&database[SOSC]=SOSC&database[SOPM]=SOPM&_submit=search&rowsPerPage=20&page=0&id=2015081111435156. Accessed 18 March 2024.

the provision of point 1 of article 372 of the Criminal Procedure Act in relation to the first paragraph of 229. Article of the Criminal Code.

Explanation
1. By judgment VI K 11736/2015 of 6 June 2017, the District Court in Ljubljana found the accused AR guilty of the criminal act of fraud to the detriment of the European Community under the second in relation to the first paragraph of Article 229 of the Criminal Code (hereinafter referred to as Criminal Code-1). It gave him a suspended sentence, in which he was sentenced to seven months in prison and a probationary period of three years, and set a special condition that the injured party must pay EUR 4,000.00 to the Republic of Slovenia within two years, and recognized the stated amount as a property claim. With judgment VII Kp 11736/2015 of 7 February 2018, the High Court in Ljubljana changed the judgment ex officio by acquitting the defendant of the criminal offence of fraud based on Article 358 of the Criminal Procedure Act (hereinafter ZKP)to the detriment of the European Community according to the second in relation to the first paragraph of Article 229 of the Criminal Code-1 and deception in obtaining and using a loan or benefits according to the second in relation to the first paragraph of Article 230 of the Criminal Code-1. The Employment Agency of the Republic of Slovenia referred to the law with a property claim in the amount of EUR 4,000.00 together with the statutory default interest. It decided that the costs of the criminal proceedings, the necessary expenses of the accused and the reward and necessary expenses of the defence attorney should be charged to the budget.

2. The request for the protection of legality was filed against the final judgment by the Supreme State Prosecutor, M.Sc. Andrej Ferlinc. It states that the change of conviction to acquittal is not in accordance with the law defining the statutory elements of the crime of fraud to the detriment of the European Union according to Article 229 of the CC-1. Although the appeals court did not state the legal reason for acquitting the defendant of the charge of committing a criminal offence under the second in relation to the first paragraph of Article 229 of the CC-1, according to the opinion of the Supreme State Prosecutor, it follows from the reasoning of the judgment that the defendant was acquitted because the appeal the court considered that the act for which he was convicted in the first instance was not a criminal act according to the law. He challenges the underlying reason for the decision of the Court of Appeal that the funds of the European budget in the form of subsidies were paid from the budget of the Republic of Slovenia and not from the budget of the European Community. According to the contested judgment, a criminal offence would only be committed if the European budget was actually damaged, that is, if Slovenia demanded a partial or full refund of the deposited funds from the budget of the European Social Fund and these funds were

actually paid to our budget. He claims that funds from the budget of the European Community do not lose the nature of European funds simply because they are channelled through the budget of the Republic of Slovenia. They still retain the nature of European funds, which in this case are the only legally relevant object of criminal law protection. He emphasizes that the correctness of such a position is not affected by the deposit or refund system when such a system is used. Otherwise, the crime against the European Community could not exist in practice, or it would only apply to employees of the European Union in Brussels. He claims that the description of the crime contains the correct selection of legal signs that are sufficient, that the offence is fully committed. He states that the fact that the description also claims damage to the budget of the Republic of Slovenia does not mean an internal substantive contradiction of the verdict, as assessed by the Court of Appeal, because only the status of European funds is important. He proposes to the Supreme Court that, in accordance with the provision of the second paragraph of Article 426 of the Criminal Code, it finds that the High Court violated the Criminal Code regarding the question of whether the act for which the defendant was found guilty is a criminal act.
3. The accused and his lawyers, to whom the request for the protection of legality was sent for clarification pursuant to the provision of the second paragraph of Article 423 of the Criminal Code, did not comment on the request.

4. The defendant was found guilty by the court of first instance that in 2009, i.e. during the period of validity of KZ-1A, he concluded a contract with the Employment Agency of the Republic of Slovenia on the allocation of a subsidy for the employment of an unemployed person who is difficult to employ, with whom he undertook to pay this person a salary and advance payment of income tax for a period of at least one year, as a result of which he received a subsidy transfer in the amount of EUR 4,000.00 (85% from the European Social Fund, 15% from of the budget of the Republic of Slovenia), and then unjustifiably withheld these funds, as the person was not employed in the company for an appropriate period, and by doing so he damaged the budget of the Republic of Slovenia and the European Social Fund for a total of EUR 4,000.00.

5. The Court of Appeal changed the judgment ex officio by acquitting the accused. It stated that the findings of the evidentiary procedure showed that the entire subsidy in the amount of EUR 4,000.00 was paid from the budget of the Republic of Slovenia. The state would only claim a partial refund from the budget of the European Social Fund to the extent that the purposeful and legal use of the transferred funds was established, otherwise the Republic of Slovenia itself bears the burden of the entire amount of the subsidy paid. According to the opinion of the Court of Appeal, the

above means that the budget of the European Communities was conceptually not harmed by the act accused of the defendant, therefore the defendant's conduct cannot be legally defined according to the first paragraph of Article 229 of the Criminal Code-1. In addition, the Court of Appeal added that the judgment's pronouncement is also characterized by an internal substantive contradiction,

6. The subject of the crime of fraud to the detriment of the European Community (or according to the amendment to the Criminal Code-1B of the European Union) according to the first paragraph of Article 229 of the Criminal Code-1 are funds of the European Community or budgets managed by the European Communities or managed on their behalf. The origin of funds in the budget of the European Community is decisive for the existence of a criminal act. As the Supreme State Prosecutor correctly states, beneficiaries from Member States can access these funds directly from the budgets of the European Community in Brussels, but in the vast majority of cases, they access the funds through the budget of the member state.

7. In the case under consideration, the funds that were paid out to the economic company whose director was accused were mostly, i.e. 85%, secured by the European Social Fund, which follows both from the description of the criminal act and from the documents, which were read in the evidence procedure. The funds were allocated to the company on the basis of a tender, from which it emerged that the funds are mainly financed from the European Social Fund, i.e. from the budget directly managed by the European Community, but they were also partially financed from the budget of the Republic of Slovenia. The funds were not paid to the beneficiary directly from the budget of the European Community, but through the budget of the Republic of Slovenia and allocated according to the rules established by the European Social Fund.

8. Since the funds were according to the so-called investment system paid from the budget of the Republic of Slovenia, did not lose the nature of funds of the European Community. When assessing whether it is a matter of European Community funds, it is necessary to start from the budget in which the funds are provided, which in this particular case was the budget of the European Social Fund. The monetary flow of these funds, i.e. their prior payment from the budget of the member state, is not relevant for the existence of a criminal act. The same applies to the question of whether the budget of the Republic of Slovenia submitted a request for reimbursement to the European budget for funds, or in the specific case, the budget managed by the European Community, and whether funds have been paid to our budget.

9. The essence of the crime of fraud to the detriment of the European Community according to Article 229 of the Criminal Code is that the object of the crime is the transfer of public funds according to the rules and from the budget of the European Community. At the same time, it is irrelevant whether the transfers were executed directly by the authorities of the European Community, or whether they were executed by national authorities based on the regulations of the European Community. When the funds are transferred by the authorities of the Member State, the latter manages the funds on behalf of the European Community, which is one of the alternatively defined legal features of the crime.

10. In favour of the interpretation that the said crime also protects funds transferred through the state budget, it clearly follows from the introductory provisions of the subsequent EU Directive 2017/1371 of the European Parliament and of the Council of 07/05/2017 on the fight against fraud that harms financial interests of the Union, for the application of criminal law. The aforementioned Directive replaces the Convention on the Protection of Financial Interests of the European Communities, on the basis of which the aforementioned criminal act was implemented in Slovenian criminal law. In point 1 of the preamble of the Directive, it is stated that the protection of the financial interests of the Union does not only refer to the management of budget funds, but to all measures that have a negative impact or could have a negative impact on the funds of the Union and the funds of the Member States, when the measures concern Union policy. Point 5 of the preamble states, that when executing the Union budget on the basis of shared or indirect management, the Commission may transfer the budget execution tasks to the Member States or entrust them to bodies, offices or agencies established on the basis of treaties or to other entities and persons. In the case of shared or indirect management, the financial interests of the Union should enjoy the same level of protection as in the case of direct management by the Commission.

11. Based on what has been said, the Supreme Court, on the basis of the second paragraph of Article 426 of the Criminal Code, concluded that the High Court in Ljubljana violated the provision of the first paragraph of Article 229 of the Criminal Code with its judgment VII Kp 11736/2015 of 7 February 2018 1)."

dd. The level of sufficiency

Eleven Articles in the Slovene Criminal Code mention the same word that relates to the suspicion level in Slovenia which is required for the start of an investigation. It is called "*utemeljen sum*" and enshrines the reasonable suspicion level.

57 As above mentioned, the provisions of the ZKP on "Investigation" concern the judicial investigation, which is led and directed by the investigating judge at the proposal of the state prosecutor. According to Article 170 ZKP, the state prosecutor can propose that an investigation not be conducted, if the data and evidence collected provide a basis for filing an indictment. If the state prosecutor has reached a plea agreement with the defendant, or if the law prescribes a prison sentence of up to eight years for the crime, the state prosecutor may file an indictment even without a formal (judicial) investigation, if the collected data and evidence provide sufficient grounds for an indictment.

58 The latter happens relatively often in practice. The key thing here is that in the proceedings based on the Regulation (and EPPO cases), the judicial investigation is not carried out (Article 165a). The investigation in these cases is carried out by the state prosecutor (i.e. EDP), who directs the work of the police in the exercise of its powers. Like in the regular (i.e. non-EPPO) cases, investigation measures such as personal and house searches, interrogation of the suspect/accused, questioning of witnesses, questioning of a court expert, inspection of the crime scene, seizure of objects, etc., as well as most of the covert investigation measures are issued by the investigation judge at the proposal of the state prosecutor (i.e. the EDP).

59 Pursuant to Article 148. of the CPA/ZKP, if there are **reasons to suspect** that a criminal offence has been committed, for which the perpetrator is being prosecuted ex officio, the police must take the necessary measures to track down the perpetrator of the crime, to ensure that the perpetrator or participant does not hide or escape, that they are discovered and secured traces of a crime and objects that may be evidence and to collect all information that could be useful for the successful execution of criminal proceedings. The police may request the necessary notifications from persons; carry out the necessary inspection of means of transport, passengers and luggage; to limit movement in a certain area for an absolutely necessary time; to take the necessary measures in connection with establishing the identity of persons and objects; search for people and things; in the presence of the responsible person, to inspect certain facilities and premises of companies and other legal entities and review certain of their documentation, and to initiate and do other things that are necessary. Reasons for suspicion are sufficient to initiate basic police activities for the detection and investigation of a crime and the arrest and prosecution of the perpetrator. **Reasonable grounds for suspicion** are needed for the deprivation of liberty and the ordering of police detention. Reasonable grounds for suspicion must also be given to order most covert investigative measures (with some exceptions, they are ordered by the investigating judge at the proposal of the state prosecutor). In order to order detention on remand and to order formal investigative actions such as personal and house searches, **reasonable suspicion** must be given, and the same applies to the filing of an indictment. In order to convict the defendant, the court must be **convinced** of the perpetrator's guilt for the crime for which he is being prosecuted.

In its decisions, the Constitutional Court determined the meaning of the above mentioned standards of proof. In a nutshell: Reasonable grounds for suspicion mean a higher level of suspicion than grounds for suspicion and, in terms of the quality and quantity of the collected data and their verifiability, are largely close to reasonable suspicion (see decisions of the Constitutional Court of the Republic of Slovenia U-I-18/93 and U-I-25/95). Reasonable suspicion means a high level of articulated, concrete and specific probability that a certain person has committed a crime. **60**

Articles 20, 150, 150a para 3, 161, 167, 201, 202, 409, 432 and 450a CPA:

Excerpt Slovenian CPA

"**Article 20 CPA**[43]
The state prosecutor is obliged to initiate criminal prosecution if there is a reasonable suspicion that a criminal offence has been committed for which the perpetrator is being prosecuted *ex officio*, unless otherwise provided by law.
→ Article 20 CPA refers to the filing of an indictment. Therefore there must be a reasonable suspicion. In comparison, for the initiation of basic police activities grounds for suspicion are enough.

Article 167 CPA[44]
(1) An investigation shall be initiated against a certain person if there is a well-founded, i.e. reasonable suspicion that he has committed a criminal offence.
(2) The investigation shall gather the evidence and data necessary to decide whether to file an indictment or to discontinue the proceedings, evidence for which there is a danger that it will not be possible to repeat them at the main hearing or that their implementation was associated with difficulties., as well as other evidence that may be useful for the proceedings and, given the circumstances of the case, it is appropriate to carry them out.
Article 150[45] (1) If there are reasonable grounds for suspecting that a certain person has committed, is executing or preparing or organizing the commission of any of the

[43] **20. člen ZKP**
Državni tožilec je dolžan začeti kazenski pregon, če je podan utemeljen sum, da je storjeno kaznivo dejanje, za katero se storilec preganja po uradni dolžnosti, kolikor zakon ne določa drugače.
[44] **167. člen ZKP**
(1) Preiskava se začne zoper določeno osebo, če je utemeljen sum, da je storila kaznivo dejanje.
(2) V preiskavi se zberejo dokazi in podatki, ki so potrebni za odločitev, ali naj se vloži obtožnica ali ustavi postopek, dokazi, za katere je nevarnost, da jih na glavni obravnavi ne bo mogoče ponoviti ali da bila njihova izvedba zvezana s težavami, kot tudi drugi dokazi, ki utegnejo biti koristni za postopek in je glede na okoliščine primera smotrno, da se izvedejo.
[45] **150. člen ZKP**
(1) Če obstajajo utemeljeni razlogi za sum, da je določena oseba izvršila, izvršuje ali pripravlja oziroma organizira izvršitev katerega izmed kaznivih dejanj, navedenih v drugem odstavku tega člena in če obstaja utemeljen sum, da se za komunikacijo v zvezi s tem kaznivim dejanjem uporablja določeno komunikacijsko sredstvo oziroma računalniški sistem ali bo to sredstvo oziroma sistem uporabljeno, pri tem pa je mogoče utemeljeno sklepati, da se

criminal offences referred to in the second paragraph of this Article and if there is a reasonable suspicion that communication in connection with this criminal offence is used a certain means of communication or computer system or this means or system will be used, and it can be reasonably concluded that other measures could not collect evidence or their collection could endanger human life or health, it may be ordered against this person:
1) control of electronic communications by eavesdropping and recording, and control and securing of evidence of all forms of communication transmitted in the electronic communications network;
2) control of letters and other shipments;
3) control of the computer system of a bank or other legal entity performing a financial or other economic activity;
4) eavesdropping and recording of conversations with the consent of at least one person participating in the conversation. [...]

Article 409[46]
If a final decision has rejected a request for an investigation on the ground that there are no reasonable grounds to suspect that the suspect or accused has committed a criminal offence, the criminal proceedings may be reopened, at the request of a competent prosecutor, if new evidence is presented on the basis of which the Chamber (Article 25(6)) is satisfied that the conditions for the opening of criminal proceedings have been fulfilled.

z drugimi ukrepi ne bi dalo zbrati dokazov oziroma bi njihovo zbiranje lahko ogrozilo življenje ali zdravje ljudi, se lahko zoper to osebo odredi:
1) nadzor elektronskih komunikacij s prisluškovanjem in snemanjem ter kontrola in zavarovanje dokazov o vseh oblikah komuniciranja, ki se prenašajo v elektronskem komunikacijskem omrežju;
2) kontrola pisem in drugih pošiljk;
3) kontrola računalniškega sistema banke ali druge pravne osebe, ki opravlja finančno ali drugo gospodarsko dejavnost;
4) prisluškovanje in snemanje pogovorov s privolitvijo vsaj ene osebe, udeležene v pogovoru.

[46] **409. člen ZKP**
Če je bila s pravnomočnim sklepom zahteva za preiskavo zavrnjena, zato ker ni bil podan utemeljen sum, da je osumljenec oziroma obdolženec storil kaznivo dejanje, se sme na zahtevo upravičenega tožilca kazenski postopek znova uvesti, če se predložijo novi dokazi, na podlagi katerih se senat (šesti odstavek 25. člena) lahko prepriča, da so izpolnjeni pogoji za uvedbo kazenskega postopka.

Article 450.a[47]
(1) The defendant, defence counsel and the state prosecutor may, in criminal proceedings, propose to the opposing party the conclusion of an agreement on the defendant's admission of guilt for the committed criminal offence. The conclusion of such an agreement may also be proposed by the state prosecutor before the commencement of criminal proceedings, if there is a reasonable suspicion that the suspect has committed the criminal offence that will be the subject of the proceedings. In this case, the state prosecutor proposing the conclusion of the agreement must inform the suspect in writing of the description of the act and the legal qualification of the criminal offence in respect of which he proposes the conclusion of the agreement. If the suspect has not yet been questioned, he must instruct him on the rights referred to in the fourth paragraph of Article 148 of this Act.[…]"

ee. Further provisions with this level of suspicion and other levels of suspicion

Article 149.a CPC can be presented here: **61**

Article 149.a. [48] (1) If there are substantiated grounds for suspicion that a certain person has committed, is executing or preparing or organizing the commission of any of the criminal offences referred to in the fourth paragraph of this Article, it may be reasonably concluded that police officers do not can detect, prevent or prove or would involve disproportionate difficulties, covert surveillance may be ordered against that person. […]

The level of sufficiency – Jurisprudence:

Court Judgement by the Supreme Court of Slovenia:
Sodba I Ips 440/2008
ECLI: ECLI:SI:VSRS:2009:I.IPS.440.2008[49]
"Core Summary: **62**
The court may decide on the ordering of covert investigative measures on the basis of actual findings of the police, ***in respect of which the police must also***

[47] **450.a člen ZKP**
(1) Obdolženec, zagovornik in državni tožilec lahko v kazenskem postopku predlagajo nasprotni stranki sklenitev sporazuma o obdolženčevem priznanju krivde za storjeno kaznivo dejanje. Sklenitev takega sporazuma sme predlagati državni tožilec tudi pred pričetkom kazenskega postopka, če je podan utemeljen sum, da je osumljenec storil kaznivo dejanje, ki bo predmet postopka. V tem primeru mora državni tožilec, ki predlaga sklenitev sporazuma, osumljenca pisno seznaniti z opisom dejanja in pravno kvalifikacijo kaznivega dejanja, glede katerega predlaga sklenitev sporazuma. Če osumljenec še ni bil zaslišan, ga mora poučiti o pravicah iz četrtega odstavka 148. člena tega zakona
[48] **149.a člen ZKP**
(1) Če obstajajo utemeljeni razlogi za sum, da je določena oseba izvršila, izvršuje ali pripravlja oziroma organizira izvršitev katerega izmed kaznivih dejanj, navedenih v četrtem odstavku tega člena, pri tem pa je mogoče utemeljeno sklepati, da policisti z drugimi ukrepi tega dejanja ne morejo odkriti, preprečiti ali dokazati oziroma bi bilo to povezano z nesorazmernimi težavami, se lahko zoper to osebo odredi tajno opazovanje. [...]
[49] https://www.sodisce.si/znanje/sodna_praksa/vrhovno_sodisce_rs/64085/

sufficiently explain the basis or source of these findings. If the use of a particular covert investigative measure proves to be proportionate, this does not mean that the same applies to the entire catalogue of these measures.[50]
[…]
5. With regard to the content of the requirements for the protection of legality, the Supreme Court emphasizes:
[…]
that the Supreme Court of the Republic of Slovenia ruled in Judgment I Ips 333/2005 of 3 November 2005 that substantiated grounds for suspicion represent a higher level of suspicion than grounds for [normal] suspicion and that the quality and quantity of collected data and their verifiability largely approach reasonable suspicion (Decision of the Constitutional Court of the Republic of Slovenia UI-25/95 of 27 November 1997); ***reasonable suspicion means a high level of articulated, concrete and specific probability that a certain person has committed a criminal offence*** (decision of the Constitutional Court of the Republic of Slovenia UI-18/93 of 11 April 1996) and that the reasons justifying the required level of probability that a certain person has committed a criminal offence (or is committing a criminal offence) committed at the time of the ordering of the measure and that it is not admissible to substantiate them retrospectively with evidence."[51]

63 The aforementioned judgement highlights the information that the Slovenian EDPs must observed if assessing an indictment or a proposition for one to the EPPO Chamber. They must follow the Slovenian jurisprudence in this area if they do not want to be denied access to court with their indictment.

[50] „Jedro:
Sodišče lahko odloča o odreditvi prikritih preiskovalnih ukrepov na podlagi dejanskih ugotovitev policije, glede katerih pa mora policija v zadostni meri pojasniti tudi podlago oziroma vir teh ugotovitev. Če se uporaba določenega prikritega preiskovalnega ukrepa pokaže kot sorazmerna, to še ne pomeni, da velja enako glede celotnega kataloga teh ukrepov."

[51] „[...] da je Vrhovno sodišče Republike Slovenije v sodbi I Ips 333/2005 z dne 3.11.2005 presodilo, da utemeljeni razlogi za sum pomenijo višjo stopnjo suma od razlogov za sum in se po kvaliteti in kvantiteti zbranih podatkov in njihovi preverljivosti v veliki meri približujejo utemeljenemu sumu (odločba Ustavnega sodišča Republike Slovenije U-I-25/95 z dne 27.11.1997); utemeljen sum pa pomeni visoko stopnjo artikulirane, konkretne in specifične verjetnosti, da je določena oseba storila kaznivo dejanje (odločba Ustavnega sodišča Republike Slovenije U-I-18/93 z dne 11. 4. 1996) in da morajo biti razlogi, ki utemeljujejo potrebno stopnjo verjetnosti, da je določena oseba storila kaznivo dejanje (oziroma da kaznivo dejanje izvršuje), podani v času odreditve ukrepa in da jih ni dopustno utemeljevati za nazaj z dokazi, pridobljenimi z izvajanjem ukrepa (kriterij predhodnosti oz. antecedenčnosti);[...]"

c) Actions if "Decision to open a case" (Regulation & Rules in IRP, 2020.003 EPPO)

If he/she decides to initiate an investigation he/she **must note this in the case management system (Art. 45 para 1 EPPO Regulation, 38 IRP**[52]**)**. In addition, the numerous obligations to provide information from Article 24 para 3 to 8. **64**

If an investigation is opened by virtue of Article 26 para 1 EPPO Regulation, he/she must insert the following information in the Case Management System according to **Article 38 para 3 IRP**: **65**

"a) the possible legal qualification of the reported criminal conduct, including if it was committed by an organised group;
b) a short description of the reported criminal conduct, including the date when it was committed;
c) the amount and nature of the estimated damage;
d) the Member State(s) where the focus of the criminal activity is, respectively where the
bulk of the offences, if several, was committed;
e) other Member States that may be involved;
f) the names of the potential suspects and any other involved persons in line with Article 24(4) of the Regulation, their date and place of birth, identification numbers, habitual residence and / or nationality, their occupation, suspected membership of a criminal organisation;
g) whether privileges or immunities may apply;
h) the potential victims (other than the European Union);
i) the place where the main financial damage has occurred;
j) inextricably linked offences; […]" [see again last footnote]
k) any other additional information, if deemed appropriate by the inserter

Specific information are presented by the IRP, Article 41 relates to the initiation according to Article 26 EPPO Regulation: **66**

Article 41: Decision to initiate an investigation or to evoke a case
1. Where, following the verification, the European Delegated Prosecutor decides to exercise EPPO's competence by initiating an investigation or evoking a case, a case file shall be opened and it shall be assigned an identification number in the index of the case files (hereinafter the Index). A permanent link to the related registration under Article 38(1) above shall be automatically created by the Case Management System.

[52] See https://www.eppo.europa.eu/sites/default/files/2020-12/2020.003%20IRP%20-%20final.pdf. Accessed 18 March 2024.

If an investigation procedure is to be started, the competent national authorities must be informed:
2. The corresponding reference in the Index shall contain, to the extent available:
a) As regards suspected or accused persons in the criminal proceedings of the EPPO or persons convicted following the criminal proceedings of the EPPO,
i. surname, maiden name, given names and any alias or assumed names;
ii. date and place of birth;
iii. nationality;
iv. sex;
v. place of residence, profession and whereabouts of the person concerned,
vi. social security numbers, ID-codes, driving licences, identification documents, passport data, customs and tax identification numbers;
vii. description of the alleged offences, including the date on which they were committed;
viii. category of the offences, including the existence of inextricably linked offences;
ix. the amount of the estimated damages;
x. suspected membership of a criminal organisation;
xi. details of accounts held with banks and other financial institutions;
xii. telephone numbers, SIM-card numbers, email addresses, IP addresses, and account and user names used on on line platforms;
xiii. vehicle registration data;
xiv. identifiable assets owned or utilised by the person, such as crypto-assets and real estate.
xv. information whether potential privileges or immunities may apply.
b) as regards natural persons who reported or are victims of offences that fall within the competence of the EPPO,
i. surname, maiden name, given names and any alias or assumed names;
ii. date and place of birth;
iii. nationality;
iv. sex;
v. place of residence, profession and whereabouts of the person concerned;
vi. ID-codes, identification documents, and passport data;
vii. description and nature of the offences involving or reported by the person concerned, the date on which the offences were committed and the criminal category of the offences.
c) as regards contacts or associates of one of the persons referred to in point (a) above,
i. surname, maiden name, given names and any alias or assumed names;
ii. date and place of birth;
iii. nationality;

iv. sex;
v. place of residence, profession and whereabouts of the person concerned;
vi. ID-codes, identification documents, and passport data. The categories of personal data referred to above under points (a) (x) – (xv) shall be entered in the Index only to the extent practicable, taking into account the operational interest and available resources. The reference in the Index shall be maintained up to date during the investigation of a case file. The Case Management System shall periodically notify the European Delegated Prosecutor if certain categories of information are not entered in the Index.
3. The Case Management System shall notify the supervising European Prosecutor and the European Chief Prosecutor and shall randomly assign the monitoring of the investigation to a Permanent Chamber, in accordance with Article 19.
4. Where the handling European Delegated Prosecutor considers that in order to preserve the integrity of the investigation it is necessary to temporarily defer the obligation to inform the authorities referred to in Articles 25(5), 26(2) and 26(7) of the Regulation, he/she shall inform the monitoring Permanent Chamber without delay. The latter may object to this decision and instruct the European Delegated Prosecutor to proceed with the relevant notification immediately.

d) Consequences to the "Decision to open a case"

If this decision has been achieved the EDPs will need to plan on how to conduct the investigation and gather the relevant evidence in order to collect all information that is necessary to prove a criminal offence i.e. a criminal liability and the elements that constitute the whole concept of crime in general. A PIF offence will need to be assessed by the relevant conditions for a crime i.e. the elements of a particular PIF offence of the present country. **67**

The EDPs will need to focus on the *actus reus a*nd the *mens rea* conditions of the relevant offence.[53] In other words: What German criminal justice calls "*Tatbestand*"[54], in relation to the German substantive criminal law enshrined in the Criminal Code or partly in ancillary (not: secondary) criminal law (*Nebenstrafrecht* e.g. *Abgabenordnung*) needs to be assessed according to the requirements that the legislator set up, which includes the concretization of the objective elements (*actus reus*, see above) of the crime[55], the **68**

[53] See for the common terms in comparing criminal law and criminal procedure Child, Simester, Spencer, Stark, Virgo 2022, Chapter 4 et seq.; Chapter 5, Chapter 15 on Fraud (relevant for Ireland, Malta, Cyprus).
[54] Bohlander 2009, pp 29 et seq.
[55] These include in the most criminal law systems questions of causual links, Authorship, causality, „scientific causation" (emphasis added to the cited book) adequacy, limitation of an endless *sine qua non formula*, etc., see recently Walen, Weiser 2022, pp 57–94.

subjective elements (*mens rea*, see above)[56] as well as the unlawfulness of the conduct (i.e. no written or unwritten justifications/justificatory defences[57] must intervene) and last but not least the guilt of the offender, which is given if the potential perpetrator is not excused for his/her conduct in relation to a PIF offence.[58]

69 Similar or the same conditions exist in relation to the general part of the offence (i.e. a PIF offence, Article 22 EPPO Regulation, Articles 1–5 PIF Directive) in almost every country in the EU, with a divide running where common law differs and civil law countries encounter.

70 In addition, it is important to determine how the indictment should look like: Are several people involved and is there not an isolated act, but possibly a complicity (*Mittäterschaft*) or an indirect perpetrator (*mittelbare Täterschaft*)? In addition, the questions of the criminal liability of a participant must be clarified in order to be able to determine whether an incitement (*Anstiftung*) to a PIF offence or an abetting (*Beihilfe*) to such an act exists.[59]

71 If there is no success to a crime, the question arises as to whether a criminal offence can be determined because of the attempt of a PIF offence.[60]

72 For all of these questions and purposes, the EDPs can additionally to the present presentations, analysis and manual references rely on the existing legal commentaries on the penal codes of the EU Member States and the code of criminal procedures of the Member States, which participate in the EPPO, insofar as national law is concerned, e.g. in the concept of a criminal offence or the start of an investigation.

e) Justiciability and appeals (Defence Perspective)

73 For provisions in the area of jusiticability and appeals, Articles 420 et seq CPA/ZKP are applicable.

[56] See only out of many Safferling 2008, who points at the fact that the traditional german terms are "intention" and culpability. But even if the terminology is not congruent and differs in detail, it can be said that these are elements of the subjective offence that occur in continental European criminal codes and are also required separately by the PIF Directive for PIF offences.
[57] This is a worldwide recognized condition as a basic element of the concept of crime, see Stasi 2021, Excusatory and Justificatory Defenses, pp 31–47.
[58] See Eser 1987, pp 17–65 on the historical implications and the differences between the common law and civil law approach; Bohlander 2009, pp 29 et seq., 77 et seq. (Rechtswidrigkeit), 115 et seq. ("Guilt and Excusatory Defences").
[59] See *Hauck*, EU Fraud Commentary, Commentary on PIF Directive, Art. 5. For the various translations of these terms see the EUR-Lex database translations of the PIF Directive 2017/1371.
[60] See *Hauck*, EU Fraud Commentary, Commentary on PIF Directive, Art. 5.

3. Request for protection of legality **74**

Article 420[61] (1) Against a final court decision terminating criminal proceedings, and against another decision only if the decision of the Supreme Court can be expected to rule on a legal issue that is important for ensuring legal certainty, uniform application of law or for the development of law through the case-law and against the court proceedings which took place before such a final decision, a request for protection of legality may be filed after the final conclusion of the criminal proceedings in the following cases:

1) for violation of criminal law;

2) due to a material violation of the provisions of criminal procedure referred to in the first paragraph of Article 371 of this Act;

3) due to other violations of the provisions of criminal procedure, if these violations affected the legality of the court decision.

(2) A request for the protection of legality may not be filed due to an erroneous or incomplete determination of the factual situation, nor against a decision of the Supreme Court by which a decision on the request for protection of legality was decided.

(3) Notwithstanding the provision of the first paragraph of this Article, the Supreme State Prosecutor may file a request for protection of legality due to any violation of the law.

(4) Notwithstanding the provision of the first paragraph of this Article, during criminal proceedings which have not been finalized, a request for protection of legality may be filed only against a final decision ordering detention, unless the detention was ordered by the Supreme Court (fourth paragraph 394). Article and the second paragraph of Article 398), and against a final decision on the extension of detention only in the case of

[61] **420. člen ZKP**

(1) Zoper pravnomočno sodno odločbo, s katero je bil končan kazenski postopek, zoper drugo odločbo pa le, če je od odločitve vrhovnega sodišča mogoče pričakovati odločitev o pravnem vprašanju, ki je pomembno za zagotovitev pravne varnosti, enotne uporabe prava ali za razvoj prava preko sodne prakse in zoper sodni postopek, ki je tekel pred tako pravnomočno odločbo, se sme po pravnomočno končanem kazenskem postopku vložiti zahteva za varstvo zakonitosti v naslednjih primerih:

1) zaradi kršitve kazenskega zakona;
2) zaradi bistvene kršitve določb kazenskega postopka iz prvega odstavka 371. člena tega zakona;
3) zaradi drugih kršitev določb kazenskega postopka, če so te kršitve vplivale na zakonitost sodne odločbe.

(2) Zahteve za varstvo zakonitosti ni mogoče vložiti zaradi zmotne ali nepopolne ugotovitve dejanskega stanja in tudi ne zoper odločbo vrhovnega sodišča, s katero je bilo odločeno o zahtevi za varstvo zakonitosti.

(3) Ne glede na določbo prvega odstavka tega člena sme vrhovni državni tožilec vložiti zahtevo za varstvo zakonitosti zaradi vsake kršitve zakona.

(4) Ne glede na določbo prvega odstavka tega člena se sme med kazenskim postopkom, ki ni pravnomočno končan, vložiti zahteva za varstvo zakonitosti samo zoper pravnomočno odločbo o odreditvi pripora, razen v primeru, ko je pripor odredilo vrhovno sodišče (četrti odstavek 394. člena in drugi odstavek 398. člena), zoper pravnomočno odločbo o podaljšanju pripora pa le v primeru podaljšanja s sklepom senata vrhovnega sodišča (drugi odstavek 205. člena) in v primeru podaljšanja po vložitvi obtožnice (drugi odstavek 272. člena).

(5) Na kršitve iz prvega odstavka tega člena se sme vložnik sklicevati samo, če jih ni mogel uveljavljati v pritožbi ali če jih je uveljavljal, pa jih sodišče druge stopnje ni upoštevalo.

extension by a decision of the Supreme Court (second paragraph of Article 205) and in the case of extension after the indictment is filed (second paragraph of Article 272).
(5) The applicant may invoke the violations referred to in the first paragraph of this Article only if he could not assert them in the appeal or if he did assert them, but the court of second instance did not take them into account.

Special appeals during the investigation phase

E.g. against a detention order:

Article 200[62] […] (4) An appeal against a decision to order, extend or cancel detention must be filed within three days from the day the decision was served, unless the provisions of this law on detention provide otherwise.

[62] **200. člen ZKP**
[…] (4) Zoper sklep o odreditvi, podaljšanju ali odpravi pripora je treba pritožbo podati v treh dneh od dne, ko je bil sklep vročen, razen če določbe tega zakona o priporu ne določajo drugače.

2. Article 27 Right of evocation

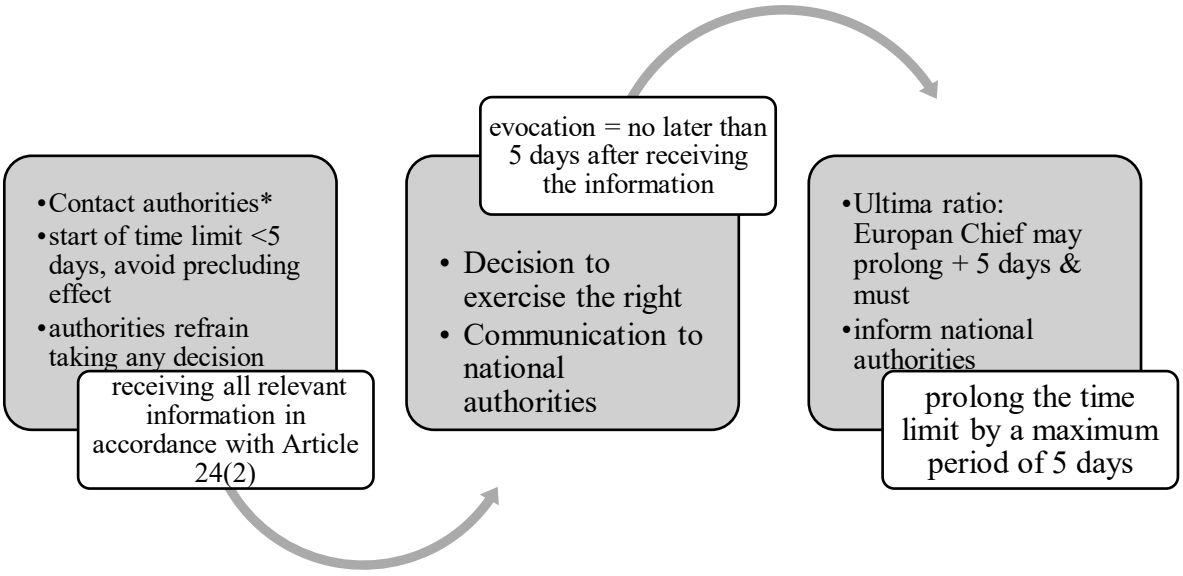
1. Upon receiving all relevant information in accordance with Article 24(2), the EPPO shall take its decision on whether to exercise its right of evocation as soon as possible, but no later than 5 days after receiving the information from the national authorities and shall inform the national authorities of that decision. The European Chief Prosecutor may in a specific case take a reasoned decision to prolong the time limit by a maximum period of 5 days, and shall inform the national authorities accordingly.
2. During the periods referred to in paragraph 1, the national authorities shall refrain from taking **any decision under national law** that may have the effect of precluding the EPPO from exercising its right of evocation.
The national authorities shall take any urgent measures necessary, **under national law**, to ensure effective investigation and prosecution.
3. If the EPPO becomes aware, by means other than the information referred to in Article 24(2), of the fact that an investigation in respect of a criminal offence for which it could be competent is already undertaken by the competent authorities of a Member State, it shall inform these authorities without delay. After being duly informed in accordance with Article 24(2), the EPPO shall take a decision on whether to exercise its right of evocation. The decision shall be taken within the time limits set out in paragraph 1 of this Article.
4. The EPPO shall, where appropriate, consult the competent authorities of the Member State concerned before deciding whether to exercise its right of evocation.
5. Where the EPPO exercises its right of evocation, the competent authorities of the Member States shall transfer the file to the EPPO and refrain from carrying out further acts of investigation in respect of the same offence.
6. The right of evocation set out in this Article may be exercised by a European Delegated Prosecutor from any Member State whose competent authorities have initiated an investigation in respect of an offence that falls within the scope of Articles 22 and 23.
Where a European Delegated Prosecutor, who has received the information in accordance with Article 24(2), considers not to exercise the right of evocation, he/she shall inform the competent Permanent Chamber through the European Prosecutor of his/her

Member State with a view to enabling the Permanent Chamber to take a decision in accordance with Article 10(4).
7. Where the EPPO has refrained from exercising its competence, it shall inform the competent national authorities without undue delay. At any time in the course of the proceedings, the competent national authorities shall inform the EPPO of any new facts which could give the EPPO reasons to reconsider its decision not to exercise competence.
The EPPO may exercise its right of evocation after receiving such information, provided that the national investigation has not already been finalised and that an indictment has not been submitted to a court. The decision shall be taken within the time limit set out in paragraph 1.
8. Where, with regard to offences which caused or are likely to cause damage to the Union's financial interests of less than EUR 100 000, the College considers that, with reference to the degree of seriousness of the offence or the complexity of the proceedings in the individual case, there is no need to investigate or to prosecute at Union level, it shall in accordance with Article 9(2), issue general guidelines allowing the European Delegated Prosecutors to decide, independently and without undue delay, not to evoke the case.
The guidelines shall specify, with all necessary details, the circumstances to which they apply, by establishing clear criteria, taking specifically into account the nature of the offence, the urgency of the situation and the commitment of the competent national authorities to take all necessary measures in order to fully recover the damage to the Union's financial interests.
9. To ensure coherent application of the guidelines, a European Delegated Prosecutor shall inform the competent Permanent Chamber of each decision taken in accordance with paragraph 8 and each Permanent Chamber shall report annually to the College on the application of the guidelines.

1 If the EDPs do not exercise the EPPO's competence by virtue of the Union's legality principle in due time on their own and hereby on behalf (*proprio motu*) of the Union and the Union's interests by analysing the *notitiae crimini europea*, i.e. the obligatory European PIF offences notices, which are sent to the European Prosecution Office in order to inform that a PIF offence is alleged or has been committed, the EDPs and the Chambers must decide on the evocation of cases from the national authorities on to the level of the Union competence. If the national prosecutor or a national office vested with investigative powers have already started investigating or the relevant person has taken any steps applying national law afterwards, these actions may have a precluding effect on the Right of evocation of the EPPO (cf. para 2 of Art. 27 EPPO Regulation).

Nota bene: In addition to that, if reading the following provisions one can take into account that some of them will apply as well to the EDPs if they want to file an indictment by virtue of the EPPO Regulation, i.e. the area, which is not in the focus of this Manual as the country chapters have the focal point on the start of investigations, the phase, in which, most likely a huge number of operations will cease already. But the same provisions that apply to the national authorities while standing still until the EPPO has decided to exercise its right of evocation or not (Article 27) will apply in cases of EPPO indictments (Article 34 et seq.) and preclude the filing of indictment by virtue of national law before a national court.

Figure 4: Right of evocation/time limits/refrain taking decisions that have a precluding effect **2**



a) Provisions with a precluding effect for the Right of evocation of the EPPO, para 2

aa. Statute of limitations

3 The "Zastaralni roki za kazniva/Zastaranje kazenskega pregona" (limitation to offences and proceedings) is enshrined in the Kazenski Zakonik, here: Chapter 11, Sections 90–95 relate to the limitation of penalties and proceedings. Especially Section 90 para 1 no 3–5 stipulate that criminal prosecution shall not be permitted anymore if "3) twenty years from the commission of a criminal offence for which imprisonment for a term exceeding five years may be imposed by law; 4) ten years from the commission of a criminal offence for which imprisonment of more than one year may be imposed by law; 5) six years from the commission of a criminal offence for which imprisonment of up to one year or a fine may be imposed by law.

4 Relation to EU fraud offences: Article 229 Goljufija na škodo Evropske unije (Fraud to the detriment of the European Union) i.e. provides for a punishment from three months to three years in para 1; para 3 of the same Article provides for the punishment from one to eight years in the case of a great pecuniary gain. In relation with Article 90 para 1 3) and 4) may apply here i.e.

5 Article 161 para CPA states that offences that are time-barred cannot be prosecuted anymore.

The provision of paragraph 2 of Article 91 is also important in relation to statutes of limitations: If a final judgment in the procedure is annulled by the Supreme Court on the basis of an extraordinary legal remedy or by the Constitutional Court on the basis of a constitutional appeal, the deadline for a new trial is five years from the annulment of the final judgment.

bb. Criminal complaint

6 A criminal complaint can be submitted according to Article 147 CPA.

Article 147 CPA[63] (1) The complaint shall be submitted to the competent state prosecutor in writing or orally.

[63] **147. člen ZKP**
(1) Ovadba se poda pristojnemu državnemu tožilcu pisno ali ustno.
(2) Če je ovadba ustna, je treba ovaditelja opozoriti na posledice krive ovadbe. O ustni ovadbi se napravi zapisnik, če je bila sporočena po telefonu pa uradni zaznamek.
(3) Če je ovadba podana sodišču, policiji ali nepristojnemu državnemu tožilcu, jo ta sprejme in takoj pošlje pristojnemu državnemu tožilcu.
(4) Če gre v primeru iz prejšnjega odstavka za kaznivo dejanje, glede katerega ni predpisano obvezno obveščanje državnega tožilca pred podajo ovadbe, pošlje policija ovadbo državnemu tožilcu šele potem, ko zbere obvestila in opravi druge ukrepe, ki so potrebni za odločitev državnega tožilca, vendar najkasneje v 30 dneh od podaje ovadbe.

(2) If the complaint is oral, the complainant must be warned of the consequences of a false complaint. A record is made of the verbal complaint, and if it was communicated by phone, an official note is made.
(3) If the complaint is submitted to a court, the police or a non-competent state prosecutor, the latter accepts it and immediately sends it to the competent state prosecutor.
(4) If in the case referred to in the previous paragraph it is a criminal act, in respect of which mandatory notification of the state prosecutor is not prescribed before filing the complaint, the police will send the complaint to the state prosecutor only after collecting the information and taking other measures necessary for the state prosecutor's decision, but no later than within 30 days of filing the complaint. If he is unable to collect all the necessary information during this time, he sends a complaint to the state prosecutor stating the expected deadline for submitting a report to supplement the complaint. In case of multiple violations of the deadline for sending the complaint or reports to supplement the complaint, the competent state prosecutor's office informs the Supreme State Prosecutor's Office and the director general of the police, who takes the necessary measures.
(5) If the injured party files a complaint with the police for a criminal offence that is prosecuted on request, and at the same time declares that he does not want criminal prosecution, the police inform him that in this case he is not entitled to the rights from the second and fourth paragraphs of Article 60 of this law. In the accepted complaint, the police mark the instruction provided, which is also signed by the injured party. The complaint is immediately sent to the state prosecutor, and a copy is also issued to the injured party. If the state prosecutor rejects the complaint (first paragraph of Article 161), he records the decision on an official note and does not inform the injured party about the rejection.
(6) Upon receipt of the complaint, the state prosecutor must act without delay and, within 90 days of receiving the complaint against the known perpetrator, dismiss the

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Če v tem času ne more zbrati vseh potrebnih podatkov, pošlje državnemu tožilcu ovadbo z navedbo predvidenega roka za predložitev poročila v dopolnitev ovadbe. V primeru večkratnih kršitev roka za pošiljanje ovadbe oziroma poročil v dopolnitev ovadbe pristojno državno tožilstvo o tem obvesti Vrhovno državno tožilstvo ter generalnega direktorja policije, ki sprejme potrebne ukrepe.
(5) Če oškodovanec na policiji poda ovadbo za kaznivo dejanje, ki se preganja na predlog, in ob tem izjavi, da ne želi kazenskega pregona, ga policija obvesti, da mu v tem primeru ne gredo pravice iz drugega in četrtega odstavka 60. člena tega zakona. Policija v sprejeti ovadbi zaznamuje podani poduk, ki ga podpiše tudi oškodovanec. Ovadbo takoj pošlje državnemu tožilcu, izvod pa izda tudi oškodovancu. Če državni tožilec zavrže ovadbo (prvi odstavek 161. člena), odločitev zabeleži na uradnem zaznamku in o zavrženju ne obvešča oškodovanca.
(6) Državni tožilec mora po prejemu ovadbe ukrepati brez odlašanja in v 90 dneh od prejema ovadbe zoper znanega storilca ovadbo zavreči ali pa predlagati, odrediti ali izvesti aktivnost, ukrep oziroma preiskovalno dejanje, usmerjeno v pregon zoper osumljenca, zahtevati preiskavo ali vložiti obtožni akt. Če državni tožilec ne ravna v roku iz prejšnjega stavka, mora o razlogih pisno obvestiti vodjo državnega tožilstva, ki lahko rok podaljša ali sprejme potrebne ukrepe v skladu z zakonom, ki ureja državno tožilstvo.
(7) Državni tožilec osebo na njeno zahtevo seznani s tem, da je zoper njo vložena ovadba, o očitanem kaznivem dejanju in o fazi postopka pred državnim tožilstvom. Seznanitev ovadene osebe se lahko odloži, če je to v nasprotju z interesi uspešne izvedbe predkazenskega postopka ali če bi to lahko ogrozilo varnost oseb. Če državni tožilec ne ravna v skladu s prvim stavkom prejšnjega odstavka, lahko ovadena oseba predlaga vodji državnega tožilstva, da sprejme ustrezne ukrepe.

complaint or propose, order or carry out an activity, measure or investigative action aimed at prosecuting the suspect, request an investigation or file an indictment. If the state prosecutor does not act within the deadline from the previous sentence, he must notify the head of the state prosecutor's office of the reasons in writing, who can extend the deadline or take the necessary measures in accordance with the law governing the state prosecutor's office.
(7) At the person's request, the state prosecutor informs the person that a complaint has been filed against him, about the alleged criminal act and about the stage of the proceedings before the state prosecutor's office. The notification of the accused person may be delayed if this conflicts with the interests of the successful implementation of the pretrial procedure or if this could endanger the safety of persons. If the state prosecutor does not act in accordance with the first sentence of the previous paragraph, the accused person can propose to the head of the state prosecutor's office to take appropriate measures.

cc. Abatement of action (dispense with prosecution)

7 A complaint can be dismissed by the state proscutor according to Article 161 CPA.

Article 161 CPA[64] (1) The state prosecutor dismisses the complaint if it follows from the complaint itself that the reported act is not a criminal act for which the perpetrator

[64] **161. člen ZKP**
(1) Državni tožilec zavrže ovadbo, če iz same ovadbe izhaja, da naznanjeno dejanje ni kaznivo dejanje, za katero se storilec preganja po uradni dolžnosti, če je pregon zastaran ali je dejanje obseženo z amnestijo ali pomilostitvijo ali če so podane druge okoliščine, ki izključujejo pregon, ali če ni podan utemeljen sum, da je osumljenec storil naznanjeno kaznivo dejanje ali če je podana nesorazmernost med majhnim pomenom kaznivega dejanja (njegova nevarnost je neznatna zaradi narave ali teže dejanja ali zaradi tega, ker so škodljive posledice neznatne ali jih ni ali zaradi drugih okoliščin, v katerih je bilo storjeno in zaradi nizke stopnje storilčeve krivde ali zaradi njegovih osebnih okoliščin) ter posledicami, ki bi jih povzročil kazenski pregon. O tem, da je zavrgel ovadbo, in o razlogih za to obvesti državni tožilec v osmih dneh oškodovanca (60. člen), če je ovadbo podal državni organ, pa tudi njega.
(2) Če državni tožilec iz same ovadbe ne more presoditi, ali so navedbe v njej verjetne, ali če podatki v ovadbi ne dajejo dovolj podlage, da bi lahko odločil, ali naj zahteva preiskavo, ali če je do njega prišel le glas o kaznivem dejanju, zlasti pa, če je storilec neznan, lahko zahteva od policije, če tega ne more storiti sam ali po drugih organih, naj v roku, ki ga on določi, zbere potrebna obvestila in stori druge ukrepe, da se odkrijeta kaznivo dejanje in storilec (148. in 149. člen). Državni tožilec sme ob vsakem času zahtevati od policije, da ga obvesti, kaj je ukrenila; ta mu je dolžna brez odlašanja odgovoriti.
(3) Državni tožilec sme zahtevati potrebne podatke od državnih organov, podjetij in drugih pravnih oseb, lahko pa v ta namen povabi tudi tistega, ki je vložil kazensko ovadbo.
(4) Preden državni tožilec zavrže ovadbo, ki jo je za kaznivo dejanje iz svoje nadzorne pristojnosti podal pristojni državni organ, ali institucija s področja davkov, carin, finančnega poslovanja, vrednostnih papirjev, varstva konkurence, preprečevanja pranja denarja, preprečevanja korupcije, inšpekcijskega nadzora, ali varuh človekovih pravic, ali ovadbo, ki jo je za kaznivo dejanje, za katero je v zakonu predpisana kazen zapora več kot osem let, podal oškodovanec, ki je fizična oseba, mora ovaditelja pisno seznaniti o nameri, da bo zavrgel ovadbo, ter mu navesti bistvene razloge za to odločitev in mu omogočiti, da se v 15 dneh do njih pisno opredeli ter da posreduje morebitne dodatne podatke in dokaze glede utemeljenosti suma, da je osumljenec storil kaznivo dejanje. Ovaditelj svoje mnenje, podatke in dokaze posreduje državnemu tožilcu in vodji pristojnega okrožnega državnega tožilstva. Če oškodovancu pisnega pojasnila ni bilo mogoče vročiti, ker njegov naslov ali prebivališče nista znana ali ker

is prosecuted ex officio, if the prosecution is time-barred or the act is covered by an amnesty or pardon, or if other circumstances are given that exclude prosecution, or if there is no reasonable suspicion that the suspect has committed a reported crime, or if there is a disproportionality between the small significance of the crime (its danger is insignificant due to the nature or gravity of the crime, or because the harmful consequences are insignificant or absent, or due to other circumstances in which it was committed and due to the low level of the perpetrator's guilt or due to his personal circumstances) and the consequences that would be caused by criminal prosecution. About the fact that he dismissed the complaint,

(2) If the state prosecutor cannot judge from the complaint itself whether the allegations in it are credible, or if the information in the complaint does not provide enough basis for him to be able to decide whether to request an investigation, or if he has only heard of a criminal act, and in particular, if the perpetrator is unknown, he can request the police, if he cannot do it himself or through other authorities, to collect the necessary information and take other measures in order to discover the criminal act and the perpetrator within the time limit set by him (Articles 148 and 149). The state prosecutor may at any time request the police to inform him of what they have done; it is obliged to answer him without delay.

(3) The state prosecutor may request the necessary information from state authorities, companies and other legal entities, and may also invite the person who filed the criminal complaint for this purpose.

(4) Before the state prosecutor dismisses the complaint filed by the competent state authority or institution in the field of taxes, customs, financial operations, securities, competition protection, prevention of money laundering, prevention of corruption, inspection, or the ombudsman, or a complaint filed by an injured party who is a natural person for a criminal offence for which the law prescribes a prison sentence of more than eight years, must notify the complainant in writing of the intention to dismiss the complaint, and give him the essential reasons for this decision and give him the opportunity to define them in writing within 15 days and to provide any additional information and evidence regarding the validity of the suspicion that the suspect has committed a criminal act. Complainant his opinion, forwards data and evidence to the state prosecutor and the head of the competent district state prosecutor's office. If it was not possible to serve the injured party with a written explanation because his address or place of residence is

državnemu tožilstvu ni pravočasno sporočil spremembe naslova ali prebivališča (66. člen tega zakona), lahko državni tožilec zavrže ovadbo brez njegove opredelitve.

(5) Državni tožilec zavrže ovadbo, če so tudi po opravljenih dejanjih iz drugega do četrtega odstavka tega člena podane kakšne okoliščine iz prvega odstavka tega člena. V primeru iz prejšnjega odstavka se mora državni tožilec v sklepu o zavrženju ovadbe opredeliti tudi do mnenja ovaditelja.

(6) Državni tožilec in drugi državni organi, podjetja in druge pravne osebe, morajo pri zbiranju obvestil oziroma dajanju podatkov ravnati obzirno in paziti, da ne škodujejo časti in dobremu imenu tistega, na katerega se podatki nanašajo.

unknown or because he did not notify the state prosecutor of a change of address or place of residence in time (Article 66 of this law), the state prosecutor can dismiss the complaint without defining it.
(5) The state prosecutor shall dismiss the complaint if, even after the actions referred to in the second to fourth paragraphs of this article, any circumstances from the first paragraph of this article are given. In the case from the previous paragraph, the state prosecutor must also define the complainant's opinion in the decision to dismiss the complaint.
(6) The state prosecutor and other state authorities, companies and other legal entities must act with consideration when collecting information or providing data and be careful not to harm the honour and good name of the person to whom the data relates.

b) Urgent measures of national authorities for securing an investigation and prosecution

8 The police may take urgent measures e.g. searches on premises of a suspect.

c) Competent national authorities in paras 3 to 7 of Art. 27

9 The Slovene legislator has notified the following authorities:

10(3)(d), 24(2)–(3), 25(1) to (5), 26(7), 27(2) to (8), 34(1) to (3)/(5) to (7)	- Specialised State Prosecutor's Office of the Republic of Slovenia Trg OF 13 1000 Ljubljana - District State Prosecutor's Office Celje - District State Prosecutor's Office Koper - District State Prosecutor's Office Kranj - District State Prosecutor's Office Krško - District State Prosecutor's Office Ljubljana - District State Prosecutor's Office Maribor - District State Prosecutor's Office Murska Sobota - District State Prosecutor's Office Nova Gorica - District State Prosecutor's Office Novo mesto - District State Prosecutor's Office Ptuj - District State Prosecutor's Office Slovenj Gradec

d) Provisions regarding the finalisation of the national investigation, para 7

10 The provisions in relation to the finalisaiton of national investigations can be found in Articles 268 et seq. CPA:

XIX. chapter Indictment and Objection against the Indictment
Article 268
[See above → Article 26, Relevant sources of the indications for a criminal offence falling within the competence of the EPPO.]

Article 269[65] (1) The indictment includes:
1) name and surname of the accused with personal data (Article 227) and information on whether he is in custody and since when or whether he is at large; and if he was released before the indictment, how long he was in custody;
2) description of the act from which the legal signs of the crime arise, the time and place of the commission of the crime, the object on which and the means with which the crime was committed, and other circumstances necessary to characterize the crime as precisely as possible;
3) the legal designation of the criminal act with the indication of the provisions of the criminal law that should be applied according to the prosecutor's proposal;
4) designation of the court before which the main hearing should take place;
5) a proposal for which evidence should be presented at the main hearing, specifying the names of witnesses and experts, files to be read, and objects required for evidence;
6) the explanation, in which, with reference to the identification marks of the documents, the facts that will be proven by the implementation of the proposed and clearly stated or marked evidence are clearly stated, as well as the position of the prosecutor on the statements of the defence.

[65] **269. člen ZKP**
(1) Obtožnica obsega:
1) ime in priimek obdolženca z osebnimi podatki (227. člen) in podatki o tem, ali je v priporu in od kdaj ali pa je na prostosti; če pa je bil pred vložitvijo obtožnice izpuščen, koliko časa je bil v priporu;
2) opis dejanja, iz katerega izhajajo zakonski znaki kaznivega dejanja, čas in kraj storitve kaznivega dejanja, predmet na katerem, in sredstvo, s katerim je bilo storjeno kaznivo dejanje ter druge okoliščine, ki so potrebne, da se kaznivo dejanje kar najbolj natančno označi;
3) zakonsko označbo kaznivega dejanja z navedbo določb kazenskega zakona, ki naj se po predlogu tožilca uporabijo;
4) označbo sodišča, pred katerim naj bo glavna obravnava;
5) predlog, kateri dokazi naj se izvedejo na glavni obravnavi, z navedbo imen prič in izvedencev, spisov, ki naj se preberejo, in predmetov, ki so potrebni za dokazovanje;
6) obrazložitev, v kateri so s sklicevanjem na identifikacijske oznake dokumentov pregledno navedena dejstva, ki se bodo dokazovala z izvedbo predlaganih in pregledno navedenih oziroma označenih dokazov, ter stališča tožilca o navedbah obrambe.
(2) Državni tožilec lahko v obtožnici predlaga vrsto in višino kazni, ki naj se izreče obdolžencu, če bo, ko se prvič izjavi o obtožbi, priznal krivdo; predlaga lahko omiljeno kazen, način izvršitve kazni in namesto kazni opozorilno sankcijo, vse pod pogoji in v mejah, ki jih določa kazenski zakon.
(3) Če je obdolženec na prostosti, se sme v obtožnici predlagati, naj se odredi pripor; če je v priporu, pa se sme predlagati, naj se izpusti.
(4) Z isto obtožnico se praviloma obseže več kaznivih dejanj ali več obdolžencev, če se je po 31.a členu tega zakona izvedel enoten predkazenski postopek in če se po 32. členu tega zakona lahko izvede enoten postopek in izda ena sama sodba.

(2) In the indictment, the state prosecutor may propose the type and amount of punishment to be imposed on the defendant if he pleads guilty when he first declares himself guilty; he can propose a preferred punishment, a method of execution of the punishment and instead of a punishment a warning sanction, all under the conditions and within the limits set by the criminal law.
(3) If the defendant is at large, the indictment may suggest that detention be ordered; if he is in custody, it may be proposed that he be released.
(4) As a rule, the same indictment covers several criminal acts or several defendants, if a unified pre-trial procedure has been carried out in accordance with Article 31a of this Act and if, in accordance with Article 32 of this Act, a unified procedure can be carried out and a single judgment can be issued.

Nota bene: If Article 27 EPPO Regulation is completed or exercised the same rules as presented above under "Actions if decision to open a case", Article 26 EPPO Regulation shall apply.

3. Article 28 Conducting the investigation

1. The European Delegated Prosecutor handling a case may, in accordance with this Regulation **and with national law**, either undertake the investigation measures and other measures on his/her own or instruct the competent authorities in his/her Member State. Those authorities shall, **in accordance with national law**, ensure that all instructions are followed and undertake the measures assigned to them. The handling European Delegated Prosecutor shall report through the case management system to the competent European Prosecutor and to the Permanent Chamber any significant developments in the case, in accordance with the rules laid down in the internal rules of procedure of the EPPO.
2. At any time during the investigations conducted by the EPPO, the competent national authorities shall take urgent measures **in accordance with national law** necessary to ensure effective investigations even where not specifically acting under an instruction given by the handling European Delegated Prosecutor. The national authorities shall without undue delay inform the handling European Delegated Prosecutor of the urgent measures they have taken.
3. The competent Permanent Chamber may, on proposal of the supervising European Prosecutor decide to reallocate a case to another European Delegated Prosecutor in the same Member State when the handling European Delegated Prosecutor:
(a) cannot perform the investigation or prosecution; or
(b) fails to follow the instructions of the competent Permanent Chamber or the European Prosecutor.

4. In exceptional cases, after having obtained the approval of the competent Permanent Chamber, the supervising European Prosecutor may take a reasoned decision to conduct the investigation personally, either by undertaking personally the investigation measures and other measures or by instructing the competent authorities in his/her Member State, where this appears to be indispensable in the interest of the efficiency to the investigation or prosecution by reasons of one or more of the following criteria:
(a) the seriousness of the offence, in particular in view of its possible repercussions at Union level;
(b) when the investigation concerns officials or other servants of the Union or members of the institutions of the Union;
(c) in the event of failure of the reallocation mechanism provided for in paragraph 3.
In such exceptional circumstances Member States shall ensure that the European Prosecutor is entitled to order or request investigative measures and other measures and that he/she has all the powers, responsibilities and obligations of a European Delegated Prosecutor in accordance with this Regulation and national law.
The competent national authorities and the European Delegated Prosecutors concerned by the case shall be informed without undue delay of the decision taken under this paragraph.

1 As part of the recurring introduction to Article 28 EPPO Regulation in this manual, which is relevant to all EDPs and also affects the academic and political debate about specialised investigative personnel, the following can be said: The conduct of investigations is dependent on instruction relationships, whereby in contrast to the dependency in classically national systems, in the area of EU anti-fraud investigations the EPPO (i.e. the college level) has supervisory powers as it is a supranational, independent body.

2 In her speech for the first anniversary of the EPPO, given at the conference "EPPO one year in action – Towards Resolving Complexity and Bringing Added Value"[66] in the *Hémicylce* in Luxembourg on 1st June 2022, Laura Kövesi outlined that in order to enhance the detection rates of EU fraud specialised customs units and specialised financial experts, groups of specialised EU investigators educated in the typologies of EU frauds are needed to enhance the conduct of investigations. She underlined that these special units could be set up tomorrow and that doing so depended only on political will.[67]

[66] Organized by the University of Luxembourg (Prof. Katalin Ligeti), ECLAN and the EPPO.
[67] EPPO, European Public Prosecutor's Office One Year In Action, https://www.youtube.com/watch?v=v2oUUyTEPFU. Accessed 18 March 2024; Laura Kövesi, So kommt die EU im Kampf gegen Verbrecherbanden in die Offensive, Die Welt (Welt am Sonntag), Stand: 05.06.2022, <https://www.welt.de/debatte/kommentare/article239196661/So-kommt-die-EU-im-Kampf-gegen-die-Kriminalitaet-in-die-Offensive.html>: „Ich fordere deshalb alle zuständigen nationalen Behörden auf, diese bewährte Praxis zu übernehmen und zur Unterstützung unserer Ermittlungen spezialisierte Einheiten einzurichten, die Finanz-, Steuer- und Zollfahnder vereinen. Ich schlage vor, dass wir eine Elitetruppe hoch qualifizierter Finanzbetrugsermittler innerhalb der EU bilden, die

As long as there are no special units in all countries as the first Advocate General of the EPPO requested, the detection rates depend on the conduct of investigations and the cooperation with established – e.g. in Italy more than 100 years old structures in the area of tax investigations –national authorities – especially the assignment and instruction of investigative tasks to “those national authorities”. The situation in the present country chapter will be analysed below, stating the cooperation level and important actions to be taken. **3**

The investigations on national level and at Union-level must be distinguished. Especially at the Union level, the investigation is different than at the national level. In many cases, investigations will be carried out in Union institutions (EU IBOAs). The EPPO has started to set up working arrangements for this type of investigation. For example, the one with the European Investment Bank provides for cooperation with the in-house fraud detection service ("a kind of internal investigation commission"). In the following we shall focus on the national investigations level with regard to the present country. **4**

For the different PIF offences, the specific country system provides different investigative bodies acting by virtue of different national codes such as the General Tax Code, the police laws and the customs laws including the customs administration laws. Generally speaking, it depends, for the analysis of Article 28 EPPO Regulation, on whether a centrally governed country of the EU is affected or whether there is a federal system with differentiated competences of the federal units. **5**

In addition, the lawfulness of the action is very important as a generalization of all instructions from the staff, which are made available to the EPPO and the EDPs from the national resource area. **6**

a) The handling EDP carrying out the investigative measures, para 1

After the amendment of the CPA/ZKP and the introduction of **Article a165.a CPA,** judicial investigations cannot be conducted. The investigation entirely lies in the hands of the state prosecutor/EDP/EPPO. In comparison, the investigating judge has the task to order or decline investigating measures proposed by the EDPs/EPPO. **7**

über die EPPO länderübergreifend arbeitet. Dafür muss man kein Gesetz ändern; es ist eine reine Organisationsentscheidung der zuständigen nationalen Behörden. Es kann schon morgen geschehen“ (18 March 2024). This statements was republished by various newspapers and journals across Europe (see e.g. Figaro article in the French country chapter).

b) Instructions and assignment of investigative measures for "those national authorities"

8 *List 1: Instructed and Assigned National Authorities*

Instructed and Assigned National Authorities (list):

According to the Slovenian notification pursuant to Article 117 EPPO Regulation the following authorities are competent:

- Ministry of Interior
- Police authorities based on their jurisdiction:
  - General Police Directorate, Criminal Police Directorate, National Bureau of Investigation
  - Police Directorate Celje
  - Police Directorate Koper
  - Police Directorate Kranj
  - Police Directorate Ljubljana
  - Police Directorate Maribor
  - Police Directorate Murska Sobota
  - Police Directorate Nova Gorica
  - Police Directorate Novo mesto
- Specialised investigation teams, consisting of representatives of other state bodies and institutions (such as institutions in the field of taxes, customs, financial operations, securities, protection of competition, prevention of money laundering, prevention of corruption, illicit drugs and inspection supervision). Supervision and instruction by the state prosecutor (also European Delegated Prosecutor in EPPO related matters), Article 160.a of the Criminal Procedure Act
- Investigating judge (court of law) with the task of ordering/declining proposed investigating measures

aa. Criminal and judicial police area

9 The police is the main authority to conduct investigations into economic crime.[68]

[68] OECD 2017, mn 1641.

Police Investigation Authorities 1: National provisions

	**Criminal Procedure Act** / *Zakon o kazenskem postopku* (ZKP)

Article 148[69]

(1) If there are grounds for suspecting that a crime has been committed, for which the perpetrator is being prosecuted ex officio, the police must take the necessary measures to track down the perpetrator of the crime, to ensure that the perpetrator or participant does not hide or escape, that traces of a crime and objects that may be evidence are discovered and secured, and all information that could be useful for the successful execution of criminal proceedings is collected.

(2) In order to carry out the tasks from the previous paragraph, the police may request the necessary notifications from persons; carry out the necessary inspection of means of transport, passengers and luggage; to limit movement in a certain area for an absolutely necessary time; to take the necessary measures in connection with establishing the identity of persons and objects; to issue a search warrant for the person and things being sought; in the presence of the responsible person, to inspect certain facilities and premises of companies and other legal entities and review certain of their documentation, and to initiate and do other things that are necessary. A record or an official

[69] **148. člen ZKP**
(1) Če so podani razlogi za sum, da je bilo storjeno kaznivo dejanje, za katero se storilec preganja po uradni dolžnosti, mora policija ukreniti potrebno, da se izsledi storilec kaznivega dejanja, da se storilec ali udeleženec ne skrije ali ne pobegne, da se odkrijejo in zavarujejo sledovi kaznivega dejanja in predmeti, ki utegnejo biti dokaz in da se zberejo vsa obvestila, ki bi utegnila biti koristna za uspešno izvedbo kazenskega postopka.
(2) Da bi izvršila naloge iz prejšnjega odstavka, sme policija zahtevati potrebna obvestila od oseb; opraviti potreben pregled prevoznih sredstev, potnikov in prtljage; za nujno potreben čas omejiti gibanje na določenem prostoru; ukreniti, kar je potrebno v zvezi z ugotavljanjem istovetnosti oseb in predmetov; razpisati iskanje osebe in stvari, ki se iščejo; v navzočnosti odgovorne osebe opraviti pregled določenih objektov in prostorov podjetij in drugih pravnih oseb in pregledati določeno njihovo dokumentacijo ter ukreniti in storiti drugo, kar je potrebno. O dejstvih in okoliščinah, ki se ugotovijo pri posameznih dejanjih in utegnejo biti pomembne za kazenski postopek, in o predmetih, ki so bili najdeni ali zaseženi, se napravi zapisnik ali uradni zaznamek.
(3) Policija lahko vabi osebe k sebi in od njih zbere obvestila in podatke ali jih zasliši. Vabi jih lahko pisno, neposredno ustno, po telefonu ali po elektronski poti. Osebi mora biti ob vabljenju pojasnjeno, zakaj in v kakšni vlogi je vabljena. Če se oseba vabi zaradi zbiranja obvestil, jo policija lahko prisilno privede, če jo vabi pisno in če pisno vabilo vsebuje pouk, da se jo, če na vabilo ne bo prišla, lahko prisilno privede. Če vabilo ni pisno, se o njem napravi uradni zaznamek. Ko ravna po določbah tega člena, policija ne sme oseb zasliševati kot obdolžencev, prič ali izvedencev, razen osumljenca v primeru iz 148.a člena tega zakona.
(4) Kadar policija pri zbiranju obvestil ugotovi, da za določeno osebo obstajajo razlogi za sum, da je storila ali sodelovala pri storitvi kaznivega dejanja (osumljenec), ji mora, preden začne od nje zbirati obvestila, povedati, katerega kaznivega dejanja je osumljena in kaj je podlaga za sum zoper njo ter jo poučiti, da ni dolžna ničesar izjaviti in odgovarjati na vprašanja, če se bo zagovarjala, pa ni dolžna izpovedati zoper sebe ali svoje bližnje ali priznati krivdo in da ima pravico do zagovornika, ki si ga svobodno izbere in ki je lahko navzoč pri njenem zaslišanju, ter da se bo lahko vse, kar bo izpovedala, na sojenju uporabilo zoper njo. Osumljenca mora policija obvestiti tudi, da ima pravico uporabljati svoj jezik ter o pravicah iz 8. člena tega zakona; osumljenca, ki mu je vzeta prostost, pa tudi o pravici iz četrtega oziroma petega odstavka 4. člena tega zakona.

note is made about the facts and circumstances that are established in individual actions and may be important for the criminal proceedings, and about the objects that have been found or seized.

(3) The police may invite persons to their presence and collect information and information from them or interrogate them. You can invite them in writing, directly orally, by phone or electronically. When inviting a person, it must be explained why and in what capacity they are invited. If a person is summoned for the purpose of gathering information, the police can forcibly bring him in, if he is invited in writing and if the written summons contains instructions that if he does not come to the summons, he can be brought in forcibly. If the invitation is not in writing, an official note is made about it. When acting according to the provisions of this article, the police may not interrogate persons as defendants, witnesses or experts, except for the suspect in the case referred to in Article 148a of this law.

(4) When, during the collection of information, the police establish that there are grounds for suspecting that a certain person has committed or participated in the commission of a criminal offence (suspect), before starting to collect information from him, he must be told which criminal offence he is suspected of and what is the basis for the suspicion against her and to teach her that she is not obliged to declare anything and answer questions, and if she defends herself, she is not obliged to confess against herself or her relatives or to admit guilt and that she has the right to a lawyer of her own choosing and who can be present at her interrogation, and that everything she confesses can be used against her at trial. The police must also inform the suspect that he has the right to use his own language and the rights from Article 8 of this law; the suspect who has been deprived of his freedom, as well as the right from the fourth or fifth paragraph of Article 4 of this law.

(5)[70] If the suspect declares that he will hire a lawyer, the hearing will be postponed until the lawyer arrives, or until the deadline set by the police, but not less than two

[70] (5) Če osumljenec izjavi, da si bo vzel zagovornika, se zaslišanje odloži do prihoda zagovornika, oziroma do roka, ki ga določi policija, vendar ne manj kot za dve uri. Do prihoda zagovornika se odloži tudi oprava drugih preiskovalnih dejanj, razen tistih, ki bi jih bilo nevarno odlašati. Zaslišanje osumljenca se opravi po določbah 148.a člena tega zakona.
(6) Če osumljenec izjavi, da si ne bo vzel zagovornika ali če izbrani zagovornik ne pride v roku, ki ga je določila policija, se o izjavi osumljenca sestavi uradni zaznamek. Vanj se vnese dani pravni pouk ter izjava osumljenca; če se želi izjaviti o kaznivem dejanju, pa tudi bistvena vsebina njegove izjave ter pripombe na zapisano vsebino. Vsebina uradnega zaznamka se osumljencu prebere in se mu vroči prepis uradnega zaznamka, kar osumljenec potrdi s svojim podpisom. Izjava osumljenca se lahko po predhodnem obvestilu posname z napravo za zvočno in slikovno snemanje.
(7) Oseba, zoper katero je bilo uporabljeno kakšno dejanje ali ukrep iz drugega ali tretjega odstavka tega člena, ima pravico v roku treh dni pritožiti se pristojnemu državnemu tožilcu. Pristojni državni tožilec najkasneje v roku

hours. Until the arrival of the defence attorney, the execution of other investigative actions is also postponed, except for those that would be dangerous to delay. The questioning of the suspect is carried out according to the provisions of Article 148a of this law.

(6) If the suspect declares that he will not hire a lawyer or if the chosen lawyer does not arrive within the time limit set by the police, an official note is drawn up on the suspect's statement. The given legal instruction and the suspect's statement are entered into it; if he wants to make a statement about a criminal act, as well as the essential content of his statement and comments on the recorded content. The content of the official note is read to the suspect and a copy of the official note is served to him, which the suspect confirms with his signature. The suspect's statement may be recorded with an audio and video recording device after prior notification.

(7) A person against whom any action or measure from the second or third paragraph of this article was used has the right to appeal to the competent state prosecutor within three days. The competent state prosecutor informs the complainant verbally or in writing about the action he has taken no later than eight days from the filing of the complaint. No appeal or administrative dispute is allowed against the notification from the previous sentence.

(8) On a written proposal and with the permission of the investigating judge or the president of the senate, the police may also collect information from persons who are in custody, if this is necessary in order to discover other criminal acts of the same person, their participants or criminal acts of other perpetrators. These notifications are collected at the time and in the presence of a person determined by the investigating judge or the president of the senate.

osmih dni od vložitve pritožbe ustno ali pisno obvesti pritožnika o tem, kar je ukrenil. Zoper obvestilo iz prejšnjega stavka ni dovoljena pritožba ali upravni spor.
(8) Na pisni predlog in z dovoljenjem preiskovalnega sodnika oziroma predsednika senata sme policija zbirati obvestila tudi od oseb, ki so v priporu, če je to potrebno, da se odkrijejo druga kazniva dejanja iste osebe, njihovi udeleženci ali kazniva dejanja drugih storilcev. Ta obvestila zbira v času in v navzočnosti osebe, ki jo določi preiskovalni sodnik oziroma predsednik senata.
(9) Policija na podlagi zbranih obvestil in dokazov sestavi kazensko ovadbo ali dopolni prejeto kazensko ovadbo (četrti odstavek 147. člena) in jo pisno po pošti ali prek elektronskih komunikacijskih povezav pošlje pristojnemu državnemu tožilcu. V ovadbi ali poročilu za njeno dopolnitev opiše ugotovljeno dejansko stanje in navede ter predloži zbrane dokaze in gradivo, ki je potrebno za odločitev državnega tožilca ali utegne biti koristno za uspešno izvedbo postopka, pri čemer v kazensko ovadbo ali poročilo v njeno dopolnitev ne vpiše vsebine izjav, ki so jih posamezne osebe dale pri zbiranju obvestil. Če policija naknadno izve za nova dejstva ali dokaze, mora zbrati potrebna obvestila in državnemu tožilcu poslati poročilo v dopolnitev kazenske ovadbe.
(10) Policija pošlje poročilo državnemu tožilcu tudi v primeru, če na podlagi zbranih obvestil in dokazov ugotovi, da ni podlage za kazensko ovadbo.

(9) Based on the collected information and evidence, the police draw up a criminal complaint or supplement the received criminal complaint (Article 147 para 4) and send it in writing by post or via electronic communication links to the competent state prosecutor. In the complaint or report to supplement it, he describes the established factual situation and indicates and submits the collected evidence and material that is necessary for the state prosecutor's decision or may be useful for the successful implementation of the procedure, while not entering the content of the statements in the criminal complaint or report to supplement it, which individual persons gave when collecting notifications. If the police subsequently learns of new facts or evidence, they must collect the necessary information and send a report to the state prosecutor to supplement the criminal complaint.

(10) The police also send a report to the state prosecutor if, based on the collected information and evidence, they determine that there is no basis for criminal charges.

Article 164[71]
(1) The police may seize items according to Article 220 of this Act, if it would be dangerous to delay, and subject to the conditions set out in Article 218 of this Act, carry out house and personal searches even before the start of the investigation.
(2) If the investigating judge does not immediately arrive at the scene, the police may also conduct an inspection themselves and order the necessary expert work, except for the autopsy and exhumation of the body. If the investigating judge arrives at the scene during the performance of these acts, he may take over and perform these acts himself.
(3) The police or the investigating judge must inform the state prosecutor without delay about the actions referred to in the previous paragraphs.

Article 187[72] **CPA**
If the investigating judge needs the assistance (forensic – technical and other) of the police or other state bodies in connection with the investigation, they are obliged to assist him at his request. The investigating judge may also request the assistance of

[71] **164. člen ZKP**
(1) Policija sme še pred začetkom preiskave zaseči predmete po 220. členu tega zakona, če bi bilo nevarno odlašati, in ob pogojih iz 218. člena tega zakona opraviti hišno in osebno preiskavo.
(2) Če preiskovalni sodnik ne pride takoj na sam kraj, sme policija tudi sama opraviti ogled ter odrediti potrebno izvedensko delo, razen obdukcije in izkopa trupla. Če prispe preiskovalni sodnik na sam kraj med opravo teh dejanj, lahko prevzame in sam opravi ta dejanja.
(3) O dejanjih iz prejšnjih odstavkov mora policija oziroma preiskovalni sodnik brez odlašanja obvestiti državnega tožilca.

[72] **187. člen ZKP**
Če je preiskovalnemu sodniku potrebna pomoč (kriminalistično – tehnična in druga) policije ali drugih državnih organov v zvezi s preiskavo, so ti dolžni, da mu na njegovo zahtevo pomagajo. Preiskovalni sodnik lahko zahteva pomoč tudi od podjetij in drugih pravnih oseb, če je to potrebno za preiskovalno dejanje, ki ga ni mogoče odlašati.

companies and other legal entities if this is necessary for an investigative act that cannot be delayed.

State Prosecutor's Office Act / *Zakon o državnem tožilstvu* (ZDT-1)

Article 201[73] **(Police officers in the special department)**

(1) The tasks of detection and investigation of criminal offences under the jurisdiction of the Special Department are performed by at least six persons with police powers in pre-criminal proceedings, temporarily transferred to the positions of police officers in the Special Department.

(2) Police officers from the previous paragraph may, for the purposes of carrying out the tasks of detecting and investigating criminal offences under the jurisdiction of the Special Department, exercise all police powers and duties specified by the law governing the police, the law governing criminal procedure and regulations adopted on their basis.

(3) Regardless of the provisions of the law governing civil servants, the person referred to in the first paragraph of this article may be temporarily transferred to the Special Department for four years.

(4) According to the first paragraph of this article, persons who have police powers and at least ten years of work experience in the exercise of these powers may be temporarily transferred to the Special Department.

See for further provisions:

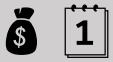
- Organisation and Work of the Police Act / Zakon o organiziranosti in delu v policiji (ZODPol)
- Police Tasks And Powers Act / Zakon o nalogah in pooblastilih policije (ZNPPol)

[73] **201. člen ZDT-1**
(policisti v posebnem oddelku)
(1) Naloge odkrivanja in preiskovanja kaznivih dejanj iz pristojnosti Posebnega oddelka opravlja najmanj šest oseb s pooblastili policije v predkazenskem postopku, začasno premeščenih na delovna mesta policistov v Posebnem oddelku.
(2) Policisti iz prejšnjega odstavka lahko za potrebe izvajanja nalog odkrivanja in preiskovanja kaznivih dejanj iz pristojnosti Posebnega oddelka izvršujejo vsa policijska pooblastila in naloge, ki jih določajo zakon, ki ureja policijo, zakon, ki ureja kazenski postopek in predpisi, sprejeti na njuni podlagi.
(3) Ne glede na določbe zakona, ki ureja javne uslužbence, je lahko oseba iz prvega odstavka tega člena začasno premeščena v Posebni oddelek za štiri leta.
(4) V Posebni oddelek se po prvem odstavku tega člena lahko začasno premestijo osebe, ki imajo pooblastila policije in najmanj deset let delovnih izkušenj pri izvrševanju teh pooblastil.

bb. Tax and Customs area

10 The police is the responsible authority to conduct investigations into tax and customs crime.[74] Article 160a of the Criminal Procedure Code refers to specialised investigations teams with tax and customs representatives. These teams are under instruction and supervision of the State Prosecutor.

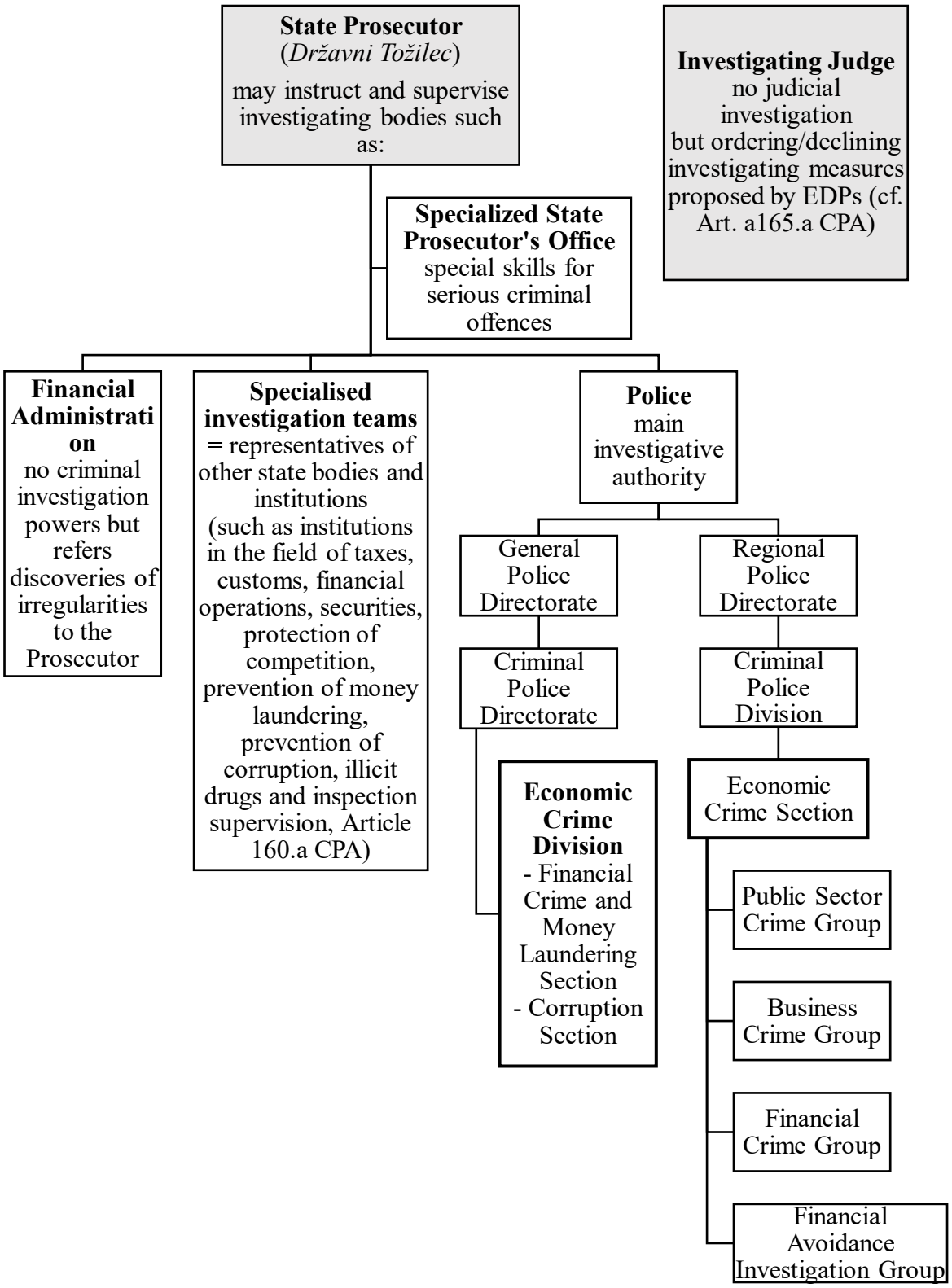
Tax Investigation Authorities 1

	**Criminal Procedure Code**
Article 160a CPA See below → via the general investigation provisions.	

[74] OECD 2017, mn 1639.

cc. Visualisation of Instructions and assignment of investigative measures for "those national authorities"

Figure 5: Assignment of "those national authorities" in Slovenia, Art. 28 EPPO Regulation **11**



Source: Official website and organizational charts of the Slovenian Police; OECD, Effective Inter-Agency Co-operation in Fighting Tax Crimes and Other Financial Crimes – Third Edition, OECD Publishing, Paris 2017, mn.1640, 1642–1643.

c) Ensuring compliance with national law

aa. via the general investigation provisions

12 One of the most important provisions after the amendments to the CPA regarding the EPPO Regulation is probably Article a165.a CPA.

13

Article a165.a[75]

(1) In proceedings conducted pursuant to Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation in relation to the establishment of a European Public Prosecutor's Office (OJ L 283, 31.10.2017, p. 1; hereinafter referred to as "Regulation 2017/1939/EU"), ***no investigation shall be conducted pursuant to Chapter XVI of this Law. The provisions of Chapter XVI of this Act shall apply in such proceedings insofar as they are not in conflict with this and Article 165a of this Act.***

(2) The state prosecutor shall inform the suspect himself or with the assistance of the police of the course of the proceedings under Regulation 2017/1939/EU as soon as possible. If this is unavoidable in order to carry out the investigative acts or measures referred to in Articles 149a, 149b, 149c, 149c, 149e, 150, 150a, 150b, 151, 155, 155a and

[75] **a165.a člen ZKP**
(1) V postopku, ki teče na podlagi Uredbe Sveta (EU) 2017/1939 z dne 12. oktobra 2017 o izvajanju okrepljenega sodelovanja v zvezi z ustanovitvijo Evropskega javnega tožilstva (UL L št. 283 z dne 31. 10. 2017, str. 1; v nadaljnjem besedilu: Uredba 2017/1939/EU), se preiskava po XVI. poglavju tega zakona ne opravi. Določbe XVI. poglavja tega zakona se v takšnem postopku uporabljajo, če niso v nasprotju s tem in 165.a členom tega zakona.
(2) Državni tožilec sam ali s pomočjo policije obvesti osumljenca o poteku postopka po Uredbi 2017/1939/EU, takoj ko je to mogoče. Če je to neizogibno zaradi izvedbe preiskovalnih dejanj ali ukrepov iz 149.a, 149.b, 149.c, 149.č, 149.e, 150., 150.a, 150.b, 151., 155., 155.a in 156. člena tega zakona, osumljenca obvesti takoj, ko je to mogoče brez škode za njihovo izvedbo.
(3) Obvestilo osumljencu vsebuje opis dejanja, iz katerega izhajajo zakonski znaki kaznivega dejanja, zakonsko označbo kaznivega dejanja in dejstvo, da poteka postopek po Uredbi 2017/1939/EU, ter pouk o pravicah iz četrtega odstavka tega člena in petega odstavka 165.a člena tega zakona. Čas in način obveščanja se zaznamujeta v spisu.
(4) Od obveščanja dalje ima osumljenec pravico do vpogleda v spis (drugi in peti odstavek 128. člena tega zakona) in dokazno gradivo pri državnem tožilcu ter je upravičen do brezplačne pravne pomoči v skladu z določbami zakona, ki ureja brezplačno pravno pomoč.
(5) Če v zadevi že poteka preiskava po XVI. poglavju tega zakona, državni tožilec o poteku postopka po Uredbi 2017/1939/EU obvesti tudi sodišče, ki se izreče za nepristojno in zadevo po pravnomočnosti sklepa pošlje državnemu tožilcu.
(6) V postopku, ki teče na podlagi Uredbe 2017/1939/EU, mora državni tožilec vložiti obtožnico zoper priprtega osumljenca (četrti odstavek 204.a člena tega zakona) najpozneje v šestih mesecih od odreditve pripora, sicer preiskovalni sodnik odpravi pripor in priprtega izpusti. Preiskovalni sodnik, ki je pripor odredil, je v skladu z določbami tega zakona pristojen tudi za nadzor nad izvrševanjem pripora.
(7) V postopku, ki teče na podlagi Uredbe Sveta (EU) 2017/1939, skupno trajanje začasnega zavarovanja pred vložitvijo obtožnice (502.b člen tega zakona) ne sme biti daljše od štirih let.

156 of this Act, he/she shall inform the suspect as soon as possible without prejudice to the carrying out of such acts or measures.
(3) The notification to the suspect shall contain a description of the act from which the statutory elements of the offence are derived, the statutory designation of the offence and the fact that proceedings are being conducted pursuant to Regulation 2017/1939/EU, as well as an indication of the rights referred to in the fourth paragraph of this Article and the fifth paragraph of Article 165a of this Act. The time and manner of notification shall be recorded in the case file.
(4) From the notification onwards, the suspect shall have the right to inspect the file (Article 128 (2) and (5) of this Act) and the evidentiary material at the state prosecutor's office, and shall be entitled to free legal aid in accordance with the provisions of the Act regulating free legal aid.
(5) If the case is already the subject of an investigation under Chapter XVI of this Act, the state prosecutor shall also inform the court of the progress of the proceedings under Regulation 2017/1939/EU, which shall declare itself to have no jurisdiction and shall forward the case to the state prosecutor after the decision has become final.
(6) In proceedings conducted pursuant to Regulation 2017/1939/EU, the state prosecutor shall file an indictment against the detained suspect (Article 204a para 4 of this Act) no later than within six months of the ordering of the detention, otherwise the investigating judge shall lift the detention and release the detainee. The investigating judge who ordered the remand in custody shall also be responsible for supervising the execution of the remand in custody in accordance with the provisions of this Act.
(7) In proceedings conducted pursuant to Council Regulation (EU) 2017/1939, the total duration of pre-indictment provisional detention (Article 502b of this Act) may not exceed four years.

Article 165a[76] (1) Before filing a request for investigation or an indictment without investigation, the state prosecutor may propose to the investigating judge to carry out one

[76] **165.a člen ZKP**
(1) Pred vložitvijo zahteve za preiskavo ali obtožnice brez preiskave sme državni tožilec predlagati preiskovalnemu sodniku, da opravi eno ali več posameznih preiskovalnih dejanj, če je to potrebno za njegovo odločitev ali naj kazensko ovadbo zavrže ali začne kazenski pregon.
(2) Pri opravi preiskovalnega dejanja so lahko navzoči državni tožilec, oškodovanec, osumljenec in zagovornik, o čemer jih mora preiskovalni sodnik na primeren način obvestiti. Če se kot določeno preiskovalno dejanje predlaga zaslišanje osumljenca, se uporabljajo določbe tega zakona o vabljenju in zaslševanju obdolženca.
(3) Če se preiskovalni sodnik ne strinja s predlogom državnega tožilca za opravo preiskovalnega dejanja, obvesti o razlogih za svojo odločitev državnega tožilca, ki lahko predlaga opravo takšnega dejanja v zahtevi za preiskavo ali obtožnici.
(4) Če državni tožilec predlaga preiskovalno dejanje zaradi izvajanja pristojnosti na podlagi Uredbe 2017/1939/EU, to navede v predlogu skupaj s podatki iz tretjega odstavka a165.a člena tega zakona. Na zahtevo preiskovalnega sodnika predlogu priloži tudi kazensko ovadbo ali drugo zbrano gradivo. Če preiskovalni sodnik meni, da niso podani zakonski pogoji za opravo preiskovalnega dejanja, obvesti o razlogih za svojo odločitev državnega tožilca. Preiskovalni sodnik ne presoja smotrnosti oprave dejanj, ki jih predlaga državni tožilec.

or more individual investigative acts, if this is necessary for his decision whether to dismiss the criminal indictment or to initiate criminal prosecution.
(2) The state prosecutor, the injured party, the suspect and the defence counsel may be present when the investigative measure is being carried out, and the investigating judge shall inform them thereof in an appropriate manner. If it is proposed to question the suspect as a specific investigative act, the provisions of this Act on summoning and questioning the accused shall apply.
(3) If the investigating judge disagrees with the state prosecutor's proposal to carry out an investigative act, he shall inform the state prosecutor of the reasons for his decision, who may propose the carrying out of such an act in the request for investigation or the indictment.
(4) If the state prosecutor proposes an investigative measure for the purpose of exercising his/her powers under Regulation 2017/1939/EU, he/she shall indicate this in the proposal, together with the information referred to in Article 165a(3) of this Act. At the request of the investigating judge, he/she shall also attach the criminal indictment or other collected material to the proposal. ***If the investigating judge considers that the legal conditions for carrying out an investigative measure are not met, he shall inform the state prosecutor of the reasons for his decision. The investigating judge shall not assess the reasonableness of the actions proposed by the state prosecutor.***
(5) A suspect against whom proceedings are pending pursuant to Regulation 2017/1939 may propose to the investigating judge that an investigative measure be carried out. The proposal must be reasoned and must contain the information on the notification referred to in Article a165a para 3 of this Act. Before taking a decision, the investigating judge shall invite the state prosecutor to make a statement on the proposal within a specified time limit. If the investigating judge does not agree with the suspect's proposal to carry out an investigative measure, he shall inform him of the reasons for his decision.

According to the paragraph 1 of Article a165.a of CPA/ZKP, in the cases proceeding on the basis of the Regulation (i.e. in EPPO cases), the investigation under Chapter XVI is not carried out. **Provisions of Chapter XVI of the CPA/ZKP are used in EPPO cases, if they do not conflict with Arts a165.a and 165.a of the CPA/ZKP.**

Given that the CPA/ZKP provisions on the investigation are not applicaple in EPPO cases, Article 165a CPA (especially paragraphs 4 and 5) seems to be of a high relevance for EPPO/EDPs as well. Striking within the context of paragraph 4 is the fact that the EPPO/EDP will be denied when/if proposing investigation measures/actions only if the

(5) Osumljenec, zoper katerega teče postopek na podlagi Uredbe 2017/1939, sme predlagati preiskovalnemu sodniku izvedbo preiskovalnega dejanja. Predlog mora biti obrazložen in mora vsebovati podatek o obvestilu iz tretjega odstavka a165.a člena tega zakona. Preiskovalni sodnik pred odločitvijo pozove državnega tožilca, da se v določenem roku izjavi o predlogu. Če se preiskovalni sodnik ne strinja s predlogom osumljenca za opravo preiskovalnega dejanja, ga obvesti o razlogih za svojo odločitev.

legal conditions for carrying out a measure are not met. The investigating judge shall not assess the reasonableness of the measurs proposed.

The following provisions may be of importance here as well: **14**

Criminal Procedure Act **15**

IV. Chapter State Prosecutor

Article 45[77]

(1) The main right and main duty of the state prosecutor is to prosecute criminals.

(2) Regarding criminal acts for which the perpetrator is prosecuted ex officio, the state prosecutor is competent to:

1) to take the necessary measures in relation to the detection of criminal acts and the tracing of perpetrators and to direct the pre-trial proceedings;

2) to request an investigation;

3) to file and represent the indictment or indictment before the competent court;

4) to file appeals against non-final court decisions and extraordinary legal remedies against final court decisions.

(3) The state prosecutor also performs other actions specified in this Act.

(4) As a party in criminal proceedings, the state prosecutor has the same rights as the defendant, except for those he has as a state body.

Article 160a[78] (1) In the exercise of his powers under this Act, the State Prosecutor may direct the work of the police, the work of the legally designated competent authority in

[77] IV. poglavje
Državni Tožilec
45. člen ZKP
(1) Glavna pravica in glavna dolžnost državnega tožilca je preganjanje storilcev kaznivih dejanj.
(2) Glede kaznivih dejanj, za katera se storilec preganja po uradni dolžnosti, je državni tožilec pristojen:
1) da ukrene, kar je potrebno v zvezi z odkrivanjem kaznivih dejanj in izsleditvijo storilcev ter za usmerjanje predkazenskega postopka;
2) da zahteva preiskavo;
3) da vloži in zastopa obtožnico oziroma obtožni predlog pred pristojnim sodiščem;
4) da vlaga pritožbe zoper nepravnomočne sodne odločbe in izredna pravna sredstva zoper pravnomočne sodne odločbe.
(3) Državni tožilec opravlja tudi druga dejanja, ki so določena v tem zakonu.
(4) Državni tožilec ima v kazenskem postopku kot stranka enake pravice kot obdolženec, razen tistih, ki jih ima kot državni organ.

[78] **160.a člen ZKP**
(1) Državni tožilec pri izvrševanju svojih pooblastil po tem zakonu lahko usmerja delo policije, delo z zakonom določenega pristojnega organa v ministrstvu, pristojnem za obrambo (158. člen), delo članov skupne preiskovalne skupine (160.b člen) ter delo drugih pristojnih državnih organov in institucij s področij davkov, carin, finančnega poslovanja, vrednostnih papirjev, varstva konkurence, preprečevanja pranja denarja, preprečevanja korupcije, prepovedanih drog in inšpekcijskega nadzora, in sicer z obveznimi navodili, strokovnimi mnenji in predlogi za zbiranje obvestil ter izvedbo drugih ukrepov, za katere so pristojni, z namenom, da se odkrijeta kaznivo dejanje in storilec oziroma da se zberejo podatki, potrebni za njegovo odločitev o kazenskem pregonu.
(2) V posameznih zadevah zahtevnih kaznivih dejanj, zlasti s področij gospodarstva, korupcije in organiziranega kriminala, ki so predmet predkazenskega postopka in ki terjajo dalj časa trajajoče, usmerjeno delovanje več

the ministry responsible for defence (Article 158), the work of members of the **joint investigation team** (Article 160b) and the work of other competent authorities of state bodies and institutions in the fields of taxes, customs, financial operations, securities, competition protection, prevention of money laundering, prevention of corruption, illegal drugs and inspection control, namely with mandatory instructions, expert opinions and proposals for the collection of information and the implementation of other measures, for which they are competent, with the aim of discovering the criminal act and the perpetrator, or to collect the data necessary for his decision on criminal prosecution.
(2) In individual cases of demanding criminal offences, especially in the fields of economy, corruption and organized crime, which are the subject of pre-trial proceedings and which require the long-term, directed action of several authorities and institutions from the previous paragraph, the head of the competent state prosecution office may ex officio or at the written initiative of the police, together with the heads of individual bodies and institutions from the previous paragraph, establish a **specialised investigative group**.
(3) The specialised investigative team is led and directed by the competent state prosecutor, and the members are appointed by the heads of the bodies and institutions from the previous paragraph. By order or with the prior consent of the state prosecutor, a member of the specialised investigative team may be present or may advise the state prosecutor in carrying out individual investigative actions.
(4) The head of the competent state prosecutor's office shall decide on the establishment of a specialised investigation group, its composition, tasks and mode of operation by written order after the prior consent of the heads of the bodies and institutions referred to in the second paragraph of this article. The order also defines the operational manager and his operational management tasks. The head of the competent state prosecutor's office immediately forwards a copy of the order to the state prosecutor general.
(5) The Government of the Republic of Slovenia prescribes the procedure, cases, deadlines and method of guidance and notification from the first paragraph of this article.

organov in institucij iz prejšnjega odstavka, lahko vodja pristojnega državnega tožilstva po uradni dolžnosti ali na pisno pobudo policije s predstojniki posameznih organov in institucij iz prejšnjega odstavka ustanovi specializirano preiskovalno skupino.
(3) Specializirano preiskovalno skupino vodi in usmerja pristojni državni tožilec, člane pa imenujejo predstojniki organov in institucij iz prejšnjega odstavka. Po odredbi ali s predhodnim soglasjem državnega tožilca je lahko član specializirane preiskovalne skupine navzoč oziroma lahko svetuje državnemu tožilcu pri izvedbi posameznih preiskovalnih dejanj.
(4) O ustanovitvi specializirane preiskovalne skupine, njeni sestavi, nalogah in načinu delovanja odloči vodja pristojnega državnega tožilstva s pisno odredbo po predhodnem soglasju predstojnikov organov in institucij iz drugega odstavka tega člena. V odredbi se določi tudi operativni vodja in njegove naloge operativnega vodenja. Izvod odredbe vodja pristojnega državnega tožilstva nemudoma posreduje generalnemu državnemu tožilcu.
(5) Postopek, primere, roke in način usmerjanja in obveščanja iz prvega odstavka tega člena predpiše Vlada Republike Slovenije.

More specific provisions on joint and special investigation teams are provided for in the

→ *Decree on the cooperation of the state prosecutorial service, Police and other competent state bodies and institutions in detection and prosecution of perpetrators of criminal offences and operation of specialised and joint investigation teams.*

On the basis of Article 160.a of the CPA/ZKP, the *Decree on the cooperation of the state prosecutorial service, Police and other competent state bodies and institutions in detection and prosecution of perpetrators of criminal offences and operation of specialised and joint investigation teams* stipulates that two types of investigation teams may be formed: joint investigation teams and specialised investigation teams. A joint investigation team shall be established when the police cooperate with the police officers of another country and representatives of the competent authorities of the EU in the implementation of tasks and measures in the pre-trial proceedings and the investigation procedure.
Concerning the specialised investigation teams, the Decree stipulates that these groups are formed especially if the committed crime requires a comprehensive investigation with the participation of experts from other state bodies and institutions, or if the circumstances require coordinated and connected actions by the police and individual state bodies and institutions under the leadership and guidance of the competent state prosecutor. In this sense, by analogy, such teams can also be formed by EDPs.

Further general investigation provisions can be seen in Articles 165, 166 and 171 as well as in Article 192 State Prosecutor's Office Act: **16**

Article 165 CPA[79] (1) If the perpetrator of the crime is unknown, the authorized prosecutor may propose to the investigating judge to carry out individual investigative actions, which, given the circumstances of the case, it is expedient to carry out, even before the investigation is initiated. If the investigating judge does not agree with the proposal, he requests that the panel decide on it (paragraph six of Article 25). **17**
(2) The records of the investigative actions taken shall be sent to the state prosecutor.

Article 166 CPA[80] (1) The investigating judge of the competent court may perform individual investigative actions before issuing the decision on the investigation, which

[79] **165. člen ZKP**
(1) Če je storilec kaznivega dejanja neznan, lahko upravičeni tožilec predlaga preiskovalnemu sodniku, da opravi posamezna preiskovalna dejanja, za katera je glede na okoliščine primera smotrno, da jih opravi, še preden se uvede preiskava. Če se preiskovalni sodnik ne strinja s predlogom, zahteva naj odloči o tem senat (šesti odstavek 25. člena).
(2) Zapisniki o opravljenih preiskovalnih dejanjih se pošljejo državnemu tožilcu.
[80] **166. člen ZKP**

would be dangerous to delay, but he must inform the competent state prosecutor about everything he has done.
(2) Regarding summoning and questioning the suspect, the provisions on summoning and questioning the accused shall apply.

XVI. chapter Investigation
[applicable insofar as there is no conflict with Arts. A165.a and 165.a CPA]

Article 171 CPA[81]
(1) The investigation is conducted by the investigating judge of the competent court.
(2) As a rule, the investigating judge performs investigative acts only in the area of his court. If this is beneficial to the investigation, he may also perform individual investigative actions outside the area of his court, but he must notify the court in whose area he performs them.

18 **Article 192 State Prosecutor's Office Act** (ZDT-1)[82] **(Jurisdiction)** (1) The most demanding criminal acts, the prosecution of which requires special organization and training of state prosecutors and the highest level of efficiency, are handled by the Specialised State Prosecutor's Office of the Republic of Slovenia (hereinafter: SDT).

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(1) Preiskovalni sodnik pristojnega sodišča lahko opravi pred izdajo sklepa o preiskavi posamezna preiskovalna dejanja, ki bi jih bilo nevarno odlašati, vendar mora o vsem, kar je storil, obvestiti pristojnega državnega tožilca.
(2) Glede vabljenja in zasliševanja osumljenca se uporabljajo določbe o vabljenju in zasliševanju obdolženca.

[81] **171. člen ZKP**
(1) Preiskavo opravlja preiskovalni sodnik pristojnega sodišča.
(2) Preiskovalni sodnik opravlja praviloma preiskovalna dejanja samo na območju svojega sodišča. Če je to v korist preiskavi, sme opraviti posamezna preiskovalna dejanja tudi zunaj območja svojega sodišča, vendar pa mora o tem obvestiti sodišče, na katerega območju jih opravi.

[82] Drugo poglavje
Specializirano Državno Tožilstvo Republike Slovenije
192. člen ZDT-1
(pristojnost)
(1) Najzahtevnejša kazniva dejanja, katerih pregon terja posebno organiziranost in usposobljenost državnih tožilcev ter najvišjo raven učinkovitosti, obravnava Specializirano državno tožilstvo Republike Slovenije (v nadaljnjem besedilu: SDT).
(2) SDT je pristojno za pregon storilcev kaznivih dejanj:
- zoper gospodarstvo, za katera se lahko izreče kazen petih let zapora ali hujša kazen, razen poslovne goljufije, izdaje nekritega čeka in zlorabe bančne ali kreditne kartice, uporabe ponarejene bančne, kreditne ali druge kartice;
- za katera se lahko izreče kazen desetih let zapora ali hujša kazen, če je bilo dejanje izvršeno v hudodelski združbi;
- jemanja podkupnine, dajanja podkupnine, sprejemanja koristi za nezakonito posredovanje, dajanja daril za nezakonito posredovanje, nedovoljenega sprejemanja daril, nedovoljenega dajanja daril;
- terorizma, financiranja terorizma, ščuvanja in javnega poveličevanja terorističnih dejanj, novačenja in usposabljanja za terorizem;
- spravljanja v suženjsko razmerje, trgovine z ljudmi.
(3) SDT je pristojno za pregon storilcev kaznivih dejanj, ki so povezana s kaznivimi dejanji iz prejšnjega odstavka, če so podani isti dokazi (povezane zadeve).
(4) SDT je izključno pristojen za vložitev tožbe in zastopanje v postopku za odvzem premoženja nezakonitega izvora ali v zvezi z njim ter za vložitev predloga in zastopanje v postopku izvršbe.
(5) SDT je pristojno tudi za pregon storilcev kaznivih dejanj:

(2) The SDT is responsible for prosecuting perpetrators of criminal acts:
- against the economy, for which a penalty of five years in prison or a more severe penalty may be imposed, except for business fraud, issuing a bad check and misuse of a bank or credit card, use of a forged bank, credit or other card;
- for which a sentence of ten years in prison or a more severe sentence may be imposed, if the act was committed in a criminal organization;
- accepting bribes, giving bribes, accepting benefits for illegal mediation, giving gifts for illegal mediation, unauthorized acceptance of gifts, unauthorized giving of gifts;
- terrorism, terrorist financing, protection and public glorification of terrorist acts, recruitment and training for terrorism;
- enslavement, human trafficking.
(3) The SDT is competent to prosecute perpetrators of crimes that are related to the crimes from the previous paragraph, if the same evidence is provided (related cases).
(4) SDT is exclusively competent for filing a lawsuit and representation in the procedure for confiscation of property of illegal origin or in connection with it, as well as for filing a proposal and representation in the enforcement procedure.
(5) The SDT is also responsible for prosecuting perpetrators of criminal acts:
- from Articles 22 and 25 of Regulation 2017/1939/EU, namely until the EJT takes over the competences in accordance with Article 27 of Regulation 2017/1939/EU and
- from Articles 22 and 25 of Regulation 2017/1939/EU, namely after the assignment of the case and the transfer of competence from the EJT to the competent national authorities in accordance with Article 34 of Regulation 2017/1939/EU.
(6) If there is doubt about the determination of the competent state prosecutor's office, it is considered that the jurisdiction of the SDT is given.

See for further provisions: **19**

State Prosecution Service Act / Zakon o državnem tožilstvu (ZDT-1)

Police Tasks and Powers Act / Zakon o nalogah in pooblastilih policije (ZNPPol)

bb. via national administrative decrees/regulations under criminal procedural law

(1) Country specific law (justice administration)

- Rules on Police Powers. **20**

- iz 22. in 25. člena Uredbe 2017/1939/EU, in sicer do prevzema pristojnosti EJT v skladu s 27. členom Uredbe 2017/1939/EU in
- iz 22. in 25. člena Uredbe 2017/1939/EU, in sicer po odstopu zadeve in prenosu pristojnosti z EJT na pristojne nacionalne organe v skladu s 34. členom Uredbe 2017/1939/EU.
(6) Če nastane dvom o določitvi pristojnega državnega tožilstva, velja, da je podana pristojnost SDT.

(2) Specific Decrees

21 - Decree on the cooperation of the state prosecutorial service, Police and other competent state bodies and institutions in detection and prosecution of perpetrators of criminal offences and operation of specialised and joint investigation teams.

d) Urgent measures in accordance with national law necessary to ensure effective investigations

22 Provisions for urgent measure, for example, in relation to the gathering evidence quickly, can be found in the CPA/ZKP:

Article 148
See above →
Criminal and judicial police area.
[…] (4) When, during the collection of information, the police establish that there are grounds for suspecting that a certain person has committed or participated in the commission of a criminal offence (suspect), before starting to collect information from him, *he must be told which criminal offence he is suspected of and what is the basis for the suspicion against her and to teach her that she is not obliged to declare anything and answer questions, and if she defends herself, she is not obliged to confess against herself or her relatives or to admit guilt and that she has the right to a lawyer of her own choosing and who can be present at her interrogation, and that everything she confesses can be used against her at trial*. The police must also inform the suspect that he has the right to use his own language and the rights from Article 8 of this law; the suspect who has been deprived of his freedom, as well as the right from the fourth or fifth paragraph of Article 4 of this law.

(5) If the suspect declares that he will hire a lawyer, the hearing will be postponed until the lawyer arrives, or until the deadline set by the police, but not less than two hours. Until the arrival of the defence attorney, the execution of other investigative actions is also postponed, except for those that would be dangerous to delay. The questioning of the suspect is carried out according to the provisions of Article 148a of this law. […]

Nota bene: Article 148 para 4 contains the **Miranda warning**, i.e. the police's obligation to inform a suspect of his rights before starting to collect informtion or interrogate him/her.

The formal interrogation according to the CPA/ZKP can be conducted only in the presence of the defence lawyer (see Article 148.a of the CPA/ZKP → Defence while investigation is under-way, Art. 28–33 EPPO Regulation, In cases involving investigative

measures of Art. 30 EPPO Regulation). If the latter is not present (for any reason), the police may obtain statements of a suspect if he/she is willing to give a statement (if he/she waives his/her right to remain silent).
The police should make an official note which should be put in the file, but can not be used as evidence and the court's decision on the accused guilt can not be based on such official note (i.e. on such a statement). These are, in a simplified manner, the peculiarities of the Slovenian pre-trial proceedngs at the moment when the police establishes that there are grounds for suspiction that a certain person has committed or participated in a commision of a criminal offence.

Article 164[83] (1) The police may seize items according to Article 220 of this Act, if it would be dangerous to delay, and subject to the conditions set out in Article 218 of this Act, carry out house and personal searches even before the start of the investigation. **23**
(2) If the investigating judge does not immediately arrive at the scene, the police may also conduct an inspection themselves and order the necessary expert work, except for the autopsy and exhumation of the body. If the investigating judge arrives at the scene during the performance of these acts, he may take over and perform these acts himself.
(3) The police or the investigating judge must inform the state prosecutor without delay about the actions referred to in the previous paragraphs.

Article 165[84] (1) If the perpetrator of the crime is unknown, the authorized prosecutor may propose to the investigating judge to carry out individual investigative actions, which, given the circumstances of the case, it is expedient to carry out, even before the investigation is initiated. If the investigating judge does not agree with the proposal, he requests that the panel decide on it (paragraph six of Article 25).
(2) The records of the investigative actions taken shall be sent to the state prosecutor.

[83] **164. člen ZKP**
(1) Policija sme še pred začetkom preiskave zaseči predmete po 220. členu tega zakona, če bi bilo nevarno odlašati, in ob pogojih iz 218. člena tega zakona opraviti hišno in osebno preiskavo.
(2) Če preiskovalni sodnik ne pride takoj na sam kraj, sme policija tudi sama opraviti ogled ter odrediti potrebno izvedensko delo, razen obdukcije in izkopa trupla. Če prispe preiskovalni sodnik na sam kraj med opravo teh dejanj, lahko prevzame in sam opravi ta dejanja.
(3) O dejanjih iz prejšnjih odstavkov mora policija oziroma preiskovalni sodnik brez odlašanja obvestiti državnega tožilca.

[84] **165. člen ZKP**
(1) Če je storilec kaznivega dejanja neznan, lahko upravičeni tožilec predlaga preiskovalnemu sodniku, da opravi posamezna preiskovalna dejanja, za katera je glede na okoliščine primera smotrno, da jih opravi, še preden se uvede preiskava. Če se preiskovalni sodnik ne strinja s predlogom, zahteva naj odloči o tem senat (šesti odstavek 25. člena).
(2) Zapisniki o opravljenih preiskovalnih dejanjih se pošljejo državnemu tožilcu.

Article 164[85] (1) The police may seize items according to Article 220 of this Act, if it would be dangerous to delay, and subject to the conditions set out in Article 218 of this Act, carry out house and personal searches even before the start of the investigation.
(2) If the investigating judge does not immediately arrive at the scene, the police may also conduct an inspection themselves and order the necessary expert work, except for the autopsy and exhumation of the body. If the investigating judge arrives at the scene during the performance of these acts, he may take over and perform these acts himself.
(3) The police or the investigating judge must inform the state prosecutor without delay about the actions referred to in the previous paragraphs.

Article 165[86] (1) If the perpetrator of the crime is unknown, the authorized prosecutor may propose to the investigating judge to carry out individual investigative actions, which, given the circumstances of the case, it is expedient to carry out, even before the investigation is initiated. If the investigating judge does not agree with the proposal, he requests that the panel decide on it (paragraph six of Article 25).
(2) The records of the investigative actions taken shall be sent to the state prosecutor.

[85] **164. člen ZKP**
(1) Policija sme še pred začetkom preiskave zaseči predmete po 220. členu tega zakona, če bi bilo nevarno odlašati, in ob pogojih iz 218. člena tega zakona opraviti hišno in osebno preiskavo.
(2) Če preiskovalni sodnik ne pride takoj na sam kraj, sme policija tudi sama opraviti ogled ter odrediti potrebno izvedensko delo, razen obdukcije in izkopa trupla. Če prispe preiskovalni sodnik na sam kraj med opravo teh dejanj, lahko prevzame in sam opravi ta dejanja.
(3) O dejanjih iz prejšnjih odstavkov mora policija oziroma preiskovalni sodnik brez odlašanja obvestiti državnega tožilca.

[86] **165. člen ZKP**
(1) Če je storilec kaznivega dejanja neznan, lahko upravičeni tožilec predlaga preiskovalnemu sodniku, da opravi posamezna preiskovalna dejanja, za katera je glede na okoliščine primera smotrno, da jih opravi, še preden se uvede preiskava. Če se preiskovalni sodnik ne strinja s predlogom, zahteva naj odloči o tem senat (šesti odstavek 25. člena).
(2) Zapisniki o opravljenih preiskovalnih dejanjih se pošljejo državnemu tožilcu.

4. Article 29 Lifting privileges or immunities

1. Where the investigations of the EPPO involve persons protected by a privilege or immunity **under national law**, and such privilege or immunity presents an obstacle to a specific investigation being conducted, the European Chief Prosecutor shall make a reasoned written request for its lifting **in accordance with the procedures laid down by that national law.**
2. Where the investigations of the EPPO involve persons protected by privileges or immunities under the Union law, in particular the Protocol on the privileges and immunities of the European Union, and such privilege or immunity presents an obstacle to a specific investigation being conducted, the European Chief Prosecutor shall make a reasoned written request for its lifting in accordance with the procedures laid down by Union law.

In order to bring Art. 29 EPPO Regulation into action the EPPO needs to issue a request. If the EPPO believes that an **individual's immunity is obstructing their investigation**, they can request that the relevant authority (parliament of Slovenia or EU institution) lift the immunity. This action requiresa decision-making process, which is an internal action. The **request for para 1** needs to be made to the national authority. The relevant authority decides whether to lift the immunity based on the specific circumstances of the case and the potential seriousness of the offense. **1**

During the request the **confidentiality has a high value**. All parties and the EPPO as well as the relevant authority must ensure confidentiality throughout the process, unless exceptional circumstances justify making the request public. During the investigation **2**

the EDP gathers evidence and builds a case to support their request for lifting immunity. This might involve **witness testimonies, financial records**, or other relevant information. At the end the consultation can have success or no success. In an ideal case the EPPO consults with the relevant authority (national parliament or EU institution) to explain the reasons for their request and address any concerns.

In Slovenia the authority, which the receives the request follows its established procedures for considering requests to lift immunity. This might involve hearings, debates, or votes. The individual perpetrator whose immunity is at stake might **seek legal representation** to defend themselves and argue against lifting their immunity. During all request the EDPs and the EPPO need to follow the common core principles of the Charter of Fundamental rights, thus they need to **ensure proportionality and respect the rights** such as the fair trial principal and the presumption of innocence (cf. Art. 23 Slovene Constitution and Art. 6 para 2 ECHR).

a) National privilege and immunity provisions, para 1

1 The relevant national privilege and immunity provisions are to be found in the Slovene Criminal Procedure Act as well as derive from the Constitution of the Republic of Slovenia.

aa. Privilege Provisions

(1) Legal (professional) privilege

(a) Provisions in Slovene law

2

Article 236 CPA[87]
(1) The following shall be exempt from the duty to give evidence:
[…] 4) a religious confessor about what the accused or another person has confessed to him;

[87] **236. člen ZKP**
(1) Dolžnosti pričevanja so oproščeni:
[...] 4) verski spovednik o tistem, o čemer se mu je spovedal obdolženec ali druga oseba;
5) odvetnik, zdravnik, socialni delavec, psiholog ali kakšna druga oseba o dejstvih, za katera je zvedel pri opravljanju poklica, če velja dolžnost, da mora ohraniti kot tajnost tisto, kar je zvedel pri opravljanju svojega poklica, razen v primerih iz tretjega odstavka 65. člena tega zakona ali če so izpolnjeni pogoji, določeni v zakonu, pod katerimi so te osebe odvezane dolžnosti varovanja tajnosti oziroma so dolžne posredovati zaupne podatke pristojnim organom;
6) urednik, novinar ali avtor prispevka glede razkritja vira informacij, razen če je razkritje nujno za preprečitev neposredne nevarnosti za življenje ali zdravje ljudi ali za preprečitev izvršitve kaznivega dejanja, za katerega je predpisana kazen treh ali več let zapora ali kaznivega dejanja pridobivanja oseb, mlajših od petnajst let, za spolne namene po 173.a členu, prikazovanja, posesti, izdelave in posredovanja pornografskega gradiva po 176. členu ali zlorabe uradnega položaja ali uradnih pravic po 257. členu Kazenskega zakonika.

5) a lawyer, a doctor, a social worker, a psychologist or any other person about facts which have come to his knowledge in the course of the exercise of his profession, provided that he is under a duty to keep secret what has come to his knowledge in the course of the exercise of his profession, except in the cases referred to in the third paragraph of Article 65 of this Act or if the conditions laid down by law under which such persons are exempted from the duty of secrecy or are under a duty to communicate confidential information to the competent authorities are fulfiled;
6) an editor, journalist or author of an article with regard to the disclosure of the source of the information, unless the disclosure is necessary to prevent an imminent danger to human life or health or to prevent the commission of a criminal offence punishable by three or more years' imprisonment or the offence of procuring persons under the age of fifteen for sexual purposes under 173. a, the display, possession, production and transmission of pornographic material under Article 176 or the abuse of official position or official rights under Article 257 of the Penal Code. […]

(b) Provisions on Lifting a legal (professional) privilege

Article 65 para 3 CPA[88] **3**

[…] (3) In the criminal proceedings that are ongoing due to criminal offenses against sexual integrity from XIX. chapter, crimes against marriage, family and children from XXI. Chapters of the Criminal Code, the criminal offense of enslavement under Article 112 and the criminal offense of human trafficking under Article 113 of the Criminal Code, the minor injured party must have a representative who takes care of his rights at all times from the initiation of criminal proceedings, especially in relation to by protecting his integrity during the hearing and enforcement of the property claim. A juvenile victim of criminal acts from the previous sentence must have a representative even when he is questioned in pre-trial proceedings. For a minor victim who does not yet have an attorney, the court appoints an attorney *ex officio* from among the lawyers. […]

Article 235a CPA[89] (1) If the head of the competent authority (the head), who has received a reasoned request from the court for the waiver of the duty to protect the secrecy

[88] **65. člen ZKP**
[…] (3) V kazenskem postopku, ki teče zaradi kaznivih dejanj zoper spolno nedotakljivost iz XIX. poglavja, kaznivih dejanj zoper zakonsko zvezo, družino in otroke iz XXI. poglavja Kazenskega zakonika, kaznivega dejanja spravljanja v suženjsko razmerje po 112. členu in kaznivega dejanja trgovine z ljudmi po 113. členu Kazenskega zakonika, mora imeti mladoletni oškodovanec ves čas od uvedbe kazenskega postopka dalje pooblaščenca, ki skrbi za njegove pravice, še posebej v zvezi z zaščito njegove integritete med zaslišanjem in uveljavljanjem premoženjskopravnega zahtevka. Mladoletni oškodovanec kaznivih dejanj iz prejšnjega stavka mora imeti pooblaščenca tudi, kadar je zaslišan v predkazenskem postopku. Mladoletnemu oškodovancu, ki pooblaščenca še nima, postavi pooblaščenca sodišče po uradni dolžnosti izmed odvetnikov. […]
[89] **235.a člen ZKP**

of a witness referred to in Article 235 of this Act (witness), considers that the waiver is not possible in part or in whole because the disclosure of the secrecy of the information would seriously endanger the life or personal safety of such witness or of an individual who has cooperated with the competent authority, or their immediate family, or the security of the State or the effectiveness of the tactics and methods of work of the competent authority, or on other grounds of law or of interests or rights protected by the Constitution or by law, he shall, not later than fifteen days after receipt of the request, forward a reasoned written opinion to that effect to the President of the higher court (the President) in whose jurisdiction the court which made the request falls within 15 days of receipt of the request.
(2) The President shall be given the opportunity by the presiding judge to be informed of any information which he considers does not justify the waiver of the obligation of secrecy. Where the President invokes special reasons for secrecy, he shall allow the President to inspect the classified information in such places, in such manner and at such times as the President may determine.
(3) The President shall inform the parties and the defence counsel of the initiation of proceedings under this Article and of the opinion of the head of the competent authority, and shall give them an opportunity to state in a written submission within three days the grounds for secrecy.
(4) In deciding whether to waive the obligation of secrecy, the President shall consider whether the requirements of respect for the safeguards in criminal proceedings outweigh the reasons for not disclosing the secrets. In making his decision, he shall not be bound by the reasons given by the President and shall also be obliged to take into account other relevant reasons which dictate that the secrecy should not be disclosed. The President

(1) Če predstojnik pristojnega organa (predstojnik), ki je prejel obrazloženo zahtevo sodišča za odvezo dolžnosti varovanja tajnosti priče iz 1. točke 235. člena tega zakona (priča), meni, da odveza deloma ali v celoti ni mogoča, ker bi razkritje tajnosti podatkov resno ogrozilo življenje ali osebno varnost take priče ali posameznika, ki je sodeloval s pristojnim organom, ali njunega bližnjega ali državno varnost ali učinkovitost taktike in metod dela pristojnega organa ali so podani drugi zakonski razlogi ali ustavno ali zakonsko varovani interesi ali pravice, mora najkasneje v petnajstih dneh po prejemu zahteve o tem posredovati obrazloženo pisno mnenje predsedniku višjega sodišča (predsednik), v katerega območje sodi sodišče, ki je podalo zahtevo.
(2) Predstojnik mora predsedniku omogočiti seznanitev z vsemi podatki, za katere meni, da ne dopuščajo odveze dolžnosti varovanja tajnosti. Če se predstojnik sklicuje na posebne razloge varovanja tajnosti, mora predsedniku omogočiti seznanitev s tajnimi podatki v prostorih, na način in v času, ki jih določi predstojnik.
(3) Predsednik obvesti stranke in zagovornika o uvedbi postopka po tem členu in o mnenju predstojnika pristojnega organa ter jim omogoči, da se v pisni vlogi v treh dneh izjavijo o utemeljenosti razlogov varovanja tajnosti.
(4) Predsednik pri odločanju o odvezi dolžnosti varovanja tajnosti presodi, ali zahteve spoštovanja jamstev v kazenskem postopku prevladajo nad razlogi, da se tajnost ne razkrije. Pri odločanju ni vezan na razloge, ki jih navaja predstojnik, in je dolžan upoštevati tudi druge pomembne razloge, ki narekujejo, da se tajnost ne razkrije. Za odločanje predsednik smiselno uporablja peti odstavek 240.a člena tega zakona.
(5) Če odredi, da se pričo odveže dolžnosti varovanja tajnosti, predsednik v sklepu po uradni dolžnosti določi obseg in pogoje razkritja tajnosti ter s smiselno uporabo določb prvega odstavka 240.a člena tega zakona tudi morebitne zaščitne ukrepe.
(6) Zoper sklep predsednika, da se priča odveže ali da se ne odveže dolžnosti varovanja tajnosti, smejo stranke in zagovornik vložiti pritožbo v treh dneh od vročitve prepisa sklepa. O pritožbi odloči predsednik vrhovnega sodišča s smiselno uporabo določb tega člena.

shall apply the fifth paragraph of Article 240a of this Act mutatis mutandis to the decision.
(5) If he or she orders that a witness be relieved of his or her duty to protect a secret, the President shall, in the decision, ex officio determine the scope and conditions of the disclosure of the secret and, applying mutatis mutandis the provisions of Article 240a, paragraph 1 of this Act, also determine the protective measures, if any.
(6) The parties and the defence counsel may lodge an appeal against the President's decision to exempt or not to exempt a witness from the obligation to protect secrets within three days of service of a copy of the decision. The President of the Supreme Court shall decide on the appeal, applying the provisions of this Article mutatis mutandis.

Article 235b CPA[90] (1) If it is necessary in criminal proceedings to examine a witness in respect of whom a protective measure has been ordered under the provisions of Article 235a para 5 of this Act, the investigating judge, the single judge or the president of the chamber shall acquaint himself or herself with the urgently necessary information relating to the identity of the witness by consulting the file of the president of the court referred to in Article 235a para 1 of this Act, or by examining the identity of the witness with the assistance of the president of the court referred to in Article 235a para 1 of this Act, subject to the provisions of Article 235a para 6 of the present Law, mutatis mutandis applying Article 240a para 6 of the present Law.
(2) During the examination of a witness referred to in paragraph 1 of this Article, the judge shall prohibit questions, the answers to which might reveal secrets which they are obliged to protect, to a greater extent than is permitted.

Article 236 CPA[91] […] (2) The court conducting the proceedings shall be obliged to inform the persons referred to in the preceding paragraph that they are not required to

[90] **235.b člen ZKP**
(1) Če je treba v kazenskem postopku zaslišati pričo, glede katere je odrejen zaščitni ukrep po določbi petega odstavka 235.a člena tega zakona, se preiskovalni sodnik, sodnik posameznik oziroma predsednik senata seznanijo z nujno potrebnimi podatki, ki se nanašajo na identiteto priče, z vpogledom v spis pri predsedniku sodišča iz prvega odstavka 235.a člena tega zakona ali pa preizkus njene istovetnosti opravijo z njegovo pomočjo ob smiselni uporabi šestega odstavka 240.a člena tega zakona.
(2) Sodnik med zaslišanjem priče iz prvega odstavka tega člena prepove vprašanja, pri katerih bi lahko odgovori nanje razkrili tajnost, ki so jo dolžni varovati, v večjem obsegu od dovoljenega.

[91] **236. člen ZKP**
[...] (2) Sodišče, ki vodi postopek, je dolžno poučiti osebe, omenjene v prejšnjem odstavku, da jim ni treba pričati, vsakokrat preden jih zasliši, brž ko zve, da gre za okoliščine, zaradi katerih so oproščene dolžnosti pričevanja. Če priča izjavi, da se odpoveduje tej pravici in da želi pričati, se jo mora opozoriti, da se bo na njeno izpovedbo lahko oprla sodna odločba, četudi se bo na glavni obravnavi odpovedala pričevanju. Pouk in odgovor se vpišeta v zapisnik.

give evidence whenever, before questioning them, it becomes aware of circumstances which exempt them from the obligation to give evidence. If a witness declares that he waives that right and wishes to give evidence, he shall be warned that his evidence may be relied on in the decision of the court, even if he waives his right to give evidence at the main hearing. The instruction and the reply shall be entered in the minutes.
(3) A minor who, in view of his age and mental development, cannot understand the meaning of the right not to be compelled to give evidence may not be examined as a witness unless the accused himself so requests or unless the court considers that it is in his best interests to do so.
(4) Anyone who has reason to refuse to give evidence against one of the accused shall also be excused from the duty to give evidence against the other accused if his evidence cannot, by the nature of things, be confined to them.

Article 237 CPA[92]
If someone who should not have been heard as a witness (Article 235) or someone who was not obliged to testify (Article 236) has not been informed or has not expressly waived this right, or teaching and testimony failure is not entered in the record, or if it was a conflict with the third paragraph of Article 236 of this Act heard a minor who could not understand the meaning of justice, it is not required to testify, or if the testimony was extorted by force, threat or any other similar prohibited means (third paragraph of Article 266), the court may not base its decision on such a statement.

(2) Spousal privilege

(a) Provisions in Slovene law

4 **Article 236 CPA**[93] (1) The following shall be exempt from the duty to give evidence:
1) the defendant's spouse or the person with whom he or she is cohabiting;

(3) Mladoletne osebe, ki glede na svojo starost in duševno razvitost ne more razumeti pomena pravice, da ni dolžna pričati, ni dovoljeno zaslišati kot priče, razen če to zahteva sam obdolženec ali če sodišče oceni, da je to v njeno največjo korist.
(4) Kdor ima razlog, da odreče pričevanje proti enemu od obdolžencev, je oproščen dolžnosti pričevanja tudi proti drugim obdolžencem, če se njegova izpovedba po naravi stvari ne da omejiti samo nanje.

[92] **237. člen ZKP**
Če je bil kot priča zaslišan kdo, ki ne bi smel biti zaslišan kot priča (235. člen), ali kdo, ki ni bil dolžan pričati (236. člen), pa o tem ni bil poučen ali se ni izrecno odpovedal tej pravici, ali pa pouk in odpoved pričevanju nista zapisana v zapisnik, ali če je bila v nasprotju s tretjim odstavkom 236. člena tega zakona zaslišana mladoletna oseba, ki ni mogla razumeti pomena pravice, da ni dolžna pričati, ali če je bila izpovedba priče izsiljena s silo, grožnjo ali kakšnim drugim podobnim prepovedanim sredstvom (tretji odstavek 266. člena), ne sme sodišče na tako izpovedbo opreti svoje odločbe.

[93] **236. člen ZKP**
(1) Dolžnosti pričevanja so oproščeni:
1) obdolženčev zakonec oziroma oseba, s katero živi v zunajzakonski skupnosti;
2) obdolženčevi krvni sorodniki v ravni vrsti, sorodniki v stranski vrsti do vštetega tretjega kolena in sorodniki po svaštvu do vštetega drugega kolena;
3) obdolženčev posvojenec in posvojitelj; [...].

2) the accused's blood relatives in the direct line, collateral relatives up to and including the third knee and relatives by consanguinity up to and including the second knee;
3) the defendant's adopted children and adoptive parents; […].

(b) Provisions on lifting a spousal privilege

Article 236 CPA[94] […] (2) The court conducting the proceedings shall be obliged to inform the persons referred to in the preceding paragraph that they are not required to give evidence whenever, before questioning them, it becomes aware of circumstances which exempt them from the obligation to give evidence. If a witness declares that he waives that right and wishes to give evidence, he shall be warned that his evidence may be relied on in the decision of the court, even if he waives his right to give evidence at the main hearing. The instruction and the reply shall be entered in the minutes. **5**
(3) A minor who, in view of his age and mental development, cannot understand the meaning of the right not to be compelled to give evidence may not be examined as a witness unless the accused himself so requests or unless the court considers that it is in his best interests to do so.
(4) Anyone who has reason to refuse to give evidence against one of the accused shall also be excused from the duty to give evidence against the other accused if his evidence cannot, by the nature of things, be confined to them.

Article 238 CPA[95] The witness is not obliged to answer individual questions if it is probable that this would put himself or his close relative (points 1 to 3 of the first paragraph of Article 236) in serious shame, significant material damage or criminal prosecution.

[94] **236. člen ZKP**
[...] (2) Sodišče, ki vodi postopek, je dolžno poučiti osebe, omenjene v prejšnjem odstavku, da jim ni treba pričati, vsakokrat preden jih zasliši, brž ko zve, da gre za okoliščine, zaradi katerih so oproščene dolžnosti pričevanja. Če priča izjavi, da se odpoveduje tej pravici in da želi pričati, se jo mora opozoriti, da se bo na njeno izpovedbo lahko oprla sodna odločba, četudi se bo na glavni obravnavi odpovedala pričevanju. Pouk in odgovor se vpišeta v zapisnik.
(3) Mladoletne osebe, ki glede na svojo starost in duševno razvitost ne more razumeti pomena pravice, da ni dolžna pričati, ni dovoljeno zaslišati kot priče, razen če to zahteva sam obdolženec ali če sodišče oceni, da je to v njeno največjo korist.
(4) Kdor ima razlog, da odreče pričevanje proti enemu od obdolžencev, je oproščen dolžnosti pričevanja tudi proti drugim obdolžencem, če se njegova izpovedba po naravi stvari ne da omejiti samo nanje.

[95] **238. člen ZKP**
Priča ni dolžna odgovarjati na posamezna vprašanja, če je verjetno, da bi s tem spravila sebe ali svojega bližnjega sorodnika (1. do 3. točka prvega odstavka 236. člena) v hudo sramoto, znatno materialno škodo ali v kazenski pregon.

(3) Privilege against self-incrimination

6 **Constitution of the Republic of Slovenia** / *Ustava Republike Slovenije (URS)*

Article 29 [96]**(Legal Guaranties in Criminal Proceedings)**
Anyone charged with a criminal offence must, in addition to absolute equality, be guaranteed the following rights:
[…] the right not to incriminate himself or his relatives or those close to him, or to admit guilt.

7 **Criminal Procedure Act**

Article 5 para 3 CPA[97] […] (3) The defendant is not obliged to defend himself and answer questions, but if he defends himself, he is not obliged to testify against himself or his relatives or admit guilt.

Article 148 para 4 CPA[98]
[…] (4) When the police, when collecting information, finds that there are reasons to suspect that a certain person has committed or participated in the commission of a criminal offence, before starting to collect information from him, they must tell him/her which criminal offence he is suspected of and what the basis is for the suspicion against him and instruct him that he is not obliged to declare anything and answer questions, and if he defends himself, he is not obliged to confess against himself or his relatives or admit guilt and that […].

[96] **29. člen URS**
(pravna jamstva v kazenskem postopku)
Vsakomur, ki je obdolžen kaznivega dejanja, morajo biti ob popolni enakopravnosti zagotovljene tudi naslednje pravice:
[…]
- da ni dolžan izpovedati zoper sebe ali svoje bližnje, ali priznati krivdo.

[97] **5. člen ZKP**
[…] (3) Obdolženec se ni dolžan zagovarjati in odgovarjati na vprašanja, če pa se zagovarja, ni dolžan izpovedati zoper sebe ali svoje bližnje ali priznati krivde.

[98] **148. člen ZKP**
[…] (4) Kadar policija pri zbiranju obvestil ugotovi, da za določeno osebo obstajajo razlogi za sum, da je storila ali sodelovala pri storitvi kaznivega dejanja (osumljenec), ji mora, preden začne od nje zbirati obvestila, povedati, katerega kaznivega dejanja je osumljena in kaj je podlaga za sum zoper njo ter jo poučiti, da ni dolžna ničesar izjaviti in odgovarjati na vprašanja, če se bo zagovarjala, pa ni dolžna izpovedati zoper sebe ali svoje bližnje ali priznati krivdo in da ima pravico do zagovornika, ki si ga svobodno izbere in ki je lahko navzoč pri njenem zaslišanju, ter da se bo lahko vse, kar bo izpovedala, na sojenju uporabilo zoper njo. Osumljenca mora policija obvestiti tudi, da ima pravico uporabljati svoj jezik ter o pravicah iz 8. člena tega zakona; osumljenca, ki mu je vzeta prostost, pa tudi o pravici iz četrtega oziroma petega odstavka 4. člena tega zakona.

Article 227 para 2 CPA[99]
[…] (2) The defendant is then told what offences he is accused of and what the basis for the accusation is. He is instructed that he is not obliged to defend himself and answer questions, and if he/she defends himself, he is not obliged to testify against himself or his relatives or to admit guilt, and that he has the right to take a lawyer of his own choice, who may be present at the hearing (Interrogation of the defendant, Article 227/2). […]

bb. Conclusion and Summary to the different Privileges and the lifting/waiving procedure in law

The Slovene CPA provides for exemptions of the duty to give evidence (legal or spousal pivileges) and also for the lifting/waiver of such a privilege as shown above. The privilege is lifted e.g. when the disclosure of information is necessary to prevent an imminent danger to human life or health or to prevent the commission of a criminal offence. A waiver of the duty to present the secret information cannot be obtained e.g. when there is serious danger for the life or personal safety of such witness. The constitutional right not to incriminate oneself or relatives has to be upheld and is an essential part of Slovene criminal procedure. **8**

b) Immunity provisions

aa. Parliamentary privilege or immunity

Constitution of the Republic of Slovenia **9**

Article 83 (Immunity of Deputies)[100]
No deputy of the National Assembly shall be criminally liable for any opinion expressed or vote cast at sessions of the National Assembly or its working bodies.

[99] **227. člen ZKP**
[…] (2) Obdolžencu se nato pove, katerega dejanja je obdolžen in kaj je podlaga za obdolžitev. Pouči se ga, da se ni dolžan zagovarjati in odgovarjati na vprašanja, če se zagovarja, pa ni dolžan izpovedati zoper sebe ali svoje bližnje ali priznati krivdo ter da ima pravico vzeti si zagovornika po lastni izbiri, ki je lahko navzoč pri zaslišanju. […]

[100] **83. člen URS**
(poslanska imuniteta)
Poslanec državnega zbora ni kazensko odgovoren za mnenje ali glas, ki ga je izrekel na sejah državnega zbora ali njegovih delovnih teles.
Poslanec ne sme biti priprt niti se zoper njega, če se sklicuje na imuniteto, ne sme začeti kazenski postopek brez dovoljenja državnega zbora, razen če je bil zaloten pri kaznivem dejanju, za katero je predpisana kazen zapora nad pet let.
Državni zbor lahko prizna imuniteto tudi poslancu, ki se nanjo ni skliceval ali ki je bil zaloten pri kaznivem dejanju iz prejšnjega odstavka.

No deputy may be detained nor, where such deputy claims immunity, may criminal proceedings be initiated against him without the permission of the National Assembly, except where such deputy has been apprehended committing a criminal offence for which a prison sentence of over five years is prescribed.
The National Assembly may also grant immunity to a deputy who has not claimed such immunity or who has been apprehended committing such criminal offence as referred to in the preceding paragraph.

Article 100 (Immunity and Incompatibility of Office [of members of the national Council])[101]
[…] Members of the National Council enjoy the same immunity as deputies. Immunity is decided upon by the National Council.

Article 134 (Immunity of Judges)[102]
No one who participates in making judicial decisions may be held accountable for an opinion expressed during decision-making in court. If a judge is suspected of a criminal offence in the performance of judicial office, he may not be detained nor may criminal proceedings be initiated against him without the consent of the National Assembly.

Article 167 (Immunity of Constitutional Court Judges)[103]
Constitutional Court judges enjoy the same immunity as National Assembly deputies. The National Assembly decides on such immunity.

Just to clarify, in contrast to MPs, members of the State Council and constitutional judges, the prime minister, ministers and the president of the republic do not have immunity, neither professional (material) nor non-professional (procedural). Other officials with the immunity are judges of the regular courts and Human Rights Ombudsman. In contrast to MPs, members of the State Council and constitutional judges, they do not have non-professional immunity (which, in my understanding, could be relevant in terms of their potential prosecution for fraud affecting EU funds).

[101] **100. člen URS**
(nezdružljivost funkcije in imuniteta)
[…] Člani državnega sveta uživajo enako imuniteto kakor poslanci. O imuniteti odloča državni svet.
[102] **134. člen**
(imuniteta sodnika)
Nikogar, ki sodeluje pri sojenju, ni mogoče klicati na odgovornost za mnenje, ki ga je dal pri odločanju v sodišču. Sodnik ne sme biti priprt, niti ne sme biti brez dovoljenja državnega zbora zoper njega začet kazenski postopek, če je osumljen kaznivega dejanja pri opravljanju sodniške funkcije.
[103] **167. člen URS (imuniteta)** Sodniki ustavnega sodišča uživajo enako imuniteto kakor poslanci državnega zbora. O imuniteti odloča državni zbor.

bb. Provisions on the lifting of immunities?

As for parliamentary immunities, see above. The same rules apply to the immunities of members of the State Counsel and of judges of the Constitutional Court.

If criminal proceedings are pending in the Republic of Slovenia against a person who resides in another EU member state, the provisions on (lifting) immunity from the **Co-operation in Criminal Matters with the Member States of the European Union Act** apply. If the person for whom surrender is requested enjoys immunity, the investigating judge requests the competent authorities to start the process of revocation of immunity. If the requested person enjoying immunity is a citizen of another country or a member of an international organization, the procedure for revocation of immunity must be requested by the ordering judicial authority. If the immunity of the requested person is revoked, the domestic court must take all necessary measures to ensure the presence of the requested person, so that the requested person can surrender (see → **Article 28**). **10**

c) Immunities and Privileges under union law, para 2

Art. 29 para 2 EPPO Regulation outlines the process for lifting immunities that might hinder EPPO investigations. These immunities can as well be: EU Immunities are protections granted by EU law to officials and agents of the European Union. **11**

Union law differs from national law and is not researched here in-depth. **Protocol No 7) on the privileges and immunities of the European** Union (OJ C 326, 26.10.2012, p. 266–272)[104] will apply if the immunity or a privilege of a Union official needs to be lifted. **12**

[104] Cf. https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:12012E/PRO/07. Accessed 15 June 2023.

III. National Law applicable in EPPO Investigation with Special Focus on Investigation Measures

[…]

SECTION 2
Rules on investigation measures and other measures

1. Article 30 Investigation measures and other measures

1. At least in cases where the offence subject to the investigation is punishable by a maximum penalty of at least 4 years of imprisonment, Member States shall ensure that the European Delegated Prosecutors are entitled to order or request the following investigation measures:
(a) search any premises, land, means of transport, private home, clothes and any other personal property or computer system, and take any conservatory measures necessary to preserve their integrity or to avoid the loss or contamination of evidence;
(b) obtain the production of any relevant object or document either in its original form or in some other specified form;
(c) obtain the production of stored computer data, encrypted or decrypted, either in their original form or in some other specified form, including banking account data and traffic data with the exception of data specifically retained in accordance with national law pursuant to the second sentence of Article 15(1) of Directive 2002/58/EC of the European Parliament and of the Council;
(d) freeze instrumentalities or proceeds of crime, including assets, that are expected to be subject to confiscation by the trial court, where there is reason to believe that the owner, possessor or controller of those instrumentalities or proceeds will seek to frustrate the judgement ordering confiscation.
(e) intercept electronic communications to and from the suspect or accused person, over any electronic communication means that the suspect or accused person is using;
(f) track and trace an object by technical means, including controlled deliveries of goods.
2. Without prejudice to Article 29, the investigation measures set out in paragraph 1 of this Article may be subject to conditions in accordance with the applicable national law

if the national law contains specific restrictions that apply with regard to certain categories of persons or professionals who are legally bound by an obligation of confidentiality.
3. The investigation measures set out in points(c), (e) and (f) of paragraph 1 of this Article may be subject to further conditions, including limitations, provided for in the applicable national law. In particular, Member States may limit the application of points (e) and (f) of paragraph 1 of this Article to specific serious offences. A Member State intending to make use of such limitation shall notify the EPPO of the relevant list of specific serious offences in accordance with Article 117.
4. The European Delegated Prosecutors shall be entitled to request or to order any other measures in their Member State that are available to prosecutors under national law in similar national cases, in addition to the measures referred to in paragraph 1.
5. The European Delegated Prosecutors may only order the measures referred to in paragraphs 1 and 4 where there are reasonable grounds to believe that the specific measure in question might provide information or evidence useful to the investigation, and where there is no less intrusive measure available which could achieve the same objective. The procedures and the modalities for taking the measures shall be governed by the applicable national law.

1 Article 30 EPPO Regulation contains many possibilities to discover EU frauds and includes intrusive and effective means of investigative tools. Conducting the investigations it is important to closely obey the law and follow the details. The following provisions from the Criminal Procedure Code of Slovenia is not "law in the books" but rather the fundamental requisite to combat EU frauds *in praxi*.

2 The investigating judge has a very important role within the EPPO investigations in Slovenia:

3

Article 165a
[See above → Article 28, Ensuring compliance with national law, via the general investigation provisions]
(1) Before submitting a request for an investigation or an indictment without an investigation, ***the state prosecutor may propose to the investigating judge to perform one or more individual investigative actions***, if this is necessary for his decision, or to dismiss the criminal complaint or initiate criminal prosecution.
(2) The state prosecutor, the injured party, the suspect and the defence attorney may be present during the investigation, and the investigating judge must inform them of this in an appropriate manner. If the questioning of a suspect is proposed as a specific investigative act, the provisions of this Act on summoning and questioning the accused shall apply.

(3) If the investigating judge does not agree with the state prosecutor's proposal to carry out an investigative act, he shall inform the state prosecutor of the reasons for his decision, who may propose to carry out such an act in a request for an investigation or an indictment.
(4) ***If the state prosecutor proposes an investigative action due to the exercise of powers based on Regulation 2017/1939/EU, he shall*** state this in the proposal together with the information from the third paragraph of Article a165.a of this Act. At the request of the investigating judge, he shall also attach a criminal complaint or other collected material to the proposal. If the investigating judge considers that the legal conditions for conducting the investigative act are not met, he informs the state prosecutor of the reasons for his decision. The investigating judge does not judge the expediency of carrying out actions proposed by the state prosecutor.
(5) A suspect against whom proceedings are ongoing based on Regulation 2017/1939 may propose to the investigating judge that an investigative act be carried out. The proposal must be explained and must contain information about the notification referred to in the third paragraph of Article a165.a of this Act. Before making a decision, the investigating judge asks the state prosecutor to make a statement about the proposal within a certain period. If the investigating judge does not agree with the suspect's proposal to conduct an investigative act, he informs him of the reasons for his decision.

Article 166 [See above → Article 28, Ensuring compliance with national law, via the general investigation provisions]

Article 171 [See above → Article 28, Ensuring compliance with national law, via the general investigation provisions]

Article 172[105] (1) During the investigation, the investigating judge may entrust individual investigative acts to the investigating judge of the court in whose area they must be performed.
(2) The state prosecutor who is competent for the proceedings before the court to which the investigative act was entrusted may be present, if the competent state prosecutor does not declare that he will be present himself.

[105] **172. člen ZKP**
(1) Med preiskavo lahko prepusti preiskovalni sodnik posamezna preiskovalna dejanja preiskovalnemu sodniku sodišča, na katerega območju jih je treba opraviti.
(2) Državni tožilec, ki je pristojen za postopek pred sodiščem, kateremu je bilo prepuščeno preiskovalno dejanje, je lahko pri tem navzoč, če pristojni državni tožilec ne izjavi, da bo navzoč sam.
(3) Preiskovalni sodnik lahko prepusti policiji izvršitev odredbe o hišni ali osebni preiskavi ali o zasegu predmetov na način, kot je to določeno v tem zakonu.
(4) Po zahtevi ali dovoljenju preiskovalnega sodnika sme policija obdolženca fotografirati ali vzeti njegove prstne odtise, če je to potrebno za kazenski postopek.

(3) The investigating judge may entrust the police with the execution of an order on a house or personal search or on the seizure of objects in the manner specified in this Act.
(4) Upon the request or permission of the investigating judge, the police may photograph the defendant or take his fingerprints if this is necessary for criminal proceedings.

Article 187 [See above → Article 28, Instructions and assignment of investigative measures for "those national authorities"
Criminal and judicial police area]

a) Member States shall ensure that the European Delegated Prosecutors are entitled to order or request

aa. Adaption Law of the Member State

4 Cf. above (before Section 1)

Nota bene: The authorization of an EDP (the "handling" EDP in one of the MS) to order or request could/should or must be enshrined in the new adaption laws which the Member States enacted in order to be fully operational for the EPPO and its tasks. As most of the Member States either amended their Criminal Procedure Code or their Code of the Organization of the Judiciary and/or the Prosecutors Act, the relevant provision(s) is (are) presented in the following.

bb. Provision in the CPA

5 *See* **XVIII. Chapter Investigative Actions CPA**[106]
For the whole text of the sections see below.
There might be action, which must be first granted by an investigating judge in Slovenia, e.g.:
Article 215 CPA[107] (1) The investigating judge shall order an investigation by reasoned written order on a reasoned written motion of the authorised state prosecutor. If the investigating judge disagrees with the written request of the authorised prosecutor, he

[106] XVIII. poglavje ZKP
Preiskovalna Dejanja
1. Hišna in osebna preiskava
[107] **215. člen ZKP**
(1) Preiskavo na obrazložen pisni predlog upravičenega tožilca odredi preiskovalni sodnik z obrazloženo pisno odredbo. Če se preiskovalni sodnik ne strinja s pisnim predlogom upravičenega tožilca, z obrazloženim mnenjem zahteva, naj o tem odloči senat (šesti odstavek 25. člena), ki mora odločiti najpozneje v 72 urah od prejetja pisnega predloga in obrazloženega mnenja ter svojo odločitev brez odlašanja sporočiti upravičenemu tožilcu.
(2) Odredba o preiskavi se izroči pred začetkom preiskave tistemu, pri katerem naj se preiskava opravi ali ki naj se preišče. Pri tem se ga pouči, da ima pravico obvestiti odvetnika, ki je lahko navzoč pri preiskavi. Če tisti, na katerega se nanaša odredba o preiskavi zahteva, da je pri preiskavi navzoč odvetnik, se začetek preiskave odloži do prihoda odvetnika, vendar najdalj za dve uri.

shall, in a reasoned opinion, request the Chamber (Article 25 para 6) to rule on the matter, which shall decide within 72 hours of receipt of the written request and the reasoned opinion and shall communicate its decision to the authorised prosecutor without delay.

(2) The search warrant shall be handed over to the person to be searched or investigated before the search begins. He shall be informed that he has the right to inform a lawyer who may be present during the search. If the person to whom the search warrant relates requests that a lawyer be present during the search, the start of the search shall be delayed until the lawyer arrives, but not longer than for two hours.

(3) Before the search begins, the person subject to the search warrant shall be required to voluntarily surrender the person or objects to be searched.

(4) A search may also be commenced without prior delivery of the order and without prior request for the surrender of the person or things if armed resistance is expected or if it is necessary to conduct the search immediately and unexpectedly, or if the search is conducted in public places.

(5) A search shall normally be carried out between 6 a.m. and 10 p.m. It may also be carried out outside the time so fixed if it has been commenced within that time and has not been completed by 10 p.m., or if the reasons referred to in Article 218 of this Act are given, or if the examining magistrate assesses that the traces of the offence or objects relevant for the criminal proceedings could be destroyed as a result of the delay and specifically authorises this.

(6) The provisions of this and other Articles relating to searches of houses and persons shall apply mutatis mutandis also to searches of hidden compartments of means of transport.

(3) Pred začetkom preiskave se zahteva od tistega, na katerega se nanaša odredba o preiskavi, naj prostovoljno izroči osebo oziroma predmete, ki se iščejo.
(4) S preiskavo se lahko začne tudi brez poprejšnje izročitve odredbe in brez poprejšnje zahteve za izročitev osebe ali stvari, če se pričakuje oborožen odpor ali če je potrebno, da se preiskava opravi takoj in nepričakovano, ali če se opravi preiskava v javnih prostorih.
(5) Preiskava se praviloma opravlja med 6. in 22. uro. Opravlja se lahko tudi izven tako določenega časa, če se je v njem začela, pa se do 22. ure še ni končala ali če so podani razlogi iz 218. člena tega zakona ali če preiskovalni sodnik oceni, da bi bili lahko zaradi odlašanja uničeni sledovi kaznivega dejanja oziroma predmeti, pomembni za kazenski postopek, in to posebej dovoli.
(6) Določbe tega in ostalih členov, ki se nanašajo na hišno in osebno preiskavo, se smiselno uporabljajo tudi za preiskavo skritih prostorov prevoznih sredstev.

Article 219a CPA[108] **[Concerning electronic devices]**
(1) The investigation of electronic and related devices and carriers of electronic data (electronic device), including network-connected and accessible information systems where data is stored, may be carried out for the purpose of obtaining data in electronic form, if justified reasons are given for suspicion that a criminal offence has been committed and there is a probability that the electronic device contains electronic data:
- on the basis of which a suspect or defendant can be identified, discovered or arrested, or traces of a criminal act can be discovered that are relevant to criminal proceedings, or
- which can be used as evidence in criminal proceedings.
(2) The investigation is carried out on the basis of ***the prior written consent of the holder and users of the electronic device*** who are known and reachable to the police and who reasonably expect privacy from it (the user), ***or on the basis of a reasoned written order of the court issued at the proposal of the state prosecutor***. If the search is carried out on the basis of a court order, a copy of this order is handed over to the owner or user of the electronic device to be searched before the start of the search. The investigation of an electronic device seized from a lawyer, lawyer candidate or lawyer trainee can only be carried out on the basis of a court order, which is explained in accordance with the sixth paragraph of Article 220 of this law. […]
(5) Exceptionally, if a written order cannot be obtained in time and if there is an imminent and serious danger to the safety of persons or property, the *investigating judge* may, on an oral motion of the state prosecutor, order the search of an electronic device by means of an oral order. The investigating judge shall make an official record of the state prosecutor's proposal and the order. The written order must be issued no later than twelve hours after the oral order has been issued, otherwise the police force which executed the order shall destroy or delete the protected data on record and shall inform the investigating judge, the state prosecutor and the owner or user of the electronic device, if known, thereof within eight days.

[108] **219a. člen ZKP**
[...] (5) Izjemoma, če pisne odredbe ni mogoče pravočasno pridobiti ter če obstaja neposredna in resna nevarnost za varnost ljudi ali premoženja, lahko preiskovalni sodnik na ustni predlog državnega tožilca odredi preiskavo elektronske naprave z ustno odredbo. O predlogu državnega tožilca in odredbi preiskovalni sodnik izdela uradni zaznamek. Pisna odredba mora biti izdana najpozneje v dvanajstih urah po izdaji ustne odredbe, sicer policija, ki je odredbo izvršila, zapisniško uniči ali izbriše zavarovane podatke in o tem v osmih dneh obvesti preiskovalnega sodnika, državnega tožilca in imetnika oziroma uporabnika elektronske naprave, če je znan.

b) Investigation measures

aa. Para 1(a)

(1) Search measures

Overview Box	6
SI= Art. 164 but see mainly Art. 214, 215, 216, 217, 218, and 219.a Authorizations by competent body: Art. 215 paras 1, 2 CPA: "Article 215 (1) The investigation shall be ordered by the investigating judge upon a reasoned written proposal of the entitled prosecutor with a reasoned written order.	

(a) Search any premises or land

Article 214 CPA[109]	7
(1) The search of the apartment and other premises of the accused or other persons may be carried out if there are substantiated grounds for suspicion that a certain person has committed a criminal offence and it is probable that the search of the accused may arrest or reveal traces of criminal activity. acts or objects relevant to the criminal proceedings. (2) A personal investigation may be carried out if there are substantiated grounds for suspicion that a certain person has committed a criminal offence, and it is probable that the investigation will reveal traces and objects that are important for the criminal proceedings. *See Art. 215 et seq. for details on the procedure and see para 5 below.*	

(b) Search any means of transport

Article 214 CPA	8
See above → Search any premises or land	

(c) Search any private home

Article 214 CPA	9
See above → Search any premises or land	

[109] **214. člen ZKP**
(1) Preiskava stanovanja in drugih prostorov obdolženca ali drugih oseb se sme opraviti, če so podani utemeljeni razlogi za sum, da je določena oseba storila kaznivo dejanje, in je verjetno, da bo mogoče pri preiskavi obdolženca prijeti ali da se bodo odkrili sledovi kaznivega dejanja ali predmeti, ki so pomembni za kazenski postopek.
(2) Osebna preiskava se sme opraviti, če so podani utemeljeni razlogi za sum, da je določena oseba storila kaznivo dejanje, in je verjetno, da se bodo pri preiskavi našli sledovi in predmeti, ki so pomembni za kazenski postopek.

Article 218 CPA[110] (1) Police officers may, even without a court order, enter another's dwelling and other premises and, if necessary, conduct a search, if the occupant of the dwelling so wishes, if someone calls for help, if it is necessary to apprehend the perpetrator of a criminal offence, who has been caught in the act itself, or if it is necessary for the safety of persons and property, if there is anyone in the dwelling or other premises who, by order of a competent public authority, is to be arrested or forcibly taken into custody or has taken refuge there for the purpose of law enforcement.
(2) In the case referred to in the preceding paragraph, no record shall be made, but a certificate shall be issued forthwith to the occupier of the dwelling stating the reason for the entry into the dwelling or other premises. If the foreign premises have also been searched, the third and sixth paragraphs of Article 216 of this Act shall be complied with.
(3) A search may also be conducted without the presence of witnesses if it is not possible to ensure their presence immediately and it would be dangerous to delay. The reasons for conducting an investigation without witnesses shall be stated in the record.
(4) Police officers may search a person without a search warrant and without the presence of witnesses when executing an arrest warrant or when arresting a person if it is suspected that he is in possession of an offensive weapon or is suspected that he is about to throw away, conceal or destroy objects which are to be taken from him as evidence in criminal proceedings.

Article 219 CPA [111] If the investigation was conducted without a written court order (first paragraph of Article 215), or without persons who must be present at the investigation (first and third paragraphs of Article 216), or if the investigation was conducted

[110] **218. člen ZKP**
(1) Policisti smejo tudi brez odredbe sodišča stopiti v tuje stanovanje in druge prostore in po potrebi opraviti preiskavo, če imetnik stanovanja to želi, če kdo kliče na pomoč, če je treba, da se prime storilec kaznivega dejanja, ki je bil zasačen pri samem dejanju, ali če je to potrebno za varnost ljudi in premoženja, če je v stanovanju ali kakšnem drugem prostoru kdo, ki ga je treba po odredbi pristojnega državnega organa pripreti ali prisilno privesti ali se je zaradi pregona tja zatekel.
(2) V primeru iz prejšnjega odstavka se ne napravi zapisnik, temveč se imetniku stanovanja takoj izda potrdilo, v katerem se navede vzrok vstopa v stanovanje oziroma v druge prostore. Če je bila v tujih prostorih opravljena tudi preiskava, se je treba ravnati po tretjem in šestem odstavku 216. člena tega zakona.
(3) Preiskava se sme opraviti tudi brez navzočnosti prič, če ni mogoče takoj zagotoviti njihove navzočnosti, nevarno pa bi bilo odlašati. Razlogi za preiskavo brez navzočnosti prič morajo biti navedeni v zapisniku.
(4) Policisti smejo brez odredbe o preiskavi in brez navzočnosti prič opraviti osebno preiskavo, ko izvršujejo sklep o privedbi ali ko komu vzamejo prostost, če je podan sum, da ima ta orožje za napad, ali sum, da bo odvrgel, skril ali uničil predmete, ki mu jih je treba vzeti kot dokazilo v kazenskem postopku.
(5) Kadar opravijo policisti preiskavo brez odredbe, morajo o tem nemudoma podati poročilo državnemu tožilcu, če postopek že teče, pa tudi preiskovalnemu sodniku.

[111] **219. člen ZKP**
Če je bila preiskava opravljena brez pisne odredbe sodišča (prvi odstavek 215. člena), ali brez oseb, ki morajo biti navzoče pri preiskavi (prvi in tretji odstavek 216. člena), ali če je bila preiskava opravljena v nasprotju z določbami prvega, tretjega in četrtega odstavka prejšnjega člena, ne sme sodišče opreti svoje odločbe na tako pridobljene dokaze.

contrary to the provisions of the first, third and the fourth paragraph of the previous article, the court may not base its decision on the evidence thus obtained.
(5) Where police officers conduct a search without a warrant, they shall immediately report the matter to the state prosecutor and, if the proceedings are pending, to the investigating judge.

And see additioinally
Article 178 CPA[112]
[…] (3) The state prosecutor and the defence counsel may be present at the house search.

(d) Search any clothes and any other personal property

Article 223 CPA[113] (1) The examining magistrate may order that letters, postal, and other items addressed to or sent by the accused be detained by postal, and other transport organisations and handed over to him or her, against acknowledgement of receipt, if circumstances exist which give rise to a reasonable expectation that such items will be admissible in evidence in the proceedings. **10**
(2) The investigating judge shall open the items handed over in the presence of two witnesses. Care shall be taken not to break the seals when opening; the covers containing the addresses shall be kept. A record of the opening shall be made.
(3) If the interests of the proceedings so permit, the contents of the communication may be communicated in whole or in part to the accused or to whom it is addressed, or the communication may be handed over to him. If the accused is absent, the communication shall be communicated or handed over to a relative of the accused or, in the absence of such a relative, it shall be returned to the sender, provided that this is not contrary to the interests of the proceedings.

[112] **178. člen ZKP**
[…] (3) Državni tožilec in zagovornik sta lahko navzoča pri hišni preiskavi.
[113] **223. člen ZKP**
(1) Preiskovalni sodnik sme odrediti, da poštne, brzojavne in druge prometne organizacije pridržijo in proti potrditvi prejema njemu izročijo pisma, brzojavne in druge pošiljke, ki so naslovljene na obdolženca ali ki jih on pošilja, če so podane okoliščine, zaradi katerih se lahko upravičeno pričakuje, da bodo te pošiljke dokaz v postopku.
(2) Izročene pošiljke odpre preiskovalni sodnik v navzočnosti dveh prič. Pri odpiranju je treba paziti, da se ne poškodujejo pečati; ovitki z naslovi pa se shranijo. O odpiranju se napravi zapisnik.
(3) Če koristi postopka dopuščajo, se sme vsebina pošiljke v celoti ali delno sporočiti obdolžencu oziroma tistemu, na katerega je naslovljena, sme pa se mu pošiljka tudi izročiti. Če je obdolženec odsoten, se pošiljka sporoči ali izroči kakšnemu njegovemu sorodniku, če teh ni, pa se vrne pošiljatelju, če ni to v nasprotju s koristmi postopka.

(e) Search any computer system

11 **Article 219a CPA**[114] (1) A search of electronic and related devices and electronic data carriers (electronic device), including networked and accessible information systems where data are stored, for the purpose of obtaining data in electronic form may be carried out if there are reasonable grounds for suspecting that a criminal offence has been committed and there is a reasonable likelihood that the electronic device contains electronic data:
- which is capable of identifying, detecting or apprehending the suspect or accused or of revealing traces of a criminal offence which are relevant to criminal proceedings; or
- which can be used as evidence in criminal proceedings.
[…] (13) Unless otherwise provided for in this Article, the provisions of Article 215 paras 3 and 4 and Article 216 paras 4, 5 and 7 of this Act shall apply mutatis mutandis to the ordering and execution of an order to search an electronic device.
(14) If the search of an electronic device has been carried out without or contrary to a court order or without the written consent referred to in paragraph 2 of this Article, the court may not base its decision on the record of the search and on the information so obtained.

For the procedure see below para(5) and Article 219a para 2 et seq. of the CPA.
Article 222 (2) and (3) CPA[115]
[…] (2) The person whose files were confiscated is invited to be present when the envelope is opened. If he does not respond to the summons or if he is absent, the envelope is opened and the files are examined and listed in his absence.
(3) When examining files, care must be taken to ensure that unauthorized persons do not become aware of their contents.

[114] **219.a člen ZKP**
(1) Preiskava elektronskih in z njo povezanih naprav ter nosilcev elektronskih podatkov (elektronska naprava), vključno s preko omrežja povezanimi in dosegljivimi informacijskimi sistemi, kjer so shranjeni podatki, se zaradi pridobitve podatkov v elektronski obliki lahko opravi, če so podani utemeljeni razlogi za sum, da je bilo storjeno kaznivo dejanje in je podana verjetnost, da elektronska naprava vsebuje elektronske podatke:
- na podlagi katerih je mogoče osumljenca ali obdolženca identificirati, odkriti ali prijeti ali odkriti sledove kaznivega dejanja, ki so pomembni za kazenski postopek, ali
- ki jih je mogoče uporabiti kot dokaz v kazenskem postopku.
[…] (13) Če v tem členu ni določeno drugače, se za odreditev in izvršitev odredbe o preiskavi elektronske naprave smiselno uporabljajo določbe tretjega in četrtega odstavka 215. člena ter četrtega, petega in sedmega odstavka 216. člena tega zakona.
(14) Če je bila preiskava elektronske naprave opravljena brez odredbe sodišča ali v nasprotju z njo ali brez pisne privolitve iz drugega odstavka tega člena, sodišče svoje odločbe ne sme opreti na zapisnik o preiskavi in na tako pridobljene podatke.

[115] **222. člen ZKP**
[…] (2) Tisti, ki so mu bili spisi zaseženi, se povabi, naj bo navzoč pri odpiranju ovitka. Če se ne odzove vabilu ali če je odsoten, se ovitek odpre in spisi pregledajo in popišejo v njegovi nenavzočnosti.
(3) Pri pregledovanju spisov je treba paziti, da za njihovo vsebino ne zvedo nepoklicane osebe.

(2) Conservatory measures necessary to preserve their integrity/necessary to avoid the loss/necessary to avoid the contamination of evidence

Article 219a CPA See above → Search any computer system. **12**

Article 220 CPA[116] (1) Objects which are required by criminal law to be seized or which may be evidence in criminal proceedings shall be seized and delivered to the court for safekeeping or otherwise secured for safekeeping.
[…] (4) Police officers may seize the objects referred to in paragraph 1 of this Article when proceeding under Articles 148 and 164 of this Act or when executing a court order. (5) When seizing objects, it shall be stated where they were found and the objects shall be described and, if necessary, their identification shall be secured in another way. A record shall be made of the seizure. […]

Article 223a CPA[117] (1) Where an electronic device (Article 219a(1)) is seized for the purpose of carrying out an investigation, the data in electronic form shall be protected by storing them on another appropriate data medium in such a way as to preserve the identity and integrity of the data and the possibility of their use in further proceedings, or by making an identical copy of the entire data medium, while ensuring the integrity of the copy of those data. If this is not possible, the electronic device shall be sealed and, if possible, only that part of the electronic device which is intended to contain the data sought shall be sealed.

[116] 220. člen ZKP
(1) Predmeti, ki se morajo po kazenskem zakonu vzeti ali ki utegnejo biti dokazilo v kazenskem postopku, se zasežejo in izročijo v hrambo sodišču ali pa se kako drugače zavaruje njihova hramba.
[...] (4) Policisti smejo zaseči predmete, omenjene v prvem odstavku tega člena, kadar postopajo po 148. in 164. členu tega zakona ali kadar izvršujejo nalog sodišča.
(5) Pri zasegu predmetov se navede, kje so bili najdeni, in predmeti opišejo, po potrebi pa se tudi na drug način zavaruje ugotovitev njihove istovetnosti. Za zasežene predmete se izda zapisnik.

[117] **223.a člen ZKP**
(1) Če se zaseže elektronska naprava (prvi odstavek 219.a člena) zaradi oprave preiskave, se podatki v elektronski obliki zavarujejo tako, da se shranijo na drug ustrezen nosilec podatkov na način, da se ohrani istovetnost in integriteta podatkov ter možnost njihove uporabe v nadaljnjem postopku ali se izdela istovetna kopija celotnega nosilca podatkov, pri čemer se zagotovi integriteta kopije teh podatkov. Če to ni mogoče, se elektronska naprava zapečati, če je mogoče, pa samo tisti del elektronske naprave, ki naj bi vseboval iskane podatke.
(2) Če je bila elektronska naprava zasežena brez odredbe sodišča in je bila zaradi zavarovanja podatkov izdelana njihova kopija, vendar sodišče v dvanajstih urah ni izdalo odredbe za preiskavo po petem odstavku 219.a člena tega zakona oziroma ni bila dana privolitev po drugem odstavku 219.a člena tega zakona, policija zapisniško trajno uniči izdelano kopijo in o tem v osmih dneh pisno obvesti preiskovalnega sodnika, državnega tožilca, imetnika in znanega ter dosegljivega uporabnika elektronske naprave.
(3) Imetnik, uporabnik, upravljavec ali skrbnik elektronske naprave oziroma tisti, ki ima do nje dostop, mora na zahtevo organa, ki jo je zasegel, takoj ukreniti, kar je potrebno in je v njegovi moči, da se onemogoči uničenje, spreminjanje ali prikrivanje podatkov. Če noče tako ravnati, se sme kaznovati oziroma zapreti po določbi drugega odstavka 220. člena tega zakona, razen če gre za osumljenca, obdolženca, osebo, ki ne sme biti zaslišana kot priča (235. člen) ali osebo, ki se lahko odreče pričevanju (236. člen).
[...]

(2) If an electronic device has been seized without a court order and a copy has been made in order to secure the data, but the court has not issued a search warrant pursuant to Article 219a para 5 of this Act or consent has not been given pursuant to Article 219a para 2 of this Act within twelve hours, the police shall permanently destroy the copy made by record and shall inform the investigating judge, the state prosecutor, the holder and the known and available user of the electronic device in writing within eight days.
(3) The owner, user, operator or custodian of an electronic device, or whoever has access to it, shall, at the request of the seizing authority, immediately take all necessary and within his/her power to prevent the destruction, alteration or concealment of the data. If he refuses to do so, he may be punished or imprisoned in accordance with the provisions of Article 220 para 2 of this Act, unless he is a suspect, an accused, a person who may not be examined as a witness (Article 235) or a person who may refuse to give evidence (Article 236). […]

bb. Para 1(b) Obtainment of the production of any relevant object or document either in its original form or in some other specified form

13 **Overview Box:**
SI= Art. 148 but see mainly Art. 156 CPA; 220, 221, 222, 222a,
Authorizations by competent body:
Art. 156 para 1 CPA: "(1) At the reasoned proposal of the state prosecutor, the investigating judge may order"
(3) The investigating judge may leave the execution of the order on house or personal search or seizure of objects to the police in the manner specified in this Act.
(4) At the request or permission of the investigating judge, the police may photograph the accused or take his or her fingerprints if this is necessary for criminal proceedings. […]"
Art. 220 paras 2, 3, 5:
"(4) Police officers may seize objects referred to in the first paragraph of this Article when acting in accordance with Articles 148 and 164 of this Act or when executing a court order.

cc. Para 1(c)

(1) Obtainment of the production of stored computer data, encrypted or decrypted

(a) General Provisions in the CPA

While Article 219.a. CPA refers to the "ordinary" investigative measures, Articles 149.a et seq. refer to covert investigative measures. Article 219.a para 1 CPA seems to be the most relevant for Article 30 para 1c.

Article 219a para 1 CPA[118] See above → Search any computer system. **14**

Article 222 para 2, 3 CPA See above → "Search measures" Search any computer system.

Article 222a paras 2 to 6 CPA[119] (1) Seized objects and files are put in a cover, sealed and handed over to the extrajudicial judge for safekeeping, if it is probable:

[118] **219.a člen**
[...] (6) Imetnik oziroma uporabnik elektronske naprave mora omogočiti dostop do naprave, predložiti šifrirne ključe oziroma šifrirna gesla in pojasnila o uporabi naprave, ki so potrebna, da se doseže namen preiskave. Če noče tako ravnati, se sme kaznovati oziroma zapreti po določbi drugega odstavka 220. člena tega zakona, razen če gre za osumljenca, obdolženca, osebo, ki ne sme biti zaslišana kot priča (235. člen), ali osebo, ki se lahko odreče pričevanju (236. člen). [...]

[119] **222.a člen**
(1) Zaseženi predmeti in spisi se dajo v ovitek, zapečatijo in izročijo v hrambo izvenobravnavnemu sodniku, če je verjetno:
1) da je predmete, spise ali podatke, ki jih vsebujejo zaseženi predmeti ali spisi, zagovorniku zaupal osumljenec ali obdolženec (2. točka 235. člena) ali
2) da bi oseba, ki so ji bili predmeti ali spisi zaseženi, z njihovo izročitvijo ali posredovanjem podatkov, ki jih ti vsebujejo, lahko prekršila dolžnost varovanja tajnosti spovedi (4. točka prvega odstavka 236. člena), dolžnost varovanja poklicne tajnosti (5. točka prvega odstavka 236. člena) ali dolžnost varovanja novinarske zaupnosti (6. točka prvega odstavka 236. člena).
(2) Popis in pregled predmetov ali listin iz prejšnjega odstavka se opravi na naroku ob smiselni uporabi drugega in tretjega odstavka prejšnjega člena. Na narok izvenobravnavni sodnik povabi tudi državnega tožilca, zagovornika, če so bili predmeti ali spisi zaseženi osumljencu ali obdolžencu, in zastopnika tistega, ki so mu bili predmeti ali spisi zaseženi, če ga ima, osebo, ki ne sme biti zaslišana kot priča (2. točka 235. člena) in osebo, ki se lahko odreče pričevanju (4., 5. in 6. točka prvega odstavka 236. člena), lahko pa povabi tudi policiste, ki so izvedli zaseg. Če so zaseženi predmeti ali spisi odvetniku, odvetniškemu kandidatu ali odvetniškemu pripravniku, se povabi tudi predstavnik Odvetniške zbornice Slovenije. Policisti, ki so izvedli zaseg, in državni tožilec, se ne smejo seznaniti z vsebino zaseženih predmetov ali spisov.
(3) Če izvenobravnavni sodnik pri pregledu predmetov ali spisov, zaseženih odvetniku, odvetniškemu kandidatu ali odvetniškemu pripravniku, ugotovi, da je predmete, spise ali podatke, ki jih ti vsebujejo, odvetniku, odvetniškemu kandidatu ali odvetniškemu pripravniku zaupal osumljenec ali obdolženec kot svojemu zagovorniku (1. točka prvega odstavka tega člena), se ti deloma ali v celoti nemudoma ponovno zapečatijo in po pravnomočnosti sklepa iz šestega odstavka tega člena, s katerim je bilo zahtevi ugodeno, vrnejo osebi, kateri so bili zaseženi, razen če osumljenec ali obdolženec ne izjavi drugače ali če so podani zakonski razlogi, da bi se morali predmeti ali spisi vzeti (498. člen).
(4) Če izvenobravnavni sodnik pri pregledu predmetov in spisov ugotovi, da ti vsebujejo podatke iz 2. točke prvega odstavka tega člena in niso bili zaseženi skladno z ustavno in zakonito zahtevo ali nalogom oziroma da za zaseg predmetov ali listin tudi niso bili izpolnjeni pogoji iz prvega odstavka 164. člena tega zakona, se ti popišejo, nato pa nemudoma deloma ali v celoti ponovno zapečatijo ter po pravnomočnosti sklepa iz šestega odstavka tega člena, s katerim je bilo zahtevi ugodeno, vrnejo osebi, kateri so bili zaseženi, razen v primerih iz tretjega odstavka 65. člena tega zakona ali če so podani zakonski razlogi, da bi se morali predmeti ali spisi vzeti (498. člen), ali če so izpolnjeni pogoji, določeni v zakonu, pod katerimi so te osebe odvezane dolžnosti varovanja tajnosti oziroma so dolžne posredovati zaupne podatke pristojnim organom.
(5) Pri postopanju na podlagi tretjega in četrtega odstavka tega člena sme izvenobravnavni sodnik po potrebi odrediti tudi, da morajo osebe, ki so se s podatki seznanile, te ohraniti v tajnosti.
(6) O zahtevi tistega, ki so mu bili predmeti ali spisi iz prvega odstavka tega člena zaseženi, njegovega zastopnika, zagovornika oziroma predstavnika Odvetniške zbornice Slovenije za vrnitev podatkov ali njihovem izbrisu iz kazenskega spisa, odloči izvenobravnavni sodnik z obrazloženim sklepom, iz katerega ne sme izhajati vsebina zaupnih podatkov oziroma vsebina podatkov, za katere vložnik zahteve zatrjuje, da so zaupni. Zoper sklep, s katerim izvenobravnavni sodnik zahtevo zavrne, se lahko pritoži vložnik zahteve. Zoper sklep, s katerim izvenobravnavni sodnik zahtevi ugodi, se lahko pritoži državni tožilec, ki se pri tem ne sme seznaniti z zaupnimi

1) that the objects, files or data contained in the seized objects or files were entrusted to the defence counsel by the suspect or the accused (point 2 of Article 235) or
2) that the person from whom the objects or files were confiscated, by handing them over or passing on the information they contain, could violate the duty to protect the secrecy of the confession (item 4 of the first paragraph of Article 236), the duty to protect professional secrecy (5. point of the first paragraph of Article 236) or the duty to protect journalistic confidentiality (point 6 of the first paragraph of Article 236).
(2) The inventory and inspection of objects or documents from the previous paragraph shall be carried out at the hearing with the meaningful application of the second and third paragraphs of the previous article. The non-hearing judge also invites the state prosecutor, the defence attorney, if the objects or files were confiscated from the suspect or the accused, and the representative of the person from whom the objects or files were confiscated, if he has one, a person who may not be heard as a witness (2 Article 235) and a person who can refuse to testify (Article 236 para 1, points 4, 5 and 6), but he can also invite the police officers who carried out the seizure. If objects or files belonging to a lawyer, lawyer candidate or lawyer trainee are seized, a representative of the Slovenian Bar Association is also invited. The police officers who carried out the seizure and the state prosecutor are not allowed to learn about the contents of the confiscated items or files.
(3) If the out-of-court judge, upon inspection of objects or files seized from a lawyer, lawyer candidate or lawyer trainee, finds that the objects, files or information they contain were entrusted to the lawyer, lawyer candidate or lawyer trainee by the suspect or defendant as his defence counsel (point 1 of the first paragraph of this article), they are partially or fully resealed immediately and after the finality of the decision from the sixth paragraph of this article, by which the request was granted, they are returned to the person from whom they were seized, unless the suspect or the accused does not declares otherwise or if legal reasons are given that objects or documents should be taken (Article 498).
(4) If the out-of-court judge, upon inspection of objects and files, finds that they contain information from point 2 of the first paragraph of this article and were not seized in accordance with a constitutional and legal requirement or order, or that the conditions for the seizure of objects or documents from of the first paragraph of Article 164 of this Act, they shall be registered, and then immediately partially or fully resealed and, after the finality of the decision from the sixth paragraph of this Article, by which the request was granted, returned to the person from whom they were confiscated, except in cases from of the third paragraph of Article 65 of this Act, or if legal reasons are given that

podatki oziroma s podatki, za katere vložnik zahteve v svoji pritožbi zatrjuje, da so zaupni. O pritožbi odloči višje sodišče v roku osmih dni. Iz sklepa višjega sodišča ne sme izhajati vsebina zaupnih podatkov oziroma podatkov, ki bi bili glede na odločitev višjega sodišča lahko zaupni. Po pravnomočnosti sklepa, s katerim je zahteva zavrnjena, se predmeti oziroma spisi vrnejo državnemu tožilcu oziroma policiji.

objects or files should be taken (Article 498), or if the conditions specified in the law are met, under which these persons are released from the duty of confidentiality or are obliged provide confidential information to competent authorities.
(5) When proceeding on the basis of the third and fourth paragraphs of this article, the out-of-court judge may, if necessary, also order that the persons who have become familiar with the information must keep it confidential.
(6) The request of the person from whom the items or files referred to in the first paragraph of this article have been seized, his representative, defence counsel or the representative of the Slovenian Bar Association for the return of data or their deletion from the criminal file shall be decided by the out-of-court judge with a reasoned decision, from which no the content of confidential data or the content of data that the applicant claims to be confidential may be published. The applicant may appeal against the decision by which the out-of-hearing judge rejects the request. The state prosecutor may appeal against the decision by which the out-of-hearing judge grants the request, who may not become familiar with confidential information or information that the applicant claims in his appeal to be confidential. The higher court decides on the appeal within eight days. The content of confidential data or data that, according to the decision of the High Court, could be confidential may not be derived from the decision of the High Court. After the decision rejecting the request becomes final, the objects or files are returned to the state prosecutor or the police.

(b) Special Provisions in the CPA Tax Code, Digital Evidence Act

Slovenia has no Digital Evidence Act but mostly the CPA contains rules on digital data used as evidence. The following provisions can be noted: **15**

Tax Procedure Act / *Zakon o davčnem postopku (ZDavP-2)* **16**

Article 19[120] **(Disclosure of data to the entitled person)** (1) The tax authority may disclose the following information about the taxpayer in the cases, under the conditions and in the manner determined by the Taxation Act:

[120] **19. člen ZDavP-2**
(razkritje podatkov upravičeni osebi)
(1) Davčni organ sme razkriti naslednje podatke o zavezancu za davek v primerih, pod pogoji in na način, določen z zakonom o obdavčenju:
- osebno ime, prebivališče in vrsto prebivališča (stalno ali začasno) ter davčno številko;
- ime oziroma naziv osebe, ki ni fizična oseba, njen sedež in naslov ter davčno številko;
- identifikacijsko številko za davek na dodano vrednost (v nadaljnjem besedilu: DDV), datum vpisa oziroma izbrisa zavezanosti za DDV;
- identifikacijsko številko zavezanca za trošarine, datum vpisa oziroma izbrisa iz evidence oziroma registra imetnikov trošarinskih dovoljenj in pooblaščenih prejemnikov.
(2) Osebi, ki dokaže, da je stranka ali udeležena v upravnem postopku ali postopku pred sodiščem, lahko davčni organ razkrije, poleg podatkov iz prve in druge alineje prejšnjega odstavka, tudi naslednje podatke o zavezancu za davek, če te podatke potrebuje v postopku:

- personal name, residence and type of residence (permanent or temporary) and tax number;
- the name or title of a person who is not a natural person, his seat and address and tax number;
- identification number for value added tax (hereinafter: VAT), date of registration or deletion of liability for VAT;
- identification number of the person liable for excise duties, date of entry or deletion from the record or register of holders of excise permits and authorized recipients.

(2) The tax authority may disclose, in addition to the information from the first and second indents of the previous paragraph, the following information about the taxpayer to a person who proves that he is a party or a participant in an administrative proceeding or a proceeding before a court, if he needs this information in the proceeding:

- podatke o znesku neplačanih davkov in o znesku preveč plačanih davkov ter podatke o odloženem in obročnem plačilu davkov;
- podatek o tem, ali je zavezanec za davek predložil davčno napoved oziroma obračun davka ali ne.

(3) Če zakon določa, da sme upravičena oseba od davčnega organa pridobiti podatke v zvezi z izpolnjevanjem davčnih obveznosti zavezanca za davek, lahko davčni organ upravičeni osebi razkrije podatek o višini:
- zapadlih neplačanih davčnih obveznosti;
- davčnih obveznosti, v zvezi s katerimi je odložen začetek davčne izvršbe oziroma je začeta davčna izvršba zadržana;
- davčnih obveznosti, v zvezi s katerimi je dovoljen odlog oziroma obročno plačilo davka oziroma še ni potekel rok za prostovoljno izpolnitev obveznosti.

(4) Davčni organ sme upravičeni osebi, ki ta podatek potrebuje za izpolnitev davčne obveznosti oziroma za izpolnitev dolžnosti dajanja podatkov po tem zakonu ali zakonu o obdavčenju, na podlagi njenega obrazloženega pisnega zahtevka, v katerem morajo biti navedeni tudi podatki, ki davčnemu organu omogočajo enolično identifikacijo fizične osebe, in sicer:
- poleg osebnega imena še ali datum rojstva in naslov prebivališča ali enotna matična številka občana, razkriti podatek o davčni številki zavezanca za davek,
- davčna številka ali enotna matična številka občana, razkriti podatek o osebnem imenu zavezanca za davek,
- osebno ime in davčna številka ali enotna matična številka občana, razkriti podatek o rezidentskem statusu zavezanca za davek.

(5) Davčni organ sme na podlagi enoličnega identifikacijskega znaka motornega vozila tretji osebi razkriti podatek o tem, ali so za to vozilo plačane obvezne dajatve v skladu z zakonom o obdavčenju.

(6) Davčni organ sme delodajalcu razkriti podatke o številu mesecev, za izplačila, v katerih je za posameznega zavezanca, ki je zaposlen pri njem, že bila uveljavljena posebna davčna osnova – napotitev na čezmejno opravljanje dela v skladu z zakonom, ki ureja dohodnino, ter podatek o času začetka prve napotitve, za katero je bila uveljavljena posebna davčna osnova. Davčni organ sme podatke razkriti za obdobje deset let od prve napotitve na čezmejno opravljanje dela.

(7) Davčni organ sme delodajalcu zaradi obračuna nadomestila plače med začasno zadržanostjo delavca od dela zaradi zdravstvenih razlogov razkriti podatke o osnovi za to nadomestilo in številu ur, na katere se ta osnova nanaša. Delodajalec pridobi podatke iz prejšnjega stavka prek informacijskega sistema za podporo poslovnim subjektom na osnovi dokazila o delavčevi začasni zadržanosti od dela.

(8) Davčni organ na podlagi drugega, tretjega, četrtega, petega, šestega in sedmega odstavka tega člena upravičeni osebi razkrije podatke brez soglasja oziroma brez predhodnega obvestila zavezancu za davek, na katerega se podatki nanašajo.

(9) Davčni organ na svojih spletnih straneh javno objavi podatke o zavezancu za davek, ki mu je po uradni dolžnosti prenehala identifikacija za namene DDV, in sicer davčno številko, firmo, sedež, datum pridobitve identifikacijske številke za DDV, datum prenehanja identifikacije za namene DDV in razlog prenehanja identifikacije za namene DDV.

(10) Osebe, ki so jim bili na podlagi tega člena razkriti podatki, ki so davčna tajnost, smejo te podatke uporabiti samo za namene, za katere so jim bili dani.

- information on the amount of unpaid taxes and on the amount of overpaid taxes and information on deferred and instalment payments of taxes;
- information on whether the taxpayer has submitted a tax return or tax statement or not.

(3) If the law stipulates that the entitled person may obtain information from the tax authority regarding the fulfilment of the taxpayer's tax obligations, the tax authority may disclose to the entitled person information on the amount of:
- due unpaid tax obligations;
- tax obligations, in relation to which the start of tax enforcement is postponed or the tax enforcement that has started is suspended;
- tax obligations in respect of which deferral or instalment payment of tax is permitted or the deadline for voluntary fulfilment of obligations has not yet expired.

(4) The tax authority may provide a person who needs this information to fulfil a tax obligation or to fulfil the obligation to provide information under this Act or the Act on Taxation, on the basis of his reasoned written request, which must also include information that enables the tax authority unique identification of a natural person, namely:
- in addition to the personal name, or the date of birth and address of residence or the uniform identity number of the citizen, disclosed information about the taxpayer's tax identification number,
- tax number or uniform identity number of the citizen, disclosed information about the personal name of the taxpayer,
- personal name and tax number or uniform identification number of the citizen, disclosed information on the resident status of the taxpayer.

(5) Based on the unique identification mark of a motor vehicle, the tax authority may disclose to a third party information on whether mandatory duties have been paid for this vehicle in accordance with the Act on Taxation.

(6) The tax authority may disclose to the employer information on the number of months for payments in which a special tax base has already been established for an individual taxpayer who is employed by it – referral to cross-border work in accordance with the law governing income tax, and information on the time of the start of the first referral, for which a special tax base was established. The tax authority may disclose the data for a period of ten years from the first posting for cross-border work.

(7) The tax authority may disclose to the employer information on the basis for this compensation and the number of hours to which this basis refers, in order to calculate the salary compensation during the employee's temporary absence from work for health reasons. The employer obtains the data from the previous sentence through the information system for supporting business entities on the basis of proof of the employee's temporary absence from work.

(8) On the basis of the second, third, fourth, fifth, sixth and seventh paragraphs of this article, the tax authority discloses data to the entitled person without consent or without prior notification to the taxpayer to whom the data relates.

(9) The tax authority shall publicly publish on its website information about a taxpayer whose identification for VAT purposes has ceased ex officio, namely tax number, company, registered office, date of acquisition of identification number for VAT, date of termination of identification for purposes VAT and reason for termination of identification for VAT purposes.
(10) Persons to whom information, which is a tax secret, has been disclosed on the basis of this article, may use this information only for the purposes for which it was given to them.

Article 252[121] **(Data protection and disclosure)**
(1) All information obtained in accordance with this chapter shall be treated as tax secrecy.
(2) Data obtained in accordance with this chapter may be used:
- in the process of collecting taxes from Article 244 of this Act, VAT and other indirect taxes, including administrative or judicial assessment, and
- *in criminal proceedings initiated for violations of tax law.* […]

17 **Police Tasks and Powers Act** / *Zakon O Nalogah In Pooblastilih Policije (ZNPPol)*

5. Data Collection And Processing
Article 112[122] **(Data collecting)** (1) Police officers collect and process personal and other data for the purpose of performing police duties, including data on biometric characteristics of persons and data from confidential relationships or professional secrets.

[121] **252. člen ZDavP-2**
(varovanje in razkritje podatkov)
(1) Vsi podatki, pridobljeni v skladu s tem poglavjem, se obravnavajo kot davčna tajnost.
(2) Podatki, pridobljeni v skladu s tem poglavjem, se lahko uporabijo:
- v postopku pobiranja davkov iz 244. člena tega zakona, DDV in drugih posrednih davkov, vključno z upravno ali sodno presojo, in
- v kazenskem postopku, začetem zaradi kršitev davčnega prava.
[…]

[122] 5. Zbiranje In Obdelava Podatkov
112. člen ZNPPol
(zbiranje podatkov)
(1) Policisti zaradi opravljanja policijskih nalog zbirajo in obdelujejo osebne in druge podatke, vključno s podatki o biometričnih značilnostih oseb in podatki iz zaupnih razmerij oziroma poklicnih skrivnosti. Podatke o biometričnih značilnostih oseb smejo policisti obdelovati pri identifikacijskem postopku ter pri odkrivanju in preiskovanju kaznivih dejanj. Pri odkrivanju in preiskovanju kaznivih dejanj smejo policisti, če je to glede na okoliščine storitve konkretnega kaznivega dejanja nujno in potrebno, primerjati prstne odtise in odtise dlani, fotografije s fotografijami drugih oseb ter primerjati profile DNK. Navedene podatke smejo obdelovati avtomatizirano.
(2) Policisti zbirajo osebne in druge podatke neposredno od osebe, na katero se ti podatki nanašajo, in od drugih, ki o tem kaj vedo, ali iz zbirk osebnih podatkov, uradnih evidenc, javnih knjig ali drugih zbirk podatkov. Policija mora varovati tajnost vira prijave oziroma sporočila.
(3) Policija sme snemati in rekonstruirati tiste elektronske komunikacije v svojem informacijsko-telekomunikacijskem sistemu, ki so namenjene opravljanju policijskih nalog in potekajo znotraj policije ali z

Data on the biometric characteristics of persons may be processed by the police in the identification process and in the detection and investigation of criminal offences. When detecting and investigating crimes, if this is necessary and necessary in view of the circumstances of the commission of a specific crime, police officers may compare fingerprints and palm prints, photographs with photographs of other persons, and compare DNA profiles. The specified data may be processed automatically.
(2) Police officers collect personal and other data directly from the person to whom this data relates and from others who know something about it, or from personal data collections, official records, public books or other data collections. The police must protect the secrecy of the source of the report or message.
(3) The police may record and reconstruct those electronic communications in their information and telecommunications system that are intended for the performance of police tasks and take place within the police or with other state bodies or holders of public authority. In accordance with the law, recordings or their reconstructions may be processed to verify the legality and professionalism of police procedures and measures in the performance of police tasks. The participants of the communication must be informed in advance that the communication is being recorded and what the purpose of the recording is.
(4) When pre-trial proceedings are ongoing for criminal offences from Articles 170 to 176 of the CC-1 and they are committed against a minor, the police, in order to search for suspects of committing these crimes, detect crimes and their traces, prosecute or try criminals, exclusion of persons from the procedure, assistance to victims of crimes, so that for these purposes the exchange of personal data with the competent authorities of other countries is enabled, in each individual case it collects from the suspect and stores information about his identity and DNA profile in the records of DNA tests.

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drugimi državnimi organi ali nosilci javnih pooblastil. V skladu z zakonom se lahko posnetki ali njihove rekonstrukcije obdelujejo za preverjanje zakonitosti in strokovnosti policijskih postopkov in ukrepov pri opravljanju policijskih nalog. Udeleženci komunikacije morajo biti vnaprej obveščeni o tem, da se komunikacija snema in kakšen je namen snemanja.
(4) Ko teče predkazenski postopek zaradi kaznivih dejanj iz 170. do 176. člena KZ-1 in so ta storjena proti mladoletni osebi, policija zaradi iskanja osumljencev storitve teh kaznivih dejanj, odkrivanja kaznivih dejanj in njihovih sledov, pregona ali sojenja storilcem kaznivih dejanj, izločitve oseb iz postopka, pomoči žrtvam kaznivih dejanj, tako da je za te namene omogočena izmenjava osebnih podatkov s pristojnimi organi drugih držav, v vsakem posameznem primeru od osumljenca zbere in v evidenco preiskav DNK shrani podatke o njegovi identiteti in profilu DNK.
(5) Ko teče predkazenski postopek zaradi kaznivih dejanj, navedenih v zakonu, ki ureja sodelovanje v kazenskih zadevah z državami članicami EU, ki določa dopustnost izvršitve naloga za prijetje in predajo ne glede na dvojno kaznivost, policija v vsakem posameznem primeru osumljencu odvzame prstne odtise, in sicer z namenom iskanja osumljencev storitve teh kaznivih dejanj, odkrivanja kaznivih dejanj in njihovih sledov, pregona ali sojenja storilcem kaznivih dejanj, izločitve oseb iz postopka oziroma pomoči žrtvam kaznivih dejanj. Odvzete prstne odtise shrani v evidenco daktiloskopiranih oseb, tako da je za navedene namene omogočena izmenjava osebnih podatkov s pristojnimi organi drugih držav.

(5) When there is a pre-trial procedure due to criminal acts specified in the law governing cooperation in criminal matters with EU Member States, which determines the admissibility of the execution of a warrant for arrest and surrender regardless of double criminality, the police take fingerprints from the suspect in each individual case, namely with the purpose of searching for suspects of committing these crimes, detecting crimes and their traces, prosecuting or trying criminals, removing persons from the process or helping victims of crimes. The collected fingerprints are stored in the records of fingerprinted persons, so that the exchange of personal data with the competent authorities of other countries is enabled for the stated purposes.

(2) Obtainment of banking account data and traffic data

18

Criminal Procedure Act

Article 149b[123] (1) If there are reasons for suspecting that a criminal act from the fourth paragraph of the previous article has been committed, is being carried out, or is being prepared or organized, and it is necessary to obtain data on traffic in order to detect, prevent or prove this criminal act or to identify the perpetrator in connection with the communication of the suspect, injured party or persons from the second paragraph of the previous article, the investigating judge may order the operator or service provider of the information society to inform the competent authority of the relevant data related to the said communication that exist at the time of issuing the order. In the order, the

[123] **149.b člen ZKP**
(1) Če so podani razlogi za sum, da je bilo izvršeno, da se izvršuje ali da se pripravlja oziroma organizira kaznivo dejanje iz četrtega odstavka prejšnjega člena in je za odkritje, preprečitev ali dokazovanje tega kaznivega dejanja ali odkritje storilca treba pridobiti podatke o prometu v zvezi s komunikacijo osumljenca, oškodovanca ali oseb iz drugega odstavka prejšnjega člena, lahko preiskovalni sodnik na obrazložen predlog državnega tožilca odredi operaterju oziroma ponudniku storitev informacijske družbe, da pristojnemu organu sporoči relevantne podatke v zvezi z omenjeno komunikacijo, ki obstajajo v času izdaje odredbe. Preiskovalni sodnik v odredbi opredeli kategorije podatkov, ki jih zahteva. Odredba se operaterju oziroma ponudniku storitev informacijske družbe vroča v delu, ki se nanaša nanj.
(2) Predlog in odredba morata biti pisna in morata vsebovati podatke, ki omogočajo enolično identifikacijo komunikacijskega sredstva ali uporabnika, utemeljitev razlogov, relevantno časovno obdobje, za katerega se podatki zahtevajo, ostale pomembne okoliščine, ki narekujejo uporabo ukrepa, ter ustrezen rok za izvršitev. Identifikacija komunikacijskega sredstva mora biti dovolj natančna, da zahtevek omejuje na vnaprej omejen in določljiv seznam oseb.
(3) Izjemoma, če pisne odredbe ni mogoče pravočasno pridobiti in če obstaja nevarnost, da bi zaradi odlašanja bilo ogroženo življenje ali zdravje ljudi, lahko preiskovalni sodnik na ustni predlog državnega tožilca odredi izvršitev ukrepa iz prvega odstavka tega člena z ustno odredbo neposredno operaterju oziroma ponudniku storitev informacijske družbe. O ustnem predlogu državnega tožilca preiskovalni sodnik napravi uradni zaznamek. Pisna odredba mora biti izdana najkasneje v 12 urah po izdaji ustne odredbe. Če se med izdelavo pisnega odpravka izkaže, da izrečeni ukrep ni bil upravičen, se postopa po četrtem odstavku 154. člena tega zakona.
(4) Operater oziroma ponudnik storitev informacijske družbe svojemu uporabniku, naročniku ali tretjim osebam ne sme razkriti, da je ali da bo v skladu s tem členom posredoval določene podatke. Tega ne sme razkriti 24 mesecev po preteku meseca, v katerem se je zaključilo izvrševanje odredbe. Preiskovalni sodnik lahko z odredbo določi drugačen rok, rok podaljša za največ 12 mesecev, vendar ne več kot dvakrat, rok skrajša ali prepoved seznanitve odpravi.
(5) Na podlagi tega člena ni mogoče zahtevati ali pridobiti podatkov, ki se nanašajo na vsebino komunikacije.

investigating judge defines the categories of data he requests. The order is served on the operator or information society service provider in the part that refers to it.
(2) The proposal and the order must be in writing and must contain information that enables the unique identification of the means of communication or the user, justification of the reasons, the relevant time period for which the data is requested, other important circumstances that dictate the use of the measure, and an appropriate deadline for execution. The identification of the means of communication must be precise enough to limit the claim to a previously limited and identifiable list of persons.
(3) Exceptionally, if a written order cannot be obtained in time and if there is a risk that the life or health of people would be endangered due to the delay, the investigating judge may, at the oral proposal of the state prosecutor, order the execution of the measure referred to in the first paragraph of this article by a verbal order directly to the operator or information society service provider. The investigating judge makes an official note on the state prosecutor's oral proposal. The written order must be issued no later than 12 hours after the oral order is issued. If, during the preparation of the written reprimand, it turns out that the imposed measure was not justified, the procedure shall be in accordance with the fourth paragraph of Article 154 of this Act.
(4) The operator or information society service provider must not disclose to its user, client or third parties that it has or will provide certain data in accordance with this article. This may not be disclosed for 24 months after the month in which the execution of the order was completed. By order, the investigating judge can set a different deadline, extend the deadline by a maximum of 12 months, but not more than twice, shorten the deadline, or remove the ban on familiarization.
(5) On the basis of this article, it is not possible to request or obtain data relating to the content of the communication.

Article 149c[124] (1) If there are reasons for suspecting that a criminal act has been committed, is being carried out, is being prepared or is being organized, for which the per-

[124] **149.c člen ZKP**
(1) Če so podani razlogi za sum, da je bilo izvršeno, da se izvršuje ali da se pripravlja oziroma organizira kaznivo dejanje, za katero se storilec preganja po uradni dolžnosti in za katerega je predpisana kazen enega ali več let zapora in je za odkritje, preprečitev ali dokazovanje tega kaznivega dejanja ali odkritje storilca treba pridobiti podatke o prometu v zvezi s komunikacijo osumljenca, oškodovanca ali oseb iz drugega odstavka 149.a člena tega zakona ali če zakoniti uporabnik komunikacijskega sredstva s tem soglaša, lahko preiskovalni sodnik na obrazložen predlog državnega tožilca odredi operaterju oziroma ponudniku storitev informacijske družbe, da začne z zavarovanjem potrebnih prometnih podatkov v zvezi s komunikacijo ter sporočanjem le-teh pristojnemu organu. Preiskovalni sodnik mora v odredbi natančno opredeliti kategorije podatkov, ki jih zahteva, in obdobje, za katero se ukrep odreja in ki ne sme biti daljše od treh mesecev. Preiskovalni sodnik lahko z novo odredbo odredi podaljšanje izvajanja ukrepa za tri mesece. Če je zoper komunikacijsko sredstvo odrejen tudi ukrep po 150. členu tega zakona lahko sodnik odreja ukrepe po tem členu za ves čas izvrševanja ukrepov iz 150. člena tega zakona

petrator is prosecuted ex officio and for which a penalty of one or more years of imprisonment is prescribed and is for discovery, prevention or proof of this criminal act or the discovery of the perpetrator, it is necessary to obtain data on traffic in connection with the communication of the suspect, injured party or persons from the second paragraph of Article 149.a of this Act, or if the legal user of the means of communication agrees to this, the investigating judge may, on the reasoned proposal of the state the prosecutor orders the operator or the service provider of the information society to start securing the necessary traffic data in connection with communication and communicating it to the competent authority. The investigating judge must precisely define the categories of data in the order, which it requires, and the period for which the measure is ordered, which must not be longer than three months. With a new order, the investigating judge can order the extension of the implementation of the measure for three months. If a measure under Article 150 of this Act is also ordered against a means of communication, the judge may order measures under this Article for the entire period of enforcement of measures under Article 150 of this Act against that means of communication. The order is served on the operator or information society service provider in the part that refers to it.

(2) The proposal and the order must be in writing and must contain information that enables the unique identification of the means of communication or the user, the justification of the reasons, the relevant time period for which the measure is ordered, the frequency of reporting the data to the competent authority and other important circumstances that dictate the use of the measure, including proportionality reasoning. The identification of the means of communication must be precise enough to limit the claim to a previously limited and identifiable list of persons.

(3) It is not possible to request the transmission of data relating to the location of the means of communication or the user by means of an order, except for criminal acts from

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zoper to komunikacijsko sredstvo. Odredba se operaterju oziroma ponudniku storitev informacijske družbe vroča v delu, ki se nanaša nanj.

(2) Predlog in odredba morata biti pisna in morata vsebovati podatke, ki omogočajo enolično identifikacijo komunikacijskega sredstva ali uporabnika, utemeljitev razlogov, relevantno časovno obdobje, za katerega se ukrep odreja, pogostost sporočanja podatkov pristojnemu organu ter ostale pomembne okoliščine, ki narekujejo uporabo ukrepa, vključno z obrazložitvijo sorazmernosti. Identifikacija komunikacijskega sredstva mora biti dovolj natančna, da zahtevek omejuje na vnaprej omejen in določljiv seznam oseb.

(3) Z odredbo ni mogoče zahtevati posredovanja podatkov, ki se nanašajo na lokacijo komunikacijskega sredstva ali uporabnika, razen za kazniva dejanja iz četrtega odstavka 149.a člena tega zakona ali s soglasjem zakonitega uporabnika komunikacijskega sredstva.

(4) Operater oziroma ponudnik storitev informacijske družbe svojemu uporabniku, naročniku ali tretjim osebam ne sme razkriti, da je ali da bo v skladu s tem členom posredoval določene podatke. Tega ne sme razkriti 24 mesecev po preteku meseca, v katerem se je zaključilo izvrševanje odredbe. Preiskovalni sodnik lahko z odredbo določi drugačen rok, rok podaljša za največ 12 mesecev, vendar ne več kot dvakrat, rok skrajša ali prepoved seznanitve odpravi. Ne glede na določbe tega odstavka pa v primeru posredovanja podatkov na podlagi soglasja zakonitega uporabnika operater oziroma ponudnik storitve informacijske družbe v roku osem dni od posredovanja podatkov obvesti zakonitega uporabnika o izvršitvi odredbe.

(5) Na podlagi tega člena ni mogoče zahtevati ali pridobiti podatkov, ki se nanašajo na vsebino komunikacije.

the fourth paragraph of Article 149.a of this Act or with the consent of the legal user of the means of communication.
(4) The operator or information society service provider must not disclose to its user, client or third parties that it has or will provide certain data in accordance with this article. This may not be disclosed for 24 months after the month in which the execution of the order was completed. By order, the investigating judge can set a different deadline, extend the deadline by a maximum of 12 months, but not more than twice, shorten the deadline, or remove the ban on familiarization. Irrespective of the provisions of this paragraph, in the case of forwarding data based on the consent of the legal user, the operator or information society service provider shall notify the legal user of the execution of the order within eight days of the data transfer.
(5) On the basis of this article, it is not possible to request or obtain data relating to the content of the communication.

Article 150[125] (1) If there are reasonable grounds for suspecting that a certain person has committed, is committing or is preparing or organizing the commission of any of the criminal acts listed in the second paragraph of this article and if there is a reasonable suspicion that communication related to this criminal act is being used a certain means of communication or a computer system or this means or system will be used, and it can be reasonably concluded that it would not be possible to gather evidence with other

[125] **150. člen ZKP**
(1) Če obstajajo utemeljeni razlogi za sum, da je določena oseba izvršila, izvršuje ali pripravlja oziroma organizira izvršitev katerega izmed kaznivih dejanj, navedenih v drugem odstavku tega člena in če obstaja utemeljen sum, da se za komunikacijo v zvezi s tem kaznivim dejanjem uporablja določeno komunikacijsko sredstvo oziroma računalniški sistem ali bo to sredstvo oziroma sistem uporabljeno, pri tem pa je mogoče utemeljeno sklepati, da se z drugimi ukrepi ne bi dalo zbrati dokazov oziroma bi njihovo zbiranje lahko ogrozilo življenje ali zdravje ljudi, se lahko zoper to osebo odredi:
1) nadzor elektronskih komunikacij s prisluškovanjem in snemanjem ter kontrola in zavarovanje dokazov o vseh oblikah komuniciranja, ki se prenašajo v elektronskem komunikacijskem omrežju;
2) kontrola pisem in drugih pošiljk;
3) kontrola računalniškega sistema banke ali druge pravne osebe, ki opravlja finančno ali drugo gospodarsko dejavnost;
4) prisluškovanje in snemanje pogovorov s privolitvijo vsaj ene osebe, udeležene v pogovoru.
(2) Kazniva dejanja, v zvezi s katerimi se lahko odredijo ukrepi iz prejšnjega odstavka, so:
1) kazniva dejanja zoper varnost Republike Slovenije in njeno ustavno ureditev in kazniva dejanja zoper človečnost in mednarodno pravo, za katera je v zakonu predpisana kazen zapora petih ali več let;
2) kaznivo dejanje ugrabitve po 134. členu, pridobivanja oseb, mlajših od petnajst let, za spolne namene po 173.a členu, zlorabe prostitucije po 175. členu prikazovanja, posesti, izdelave in posredovanja pornografskega gradiva po 176. členu, neupravičene proizvodnje in prometa s prepovedanimi drogami, nedovoljenimi snovmi v športu in predhodnimi sestavinami za izdelavo prepovedanih drog po 186. členu, omogočanja uživanja prepovedanih drog ali nedovoljenih snovi v športu po 187. členu, izsiljevanja po 213. členu, zlorabe notranje informacije po 238. členu, nedovoljenega sprejemanja daril po 241. členu, neupravičenega dajanja daril po 242. členu, pranja denarja po 245. členu, tihotapstva po 250. členu, oškodovanja javnih sredstev po 257.a členu, jemanja podkupnine po 261. členu, dajanja podkupnine po 262. členu, sprejemanja koristi za nezakonito posredovanje po 263. členu, dajanja daril za nezakonito posredovanje po 264. členu, hudodelskega združevanja po 294. členu, nedovoljene proizvodnje in prometa orožja ali razstrelilnih snovi po 307. členu ter protipravnega ravnanja z jedrskimi ali drugimi nevarnimi radioaktivnimi snovmi po 334. členu kazenskega zakonika;
3) druga kazniva dejanja, za katera je v zakonu predpisana kazen zapora osmih ali več let.

measures or that their collection could endanger the life or health of people, the following may be ordered against this person:
1) control of electronic communications by eavesdropping and recording, as well as control and securing evidence of all forms of communication transmitted in the electronic communication network;
2) control of letters and other shipments;
3) control of the computer system of a bank or other legal entity that performs financial or other economic activity;
4) eavesdropping and recording of conversations with the consent of at least one person involved in the conversation. […].

Article 156[126] (1) Upon a reasoned proposal from the state prosecutor, the investigating judge may order a bank, savings bank, payment institution, company for issuing electronic money, or a branch or representative that provides payment services or distributes

[126] **156. člen ZKP**
(1) Preiskovalni sodnik lahko na obrazložen predlog državnega tožilca odredi banki, hranilnici, plačilni instituciji, družbi za izdajo elektronskega denarja oziroma podružnici ali zastopniku, ki zanje opravlja plačilne storitve ali distribuira elektronski denar, ali družbi za izdajo, upravljanje oziroma poslovanje z virtualno valuto, da mu, lahko pa tudi pristojnemu organu, sporoči zaupne podatke in pošlje dokumentacijo o stanju vlog in depozitov ter o stanju in prometu na računih ali drugih poslih osumljenca, obdolženca in drugih oseb, za katere je mogoče utemeljeno sklepati, da so udeležene v finančnih transakcijah ali poslih osumljenca ali obdolženca, če bi ti podatki utegnili biti dokaz v kazenskem postopku ali če so potrebni zaradi zasega predmetov ali zavarovanja zahtevka za odvzem premoženjske koristi oziroma premoženja v vrednosti premoženjske koristi.
(2) Banka, hranilnica, plačilna institucija družba za izdajo elektronskega denarja oziroma podružnica ali zastopnik, ki zanje opravlja plačilne storitve ali distribuira elektronski denar ali družba za izdajo, upravljanje oziroma poslovanje z virtualno valuto mora zahtevane podatke in dokumentacijo iz prejšnjega odstavka posredovati preiskovalnemu sodniku in pristojnemu organu, določenemu v odredbi brez odlašanja.
(3) Pod pogoji iz prvega odstavka tega člena lahko preiskovalni sodnik na obrazložen predlog državnega tožilca odredi banki, hranilnici, plačilni instituciji, družbi za izdajo elektronskega denarja oziroma podružnici ali zastopniku, ki zanje opravlja plačilne storitve ali distribuira elektronski denar, ali družbi za izdajo, upravljanje oziroma poslovanje z virtualno valuto, da tekoče spremlja finančno poslovanje osumljenca, obdolženca in drugih oseb, za katere je mogoče utemeljeno sklepati, da so udeležene v finančnih transakcijah ali poslih osumljenca ali obdolženca in da mu sproti sporoča zaupne podatke o transakcijah ali poslih, ki jih pri njih opravijo ali nameravajo opraviti navedene osebe. V odredbi preiskovalni sodnik določi rok, v katerem mu mora banka, hranilnica, plačilna institucija, družba za izdajo elektronskega denarja oziroma podružnica ali zastopnik, ki zanje opravlja plačilne storitve ali distribuira elektronski denar, ali družba za izdajo, upravljanje oziroma poslovanje z virtualno valuto sporočati podatke.
(4) Izvajanje ukrepa iz prejšnjega odstavka lahko traja največ tri mesece, iz tehtnih razlogov pa se lahko na predlog državnega tožilca njegovo trajanje podaljša do največ šest mesecev.
(5) Če so podani razlogi za sum, da je bilo izvršeno oziroma da se pripravlja kaznivo dejanje, za katero se storilec preganja po uradni dolžnosti in je za preprečitev ali odkritje tega kaznivega dejanja ali storilca treba pridobiti podatke o imetniku ali pooblaščencu določenega ali določljivega plačilnega računa, hranilne vloge, denarnice za hrambo virtualne valute ali denarnega depozita, najemniku ali pooblaščencu sefa ter o času, v katerem so bili oziroma so v uporabi, ali podatke o obstoju pogodbenega oziroma poslovnega razmerja z osumljeno osebo, ki ne zajemajo podatkov o premoženjskem stanju osumljenca oziroma o stanju vlog in depozitov ter o stanju in prometu na računih oziroma denarnici virtualne valute, lahko državni tožilec ali policija od banke, hranilnice, plačilne institucije, družbe za izdajo elektronskega denarja oziroma podružnice ali zastopnika, ki zanje opravlja plačilne storitve ali distribuira elektronski denar, ali družbe za izdajo, upravljanje oziroma poslovanje z virtualno valuto, pisno zahteva, da tudi brez privolitve osebe, na katero se ti podatki nanašajo, brez odlašanja sporoči te podatke

electronic money for them, or a company for issuing, managing or dealing with virtual currency, to, but can also communicate confidential information to the competent authority and send documentation on the state of deposits and deposits, as well as the state and turnover on the accounts or other transactions of the suspect, the defendant and other persons who can reasonably be concluded to be involved in financial transactions or transactions suspect or defendant,if this data could be evidence in criminal proceedings or if it is necessary for the seizure of objects or the securing of a claim for confiscation of pecuniary benefit or property in the value of pecuniary benefit.
(2) A bank, savings bank, payment institution, a company for issuing electronic money, or a branch or representative that provides payment services or distributes electronic money for them, or a company for issuing, managing or dealing with virtual currency must submit the required data and documentation from the previous paragraph to the investigating judge and to the competent authority specified in the order without delay.
(3) Under the conditions set out in the first paragraph of this article, the investigating judge may order a bank, savings bank, payment institution, company for issuing electronic money or a branch or representative that provides payment services or distributes electronic money for them, or a company for issuing, managing or business with virtual currency, to continuously monitor the financial operations of the suspect, the accused and other persons who can reasonably be concluded to be involved in the financial transactions or business of the suspect or the accused and to inform him on an ongoing basis of confidential information about the transactions or business that they are performed or intended to be performed by said persons. In the order, the investigating judge sets a deadline within which the bank, savings bank, payment institution must
(4) The implementation of the measure referred to in the previous paragraph may last a maximum of three months, and for valid reasons, at the proposal of the state prosecutor, its duration may be extended to a maximum of six months.
(5) If there are reasons for suspecting that a criminal act has been committed or is being prepared, for which the perpetrator is being prosecuted ex officio, and in order to prevent or detect this criminal act or the perpetrator, it is necessary to obtain information about the holder or authorized person of a specific or identifiable payment account, savings deposits, wallets for keeping virtual currency or cash deposits, to the lessee or authorized representative of the safe and about the time during which they were or are in use, or

oziroma posreduje dokumentacijo, ki vsebuje te podatke, če ne vsebuje tudi podatkov o premoženjskem stanju osumljenca oziroma o stanju vlog in depozitov ter o stanju in prometu na računih.
(6) Banka, hranilnica, plačilna institucija, družba za izdajo elektronskega denarja oziroma podružnica ali zastopnik, ki zanje opravlja plačilne storitve ali distribuira elektronski denar, ali družba za izdajo, upravljanje oziroma poslovanje z virtualno valuto svoji stranki ali tretji osebi ne sme razkriti, da je ali da bo podatke in dokumentacijo poslala preiskovalnemu sodniku, državnemu tožilcu ali policiji (prejšnji odstavek). Tega ne sme razkriti 24 mesecev po zaključku izvrševanja odredbe preiskovalnega sodnika oziroma posredovanja podatkov državnemu tožilcu ali policiji. Preiskovalni sodnik lahko z odredbo določi drugačen rok, rok podaljša za največ 12 mesecev, vendar ne več kot dvakrat, rok skrajša ali prepoved seznanitve odpravi.

information about the existence of a contractual or business relationship with the suspect, which does not include information about the suspect's financial situation or on the status of deposits and deposits, as well as on the status and circulation of virtual currency accounts or wallets, the state prosecutor or the police can from a bank, savings bank, payment institution, a company for issuing electronic money, or a branch or representative that provides payment services or distributes electronic money for them, or a company for issuing, managing or dealing with virtual currency, requests in writing that, even without the consent of the person to whom this data relates, without delay communicate this information or provide documentation that contains this information, if it does not also contain information about the suspect's financial status or the status of deposits and deposits, as well as the status and turnover of accounts if it does not also contain information on the suspect's assets, or the status of deposits and deposits, as well as the status and turnover of the accounts.
(6) A bank, savings bank, payment institution, company for issuing electronic money, or a branch or representative that provides payment services or distributes electronic money for them, or a company for issuing, managing or dealing with virtual currency may not disclose to its customer or a third party, that she has or will send the data and documentation to the investigating judge, the state prosecutor or the police (previous paragraph). This must not be disclosed for 24 months after the completion of the execution of the order of the investigating judge or the transfer of information to the state prosecutor or the police. By order, the investigating judge can set a different deadline, extend the deadline by a maximum of 12 months, but not more than twice, shorten the deadline, or remove the ban on familiarization.

19 **Police Tasks and Powers Act** / *Zakon O Nalogah In Pooblastilih Policije (ZNPPol)*

Article 43[127] **(Person search)** (1) The police are looking for people who are missing and, based on the circumstances, it can be assumed that they need help.

[127] **43. člen ZNPPol**
(iskanje oseb)
(1) Policija išče osebe, ki so pogrešane in je glede na okoliščine mogoče domnevati, da potrebujejo pomoč.
(2) Policija išče tudi druge osebe, če tako določajo drugi zakoni.
(3) Pri iskanju oseb smejo policisti uporabiti službenega psa, tehnična sredstva za fotografiranje ter video in avdio snemanje, termovizijske kamere in naprave za gledanje ponoči. Posnetki se brišejo takoj, ko je to mogoče, najpozneje pa v 30 dneh od njihovega nastanka.
(4) V primerih iz prvega odstavka tega člena smejo policisti:
- od operaterja mobilne telefonije pridobiti podatke o komunikacijah pogrešane osebe s sredstvi mobilne komunikacije (podatki o času in telefonski številki klicane ali kličoče osebe ter podatki o naročniku številke),
- od upravljavca pridobiti videoposnetek nadzorne kamere, če je glede na okoliščine mogoče domnevati, da se je pogrešana oseba zadrževala na določenem območju,
- opraviti pregled osebnih predmetov, prostorov in prevoznih sredstev, ki jih je pogrešana oseba uporabljala za bivanje oziroma za življenje,
- opraviti vpogled v podatke, shranjene na računalniku ali drugem mediju informacijske tehnologije pogrešane osebe,

(2) The police are also looking for other persons, if other laws so stipulate.
(3) When searching for persons, police officers may use a service dog, technical means for photography and video and audio recording, thermal imaging cameras and night vision devices. Recordings are deleted as soon as possible, but no later than within 30 days of their creation.
(4) In cases referred to in the first paragraph of this article, police officers may:
- to obtain data from the mobile phone operator about the communications of the missing person by means of mobile communication (data about the time and phone number of the called or calling person and data about the subscriber of the number),
- obtain a surveillance camera video from the operator, if, based on the circumstances, it can be assumed that the missing person stayed in a certain area,
- carry out an inspection of personal belongings, premises and means of transport used by the missing person for residence or life,
- inspect the data stored on the computer or other information technology medium of the missing person,
- *obtain information from the bank about the payment transaction (place and time of the financial transaction) of the missing person,*
- call for a search for a person.
(5) The request from the first indent of the previous paragraph is sent to the mobile phone operator by the Operational and Communication Centre of the General Police Administration.
(6) Police officers may carry out an inspection of personal belongings, premises and means of transport used by the missing person for residence or life, if the relative with whom the missing person lives in the same household allows it.
(7) Access to data stored on the missing person's computer or other information technology media, obtaining data from the bank about the missing person's payment transactions and in the cases from the previous paragraph when a close person does not live in the same household as the missing person, the police officers may based on the order

- od banke pridobiti podatke o plačilnem prometu (kraj in čas finančne transakcije) pogrešane osebe,
- razpisati iskanje osebe.
(5) Zahtevo iz prve alineje prejšnjega odstavka operaterju mobilne telefonije pošlje Operativno-komunikacijski center Generalne policijske uprave.
(6) Pregled osebnih predmetov, prostorov in prevoznih sredstev, ki jih je pogrešana oseba uporabljala za bivanje oziroma za življenje, smejo policisti opraviti, če bližnji, s katero pogrešana oseba živi v skupnem gospodinjstvu, to dovoli.
(7) Vpogled v podatke, shranjene na računalniku ali drugem mediju informacijske tehnologije pogrešane osebe, pridobitev podatkov od banke o plačilnem prometu pogrešane osebe in v primerih iz prejšnjega odstavka, ko bližnja oseba ne živi v skupnem gospodinjstvu s pogrešano osebo, smejo policisti opraviti na podlagi odredbe preiskovalnega sodnika, če je to nujno za razjasnitev okoliščin pogrešitve in izsledite pogrešane osebe. Preiskovalni sodnik odloči o ukrepih v roku, ki ne sme biti daljši od 24 ur.
(8) S podatki, ki jih policisti pridobijo na podlagi četrtega odstavka tega člena morajo ravnati še posebno skrbno in jih uporabiti na način in v obsegu, ki so nujno potrebni za ugotavljanje okoliščin pri iskanju pogrešane osebe. Ko je oseba najdena, se seznani z zbranimi podatki. Zbranih podatkov se v druge namene ne sme uporabiti.
(9) Način iskanja oseb z internim aktom določi generalni direktor policije.

of the investigating judge, if this is necessary to clarify the circumstances of the disappearance and trace the missing person. The investigating judge decides on the measures within a period that cannot be longer than 24 hours.
(8) The police officers must treat the information obtained on the basis of the fourth paragraph of this article with special care and use it in the manner and to the extent necessary to determine the circumstances of the search for a missing person. When a person is found, they become familiar with the collected data. The collected data may not be used for other purposes.
(9) The method of searching for persons shall be determined by the director general of the police with an internal act.

20 The Banking Act allows further information:

21 **Article 14 (obligation to protect confidential information)**[128]
(1) Confidential information according to this Act is all information about an individual bank that the Bank of Slovenia obtains from the bank or other persons during the supervision of the bank, or is produced by the Bank of Slovenia for the purposes of the supervision of the individual bank, including the Bank's internal assessments and reports of Slovenia on the operations of individual banks.
(2) Unless the law provides otherwise, the Bank of Slovenia may not disclose confidential information about an individual bank to another person or state authority, except in the form of a summary from which it is not possible to identify the individual banks to which they relate.
(3) Employees of Banka Slovenije, auditors and other experts who work or have worked under the authority of Banka Slovenije must protect all information they have acquired while performing tasks for Banka Slovenije, in connection with the performance of its tasks and powers of supervision, as confidential and may not be disclosed to any other person or state authority, unless this law provides otherwise.
(4) The prohibition from the second and third paragraphs of this article does not apply:

[128] **14. člen**
(obveznost varovanja zaupnih informacij)
(1) Zaupne informacije po tem zakonu so vse informacije o posamezni banki, ki jih pri opravljanju nadzora nad banko pridobi Banka Slovenije od banke ali drugih oseb oziroma jih izdela Banka Slovenije za namene izvajanja nadzora nad posamezno banko, vključno z internimi ocenami in poročili Banke Slovenije o poslovanju posamezne banke.
(2) Če zakon ne določa drugače, ne sme Banka Slovenije razkriti zaupnih informacij o posamezni banki drugi osebi ali državnemu organu, razen v obliki povzetka, iz katerega ni mogoče prepoznati posameznih bank, na katere se nanašajo.
(3) Zaposleni pri Banki Slovenije, revizorji in drugi strokovnjaki, ki delajo ali so delali po pooblastilu Banke Slovenije, morajo vse informacije, ki so jih pridobili pri opravljanju nalog za Banko Slovenije, v zvezi z izvajanjem njenih nalog in pristojnosti nadzora, varovati kot zaupne in jih ne smejo razkriti nobeni drugi osebi ali državnemu organu, razen če ta zakon določa drugače.
(4) Prepoved iz drugega in tretjega odstavka tega člena ne velja:
1. za zaupne informacije, ki so potrebne za izvedbo kazenskega ali predkazenskega postopka;

1. for confidential information that is necessary to carry out criminal or pre-criminal proceedings; […].

(3) Exception of data specifically retained in accordance with national law (pursuant to the second sentence of Article 15(1) of Directive 2002/58/EC of the European Parliament and of the Council)

(a) Transposition of this Directive

Transposition deadline: 01/01/1001 **22**

- Criminal Code of the Republic of Slovenia
  Official publication: Uradni list RS; Number: 63/1994; Publication date: 1994-10-13; Pages: 3455–3503
- Rules on equipment and interfaces for legal interception of telecommunications
  Official publication: Uradni list RS; Number: 73/2003; Publication date: 2003-07-29; Pages: 11102–11103
- Electronic Communications Act
  Official publication: Uradni list RS; Number: 43/2004; Publication date: 2004-04-26; Pages: 05217–05249
- Rules on equipment and interfaces for legal interception of communications
  Official publication: Uradni list RS; Number: 29/2006; Publication date: 2006-03-21; Pages: 03112–03114
- Act on Amendments to the Electronic Communications Act
  Official publication: Uradni list RS; Number: 129/2006; Publication date: 2006-12-12; Pages: 14113–14128

Transposition deadline: 01/05/2004 **23**

- Act on Amendments to the Electronic Communications Act (ZEKom-B)
  Official publication: Uradni list RS; Number: 110/2009; Publication date: 2009-12-29; Pages: 14965–14974
- Electronic Communications Act
  Official publication: Uradni list RS; Number: 109/2012; Publication date: 2012-12-31; Pages: 12069–12122
- Act on Amendments to the Electronic Communications Act
  Official publication: Uradni list RS; Number: 40/2017; Publication date: 2017-07-21; Page: 05790–05803

(b) National Provision in relation to Art. 15(1) s. 2 of this Directive

24 **Electronic Communications Act** / *Zakon o elektronskih komunikacijah* (ZEKom-2)

Article 218[129] **(Traffic data)** (1) Traffic data relating to subscribers and users and processed and stored by the operator must be deleted or changed in such a way that they cannot be linked to a specific or identifiable person as soon as they are no longer necessary for the transmission of messages, except in cases of data for which a longer retention period is determined according to this law regarding the monitoring and control of the use of data services (Article 198 of this Act), regarding public notification and alarming (Article 201 of this Act), regarding internal procedures (Article 216 of this of the Act), regarding the securing and indelible registration of transmission of traffic and location data in cases of protection of life and limb (Article 220 of this Act), regarding the tracking of malicious or annoying calls (Article 223 of this Act) and regarding legal interception of communications (fifth paragraph of Article 228 Article of this Act).
(2) Irrespective of the provision of the previous paragraph, the operator may store and process data on traffic that it needs for billing and for payments related to interconnection until full payment for the service, but no later than the expiration of the statute of limitations.

[129] **218. člen ZEKom-2**
(podatki o prometu)
(1) Podatki o prometu, ki se nanašajo na naročnike in uporabnike ter jih je operater obdelal in shranil, morajo biti izbrisani ali spremenjeni tako, da jih ni mogoče povezati z določeno ali določljivo osebo takoj, ko niso več potrebni za prenos sporočil, razen v primerih podatkov, pri katerih je po tem zakonu določen daljši rok hrambe glede spremljanja in nadzora porabe podatkovnih storitev (198. člen tega zakona), glede javnega obveščanja in alarmiranja (201. člen tega zakona), glede notranjih postopkov (216. člen tega zakona), glede zavarovanja in neizbrisne registracije posredovanja prometnih in lokacijskih podatkov v primerih varovanja življenja in telesa (220. člen tega zakona), glede sledenja zlonamernih ali nadležnih klicev (223. člen tega zakona) ter glede zakonitega prestrezanja komunikacij (peti odstavek 228. člena tega zakona).
(2) Ne glede na določbo prejšnjega odstavka lahko operater do popolnega plačila storitve, vendar najdlje do preteka zastaralnega roka, hrani in obdeluje podatke o prometu, ki jih potrebuje za obračun in za plačila v zvezi z medomrežnim povezovanjem.
(3) Izvajalec javne komunikacijske storitve lahko zaradi trženja elektronskih komunikacijskih storitev ali izvajanja storitev z dodano vrednostjo obdeluje podatke iz prvega odstavka tega člena v obsegu in trajanju, potrebnem za takšno trženje ali storitve, samo na podlagi predhodnega soglasja naročnika ali uporabnika, na katerega se ti podatki nanašajo. Naročniki oziroma uporabniki morajo biti pred danim soglasjem obveščeni o vrstah podatkov o prometu, ki se obdelujejo, ter namenu in trajanju takšne obdelave. Uporabnik ali naročnik ima pravico, da to soglasje kadar koli prekliče.
(4) Izvajalec storitve mora za namene iz drugega odstavka tega člena zaradi seznanitve naročnikov in uporabnikov v splošnih pogojih navesti, kateri prometni podatki se bodo obdelovali in koliko časa.
(5) Podatke o prometu smejo v skladu s prejšnjimi odstavki tega člena obdelovati le pooblaščene osebe, ki pod nadzorstvom operaterja skrbijo za zaračunavanje ali upravljanje prometa, odgovarjajo na vprašanja porabnikov, odkrivajo prevare, tržijo elektronske komunikacijske storitve ali zagotavljajo storitve z dodano vrednostjo, pri čemer mora biti ta obdelava omejena na obseg, ki je potreben za namene takih dejavnosti.
(6) Ne glede na določbe prvega, drugega, tretjega in petega odstavka tega člena operater na pisno zahtevo, ki je vložena zaradi reševanja sporov, zlasti sporov v zvezi z medsebojnim povezovanjem ali zaračunavanjem, in v skladu z veljavno zakonodajo agenciji, izvajalcu izvensodnega reševanja potrošniških sporov v skladu z zakonom, ki ureja izvensodno reševanje potrošniških sporov, ali pristojnemu sodišču posreduje podatke o prometu.
(7) Agencija nadzira izvajanje določb tega člena najmanj enkrat na dve leti.

(3) The provider of a public communication service may, for the purpose of marketing electronic communication services or providing value-added services, process the data referred to in the first paragraph of this article to the extent and duration necessary for such marketing or services, only on the basis of the prior consent of the client or user, to which these data refer to Before consent is given, subscribers or users must be informed about the types of traffic data being processed, as well as the purpose and duration of such processing. The user or subscriber has the right to revoke this consent at any time.
(4) For the purposes referred to in the second paragraph of this article, the service provider must indicate in the general conditions which traffic data will be processed and for how long, in order to familiarize subscribers and users.
(5) In accordance with the previous paragraphs of this article, data on traffic may only be processed by authorized persons who, under the supervision of the operator, take care of charging or managing traffic, answer consumer questions, detect fraud, market electronic communication services or provide services with added value, when whereby this processing must be limited to the extent necessary for the purposes of such activities.
(6) Notwithstanding the provisions of the first, second, third and fifth paragraphs of this article, the operator, upon a written request submitted for the purpose of resolving disputes, in particular disputes related to interconnection or billing, and in accordance with applicable legislation to the agency, the provider of out-of-court resolution of consumer disputes in accordance with the law governing the out-of-court settlement of consumer disputes, or forward traffic data to the competent court.
(7) The Agency supervises the implementation of the provisions of this Article at least once every two years.

Article 219[130] **(Location data that is not traffic data at the same time)** (1) Location data, which are not traffic data at the same time and refer to users or subscribers, may

[130] **219. člen ZEKom-2**
(lokacijski podatki, ki niso hkrati podatki o prometu)
(1) Lokacijski podatki, ki niso hkrati podatki o prometu in se nanašajo na uporabnike ali naročnike, se smejo obdelovati le v takšni obliki, da jih ni mogoče povezati z določeno ali določljivo osebo, ali pa na podlagi predhodnega soglasja uporabnika ali naročnika v obsegu in trajanju, ki sta potrebna za izvedbo storitve z dodano vrednostjo. Uporabnik ali naročnik lahko to soglasje kadar koli prekliče.
(2) Uporabnik ali naročnik mora biti pred izdajo soglasja v zvezi z obdelavo podatkov iz prejšnjega odstavka seznanjen z:
1. možnostjo zavrnitve soglasja,
2. vrsto teh podatkov, ki bodo obdelani,
3. namenom in trajanjem takšne obdelave,
4. možnostjo posredovanja teh lokacijskih podatkov tretji osebi zaradi izvedbe storitve z dodano vrednostjo.
(3) Uporabnik ali naročnik, ki je soglašal z obdelavo podatkov iz prvega odstavka tega člena, ima možnost, da na preprost in brezplačen način začasno zavrne obdelavo takšnih podatkov pri vsaki priključitvi na omrežje ali za vsak prenos komunikacije.

only be processed in such a form that they cannot be linked to a specific or identifiable person, or based on the prior consent of the user or subscriber to the extent and the duration required to perform the value-added service. The User or Subscriber may revoke this consent at any time.
(2) Before issuing consent in relation to the processing of data from the previous paragraph, the user or subscriber must be aware of:
1. the possibility of refusing consent,
2. the type of this data that will be processed,
3. the purpose and duration of such processing,
4. the possibility of forwarding this location data to a third party for the purpose of providing a value-added service.
(3) A user or subscriber who has agreed to the processing of data from the first paragraph of this article has the option to temporarily refuse the processing of such data in a simple and free of charge for each connection to the network or for each transmission of communication.
(4) In accordance with the previous paragraphs of this article, data from the first paragraph of this article may only be processed by persons who are under the control of the operator or a third party that provides a value-added service, and this processing must be limited to what is necessary to perform a value-added service.
(5) When calling the single European number for emergency calls 112, the police number 113 and the single European telephone number for reporting missing children 116 000, the operator must, in accordance with the fifth paragraph of Article 200 of this Act, provide the competent authorities with the location data from the first paragraph of this Article also in cases where the user or subscriber temporarily refused to process data from the first paragraph of this Article or did not give consent for their processing.
(6) The provisions of paragraphs one to four of this article shall not be applied to location data, which are not traffic data at the same time, for the purposes of implementing Article 220 of this Act.

Article 220[131] **(Transmission of traffic and location data in cases of protection of life and body)** (1) In order to protect the individual's vital interests, the operator must

(4) Podatke iz prvega odstavka tega člena smejo v skladu s prejšnjimi odstavki tega člena obdelovati le osebe, ki so pod nadzorom operaterja ali tretje osebe, ki izvaja storitev z dodano vrednostjo, pri čemer mora biti ta obdelava omejena na to, kar je potrebno za izvedbo storitve z dodano vrednostjo.
(5) Pri klicih na enotno evropsko številko za klice v sili 112, številko policije 113 in enotno evropsko telefonsko številko za prijavo pogrešanih otrok 116 000 mora operater v skladu s petim odstavkom 200. člena tega zakona pristojnim organom posredovati lokacijske podatke iz prvega odstavka tega člena tudi v primerih, ko je uporabnik ali naročnik začasno zavrnil obdelavo podatkov iz prvega odstavka tega člena ali ni izdal soglasja za njihovo obdelavo.
(6) Določbe prvega do četrtega
[131] **220. člen**

provide the police with the information necessary to determine the last location of the mobile communication equipment or several last locations of the equipment, if this is technically possible, based on their written request, if this is necessary in view of the circumstances of the specific case., if:
1. there is a reasonable probability that the life or body of a person who has or is believed to have had mobile communication equipment with him is in direct danger and the acquisition of this data is necessary to prevent the death or serious physical injury of this person,

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(posredovanje prometnih in lokacijskih podatkov v primerih varovanja življenja in telesa)
(1) Operater mora zaradi varstva posameznikovih življenjskih interesov policiji na podlagi njene pisne zahteve, če je to glede na okoliščine konkretnega primera nujno, posredovati podatke, potrebne za ugotovitev zadnje lokacije opreme za mobilno komunikacijo oziroma več zadnjih lokacij opreme, če je to tehnično mogoče, če:
1. obstaja utemeljena verjetnost, da je neposredno ogroženo življenje ali telo osebe, ki ima ali se domneva, da je imela pri sebi opremo za mobilno komunikacijo in je pridobitev teh podatkov nujna, da se prepreči smrt ali hujša telesna poškodba te osebe,
2. je pridobitev podatkov potrebna zato, da se najde oseba, ki ji je poslovna sposobnost odvzeta ali omejena oziroma ima ugotovljene zdravstvene težave, ki kažejo na nevarnost za njeno življenje ali telo, in ki je bila prijavljena kot pogrešana ter ima ali se domneva, da je imela pri sebi opremo za mobilno komunikacijo, ali
3. je pridobitev podatkov potrebna zato, da se najde otrok, ki so ga starši ali zakoniti zastopniki prijavili kot pogrešanega in ima ali se domneva, da je imel pri sebi opremo za mobilno komunikacijo.
(2) Obrazloženo zahtevo za posredovanje podatkov, potrebnih za ugotovitev zadnje lokacije opreme za mobilno komunikacijo, policija pošlje operaterju pisno. Zahteva mora biti podpisana lastnoročno ali elektronsko s kvalificiranim elektronskim podpisom. Izjemoma se po elektronski poti lahko pošlje tudi sken lastnoročno podpisanega dokumenta, če je to glede na okoliščine zadeve nujno.
(3) Podatki, potrebni za ugotovitev zadnje lokacije opreme za posameznikovo mobilno komunikacijo, so podatki o lokacijski oznaki (ID celice) na začetku komunikacije in podatki, ki določajo zemljepisno lego celic z navedbo njihovih lokacijskih oznak (ID celice) med obdobjem, za katero se hranijo, podatki o komunikaciji ter drugi podatki, ki jih v zbirkah osebnih in drugih podatkov obdeluje operater in lahko omogočajo natančnejšo ugotovitev zadnje lokacije opreme za posameznikovo mobilno komunikacijo.
(4) Policija vso dokumentacijo in ugotovitve, ki so podlaga za podajo zahteve, in samo zahtevo iz prvega odstavka tega člena hrani na način in pod pogoji iz prvega odstavka 221. člena tega zakona ter zagotavlja neizbrisno registracijo izvedenih ukrepov in posegov v skladu z drugim odstavkom 221. člena tega zakona.
(5) Operater podatke, poslane na podlagi zahteve iz prvega odstavka tega člena, hrani na način in pod pogoji iz prvega odstavka 221. člena tega zakona ter zagotavlja neizbrisno registracijo izvedenih ukrepov in posegov v skladu z drugim odstavkom 221. člena tega zakona.
(6) Minister, pristojen za notranje zadeve, po predhodnem mnenju Informacijskega pooblaščenca podrobneje predpiše način posredovanja zahteve, obdelave posredovanih podatkov, notranjega nadzora glede načina oziroma tehničnih vprašanj obdelave osebnih podatkov ter tehnične značilnosti informacijskega sistema za izvajanje nalog iz prvega odstavka tega člena.
(7) Na podlagi prejete zahteve iz prvega odstavka tega člena mora operater zahtevane podatke poslati vlagatelju zahteve v najkrajšem možnem času oziroma takoj, ko je to tehnično mogoče. Operater nosi breme dokazovanja tehnične nezmožnosti.
(8) Policija mora osebo, za katero je zahtevala in pridobila podatke o lokaciji v skladu s tem členom, o tem takoj, ko je to mogoče, pisno seznaniti, razen če bi to škodovalo interesom samega posameznika ali interesom drugih, njemu bližnjih posameznikov v primerih iz prvega odstavka tega člena, dokler traja takšno stanje, vendar ne več kot eno leto.
(9) Policija ne sme posredovati pridobljenih podatkov po tem členu prijaviteljem pogrešanih oseb in otrok iz 2. ali 3. točke prvega odstavka tega člena, če bi bila s posredovanjem teh podatkov ogrožena osebna varnost ali dostojanstvo oseb ali otrok, zlasti ob upoštevanju predpisov, ki urejajo zaščito prič, prepoved približevanja ali preprečevanje nasilja v družini.
(10) Inšpekcijski nadzor nad obdelavo podatkov iz prvega odstavka tega člena opravlja Informacijski pooblaščenec najmanj enkrat letno.

2. he acquisition of data is necessary in order to find a person whose business capacity has been revoked or limited, or who has established health problems that indicate a danger to his life or body, and who has been reported as missing and who has or is presumed to have, that she had mobile communication equipment with her, or
3. the acquisition of data is necessary in order to find a child who has been reported as missing by parents or legal representatives and who has or is believed to have had mobile communication equipment with him.
(2) The police shall send the operator a written request for the provision of data necessary to determine the last location of the mobile communication equipment. The request must be signed by hand or electronically with a qualified electronic signature. Exceptionally, a scan of a hand-signed document can also be sent electronically, if this is necessary given the circumstances of the case.
(3) The data required to determine the last location of an individual's mobile communication equipment are data on the location tag (cell ID) at the beginning of the communication and data that determine the geographical location of the cells by indicating their location tags (cell ID) during the period for which are stored, communication data and other data that are processed by the operator in the personal and other data collections and can enable a more accurate determination of the last location of the individual's mobile communication equipment.
(4) The police shall keep all the documentation and findings that are the basis for submitting the request, as well as the request referred to in the first paragraph of this article, in the manner and under the conditions referred to in the first paragraph of Article 221 of this Act, and ensure an indelible registration of the measures and interventions carried out in accordance with the Article 221 para 2 of this Act.
(5) The operator stores the data sent on the basis of the request from the first paragraph of this article in the manner and under the conditions from the first paragraph of Article 221 of this Act and ensures an indelible registration of the measures and interventions carried out in accordance with the second paragraph of Article 221 of this Act.
(6) The minister responsible for internal affairs, based on the preliminary opinion of the Information Commissioner, prescribes in more detail the method of forwarding the request, the processing of the forwarded data, internal control regarding the method or technical issues of personal data processing, and the technical characteristics of the information system for the implementation of the tasks referred to in the first paragraph of this article.
(7) On the basis of the received request from the first paragraph of this article, the operator must send the requested data to the requester in the shortest possible time, or as soon as this is technically possible. The operator bears the burden of proving technical incapacity.
(8) The police must inform the person for whom they requested and obtained location information in accordance with this article in writing as soon as possible, unless this

would harm the interests of the individual himself or the interests of other individuals close to him in cases from the first paragraph of this article, as long as such a situation lasts, but not more than one year.
(9) The police may not pass on the information obtained under this article to the applicants of missing persons and children referred to in point 2 or 3 of the first paragraph of this article, if the personal safety or dignity of persons or children would be endangered by passing on this information, especially taking into account the regulations, which regulate witness protection, restraining orders or prevention of domestic violence.
(10) Inspection control over the processing of data referred to in the first paragraph of this article is carried out by the Information Commissioner at least once a year.

dd. Para 1(d) Freezing instrumentalities or proceeds of crime, including assets

See Chapter VII of the **Criminal Code** (KZ-1) on confiscation of pecuniary benefit obtained through a criminal act and **Confiscation of Assets of Illicit Origin Act** (Articles 20 et seq. and Articles 35 et seq. and Chapter VIII on the international cooperation) **25**

ee. Para 1(e) Interception of electronic communications to and from the suspect or accused person

Overview Box: **26**

SI=Art. 150, 150a150b, 151 Zakon o kazenskem postopku, the Slovenian CPA;

Authorizations by competent body:

Art. 152 CPA: "(1) The measures referred to in Articles 150, 150a, 150b and 151 of this Act shall be ordered by a written order of the investigating judge upon a written proposal of the state prosecutor. The proposal and the order must contain: […]."

Article 149a CPA allows **secret surveillance measures:** **27**

Article 149a[132] (1) If there are reasonable grounds for suspecting that a certain person has committed, is committing or is preparing or organizing the commission of any of **28**

[132] **149.a člen ZKP**
(1) Če obstajajo utemeljeni razlogi za sum, da je določena oseba izvršila, izvršuje ali pripravlja oziroma organizira izvršitev katerega izmed kaznivih dejanj, navedenih v četrtem odstavku tega člena, pri tem pa je mogoče utemeljeno sklepati, da policisti z drugimi ukrepi tega dejanja ne morejo odkriti, preprečiti ali dokazati oziroma bi bilo to povezano z nesorazmernimi težavami, se lahko zoper to osebo odredi tajno opazovanje.
(2) Izjemoma se lahko tajno opazovanje odredi tudi zoper osebo, ki ni osumljenec, če je mogoče utemeljeno sklepati, da bi opazovanje te osebe privedlo do identifikacije osumljenca iz prejšnjega odstavka, katerega osebni podatki niso znani, do prebivališča ali lokacije, kjer se nahaja osumljenec iz prejšnjega odstavka, oziroma do prebivališča ali lokacije, kjer se nahaja oseba, zoper katero je bil odrejen pripor, hišni pripor, tiralica ali odredba za privedbo, pa je pobegnila ali se skriva, in policisti z drugimi ukrepi teh podatkov ne morejo pridobiti oziroma bi bilo to povezano z nesorazmernimi težavami.
(3) Tajno opazovanje se izvaja z neprekinjenim ali ponavljajočim opazovanjem ali sledenjem z uporabo tehničnih naprav za ugotavljanje položaja in gibanja ter tehničnih naprav za prenos in snemanje glasu, fotografiranjem ter

the criminal acts listed in the fourth paragraph of this article, and it is possible to reasonably conclude that the police officers will not can detect, prevent or prove, or if this would be associated with disproportionate difficulties, secret surveillance may be ordered against that person.

(2) Exceptionally, secret surveillance may also be ordered against a person who is not a suspect, if it can be reasonably concluded that the surveillance of this person would lead to the identification of the suspect from the previous paragraph, whose personal information is unknown, to the place of residence or the location where he is located the suspect from the previous paragraph, or to the place of residence or the location where the person against whom detention, house arrest, a search warrant or an arrest warrant has been ordered, has fled or is hiding, and the police officers cannot obtain this information through other measures, or it would be associated with disproportionate difficulties.

(3) Covert surveillance is carried out through continuous or repeated observation or tracking using technical devices for determining position and movement and technical devices for transmitting and recording voice, photography and video recording, and is focused on monitoring the position, movement and activities of a person from previous paragraphs. Secret observation may be carried out in public and publicly accessible open and closed spaces, as well as places and spaces that are visible from a publicly accessible place or space. Under the conditions set out in this article, secret surveillance may also be carried out in private premises, if the owner of the premises agrees.

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video-snemanjem, in je osredotočeno na spremljanje položaja, gibanja ter aktivnosti osebe iz prejšnjih odstavkov. Tajno opazovanje se sme izvajati na javnih ter javno dostopnih odprtih in zaprtih prostorih ter krajih in prostorih, ki so vidni z javno dostopnega kraja oziroma prostora. Pod pogoji iz tega člena se sme tajno opazovanje izvajati tudi v zasebnih prostorih, če v to privoli imetnik prostora.

(4) Kazniva dejanja, v zvezi s katerimi se lahko odredi ukrep tajnega opazovanja, so:

1) kazniva dejanja, za katera je v zakonu predpisana kazen zapora petih ali več let;

2) kazniva dejanja iz 2. točke drugega odstavka 150. člena tega zakona in kazniva dejanja protipravnega odvzema prostosti po 133. členu, zalezovanja po 134.a členu, grožnje po 135. členu, zlorabe osebnih podatkov po tretjem, četrtem, petem in šestem odstavku 143. člena, zaposlovanja na črno po drugem in tretjem odstavku 199. člena, goljufije po prvem, tretjem in četrtem odstavku 211. člena, prikrivanja po prvem, drugem in tretjem odstavku 217. člena, goljufije na škodo Evropske unije po 229. členu, napada na informacijski sistem po drugem, tretjem in četrtem odstavku 221. člena, ponareditve ali uničenja poslovnih listin po 235. členu, izdaje in neupravičene pridobitve poslovne tajnosti po prvem, drugem in tretjem odstavku 236. člena, zlorabe informacijskega sistema po 237. členu, zlorabe položaja ali zaupanja pri gospodarski dejavnosti po 240. členu, ponarejanja listin po 251. členu, posebnega primera ponarejanja listin po 252. členu, zlorabe uradnega položaja ali uradnih pravic po 257. členu, izdaje tajnih podatkov po 260. členu, javnega spodbujanja sovraštva, nasilja in nestrpnosti po 297. členu, prepovedanega prehajanja meje ali ozemlja države po 308. členu, onesnaženja pitne vode po prvem, tretjem, četrtem in šestem odstavku 336. člena, onesnaženja živil ali krme po prvem, tretjem, četrtem in šestem odstavku 337. člena ter mučenja živali po drugem, tretjem in četrtem odstavku 341. člena Kazenskega zakonika;

3) kaznivo dejanje pomoči storilcu po storitvi kaznivega dejanja po 282. členu Kazenskega zakonika, in sicer tudi zoper osebe iz četrtega odstavka 282. člena Kazenskega zakonika – za kazniva dejanja, ki so navedena v tem odstavku.

(5) Ukrep tajnega opazovanja s pisno odredbo dovoli državni tožilec na pisni predlog policije, razen v primerih iz šestega odstavka tega člena, ko je potrebna odredba preiskovalnega sodnika.

(4) Criminal acts in connection with which a secret surveillance measure may be ordered are:

1) criminal acts for which the law prescribes a prison sentence of five or more years;

2) criminal acts from point 2 of the second paragraph of Article 150 of this Act and crimes of unlawful deprivation of liberty under Article 133, stalking under Article 134a, threats under Article 135, misuse of personal data under the third, fourth, fifth and sixth paragraphs of Article 143, illegal employment according to the second and third paragraphs of Article 199, fraud according to the first, third and fourth paragraphs of Article 211, concealment according to the first, second and third paragraphs of Article 217, fraud to the detriment of the European Union according to Article 229, attacks to the information system according to the second, third and fourth paragraphs of Article 221, forgery or destruction of business documents according to Article 235, issuance and unjustified acquisition of business secrets according to the first, second and third paragraphs of Article 236, misuse of the information system according to Article 237, abuse position or trust in economic activity according to Article 240,falsification of documents under Article 251, special case of falsification of documents under Article 252, abuse of official position or official rights under Article 257, release of classified information under Article 260, public incitement of hatred, violence and intolerance under Article 297, prohibited border crossing or the territory of the country according to Article 308, pollution of drinking water according to the first, third, fourth and sixth paragraphs of Article 336, contamination of food or feed according to the first, third, fourth and sixth paragraphs of Article 337 and animal cruelty according to the second, third and fourth paragraphs Article 341 of the Criminal Code;

3) the criminal act of assisting the perpetrator after the commission of a criminal act according to Article 282 of the Criminal Code, namely also against persons from the fourth paragraph of Article 282 of the Criminal Code – for criminal acts listed in this paragraph.

(5) The measure of secret observation is permitted by a written order by the state prosecutor upon a written proposal of the police, except in the cases referred to in the sixth paragraph of this article, when an order of the investigating judge is required.

(6)[133] The measure of secret observation shall be ordered by a written order by the investigating judge at the written proposal of the state prosecutor in the following cases:

[133] (6) Ukrep tajnega opazovanja s pisno odredbo odredi preiskovalni sodnik na pisni predlog državnega tožilca v naslednjih primerih:
1) če se pri izvajanju ukrepa predvideva uporaba tehničnih naprav za prenos in snemanje glasu, pri čemer je ta ukrep dopustno odrediti zgolj za kazniva dejanja iz drugega odstavka 150. člena tega zakona;

1) if the implementation of the measure envisages the use of technical devices for the transmission and recording of voice, whereby this measure may be ordered only for criminal acts from the second paragraph of Article 150 of this Act;

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2) če izvedba ukrepa zahteva namestitev tehničnih naprav za ugotavljanje položaja in gibanja osumljenca s tajnim vstopom v vozilo ali drug zavarovan oziroma zaprt prostor ali predmet;
3) za uporabo ukrepa v zasebnih prostorih, če v to privoli imetnik prostora;
4) za izvajanje ukrepa zoper osebo, ki ni osumljenec (drugi odstavek tega člena).
(7) Predlog in odredba, ki postaneta sestavni del kazenskega spisa, morata vsebovati:
1) podatke, ki omogočajo določljivost osebe, zoper katero se predlaga oziroma odreja ukrep;
2) utemeljitev oziroma ugotovitev utemeljenih razlogov za sum;
3) v primeru iz drugega odstavka tega člena podatke, ki omogočajo določljivost osumljenca iz prvega odstavka tega člena, ter utemeljitev verjetnosti, da bi izvajanje ukrepa privedlo do identifikacije osumljenca, lokacije, kjer se nahaja, oziroma njegovega prebivališča;
4) v primeru izvajanja ukrepa v zasebnih prostorih, če v to privoli imetnik prostora, pisno soglasje imetnika prostora;
5) način izvajanja ukrepa, njegov obseg in trajanje ter ostale pomembne okoliščine, ki narekujejo uporabo ukrepa;
6) utemeljitev oziroma ugotovitev neogibne potrebnosti uporabe ukrepa v razmerju do zbiranja dokazov na drug način.
(8) Izjemoma, če pisne odredbe ni mogoče pravočasno pridobiti in če obstaja nevarnost odlašanja, lahko v primeru iz petega odstavka tega člena na ustni predlog policije državni tožilec, v primeru iz šestega odstavka tega člena pa na ustni predlog državnega tožilca preiskovalni sodnik, dovoli začetek izvajanja ukrepa z ustno odredbo. O ustnem predlogu napravi organ, ki je izdal ustno odredbo, uradni zaznamek. Pisna odredba, ki mora vsebovati utemeljitev razloga za predčasno izvrševanje, mora biti izdana najkasneje v dvanajstih urah po izdaji ustne odredbe. Za predčasno izvrševanje mora obstajati utemeljen razlog, v nasprotnem primeru sodišče ne glede na siceršnjo upravičenost uporabe ukrepov vselej postopa po četrtem odstavku 154. člena tega zakona.
(9) Če pride oseba, zoper katero se ukrep izvaja, v stik z drugo neidentificirano osebo, za katero obstajajo utemeljeni razlogi za sum, da je vpletena v kriminalno dejavnost v zvezi s kaznivimi dejanji, zaradi katerih se izvaja ukrep, lahko policija to osebo tajno opazuje tudi brez odredbe iz petega ali šestega odstavka tega člena, če je to nujno potrebno za ugotovitev identitete te osebe ali pridobitev drugih podatkov, pomembnih za kazenski postopek. Policija mora za tako opazovanje pridobiti predhodno ustno dovoljenje državnega tožilca, razen, če tega ni mogoče pravočasno pridobiti in če obstaja nevarnost odlašanja. V tem primeru policija takoj, ko je mogoče in najpozneje v šestih urah od začetka izvajanja ukrepa, obvesti državnega tožilca, ki lahko prepove nadaljnje izvajanje ukrepa, če meni, da zanj ni utemeljenih razlogov. Ta ukrep sme trajati največ dvanajst ur od stika z osebo, zoper katero se ukrep izvaja. Policija pri izvajanju ukrepa iz tega odstavka ne sme uporabljati tehničnih naprav in sredstev iz 1. in 2. točke šestega odstavka tega člena, niti izvajati ukrepa v zasebnih prostorih. Policija takoj po prenehanju takšnega opazovanja napravi uradni zaznamek, ki ga brez odlašanja pošlje državnemu tožilcu, ki je izdal dovoljenje iz tega odstavka, in organu, ki je izdal prvotno odredbo za tajno opazovanje. Uradni zaznamek postane del kazenskega spisa.
(10) Izvajanje ukrepa lahko traja največ dva meseca, iz tehtnih razlogov pa se lahko njegovo trajanje s pisno odredbo podaljša vsakič za dva meseca. Skupno lahko ukrep traja:
1) v primeru iz šestega odstavka tega člena največ šest mesecev;
2) v primerih iz petega odstavka tega člena največ štiriindvajset mesecev, če gre za kazniva dejanja iz četrtega odstavka tega člena; in največ šestintrideset mesecev, če gre za kazniva dejanja iz drugega odstavka 151. člena tega zakona.
(11) Policija preneha z izvajanjem ukrepa takoj, ko prenehajo razlogi, zaradi katerih je bil odrejen. O prenehanju brez odlašanja pisno obvesti organ, ki je ukrep odredil. Policija pošilja organu, ki je ukrep odredil, mesečna poročila o poteku izvajanja ukrepa in pridobljenih podatkih. Organ, ki je ukrep odredil, lahko v vsakem trenutku na podlagi tega poročila ali po uradni dolžnosti, če oceni, da ni več razlogov za uporabo ukrepa, ali da se ta izvaja v nasprotju z njegovo odredbo, s pisno odredbo odredi, da se izvajanje ukrepa ustavi.
(12) Če se ukrep zoper isto osebo izvaja več kot šest mesecev, zakonitost in utemeljenost izvajanja ukrepa ob prvem podaljšanju nad šest mesecev, in nato vsakih nadaljnjih šest mesecev, preveri senat (šesti odstavek 25. člena). Organ, ki je izdal odredbo za podaljšanje, senatu pošlje celotno gradivo, ta pa odloči v roku treh dni. Če senat oceni, da ni razlogov za izvajanje ukrepa ali da niso izpolnjeni vsi zakonski pogoji, izda sklep, s katerim odredi prenehanje uporabe ukrepa. Zoper ta sklep ni pritožbe.
(13) Tajno opazovanje mora policija izvrševati na način, na katerega se v najmanjši možni meri posega v pravice oseb, ki niso osumljenci.

2) if the implementation of the measure requires the installation of technical devices to determine the position and movement of the suspect by secretly entering a vehicle or other secured or closed space or object;

3) for the use of the measure in private premises, if the owner of the premises agrees;

4) to implement a measure against a person who is not a suspect (second paragraph of this article).

(7) The proposal and order, which become an integral part of the criminal file, must contain:

1) data that enable identification of the person against whom the measure is proposed or ordered;

2) substantiation or determination of reasonable grounds for suspicion;

3) in the case referred to in the second paragraph of this article, data that enable the identification of the suspect referred to in the first paragraph of this article, as well as justification of the probability that the implementation of the measure would lead to the identification of the suspect, his location, or his residence;

4) in case of implementation of the measure in private premises, if the owner of the premises agrees to this, written consent of the owner of the premises;

5) the method of implementation of the measure, its scope and duration and other important circumstances that dictate the use of the measure;

6) justification or determination of the inevitable necessity of using the measure in relation to the collection of evidence in another way.

(8) Exceptionally, if a written order cannot be obtained in time and if there is a risk of delay, in the case referred to in the fifth paragraph of this article, the state prosecutor may, on the oral proposal of the police, and in the case referred to in the sixth paragraph of this article, the investigating judge may, on the oral proposal of the state prosecutor, allow initiation of the implementation of the measure by verbal order. The authority that issued the oral order makes an official note on the oral proposal. The written order, which must contain the justification of the reason for early execution, must be issued no later than twelve hours after the oral order is issued. There must be a valid reason for early enforcement, otherwise the court will always proceed according to the fourth paragraph of Article 154 of this Act, regardless of the other justification for the use of measures.

(9) If the person against whom the measure is being implemented comes into contact with another unidentified person for whom there are reasonable grounds to suspect that

he is involved in criminal activity in connection with the criminal acts for which the measure is being implemented, the police may observes secretly even without an order from the fifth or sixth paragraph of this article, if this is absolutely necessary to establish the identity of this person or to obtain other information relevant to criminal proceedings. The police must obtain prior verbal permission from the state prosecutor for such observation, unless it cannot be obtained in time and there is a risk of delay. In this case, the police, as soon as possible and at the latest within six hours of the start of the measure, informs the state prosecutor, who can prohibit the further implementation of the measure if he considers that there are no valid reasons for it. This measure may last a maximum of twelve hours from the contact with the person against whom the measure is being implemented. When carrying out the measure referred to in this paragraph, the police may not use the technical devices and means referred to in points 1 and 2 of the sixth paragraph of this article, nor may they carry out the measure in private premises. Immediately after the termination of such observation, the police shall make an official note, which shall be sent without delay to the state prosecutor who issued the permit referred to in this paragraph and to the authority that issued the original order for secret observation. The official note becomes part of the criminal record. Immediately after the termination of such observation, the police shall make an official note, which shall be sent without delay to the state prosecutor who issued the permit referred to in this paragraph and to the authority that issued the original order for secret observation. The official note becomes part of the criminal record. Immediately after the termination of such observation, the police shall make an official note, which shall be sent without delay to the state prosecutor who issued the permit referred to in this paragraph and to the authority that issued the original order for secret observation. The official note becomes part of the criminal record.

(10) The implementation of the measure may last a maximum of two months, but for valid reasons, its duration may be extended by two months each time by a written order. In total, the measure may last:

1) in the case referred to in the sixth paragraph of this article, a maximum of six months;

2) in the cases referred to in the fifth paragraph of this article, a maximum of twenty-four months, if it is a criminal act referred to in the fourth paragraph of this article; and a maximum of thirty-six months in the case of criminal acts referred to in the second paragraph of Article 151 of this Act.

(11) The police shall stop the implementation of the measure as soon as the reasons for which it was ordered cease. The authority that ordered the measure shall be notified in writing of the termination without delay. The police send the authority that ordered the measure monthly reports on the course of implementation of the measure and the data obtained. The authority that ordered the measure may at any time, on the basis of this

report or ex officio, if it assesses that there are no longer any reasons for the use of the measure, or that it is being implemented contrary to its order, by written order order that the implementation action stops.

(12) If the measure against the same person is implemented for more than six months, the legality and justification of the implementation of the measure upon the first extension beyond six months, and then every subsequent six months, shall be checked by the senate (paragraph six of Article 25). The body that issued the extension order sends all the material to the senate, which decides within three days. If the Senate assesses that there are no reasons for the implementation of the measure or that not all legal conditions are met, it issues a resolution ordering the termination of the measure. There is no appeal against this decision.

(13) Secret surveillance must be carried out by the police in a way that interferes as little as possible with the rights of persons who are not suspects.

The rules that are related to this provision are enshrined in Article 154 CPA: **29**

Article 154[134] (1) Data, messages, recordings or evidence obtained using measures from 149a, 149b, 149c, 150, 150a, 150b, 151, 155 and 155a of this article of the Act, is kept **30**

[134] **154. člen ZKP**
(1) Podatke, sporočila, posnetke ali dokazila, pridobljene z uporabo ukrepov iz 149.a, 149.b, 149.c, 150., 150.a, 150.b, 151., 155. in 155.a člena tega zakona, hrani sodišče zaradi uspešne izvedbe kazenskega postopka in zavarovanja pravice osumljenca oziroma obdolženca do obrambe, dokler se hrani kazenski spis, oziroma do uničenja po drugem odstavku tega člena.
(2) Če državni tožilec izjavi, da ne bo začel kazenskega pregona zoper osumljenca ali če v roku dveh let po koncu izvajanja zadnjega od ukrepov iz 149.a, prvega odstavka 149.b., 149.c, 150., 150.a., 150.b., 151., 155. in 155.a člena tega zakona ne vloži obtožnega akta niti ne predlaga, odredi ali izvede nobene aktivnosti, ukrepa oziroma preiskovalnega dejanja usmerjenega v pregon zoper osumljenca, se gradivo iz prejšnjega odstavka pod nadzorstvom preiskovalnega sodnika uniči. Če državni tožilec v roku dveh let stori kar koli iz prejšnjega stavka, kar je usmerjeno v pregon zoper osumljenca, se gradivo ne uniči, rok pa preneha teči. O uničenju napravi preiskovalni sodnik uradni zaznamek. Pred uničenjem preiskovalni sodnik o uporabi teh ukrepov obvesti oškodovanca. Če oškodovanec v skladu s 60. členom tega zakona prevzame pregon, se gradivo iz prejšnjega odstavka ne uniči. Pred uničenjem obvesti preiskovalni sodnik o uporabi teh ukrepov osumljenca, oziroma v primerih iz drugega ali devetega odstavka 149.a člena tega zakona, osebo, zoper katero se je ukrep izvajal, ki ima pravico seznaniti se s pridobljenim gradivom, v primerih večjega obsega tega gradiva pa s poročilom iz prvega odstavka 153. člena tega zakona. V primeru, ko so bili uporabljeni ukrepi iz drugega ali devetega odstavka 149.a člena tega zakona, in državni tožilec proti osumljencu začne kazenski pregon, preiskovalni sodnik najpozneje do vložitve obtožnice oziroma takoj po tem, ko je bila oseba, zaradi katere se je ukrep izvajal, prijeta, obvesti o uporabi teh ukrepov osebo, zoper katero so se ukrepi izvajali, ki ima pravico seznaniti se s pridobljenim gradivom. Če je mogoče utemeljeno sklepati, da bo zaradi seznanitve z gradivom nastala nevarnost za življenje in zdravje ljudi ali iz drugih tehtnih razlogov, lahko preiskovalni sodnik na predlog državnega tožilca ali po uradni dolžnosti odloči, da osumljenca, oziroma v primerih iz drugega ali devetega odstavka 149.a člena tega zakona, osebo, zoper katero se je ukrep izvajal, z delom vsebine ali s celotno vsebino pridobljenega gradiva ne bo seznanil. V primeru iz petega odstavka tega člena se osumljenca seznani z zapisnikom oziroma uradnim zaznamkom o uničenju podatkov.
(3) Ne smejo se uporabiti kot dokaz podatki, sporočila, posnetki ali druga dokazila, če so bili pridobljeni z izvajanjem katerega od ukrepov po 149.a, 149.b, 149.c, 150., 150.a, 150.b, 151., 155., 155.a in 156. členu tega zakona, in se ne nanašajo na katero izmed kaznivih dejanj, za katere je posamičen ukrep mogoče odrediti.

by the court for the purpose of the successful execution of criminal proceedings and the protection of the right of the suspect or the accused to defend himself, as long as the criminal file is kept, or until it is destroyed according to the second paragraph of this article.

(2) If the state prosecutor declares that he will not initiate criminal prosecution against the suspect or if within two years after the end of the implementation of the last of the measures from 149a para 1, 149b, 149c, 150, 150a, 150.b, 151, 155 and 155a of Articles of this Act does not file an indictment nor does it propose, order or carry out any activity, measure or investigative action aimed at prosecuting the suspect, the material from the previous paragraph shall be destroyed under the supervision of the investigating judge. If the state prosecutor does anything from the previous sentence within the two-year period, which is aimed at prosecuting the suspect, the material is not destroyed, and the deadline ceases to run. The investigating judge makes an official note on the destruction. Before the destruction, the investigating judge informs the injured party about the application of these measures. If the injured party takes over the prosecution in accordance with Article 60 of this Act, the material from the previous paragraph is not destroyed. Before the destruction, the investigating judge shall inform the suspect of the application of these measures, or in the cases referred to in the second or ninth paragraph of Article 149.a of this Act, the person against whom the measure was carried out, who has the right to familiarize himself with the obtained material, in cases of a larger volume of this material and with the report from the first paragraph of Article 153 of this Act. In the event that the measures from the second or ninth paragraph of Article 149.a of this law have been used, and the state prosecutor initiates criminal prosecution against the

(4) Če so bili ukrepi iz 149.a, 149.b, 149.c, 150., 150.a, 150.b, 151., 155., 155.a in 156. člena tega zakona izvršeni brez odredbe državnega tožilca (peti in deveti odstavek 149.a člena, prvi odstavek 155. člena, tretji odstavek 155.a člena) oziroma brez odredbe preiskovalnega sodnika (šesti odstavek 149.a člena, prvi in tretji odstavek 149.b člena, prvi odstavek 149.c člena, 150.a, 150.b in 153. člen, četrti odstavek 155.a člena, prvi odstavek 156. člena) ali senata (drugi odstavek 156.a člena) ali v nasprotju z njo ali če daljšega izvajanja ukrepov ni preveril senat (dvanajsti odstavek 149.a člena), sodišče ne sme opreti svoje odločbe na tako dobljene podatke, sporočila, posnetke ali dokazila.
(5) Določbe 237. člena tega zakona se smiselno uporabljajo tudi za podatke, posnetke, sporočila in dokazila, pridobljena z uporabo ukrepov iz 150., 151. in 155.a člena tega zakona. Če policija pri izvrševanju ukrepov iz 150., 151. in 155.a tega člena tega zakona spozna, da pridobljeni podatki, posnetki, sporočila ali dokazila vsebujejo podatke iz prvega odstavka 222.a člena tega zakona, mora z njimi brez nepotrebnega odlašanja seznaniti državnega tožilca in izvenobravnavnega sodnika. Izvenobravnavni sodnik lahko po zaslišanju državnega tožilca in ob smiselni uporabi določb tretjega in četrtega odstavka 222.a člena tega zakona odloči, da se ti podatki in vsi njihovi prepisi uničijo, če je to nujno zaradi zagotovitve varstva tajnosti ali zaupnosti pridobljenih podatkov. O naroku izvenobravnavni sodnik sestavi poseben zapisnik. Podatki se uničijo pod nadzorstvom izvenobravnavnega sodnika, ki o tem napravi uradni zaznamek.
(6) Če so ukrepi iz 149.a, 150., 150.a, 150.b, 151., 155. in 155.a člena tega zakona uporabljeni v zadevi, ki je predmet preiskave, kazenskega pregona ali sodnega postopka v eni ali več državah, morajo biti izvedeni v skladu z obstoječimi dvostranskimi ali večstranskimi sporazumi ali pogodbami oziroma s sporazumom iz 160.b člena tega zakona, če teh ni, pa se dogovori sklenejo za vsak posamezen primer posebej ob popolnem spoštovanju suverenosti in notranje zakonodaje pogodbenice, na katere ozemlju bo potekala takšna preiskava. **(delno se preneha uporabljati)**

suspect, the investigating judge shall, at the latest before the indictment is filed, or immediately after the person for whom the measure was taken implemented, apprehended, informs about the use of these measures the person against whom the measures were implemented, who has the right to familiarize himself with the obtained material. If it can reasonably be inferred, that familiarization with the material will result in a danger to people's life and health or for other valid reasons, the investigating judge may, at the proposal of the state prosecutor or ex officio, decide that the suspect, or in the cases referred to in the second or ninth paragraph of Article 149.a of this Act, will not inform the person against whom the measure was implemented of part of the content or the entire content of the obtained material. In the case referred to in the fifth paragraph of this article, the suspect is informed of the minutes or the official note on the destruction of data.

(3) Data, messages, recordings or other evidence may not be used as evidence if they were obtained by implementing any of the measures under 149.a, 149.b, 149.c, 150., 150.a, 150.b, Article 151, 155, 155a and 156 of this law, and do not refer to any of the criminal acts for which an individual measure can be ordered.

(4) If the measures from Articles 149.a, 149.b, 149.c, 150., 150.a, 150.b, 151., 155., 155.a and 156 of this Act were carried out without an order of the state of the prosecutor (Article 149.a paras 5 and 9, Article 155.1 para 3, Article 155.a) or without the order of the investigating judge (Article 149.a para 6, Article 149.b paras 1 and 3, Article 149.1 para 1) c of Article 150.a, 150.b and Article 153, the fourth paragraph of Article 155.a, the first paragraph of Article 156) or the Senate (the second paragraph of Article 156.a) or contrary to it or if he did not check the longer implementation of the measures senate (twelfth paragraph of Article 149a), the court may not base its decision on information, messages, recordings or evidence obtained in this way.

(5) The provisions of Article 237 of this Act shall also apply mutatis mutandis to data, recordings, messages and evidence obtained by the use of measures from Articles 150, 151 and 155a of this Act. If the police, when carrying out the measures referred to in Article 150, 151 and 155a of this Act, realize that the obtained data, recordings, messages or evidence contain information from the first paragraph of Article 222a of this Act, they must inform the State prosecutor and extrajudicial judge. After questioning the state prosecutor and with a meaningful application of the provisions of the third and fourth paragraphs of Article 222.a of this law, the non-trial judge may decide to destroy these data and all their transcripts, if this is necessary to ensure the protection of secrecy or confidentiality of the obtained data. The out-of-hearing judge draws up a special record of the hearing. The data is destroyed under the supervision of an extrajudicial judge, who makes an official note about it.

(6) If the measures from Articles 149.a, 150., 150.a, 150.b, 151., 155 and 155.a of this Act are used in a case that is the subject of investigation, criminal prosecution or court proceedings in one or several countries, must be carried out in accordance with existing bilateral or multilateral agreements or contracts, or with the agreement referred to in Article 160b of this law, and if there are none, agreements are concluded for each individual case in full respect of the sovereignty and internal legislation of the contracting party, in which territory such an investigation will take place.

ff. Para 1(f) Tracking & Tracing an Object

31 Article 155a CPA allows covert actions against a person, which involves tracking and tracing a person but not an object.

Besides that, Article 149.a CPA (secret surveillance) implies tracking the suspected person (and the person who is not suspected, if it can be reasonably concluded that the surveillance of this person would lead to the identification of the suspect). According to the paragraph 3 of Article 149.a, covert surveillance is carried out through continuous or repeated observation or tracking using technical devices. Secret surveillance may be carried out in public and publicly accessible open and closed spaces, as well as places and spaces that are visible from a publicly accessible place or space. Under the conditions set out in this article, secret surveillance may also be carried out in private premises, if the owner of the premises agrees.

32 Currently, there are no explicit provisions in the CPA/ZKP on tracking and tracing an object. Such provisions can be found in administrative and minor offence law. At the proposal of the current government, the Slovenian parliament recently passed an amendment to the Financial Administration Act, which introduced the possibility of installing electronic tracking devices on trucks carrying suspicious shipments. Until now, financial inspectors have been tracking vehicles transporting goods not with tracking devices, but by driving behind suspicious vehicles. In principle, this recently inserted covert measure does not refer to criminal acts, but to more serious tax offences, which are listed in Article 395 of the Tax Procedure Act and Article 141 of the Value Added Tax Act. Since the financial administration orders this secret measure independently, without a court order or subsequent judicial or other external control, the Human Rights Ombudsman submitted a request to the Constitutional Court to assess the compliance of the amendments with the Constitution.

c) Para 2: Specific restrictions in national law that apply with regard to certain categories of persons or professionals with an LLP obligation, Art. 29

Without prejudice to Article 29, the investigation measures set out in paragraph 1 of this Article may be subject to ***conditions in accordance with the applicable national law if the national law contains specific restrictions that apply with regard to certain categories of persons or professionals who are legally bound by an obligation of confidentiality.***

➔ Which are these conditions and restrictions in the national law? **33**

Provisions in the CPA **34**

Article 149c CPA[135] […] (4) The operator or information society service provider ***must not disclose to its user, client or third parties that it has or will provide certain data in accordance with this article***. This may not be disclosed for 24 months after the month in which the execution of the order was completed. By order, the investigating judge can set a different deadline, extend the deadline by a maximum of 12 months, but not more than twice, shorten the deadline, or remove the ban on familiarization. Irrespective of the provisions of this paragraph, in the case of for-warding data based on the consent of the legal user, the operator or information society service provider shall notify the legal user of the execution of the order within eight days of the data transfer.

Article 219.a paras 9 and 10 CPA[136] […] (9) If it is necessary to conduct an investigation of an electronic device that has been confiscated and the data on it secured and

[135] **149.c člen ZKP**
[…] (4) Operater oziroma ponudnik storitev informacijske družbe svojemu uporabniku, naročniku ali tretjim osebam ne sme razkriti, da je ali da bo v skladu s tem členom posredoval določene podatke. Tega ne sme razkriti 24 mesecev po preteku meseca, v katerem se je zaključilo izvrševanje odredbe. Preiskovalni sodnik lahko z odredbo določi drugačen rok, rok podaljša za največ 12 mesecev, vendar ne več kot dvakrat, rok skrajša ali prepoved seznanitve odpravi. Ne glede na določbe tega odstavka pa v primeru posredovanja podatkov na podlagi soglasja zakonitega uporabnika operater oziroma ponudnik storitve informacijske družbe v roku osem dni od posredovanja podatkov obvesti zakonitega uporabnika o izvršitvi odredbe. […]

[136] **219.a člen ZKP**
[…] (9) Če je treba opraviti preiskavo elektronske naprave, ki je bila zasežena in podatki na njej zavarovani ter zapečateni na podlagi sedmega odstavka 223.a člena tega zakona in ob smiselni uporabi petega odstavka 220. člena tega zakona, jo v prostorih sodišča oziroma v drugih prostorih, če je to potrebno zaradi uporabe tehničnih sredstev pri preiskavi, opravi izvedenec. Izvedenca s posebno odredbo postavi izvenobravnavni sodnik, če ga ni postavil že preiskovalni sodnik (sedmi odstavek 223.a člena). Z odredbo določi tudi morebitno uporabo drugih prostorov. Preiskava elektronske naprave se opravi ob smiselni uporabi drugega in tretjega odstavka 222. člena tega zakona.
(10) Na preiskavo iz prejšnjega odstavka izvenobravnavni sodnik povabi tudi zagovornika, če je bila elektronska naprava zasežena osumljencu ali obdolžencu, in zastopnika tistega, ki mu je bila elektronska naprava zasežena, če ga ima, predstavnika Odvetniške zbornice Slovenije pa, če je bila elektronska naprava zasežena odvetniku, odvetniškemu kandidatu ali odvetniškemu pripravniku. Navedene osebe lahko ugovarjajo, da so se pri preiskavi našli podatki iz prvega odstavka 222.a člena tega zakona. Ob tem sme izvenobravnavni sodnik odrediti, da je treba najdene podatke obravnavati kot posebej zaščitene podatke ter določiti druge potrebne ukrepe, kot so: prepoved prepisovanja podatkov, razen če je to neogibno zaradi izdelave izvida in mnenja, določitev načina obdelovanja

sealed on the basis of the seventh paragraph of Article 223.a of this Act and with the meaningful application of the fifth paragraph of Article 220 of this Act, it shall be conducted on the premises of the court or in other premises, if this is necessary due to the use of technical means in the investigation, is carried out by an expert. The expert is appointed by a special order of the extrajudicial judge, if he has not already been appointed by the investigating judge (paragraph seven of Article 223.a). The order also determines the possible use of other premises. The examination of the electronic device is carried out in accordance with the meaningful application of the second and third paragraphs of Article 222 of this Act.
(10) To the investigation referred to in the previous paragraph, the out-of-court judge also invites the defence counsel, if the electronic device was confiscated from the suspect or defendant, and the representative of the person from whom the electronic device was confiscated, if he has one, and the representative of the Bar Association of Slovenia, if it was electronic device seized from a lawyer, lawyer candidate or lawyer trainee. The aforementioned persons may object that the investigation found information from the first paragraph of Article 222.a of this Act. At the same time, the out-of-court judge may order that the data found must be treated as specially protected data and determine other necessary measures, such as: banning the copying of data, unless this is unavoidable due to the preparation of a report and opinion, determination of the method of data processing and others, including technical measures, which ensure the protection of secrecy or confidentiality of data and prevent excessive interference with the rights of persons who are not suspects or defendants. During the investigation, the provisions of this law on expertise are applied. The police may not participate in the investigation.

Article 220 CPA[137] […] (2) Any person who is in possession of such objects shall, at the request of the police, the state prosecutor or the court, surrender them. The request

podatkov in drugi, tudi tehnični ukrepi, s katerimi se zagotovi varstvo tajnosti ali zaupnosti podatkov ter prepreči prekomerno poseganje v pravice oseb, ki niso osumljenci ali obdolženci. Pri preiskavi se uporabljajo določbe tega zakona o izvedenstvu. Policija pri izvedbi preiskave ne sme sodelovati.

[137] **220. člen ZKP**
[...] (2) Kdor ima take predmete, jih mora na zahtevo policije, državnega tožilca ali sodišča izročiti. V zahtevi morajo biti predmeti določno ali določljivo opredeljeni. Če noče izročiti predmetov niti na zahtevo sodišča, se sme kaznovati z denarno kaznijo, določeno v prvem odstavku 78. člena tega zakona, če tega še vedno noče storiti, pa se sme zapreti. Zapor traja do izročitve predmetov ali do konca kazenskega postopka, vendar največ deset dni. Ne sme se kaznovati ali zapreti oseba, ki ima položaj osumljenca, obdolženca, oseba, ki v postopku ne sme biti zaslišana kot priča (235. člen), ali oseba, ki se v postopku lahko odreče pričevanju (236. člen).
(6) Sodna odredba, na podlagi katere se zasežejo predmeti ali spisi odvetniku, odvetniškemu kandidatu ali odvetniškemu pripravniku, mora vsebovati obrazložitev, iz katere je razvidno, da se ne nanaša na spise ali predmete iz 1. točke prvega odstavka 222.a člena tega zakona, in obrazložitev, iz katere je razvidno, da iskanih podatkov, ki morajo biti v odredbi določeno ali določljivo opredeljeni in ki se nanašajo na določen predkazenski ali kazenski postopek, dejansko ni mogoče učinkovito pridobiti na drug način. Sodna odredba se pred zasegom vroči tudi Odvetniški zbornici Slovenije, ki mora v največ dveh urah od obvestila o preiskovalnem dejanju zagotoviti navzočnost svojega predstavnika pri zasegu. Če je zaseg opravljen v okviru preiskave odvetniške pisarne, se glede

shall identify the objects in a specific or identifiable manner. If he refuses to hand over the objects even at the request of the court, he shall be liable to the fine provided for in Article 78 para 1 of this Act, and if he still refuses to do so, he shall be imprisoned. The period of imprisonment shall be until the objects are handed over or until the end of the criminal proceedings, but not more than ten days. A person who has the status of a suspect or accused person, a person who may not be examined as a witness in the proceedings (Article 235) or a person who may refuse to give evidence in the proceedings (Article 236) may not be punished or imprisoned. […]
(6) A court order seizing objects or files from an advocate, an applicant for admission to the Bar or a trainee advocate shall contain a statement of reasons showing that it does not relate to the files or objects referred to in Article 222.a of this Act, and a statement of reasons showing that the information sought, which must be specified or identifiable in the order and which relates to a particular pre-trial or criminal proceeding, cannot in fact be obtained efficiently by any other means. Before the seizure, the injunction shall also be served on the Slovenian Bar Association, which shall be obliged to ensure the presence of its representative at the seizure within a maximum of two hours of notification of the investigative measure. If the seizure is carried out in the context of an investigation of a law firm, the provision of the Act regulating the legal profession on the presence of a representative of the Bar Association of Slovenia at the investigation of a law firm shall apply mutatis mutandis with regard to the presence of a representative of the Bar Association of Slovenia.
(7) If the person from whom the objects or files have been seized, his representative or proxy (Article 216 para 1), the lawyer (Article 215 para 2), another person present (Article 216 paras 4 and 5), or a representative of the Bar Association of Slovenia at the time of the seizure, declares that the objects or files in question are those referred to in the first paragraph of Article 222a of this Act, the provisions of Article 222a of this Act shall be complied with.

Article 222a CPA[138] (1) The seized objects and files shall be placed in a cover, sealed and handed over for safekeeping to the extrajudicial judge, if it is probable:

navzočnosti predstavnika Odvetniške zbornice Slovenije smiselno uporablja določba zakona, ki ureja odvetništvo, o navzočnosti predstavnika Odvetniške zbornice Slovenije pri preiskavi odvetniške pisarne.
(7) Če tisti, ki so mu bili predmeti ali spisi zaseženi, njegov zastopnik ali pooblaščenec (prvi odstavek 216. člena), odvetnik (drugi odstavek 215. člena), druga navzoča oseba (četrti in peti odstavek 216. člena) oziroma predstavnik Odvetniške zbornice Slovenije pri zasegu izjavi, da gre za predmete ali spise iz prvega odstavka 222.a člena tega člena, je treba ravnati po določbah 222.a člena tega zakona.

[138] **222.a člen ZKP**
(1) Zaseženi predmeti in spisi se dajo v ovitek, zapečatijo in izročijo v hrambo izvenobravnavnemu sodniku, če je verjetno:
1) da je predmete, spise ali podatke, ki jih vsebujejo zaseženi predmeti ali spisi, zagovorniku zaupal osumljenec ali obdolženec (2. točka 235. člena) ali

1) that the objects, files or information contained in the seized objects or files have been entrusted to the defence counsel by the suspected or accused person (Article 235(2)); or 2) that the person to whom the objects or files have been seized, by handing them over or providing the information contained therein, is likely to breach the duty of confidentiality of confessions (Article 236 para 1 subpara 4), the duty of professional secrecy (Article 236 para 1 subpara 5) or the duty of journalistic confidentiality (Article 236 para 1 subpara 6).
(2) The inventory and examination of the objects or documents referred to in the preceding paragraph shall be carried out at the hearing, applying mutatis mutandis paragraphs 2 and 3 of the preceding Article. The out-of-court judge shall also invite to the hearing the state prosecutor, the defence counsel, if the objects or files have been seized from the suspect or accused, and the counsel of the person from whom the objects or

2) da bi oseba, ki so ji bili predmeti ali spisi zaseženi, z njihovo izročitvijo ali posredovanjem podatkov, ki jih ti vsebujejo, lahko prekršila dolžnost varovanja tajnosti spovedi (4. točka prvega odstavka 236. člena), dolžnost varovanja poklicne tajnosti (5. točka prvega odstavka 236. člena) ali dolžnost varovanja novinarske zaupnosti (6. točka prvega odstavka 236. člena).
(2) Popis in pregled predmetov ali listin iz prejšnjega odstavka se opravi na naroku ob smiselni uporabi drugega in tretjega odstavka prejšnjega člena. Na narok izvenobravnavni sodnik povabi tudi državnega tožilca, zagovornika, če so bili predmeti ali spisi zaseženi osumljencu ali obdolžencu, in zastopnika tistega, ki so mu bili predmeti ali spisi zaseženi, če ga ima, osebo, ki ne sme biti zaslišana kot priča (2. točka 235. člena) in osebo, ki se lahko odreče pričevanju (4., 5. in 6. točka prvega odstavka 236. člena), lahko pa povabi tudi policiste, ki so izvedli zaseg. Če so zaseženi predmeti ali spisi odvetniku, odvetniškemu kandidatu ali odvetniškemu pripravniku, se povabi tudi predstavnik Odvetniške zbornice Slovenije. Policisti, ki so izvedli zaseg, in državni tožilec, se ne smejo seznaniti z vsebino zaseženih predmetov ali spisov.
(3) Če izvenobravnavni sodnik pri pregledu predmetov ali spisov, zaseženih odvetniku, odvetniškemu kandidatu ali odvetniškemu pripravniku, ugotovi, da je predmete, spise ali podatke, ki jih ti vsebujejo, odvetniku, odvetniškemu kandidatu ali odvetniškemu pripravniku zaupal osumljenec ali obdolženec kot svojemu zagovorniku (1. točka prvega odstavka tega člena), se ti deloma ali v celoti nemudoma ponovno zapečatijo in po pravnomočnosti sklepa iz šestega odstavka tega člena, s katerim je bilo zahtevi ugodeno, vrnejo osebi, kateri so bili zaseženi, razen če osumljenec ali obdolženec ne izjavi drugače ali če so podani zakonski razlogi, da bi se morali predmeti ali spisi vzeti (498. člen).
(4) Če izvenobravnavni sodnik pri pregledu predmetov in spisov ugotovi, da ti vsebujejo podatke iz 2. točke prvega odstavka tega člena in niso bili zaseženi skladno z ustavno in zakonito zahtevo ali nalogom oziroma da za zaseg predmetov ali listin tudi niso bili izpolnjeni pogoji iz prvega odstavka 164. člena tega zakona, se ti popišejo, nato pa nemudoma deloma ali v celoti ponovno zapečatijo ter po pravnomočnosti sklepa iz šestega odstavka tega člena, s katerim je bilo zahtevi ugodeno, vrnejo osebi, kateri so bili zaseženi, razen v primerih iz tretjega odstavka 65. člena tega zakona ali če so podani zakonski razlogi, da bi se morali predmeti ali spisi vzeti (498. člen), ali če so izpolnjeni pogoji, določeni v zakonu, pod katerimi so te osebe odvezane dolžnosti varovanja tajnosti oziroma so dolžne posredovati zaupne podatke pristojnim organom.
(5) Pri postopanju na podlagi tretjega in četrtega odstavka tega člena sme izvenobravnavni sodnik po potrebi odrediti tudi, da morajo osebe, ki so se s podatki seznanile, te ohraniti v tajnosti.
(6) O zahtevi tistega, ki so mu bili predmeti ali spisi iz prvega odstavka tega člena zaseženi, njegovega zastopnika, zagovornika oziroma predstavnika Odvetniške zbornice Slovenije za vrnitev podatkov ali njihovem izbrisu iz kazenskega spisa, odloči izvenobravnavni sodnik z obrazloženim sklepom, iz katerega ne sme izhajati vsebina zaupnih podatkov oziroma vsebina podatkov, za katere vložnik zahteve zatrjuje, da so zaupni. Zoper sklep, s katerim izvenobravnavni sodnik zahtevo zavrne, se lahko pritoži vložnik zahteve. Zoper sklep, s katerim izvenobravnavni sodnik zahtevi ugodi, se lahko pritoži državni tožilec, ki se pri tem ne sme seznaniti z zaupnimi podatki oziroma s podatki, za katere vložnik zahteve v svoji pritožbi zatrjuje, da so zaupni. O pritožbi odloči višje sodišče v roku osmih dni. Iz sklepa višjega sodišča ne sme izhajati vsebina zaupnih podatkov oziroma podatkov, ki bi bili glede na odločitev višjega sodišča lahko zaupni. Po pravnomočnosti sklepa, s katerim je zahteva zavrnjena, se predmeti oziroma spisi vrnejo državnemu tožilcu oziroma policiji.

files have been seized, if any, the person who may not be heard as a witness (Article 235 para 2) and the person who may waive testimony (Article 236 para 1 subparas 4, 5 and 6), and he may also invite the police officers who carried out the seizure. If the seized objects or files are from a lawyer, a lawyer candidate or a trainee lawyer, a representative of the Bar Association of Slovenia shall also be invited. The police officers who carried out the seizure and the state prosecutor shall not be allowed to know the contents of the seized items or files.
(3) If the extra-judicial judge, when examining the objects or files seized from a lawyer, a lawyer candidate or a trainee lawyer, finds that the objects, files or information contained therein have been entrusted to the lawyer, lawyer candidate or trainee lawyer by the suspect or accused person as his/her defence counsel (1), – if the objects, files or information contained therein have been entrusted to the lawyer, candidate or trainee lawyer by the suspect or accused person as his/her defence counsel (point 1 of paragraph 1 of this Article), they shall be immediately resealed in whole or in part and returned to the person from whom they were seized, unless the suspect or accused declares otherwise or unless there are lawful grounds for the objects or files to be taken away (Article 498), after the order referred to in the sixth paragraph of this Article, by which the request was granted, has become final.
(4) If the extrajudicial judge, when examining the objects and files, finds that they contain the information referred to in subsection (2) of paragraph 1 of this Article and were not seized in accordance with a constitutional and lawful request or order, or that the conditions referred to in paragraph 1 of Article 164 were not met for the seizure of the objects or documents. Article 65(3) of the present Act, they shall be inventoried and shall be immediately resealed, in whole or in part, and returned to the person from whom they were seized, except in the cases referred to in the third paragraph of Article 65(3) of the present Act, after the decision referred to in the sixth paragraph of the present Act, by which the request was granted, has become final. If, in the case of the person seized, the object or file is seized under the third paragraph of Article 498 of this Law, or if the conditions laid down by law are fulfiled under which such persons are exempted from the obligation of secrecy or are obliged to communicate confidential information to the competent authorities.
(5) When proceeding pursuant to paragraphs 3 and 4 of this Article, the extra-judicial judge may, if necessary, also order that the persons who have become aware of the information must keep it secret.
(6) The request of the person from whom the objects or files referred to in paragraph 1 of this Article have been seized, his representative, defence counsel or the representative of the Bar Association of Slovenia for the return of the information or for its deletion from the criminal case file shall be decided by the extrajudicial judge by a reasoned decision, which shall not reveal the content of the confidential information or the content

of the information which the person making the request claims to be confidential information or the content of the information which the person making the request claims to be confidential information. The applicant may appeal against the order refusing the request of the out-of-court judge. An order granting the request by the out-of-court judge may be appealed against by the state prosecutor, who may not, in so doing, take cognisance of the confidential information or of the information which the applicant claims in his or her appeal to be confidential. The appeal shall be decided by the High Court within eight days. The decision of the higher court shall not reveal the content of confidential information or information which, according to the decision of the higher court, may be confidential. Upon the finalisation of the decision rejecting the request, the objects or files shall be returned to the state prosecutor or the police, as the case may be.

Article 223a[139] **CPA in connection with Article 219.a CPA**
[…] (6) The seizure of the electronic device and the securing of the data shall be carried out in a manner which minimises interference with the rights of persons other than suspects or accused persons and protects the secrecy or confidentiality of the data and does not cause disproportionate damage as a result of the inability to use the electronic device. (7) In the case of seizure of an electronic device and securing of data, the sixth and seventh paragraphs of Article 220 of this Act shall apply mutatis mutandis, provided that in the case referred to in the seventh paragraph of Article 220 of this Act, the secured data may not be inspected or investigated. If it is not possible to seize and secure the data of a lawyer, a lawyer candidate or a trainee lawyer without first examining or investigating them, this may only be done by the examining magistrate or a judicial expert appointed by him. The data so secured shall be handed over to the court for safekeeping.

d) Para 3: Conditions/ Thresholds for investigation measures

35 *The investigation measures set out in points(c), (e) and (f) of paragraph 1 of this Article may be subject to* ***further conditions, including limitations, provided for in the applicable national law. In particular, Member States may limit the application of points (e) and (f) of paragraph 1 of this Article to specific serious offences. A Member State***

[139] **223.a člen ZKP**
[...] (6) Zaseg elektronske naprave in zavarovanje podatkov morata biti opravljena na način, s katerim se v najmanjši možni meri posega v pravice oseb, ki niso osumljenci ali obdolženci, in varuje tajnost oziroma zaupnost podatkov ter se ne povzroča nesorazmerna škoda zaradi nezmožnosti uporabe elektronske naprave.
(7) Pri zasegu elektronske naprave in zavarovanju podatkov se smiselno uporabljata šesti in sedmi odstavek 220. člena tega zakona, pri čemer se v primeru iz sedmega odstavka 220. člena tega zakona zavarovani podatki ne smejo pregledovati ali preiskovati. Če podatkov odvetniku, odvetniškemu kandidatu ali odvetniškemu pripravniku ni mogoče zaseči in zavarovati, ne da bi se prej pregledali ali preiskali, to lahko stori le preiskovalni sodnik ali sodni izvedenec, ki ga postavi on. Tako zavarovani podatki se izročijo v hrambo sodišču.

intending to make use of such limitation shall notify the EPPO of the relevant list of specific serious offences in accordance with Article 117.

aa. Conditions and Limitations for investigation measures of Para 1(c), (e) and (f)

The limitations may include time limits, judges' reservations or authorizations and restrictions to special situations, rules on proportionality etc. The details are stipulated by the relevant laws, which are printed in full length above. **36**

bb. Serious offences Limitation for offences of Para 1(e) and (f)

There are limitations to undercover actions and interception of telecommunications (see Notification, Article 117). **37**

cc. Notifications according to the last sentence of para 3

Yes, Slovenia has notified the EPPO (see EPPO Homepages). **38**

e) Para 4: Any other measure(s) in the EDP's Member State

The European Delegated Prosecutors shall be entitled to request or to ***order any other measures in their Member State that are available to prosecutors under national law in similar national cases,*** *in addition to the measures referred to in paragraph 1.* **39**

Article 149 CPA[140] (1) The police may refer persons found at the scene of a crime or persons residing abroad to the investigating judge or detain them until his arrival, or bring them to the investigating judge, if the latter so orders by written order at the proposal of the state prosecutor, if they could provide information relevant to the criminal proceedings and if it is likely that they would not be able to be interviewed later or that **40**

[140] **149. člen ZKP**
(1) Policija lahko napoti osebe, ki jih najde na kraju storitve kaznivega dejanja ali osebe, ki imajo bivališče v tujini, k preiskovalnemu sodniku ali jih zadrži do njegovega prihoda, ali jih privede k preiskovalnemu sodniku, če ta na predlog državnega tožilca s pisno odredbo tako odredi, če bi mogle dati za kazenski postopek pomembne podatke in če je verjetno, da jih pozneje ne bi bilo mogoče zaslišati ali da bi bilo to povezano s precejšnjim zavlačevanjem ali z drugimi težavami. Izjemoma, če pisne odredbe ni mogoče pravočasno pridobiti, lahko preiskovalni sodnik privedbo odredi ustno, najpozneje v dveh urah od ustne odreditve pa mora izdati še pisno odredbo. Pisna odredba mora biti osebi izročena takoj, ko je to mogoče, najpozneje pa ob zaslišanju. Zadržanje takih oseb na kraju storitve kaznivega dejanja in privedba ne smeta trajati več kot šest ur. Če je taki osebi odvzeta prostost v drugem postopku, lahko preiskovalni sodnik čas za zadržanje oziroma privedbo na zaslišanje iz prejšnjega stavka podaljša za najkrajši potrebni čas, vendar ne več kot za dvanajst ur.
(2) Policija sme fotografirati tistega, za katerega so razlogi za sum, da je storil kaznivo dejanje in vzeti njegove prstne odtise. Če je to nujno, da se ugotovi njegova istovetnost, ali v drugih primerih, ko je to pomembno za uspešno izvedbo postopka, sme njegovo fotografijo tudi objaviti. Policija sme vzeti bris ustne sluznice tistemu, za katerega so razlogi za sum, da je storil kaznivo dejanje, za katero se storilec preganja po uradni dolžnosti, če je to neogibno potrebno za uresničitev namenov, navedenih v prvem odstavku 148. člena tega zakona.
(3) Če je treba ugotoviti, čigavi so prstni odtisi ali biološke sledi na posameznih predmetih, sme policija jemati prstne odtise in brise ustne sluznice oseb, za katere je verjetno, da so utegnile priti v dotik z njimi.

this would be associated with considerable delay or other difficulties. Exceptionally, if a written order cannot be obtained in time, the investigating judge may order the summons orally, and must issue a written order no later than two hours after the oral order. The written order must be served on the person as soon as possible, but no later than at the hearing. The detention of such persons at the scene of the commission of the crime and the bringing in shall not last more than six hours.
(2) The police ***may photograph and take fingerprints of a person suspected of having committed a crime***. If this is necessary to establish his identity, or in other cases when this is important for the successful execution of the procedure, his photo may also be published. The police may take a swab of the oral mucosa of a person for whom there are reasons to suspect that he has committed a criminal act for which the perpetrator is prosecuted ex officio, if this is absolutely necessary to achieve the purposes stated in the first paragraph of Article 148 of this law.
(3) If it is necessary to determine whose fingerprints or biological traces are on individual objects, the police may take fingerprints and swabs of the oral mucosa of persons who are likely to have come into contact with them.

Article 155 CPA[141] (1) If it can be reasonably concluded that a certain person is involved in criminal activity in connection with the criminal acts referred to in the second paragraph of Article 150 of this Act, the state prosecutor may, on the basis of a reasoned proposal from the police, by written order, authorize the measure of virtual redemption, virtual acceptance or giving gifts or pretending to take or give bribes. The proposal and order become an integral part of the criminal file.
(2) The order of the state prosecutor may only refer to a one-off measure. The proposal for any further measure against the same person must contain the reasons justifying its use.
(3) When implementing the measures referred to in the first paragraph of this article, the police and their colleagues may not provoke criminal activity. When determining

[141] **155. člen ZKP**
(1) Če je mogoče utemeljeno sklepati, da je določena oseba vpletena v kriminalno dejavnost v zvezi s kaznivimi dejanji iz drugega odstavka 150. člena tega zakona, lahko državni tožilec na podlagi obrazloženega predloga policije s pisno odredbo dovoli ukrep navideznega odkupa, navideznega sprejemanja oziroma dajanja daril ali navideznega jemanja oziroma dajanja podkupnine. Predlog in odredba postaneta sestavni del kazenskega spisa.
(2) Odredba državnega tožilca se lahko nanaša le na enkraten ukrep. Predlog za vsak nadaljnji ukrep zoper isto osebo mora vsebovati razloge, ki utemeljujejo njegovo uporabo.
(3) Pri izvrševanju ukrepov iz prvega odstavka tega člena policija in njeni sodelavci ne smejo izzivati kriminalne dejavnosti. Pri ugotavljanju ali je bila izzvana kriminalna dejavnost, je potrebno presojati predvsem ali bi ukrep na način, kot je bil izveden, napeljal k storitvi kaznivega dejanja osebo, ki tovrstnega kaznivega dejanja sicer ne bi bila pripravljena storiti.
(4) Če je bila izzvana kriminalna dejavnost, je to okoliščina, ki izključuje kazenski pregon za kaznivo dejanje, storjeno v zvezi z ukrepom iz prvega odstavka tega člena.
(5) Glede predmetov, pridobljenih z ukrepi iz prvega odstavka tega člena se uporabljajo določbe 110., 131., 498. in 498.a člena tega zakona.

whether a criminal activity was provoked, it is necessary to assess whether the measure, in the way it was implemented, would lead a person to commit a criminal act who would otherwise not be willing to commit such a criminal act.
(4) If criminal activity was provoked, this is a circumstance that excludes criminal prosecution for a criminal act committed in connection with the measure referred to in the first paragraph of this article.
(5) The provisions of Articles 110, 131, 498 and 498a of this Act shall apply to objects obtained through the measures referred to in the first paragraph of this Article.

Article 155a CPA[142] (1) If there are reasonable grounds for suspecting that a certain person has committed any of the criminal acts referred to in the fourth paragraph of

[142] **155.a člen ZKP**
(1) Če obstajajo utemeljeni razlogi za sum, da je določena oseba izvršila katerega izmed kaznivih dejanj iz četrtega odstavka 149.a člena tega zakona, oziroma če je mogoče utemeljeno sklepati, da je določena oseba vpletena v kriminalno dejavnost v zvezi s kaznivimi dejanji iz četrtega odstavka 149.a člena tega zakona, pri tem pa je mogoče utemeljeno sklepati, da se z drugimi ukrepi ne bi dalo zbrati dokazov oziroma bi bilo to povezano z nesorazmernimi težavami, se lahko zoper to osebo uporabi tajno delovanje.
(2) Tajno delovanje se izvaja z vključitvijo tajnih delavcev in neprekinjenim ali ponavljajočim zbiranjem podatkov o osebi ter njeni kriminalni aktivnosti. Tajno delovanje pod vodstvom in nadzorom policije, s pomočjo prirejenih podatkov o osebi, prirejenih podatkov v zbirkah podatkov ter uporabo prirejenih dokumentov z namenom preprečitve, da bi bilo takšno zbiranje podatkov ali vključitev razkrita, izvaja eden ali več tajnih delavcev, za katere se lahko prirejena identiteta pripravi v skladu s pogoji, ki jih za to določa zakon, ki ureja policijo, tudi pred izdajo odredbe iz tretjega oziroma četrtega odstavka tega člena. Tajni delavec je lahko policist, policijski delavec tuje države ali izjemoma, če izvedba tajnega delovanja drugače ni mogoča, druga oseba. Tajni delavec sme biti pod pogoji iz tega člena s prirejenimi dokumenti udeležen v pravnem prometu, pri zbiranju podatkov pa sme pod pogoji iz tega člena uporabiti tudi tehnične naprave za prenos in snemanje glasu, fotografiranje in video-snemanje.
(3) Ukrep tajnega delovanje s pisno odredbo dovoli državni tožilec na pisni predlog policije, razen v primerih iz četrtega odstavka tega člena, ko je potrebna odredba preiskovalnega sodnika. Odredba lahko obsega tudi dovoljenje za izdelavo, pridobitev in uporabo prirejenih podatkov in dokumentov.
(4) Ukrep tajnega delovanja, pri katerem bo tajni policijski delavec uporabil tehnične naprave za prenos in snemanje glasu, fotografiranje in video snemanje, se lahko odredi samo v zvezi s kaznivimi dejanji iz drugega odstavka 150. člena tega zakona. Ukrep s pisno odredbo odredi preiskovalni sodnik na pisni predlog državnega tožilca.
(5) Predlog in odredba, ki postaneta sestavni del kazenskega spisa, morata vsebovati:
1) podatke, ki omogočajo določljivost osebe, zoper katero se predlaga oziroma odreja ukrep;
2) utemeljitev oziroma ugotovitev utemeljenih razlogov za sum;
3) način izvajanja ukrepa, njegov obseg in trajanje in ostale pomembne okoliščine, ki narekujejo uporabo ukrepa;
4) vrsto, namen in obseg uporabe posameznih prirejenih podatkov in dokumentov;
5) v primeru, da bo tajni delavec udeležen tudi v pravnem prometu, dovoljen obseg tovrstne udeležbe;
6) v primeru, da tajni delavec ni policist ali delavec policije tuje države, ampak druga oseba, utemeljitev, zakaj je potrebno uporabiti tako osebo;
7) v primeru iz prejšnjega odstavka opredelitev vrste in načina uporabe tehničnih naprav za prenos in snemanje glasu, fotografiranje in video snemanje;
8) utemeljitev oziroma ugotovitev neogibne potrebnosti uporabe posameznega ukrepa v razmerju do zbiranja dokazov na drug način.
(6) Izvajanje ukrepa lahko traja največ dva meseca, iz tehtnih razlogov pa se lahko njegovo trajanje s pisno odredbo podaljša vsakič za dva meseca, vendar skupno največ štiriindvajset mesecev, v primeru uporabe ukrepa za kazniva dejanja iz drugega odstavka 151. člena tega zakona pa skupno največ šestintrideset mesecev.
(7) Glede prenehanja izvajanja tajnega delovanja, mesečnega poročanja policije in preverjanja daljšega trajanja s strani senata (šesti odstavek 25. člena) se smiselno uporabljajo določbe enajstega in dvanajstega odstavka 149.a člena tega zakona.

Article 149.a of this Act, or if it can be reasonably concluded that a certain person is involved in criminal activity in connection with criminal acts from of the fourth paragraph of Article 149.a of this Act, and it can be reasonably concluded that it would not be possible to gather evidence with other measures or that this would be associated with disproportionate difficulties, covert action may be used against this person.

(2) Undercover operations are carried out with the involvement of undercover workers and the continuous or repeated collection of data about a person and his criminal activity. Undercover operation under the direction and control of the police, with the help of modified personal data, modified data in databases and the use of modified documents with the aim of preventing such data collection or inclusion from being disclosed, is carried out by one or more undercover workers for whom the modified the identity is prepared in accordance with the conditions laid down for this purpose by the law governing the police, even before issuing the order from the third or fourth paragraph of this article. An undercover worker can be a police officer, a police officer of a foreign country or, exceptionally, if the performance of undercover operations is otherwise impossible, another person.

(3) The measure of covert operation is permitted by written order by the state prosecutor at the written proposal of the police, except in the cases referred to in the fourth paragraph of this article, when the order of the investigating judge is required. The order may also include permission to create, obtain and use modified data and documents.

(4) An undercover operation measure, in which an undercover police officer will use technical devices for voice transmission and recording, photography and video recording, may be ordered only in connection with criminal acts from the second paragraph of Article 150 of this Act. The measure is ordered by a written order by the investigating judge at the written proposal of the state prosecutor.

(5) The proposal and order, which become an integral part of the criminal file, must contain:

1) data that enable identification of the person against whom the measure is proposed or ordered;
2) substantiation or determination of reasonable grounds for suspicion;

(8) Ukrepi iz tega člena se morajo izvrševati na način, na katerega se v najmanjši možni meri posega v pravice oseb, ki niso osumljenci.
(9) Pri izvrševanju ukrepa tajni policijski delavec ne sme izzivati kriminalne dejavnosti. Glede izzivanja kriminalne dejavnosti se smiselno uporabljajo določbe tretjega in četrtega odstavka 155. člena tega zakona.

3) the method of implementation of the measure, its scope and duration and other important circumstances that dictate the use of the measure;
4) the type, purpose and scope of use of individual edited data and documents;
5) in the event that the undercover employee will also participate in legal transactions, the permissible extent of such participation;
6) in the event that the undercover employee is not a police officer or police officer of a foreign country, but another person, the justification why it is necessary to use such a person;
7) in the case from the previous paragraph, definition of the type and method of use of technical devices for voice transmission and recording, photography and video recording;
8) justification or determination of the inevitable necessity of using an individual measure in relation to the collection of evidence in another way.

(6) The implementation of the measure may last a maximum of two months, and for valid reasons, its duration may be extended by a written order each time by two months, but a total of no more than twenty-four months, in the case of the use of the measure for criminal acts from the second paragraph of Article 151 of this Act a maximum of thirty-six months in total.

(7) The provisions of the eleventh and twelfth paragraphs of Article 149a of this Act apply mutatis mutandis to the termination of covert operations, monthly police reporting and verification of longer durations by the Senate (paragraph six of Article 25).

(8) The measures referred to in this article must be implemented in a way that interferes as little as possible with the rights of persons who are not suspects.

(9) When executing a measure, an undercover police officer must not provoke criminal activity. Regarding inciting criminal activity, the provisions of the third and fourth paragraphs of Article 155 of this Act shall apply mutatis mutandis.

An expert may be heard: **41**

Criminal Procedure Act

7. Expertise

Article 248[143] When it is necessary to obtain the report and opinion of someone who has the necessary expertise in order to establish or assess an important fact, it is ordered that this be done by experts.

[143] 7. Izvedenstvo

Article 249[144] (1) The authority in charge of the procedure orders the investigation in a written order. The order states which facts should be established or judged with the help of experts and to whom the expert work should be entrusted. The order is also served on the customers.
(2) If a public institution specializes in a certain type of expert work or if the expert work can be performed within the framework of a state body, such work, especially if it is more complicated, is generally entrusted to such a public institute or body. The public institution or authority designates one or more experts who should perform this work.
(3) When an expert is appointed by the authority leading the proceedings, it shall, as a rule, appoint one expert; if the expert work is confused, two or more.
(4) If court experts are appointed for some type of expert work, the court may appoint other experts only if it would be dangerous to delay, if the court experts are retained or if other circumstances require it.

Article 250[145] (1) Whoever is invited as an expert is obliged to respond to the invitation and to give his findings and opinion.
(2) If an expert who has been properly invited does not come, but does not excuse his absence, or if he refuses to perform expert work, he may be fined as specified in the first paragraph of Article 78 of this Act; if he does not come without an excuse, he may also be forcibly brought.
(3) Appeals against the decision imposing a fine shall be decided by the senate (paragraph six of Article 25).

248. člen ZKP
Kadar je za ugotovitev ali presojo kakšnega pomembnega dejstva potrebno dobiti izvid in mnenje nekoga, ki ima potrebno strokovno znanje, se odredi, naj to opravijo izvedenci.

[144] **249. člen ZKP**
(1) Izvedenstvo odredi s pisno odredbo organ, ki vodi postopek. V odredbi navede, katera dejstva naj se ugotovijo ali presodijo s pomočjo izvedencev in komu naj bo izvedensko delo zaupano. Odredba se vroči tudi strankam.
(2) Če je za določeno vrsto izvedenskega dela strokoven javni zavod ali če se da izvedensko delo opraviti v okviru državnega organa, se tako delo, zlasti če je bolj zamotano, zaupa praviloma takemu javnemu zavodu oziroma organu. Javni zavod oziroma organ določi enega ali več strokovnjakov, ki naj to delo opravijo.
(3) Kadar določi izvedenca organ, ki vodi postopek, določi praviloma enega izvedenca; če je izvedensko delo zamotano, pa dva ali več.
(4) Če so za kakšno vrsto izvedenskega dela imenovani sodni izvedenci, sme sodišče postaviti druge izvedence samo, če bi bilo nevarno odlašati, če so sodni izvedenci zadržani ali če to zahtevajo druge okoliščine.

[145] **250. člen ZKP**
(1) Kdor je povabljen kot izvedenec, se je dolžan odzvati vabilu in podati svoj izvid in mnenje.
(2) Če izvedenec, ki je bil v redu povabljen, ne pride, pa svojega izostanka ne opraviči, ali če noče opraviti izvedenskega dela, se sme kaznovati z denarno kaznijo določeno v prvem odstavku 78. člena tega zakona; če neopravičeno ne pride, se sme tudi prisilno privesti.
(3) O pritožbi zoper sklep, s katerim je bila izrečena denarna kazen, odloči senat (šesti odstavek 25. člena).

Article 251[146] (1) Anyone who may not be heard as a witness (Article 235) or who is exempt from the duty to testify (Article 236), as well as someone against whom a criminal act has been committed, may not act as an expert; however, if he was appointed, the court decision may not be based on his report and opinion.
(2) The reason for the exclusion of an expert (Article 44) is also given for persons who, together with the defendant or the injured party, are employed by the same employer, as well as for persons who are employed by the injured party or the defendant.
(3) As a rule, anyone who has been questioned as a witness is not considered an expert.
(4) If a special appeal against the decision rejecting the request for exclusion of the expert is allowed (paragraph four of Article 42), the appeal shall delay the work of the expert, unless it would be dangerous to delay.

Article 252[147] (1) Before starting the expert evidence, the expert must be instructed to examine the object carefully, to state precisely everything he observes and finds, and to give his opinion impartially and in accordance with the rules of science or professional knowledge. He should be especially reminded that a guilty plea constitutes a criminal act.
(2) The expert may be required to take an oath before starting his work. Until the main hearing, the expert may only swear in front of the court, namely if there is a fear that he will be detained and will not be able to come to the main hearing. The reason why he was sworn in is stated in the minutes. A permanent sworn expert is only reminded of the

[146] **251. člen ZKP**
(1) Za izvedenca se ne sme postaviti, kdor ne sme biti zaslišan kot priča (235. člen) ali kdor je oproščen dolžnosti pričevanja (236. člen) kot tudi ne tisti, proti katerem je bilo storjeno kaznivo dejanje; če pa je bil postavljen, se sodna odločba ne sme opirati na njegov izvid in mnenje.
(2) Razlog za izločitev izvedenca (44. člen) je podan tudi glede oseb, ki so skupaj z obdolžencem ali oškodovancem v delovnem razmerju pri istem delodajalcu, kot tudi glede oseb, ki so v delovnem razmerju pri oškodovancu ali obdolžencu.
(3) Za izvedenca se praviloma ne vzame, kdor je bil zaslišan kot priča.
(4) Če je dovoljena posebna pritožba zoper sklep, s katerim je bila zavrnjena zahteva za izločitev izvedenca (četrti odstavek 42. člena), odloži pritožba delo izvedenca, razen, če bi bilo nevarno odlašati.
[147] **252. člen ZKP**
(1) Pred začetkom dokazovanja po izvedencih je treba izvedencu naročiti, naj predmet skrbno pregleda, natančno navede vse, kar opazi in dožene in naj poda svoje mnenje nepristransko in v skladu s pravili znanosti ali strokovnega znanja. Posebej ga je treba opozoriti, da pomeni kriva izpovedba kaznivo dejanje.
(2) Od izvedenca se sme zahtevati, naj pred začetkom svojega dela priseže. Do glavne obravnave sme izvedenec priseči samo pred sodiščem, in sicer tedaj, če se je bati, da bo zadržan in ne bo mogel priti na glavno obravnavo. Vzrok, zakaj je bil zaprisežen, se navede v zapisniku. Stalni zaprisežen izvedenec se pred začetkom svojega dela samo opomni na dano prisego. Prisega se opravi, kakor je to določeno v 333. členu tega zakona.
(3) Organ, pred katerim teče postopek, vodi dokazovanje, pokaže izvedencu predmete, ki naj jih pregleda, mu postavlja vprašanja in zahteva po potrebi pojasnila glede njegovega izvida in mnenja.
(4) Izvedencu se smejo dajati pojasnila, sme se mu pa tudi dovoliti pregled spisov. Izvedenec lahko predlaga, naj se izvedejo dokazi ali preskrbijo predmeti in podatki, ki so pomembni za izvid in mnenje. Če je navzoč pri ogledu, rekonstrukciji dogodka ali pri kakšnem drugem preiskovalnem dejanju, lahko predlaga, naj se razjasnijo posamezne okoliščine ali naj se tistemu, ki se zaslišuje, postavijo posamezna vprašanja.

sworn oath before starting his work. The oath is taken as stipulated in Article 333 of this law.
(3) The authority before which the proceedings are proceeding conducts the evidence, shows the expert the objects to be examined, asks him questions and, if necessary, requests clarifications regarding his report and opinion.
(4) The expert may be given explanations, but he may also be allowed to inspect the files. The expert can suggest that evidence be taken or objects and data that are important for the report and opinion be provided. If he is present during the inspection, reconstruction of the event or during some other investigative action, he can suggest that individual circumstances be clarified or that the person being interrogated be asked individual questions.

Article 253[148] (1) The expert examines the objects in the presence of the authority leading the proceedings and the recorder, unless the examination requires a long-term investigation or if the investigation is carried out in an institution or state body or if this is inappropriate for moral reasons.
(2) If an analysis of a substance is required for the expert examination, only a part of such substance is made available to the expert, if possible, and the necessary amount of the remainder is saved for later analyses.

Article 254[149] The report and opinion of the expert are immediately entered in the minutes. The expert may be allowed to give his written report or written opinion at a later time, within a time limit set by the authority before which the proceedings are ongoing.

Article 255[150] (1) If the expertise is entrusted to an expert institute or a state body, the body leading the procedure warns it that a person from Article 251 of this Act cannot

[148] **253. člen ZKP**
(1) Izvedenec pregleda predmete v navzočnosti organa, ki vodi postopek, in zapisnikarja, razen če je za pregled potrebna dolgotrajna preiskava ali če se preiskava opravi v zavodu oziroma pri državnem organu ali če je to iz moralnih ozirov neprimerno.
(2) Če je za izvedenstvo potrebna analiza kakšne snovi, se da izvedencu, če je to mogoče, na razpolago le del take snovi, potrebna količina ostanka pa spravi za primer poznejših analiz.
[149] **254. člen ZKP**
Izvid in mnenje izvedenca se takoj vpišeta v zapisnik. Izvedencu se lahko dovoli, da da svoj pisni izvid oziroma pisno mnenje pozneje, v roku, ki mu ga določi organ, pred katerim teče postopek.
[150] **255. člen ZKP**
(1) Če je izvedenstvo zaupano strokovnemu zavodu ali državnemu organu, ga organ, ki vodi postopek, opozori, da pri dajanju izvida in mnenja ne more sodelovati oseba iz 251. člena tega zakona in tudi ne nekdo, pri kateremu je podan kakšen razlog za izločitev od izvedenstva, ki je določen v tem zakonu, in na posledice, če bi dal kriv izvid in mnenje.
(2) Strokovnemu zavodu oziroma državnemu organu se da na razpolago gradivo, ki je potrebno za izvedensko delo; če je potrebno, pa se ravna po četrtem odstavku 252. člena tega zakona.

participate in giving a report and an opinion, nor can someone who is given any reason for disqualification from the expertise specified in this law, and the consequences if he gives a wrong report and opinion.
(2) Material required for expert work shall be made available to the professional institute or state body; if it is necessary, the fourth paragraph of Article 252 of this Act shall be followed.
(3) The expert institute or state body sends the court a written report and opinion, which is signed by those who performed the expert work.
(4) The parties may request the head of the expert institute or the state body to inform them of the names of the experts who will perform the expert work.
(5) The provisions of the first, second and third paragraphs of Article 252 of this Act do not apply when expert work is entrusted to an expert institute or a state body. The authority in front of which the proceedings are pending may request clarifications from the expert institute or authority regarding the given report and opinion.

Article 256[151] In the report on the expert work or in the written report and opinion, it is necessary to indicate who performed this work, as well as his profession, professional education and specialty.

See also provisons of **42**

Chapter XVII Measures to Ensure the Attendance Of The Defendant, To Eliminate The Danger Of Recurrence And For The Successful Execution Of The Criminal Procedure

1. Common provision

Article 192[152] (1) The measures that can be used to ensure the defendant's presence, to eliminate the risk of recurrence and to successfully carry out criminal proceedings are:

(3) Strokovni zavod oziroma državni organ pošlje sodišču pisni izvid in mnenje, ki ga podpišejo tisti, ki so opravili izvedensko delo.
(4) Stranke lahko zahtevajo od predstojnika strokovnega zavoda oziroma državnega organa, naj jim sporoči imena strokovnjakov, ki bodo opravili izvedensko delo.
(5) Določbe prvega, drugega in tretjega odstavka 252. člena tega zakona se ne uporabljajo, kadar je izvedensko delo zaupano strokovnemu zavodu ali državnemu organu. Organ, pred katerim teče postopek, lahko zahteva od strokovnega zavoda oziroma organa pojasnila glede danega izvida in mnenja.

[151] **256. člen ZKP**
V zapisniku o izvedenskem delu ali v pisnem izvidu in mnenju je treba navesti, kdo je to delo opravil, ter njegov poklic, strokovno izobrazbo in specialnost.

[152] XVII. poglavje
Ukrepi Za Zagotovitev Obdolženčeve Navzočnosti, Za Odpravo Ponovitvene Nevarnosti In Za Uspešno Izvedbo Kazenskega Postopka
1. Skupna določba
192. člen ZKP
(1) Ukrepi, ki se lahko uporabijo za zagotovitev obdolženčeve navzočnosti, za odpravo ponovitvene nevarnosti in za uspešno izvedbo kazenskega postopka, so: vabilo, privedba, obljuba obdolženca, da ne bo zapustil prebivališča, prepoved približanja določenemu kraju ali osebi, javljanje na policijski postaji, varščina, hišni pripor in pripor.

summons, summons, the defendant's promise not to leave his residence, a ban on approaching a certain place or person, reporting to the police stations, bail, house arrest and detention.
(2) When deciding which of the measures from the previous paragraph should be used, the court must take into account the conditions set for individual measures. When choosing a measure, he must also take into account that he does not use a stricter measure if the same purpose can be achieved with a milder one.
(3) These measures are also lifted ex officio if the reasons that dictated them cease or are replaced by another, milder measure, if the conditions for this appear.

2. Invitation
Article 193[153] (1) The presence of the accused in criminal proceedings is ensured by a summons. The summons is sent to the defendant by the court.
(2) The defendant is invited with a sealed written summons, which includes: the address of the inviting court, the name and surname of the defendant; designation of the criminal offence of which he is accused, the place where he should come, the day and time when he should come; the statement that he is invited as a defendant; a warning that he would

(2) Pri odločanju o tem, kateri od ukrepov iz prejšnjega odstavka naj se uporabi, mora sodišče upoštevati pogoje, ki so določeni za posamezne ukrepe. Pri izbiri ukrepa mora tudi upoštevati, da ne uporabi strožjega ukrepa, če se da isti namen doseči z milejšim.
(3) Ti ukrepi se odpravijo tudi po uradni dolžnosti, če prenehajo razlogi, ki so jih narekovali oziroma se nadomestijo z drugim, milejšim ukrepom, če se za to pokažejo pogoji.

[153] 2. Vabilo
193. člen ZKP
(1) Navzočnost obdolženca pri dejanjih v kazenskem postopku se zagotovi z vabilom. Vabilo pošlje obdolžencu sodišče.
(2) Obdolženec se povabi z zaprtim pisnim vabilom, ki obsega: naslov sodišča, ki vabi, ime in priimek obdolženca; označbo kaznivega dejanja, ki ga je obdolžen, kraj, kamor naj pride, dan in uro, kdaj naj pride; navedbo, da se vabi kot obdolženec; opozorilo, da bo prisilno priveden, če ne pride; pouk o dolžnosti primerno opravičiti svoj izostanek (peti in šesti odstavek tega člena); uradni pečat in ime in priimek sodnika, ki vabi.
(3) Ko je obdolženec prvič vabljen, ga je treba v vabilu poučiti, da ima pravico vzeti si zagovornika in da je zagovornik lahko navzoč pri njegovem zaslišanju.
(4) Obdolženec mora takoj sporočiti sodišču spremembo naslova, kot tudi namen, da spremeni prebivališče. O tem je treba obdolženca poučiti pri prvem zaslišanju oziroma pri vročitvi obtožnice brez preiskave (šesti odstavek 170. člena), obtožnega predloga ali zasebne tožbe; pri tem ga je treba opozoriti na posledice, določene s tem zakonom.
(5) Sodišče lahko opraviči izostanek obdolžencu, če so za to opravičljivi razlogi, ki onemogočajo njegov prihod na sodišče, kot so smrt bližnjega, zdravstveni razlogi, naravna nesreča ali neodložljiva obveznost, katere neizpolnitev ima za posledico nastanek pomembne škode.
(6) Obdolženec mora opravičilo vložiti pri sodišču, pred katerim teče postopek, najmanj 48 ur pred narokom, na katerega je vabljen, razen če razlog nastane kasneje in ga ni bilo mogoče predvideti. Če se vabilu ne odzove zaradi zdravstvenih razlogov, jih sodišče upošteva le, če je bolezen ali poškodba nenadna in nepredvidljiva ter mu onemogoča prihod na sodišče ali sodelovanje pri dejanju v kazenskem postopku. Obdolženec mora predložiti zdravniško opravičilo, izdano na obrazcu, v skladu z zakonom, ki ureja zdravstveno varstvo. Sodišče lahko zahteva presojo upravičenosti izdaje zdravniškega opravičila pri imenovanem zdravniku Zavoda za zdravstveno zavarovanje v skladu z zakonom, ki ureja zdravstveno varstvo. Stroški, ki nastanejo zaradi presoje, v primeru upravičene izdaje zdravniškega opravičila bremenijo Zavod za zdravstveno zavarovanje, v primeru neupravičene izdaje pa gredo v breme obdolženca.
(7) Če obdolženec zaradi bolezni ali kakšne druge nepremagljive ovire na vabilo ne more priti, se zasliši tam, kjer je, ali se mu preskrbi prevoz do sodnega poslopja ali drugega kraja, kjer se opravlja dejanje.

be forcibly brought if he did not come; lessons on the duty to adequately excuse one's absence (paragraphs five and six of this article); the official seal and the name and surname of the inviting judge.
(3) When the accused is summoned for the first time, he must be instructed in the summons that he has the right to hire a lawyer and that the lawyer can be present during his questioning.
(4) The defendant must immediately inform the court of the change of address, as well as the intention to change the place of residence. The defendant must be instructed about this during the first hearing or when the indictment is served without an investigation (paragraph six of Article 170), indictment or private lawsuit; in doing so, he must be warned of the consequences determined by this law.
(5) The court may excuse the defendant's absence if there are excusable reasons that prevent him from coming to court, such as the death of a loved one, health reasons, a natural disaster or an urgent obligation, the failure of which results in the occurrence of significant damage.
(6) The accused must submit an apology to the court before which the proceedings are pending, at least 48 hours before the hearing to which he is invited, unless the reason arises later and could not have been foreseen. If he does not respond to the summons due to health reasons, the court will only take them into account if the illness or injury is sudden and unforeseeable and prevents him from coming to court or participating in an act in criminal proceedings. The defendant must submit a medical certificate, issued on a form, in accordance with the law governing health care. The court may request an assessment of the justification for issuing a medical certificate from the appointed doctor of the Institute for Health Insurance in accordance with the law governing health care. The costs incurred as a result of the assessment, in the event of a justified medical certificate being issued, are borne by the Institute for Health Insurance,
(7) If the accused is unable to attend the summons due to illness or some other insurmountable obstacle, he is heard where he is, or transport to the court building or other place where the act is being committed is provided.

3. Bringing/Apprehension

Article 194[154] (1) The court may order the bringing of the accused, if a detention order has been issued, or if the accused, who has been duly summoned, does not appear, but

[154] 3. Privedba
194. člen ZKP
(1) Privedbo obdolženca lahko odredi sodišče, če je izdan sklep o priporu ali če v redu povabljeni obdolženec ne pride, pa svojega izostanka ne opraviči (peti in šesti odstavek prejšnjega člena), ali če mu ni bilo mogoče v redu vročiti vabila ali sodbe, s katero je bila obdolžencu izrečena zaporna kazen, iz okoliščin pa je očitno, da se obdolženec vročitvi izmika po tem, ko vsi drugi načini vročanja niso bili uspešni.
(2) Odredbo za privedbo izvrši policija.

does not excuse his absence (paragraphs five and six of the previous article), or if it was not possible to properly serve the summons or judgment on him, with which the defendant was sentenced to prison, and it is clear from the circumstances that the defendant is evading service after all other methods of service have failed.
(2) The arrest warrant is executed by the police.
(3) Bringing in shall be ordered in writing. The order must include: the name and surname of the defendant who is to be brought in, the designation of the crime of which he is accused, stating the provision of the Criminal Code and the reason why the bringing in is ordered, the official seal and signature of the judge who orders the bringing in.
(4) The person who is charged with the execution of the order shall deliver the order to the defendant and invite him to go with him. If the defendant refuses, he is brought by force.
(5) Against military personnel, members of the police or guards of the institution in which persons deprived of their liberty are held, an order is made to bring them in through their command or superior.

4. The defendant's promise not to leave his residence

Article 195[155] (1) If there is a fear that the defendant will hide or go to an unknown place or abroad during the proceedings, the court may request from him an undertaking not to hide or not to leave his place of residence or place of residence without the court's permission. If the defendant is in proceedings for a crime committed abroad and there is a risk that he will repeat the crime abroad, he may be required to undertake not to go abroad without the permission of the court. The given promise shall be recorded in the minutes.

(3) Privedba se odredi pisno. Odredba mora obsegati: ime in priimek obdolženca, ki naj se privede, označbo kaznivega dejanja, katerega je obdolžen, z navedbo določbe kazenskega zakona ter razlog, zakaj se odreja privedba, uradni pečat in podpis sodnika, ki odreja privedbo.
(4) Tisti, ki mu je naložena izvršitev odredbe, izroči odredbo obdolžencu in ga povabi, naj gre z njim. Če obdolženec to odkloni, ga privede s silo.
(5) Zoper vojaške osebe, pripadnike policije ali straže zavoda, v katerem so osebe, ki jim je vzeta prostost, se odredi privedba prek njihovega poveljstva oziroma predstojnika.

[155] 4. Obljuba obdolženca, da ne bo zapustil prebivališča
195. člen ZKP
(1) Če se je bati, da se bo obdolženec med postopkom skril ali odšel neznano kam ali v tujino, sme sodišče zahtevati od njega zavezo, da se ne bo skrival oziroma da ne bo brez dovoljenja sodišča zapustil svojega prebivališča oziroma bivališča. Če je obdolženec v postopku zaradi kaznivega dejanja, storjenega v tujini, in obstaja nevarnost, da bo v tujini ponovil kaznivo dejanje, pa se sme od njega zahtevati zaveza, da brez dovoljenja sodišča ne bo odšel v tujino. Dana obljuba se vpiše v zapisnik.
(2) Obdolžencu se sme, ob dani obljubi iz prejšnjega odstavka, začasno vzeti potna listina oziroma prepovedati uporaba druge listine za prehod meje. Pritožba zoper sklep o odvzemu potne listine oziroma o prepovedi uporabe druge listine za prehod meje ne zadrži njegove izvršitve.
(3) Ko se obdolženec tako zaveže, ga je treba opozoriti, da se zoper njega lahko odredi pripor, če bi prekršil to zavezo.

(2) Upon making the promise from the previous paragraph, the defendant's travel document may be temporarily taken away, or the use of another document to cross the border may be prohibited. An appeal against a decision to revoke a travel document or to prohibit the use of another document for crossing the border does not delay its execution.
(3) When the defendant makes such an undertaking, he must be warned that detention may be ordered against him if he violates this undertaking.

4.a Prohibition of approaching a certain place or person

Article 195a[156] (1) If the circumstances referred to in point 2 or 3 of the first paragraph of Article 201 of this Act are met, but there is a risk that the defendant will destroy traces of the crime, influence witnesses, participants or concealers or repeat the crime, complete the attempted crime or has committed a criminal act that threatens to deter the accused by prohibiting him from approaching a certain place or person, the court shall apply this measure.

(2) The court determines an appropriate distance – the distance from a certain place or person, which the defendant must respect and must not deliberately exceed, or prohibits the defendant from making contact with the person in any way, including the use of electronic means of communication; otherwise, the court may order detention against him. The defendant must always be informed of this consequence beforehand.

(3) If a person protected by the measure deliberately violates the distance – the distance that the defendant must respect, or the prohibition of establishing contacts in any way, including the use of electronic means of communication, the court may in each case punish him with a fine from Article 78 of this Act.

[156] 4.a Prepoved približanja določenemu kraju ali osebi
195.a člen ZKP
(1) Če so podane okoliščine iz 2. ali 3. točke prvega odstavka 201. člena tega zakona, vendar je nevarnost, da bo obdolženec uničil sledove kaznivega dejanja, vplival na priče, udeležence ali prikrivalce ali ponovil kaznivo dejanje, dokončal poskušeno kaznivo dejanje ali storil kaznivo dejanje, s katerim grozi, moč odvrniti s prepovedjo približanja obdolženca določenemu kraju ali osebi, uporabi sodišče ta ukrep.
(2) Sodišče določi primerno razdaljo - oddaljenost od določenega kraja ali osebe, ki jo mora obdolženec spoštovati in je namerno ne sme prekoračiti oziroma obdolžencu prepove navezovati stike z osebo na kakršen koli način, vključno z uporabo elektronskih komunikacijskih sredstev; v nasprotnem primeru lahko sodišče zoper njega odredi pripor. O tej posledici je obdolženca predhodno vselej treba obvestiti.
(3) Če razdaljo - oddaljenost, ki jo mora spoštovati obdolženec oziroma prepoved navezovanja stikov na kakršen koli način, vključno z uporabo elektronskih komunikacijskih sredstev, namerno krši z ukrepom varovana oseba, jo lahko sodišče vsakokrat kaznuje z denarno kaznijo iz 78. člena tega zakona.
(4) O ukrepu iz tega člena odloči sodišče z obrazloženim sklepom; obrazložitev mora vsebovati utemeljitev suma, da je obdolženec storil kaznivo dejanje, okoliščin iz prvega odstavka tega člena in uporabe tega ukrepa.
(5) Glede nadzorovanja izvajanja ukrepa prepovedi približanja določenemu kraju ali osebi in ravnanja v primeru njegove kršitve se smiselno uporabljajo določbe petega in šestega odstavka 199.a člena tega zakona.

(4) The court decides on the measure referred to in this article with a reasoned decision; the justification must contain the justification of the suspicion that the accused has committed a criminal act, the circumstances from the first paragraph of this article and the application of this measure.

(5) The provisions of the fifth and sixth paragraphs of Article 199a of this Act shall be applied mutatis mutandis with regard to the supervision of the implementation of the measure prohibiting access to a certain place or person and the conduct in the event of its violation.

4.b Reporting to the police station

Article 195b[157] (1) If there is a fear that the defendant will hide or go to an unknown place or abroad during the proceedings, the court may decide that he must report daily or occasionally, at certain times, to the police station in the area of which he permanently or temporarily resides or located at the moment of deciding on the use of measures to ensure his presence. The decision is served on the accused and sent to the competent police station.
(2) If the defendant does not report to the police station, as stipulated in the decision, the police must immediately notify the court; the court can order detention against the defendant in case of willful violation of obligations. It is always necessary to warn the defendant beforehand about this consequence.
(3) The court decides on the measure referred to in this article with a reasoned decision; the justification must contain the justification of the suspicion that the accused has committed a criminal act, the circumstances from the first paragraph of this article and the application of this measure.
(4) Unless otherwise specified in this article, the provisions of this Act on detention shall be applied mutatis mutandis with regard to the ordering, duration, extension and cancellation of the measures from the previous article and this article.

[157] 4.b Javljanje na policijski postaji
195.b člen ZKP
(1) Če obstaja bojazen, da se bo obdolženec med postopkom skril ali odšel neznano kam ali v tujino, lahko sodišče odloči, da se mora vsakodnevno ali občasno, ob določenih urah javljati na policijski postaji, na območju katere stalno ali začasno prebiva ali se nahaja v trenutku odločanja o uporabi ukrepov za zagotovitev njegove navzočnosti. Sklep se vroči obdolžencu in pošlje pristojni policijski postaji.
(2) Če se obdolženec ne javlja na policijski postaji, tako kot je določeno v sklepu, mora policija to nemudoma sporočiti sodišču; sodišče lahko zoper obdolženca v primeru namerne prekršitve obveznosti odredi pripor. O tej posledici je obdolženca predhodno vselej potrebno opozoriti.
(3) O ukrepu iz tega člena odloči sodišče z obrazloženim sklepom; obrazložitev mora vsebovati utemeljitev suma, da je obdolženec storil kaznivo dejanje, okoliščin iz prvega odstavka tega člena in uporabe tega ukrepa.
(4) Če v tem členu ni drugače določeno, se glede odreditve, časa trajanja, podaljšanja in odprave ukrepov iz prejšnjega in tega člena smiselno uporabljajo določbe tega zakona o priporu.
(5) O podaljšanju ukrepov iz prejšnjega in tega člena pred vložitvijo obtožnice odloča po uradni dolžnosti ali na predlog državnega tožilca vselej preiskovalni sodnik.

(5) The investigating judge always decides on the extension of the measures from the previous and this article, ex officio or at the proposal of the state prosecutor, before the indictment is filed.
Et seq.

f) Para 5: National Procedures and national modalities for taking investigative measures

The European Delegated Prosecutors may only order the measures referred to in paragraphs 1 and 4 where there are reasonable grounds to believe that the specific measure in question might provide information or evidence useful to the investigation, and where there is no less intrusive measure available which could achieve the same objective. ***The procedures and the modalities for taking the measures shall be governed by the applicable national law.***

Which national rules govern the procedures and the modalities for taking the measures? The following list relates to the measures of Article 30 para 1 (a) to para 1 (e) EPPO Regulation: **43**

Article 79 CPA[158] (1) A record shall be drawn up in real time of every act committed in criminal proceedings when the act is committed; if this is not possible, immediately thereafter. **44**
(2) The minutes shall be written by the recorder. Only if a house or personal search is carried out or if the act is carried out outside the official premises of the body and it is not possible to obtain a recorder can the recorder also write the record.
(3) The minutes written by the recorder shall be made in such a way that the person performing the act loudly dictates to the recorder what to write in the minutes. The minutes may also be kept in another way, if so provided by this Act.
(4) The interrogated shall be allowed to dictate the answers in the minutes himself. This right can be denied to him if he abuses it.

Article 80 CPA[159] (1) The following shall be entered in the minutes: the address of the state body before which the act is performed, the place where the act is performed, the

[158] **79. člen ZKP**
(1) O vsakem dejanju, ki se opravi v kazenskem postopku, se sestavi zapisnik sproti, ko se dejanje opravlja; če to ni mogoče, pa neposredno po tem.
(2) Zapisnik piše zapisnikar. Le tedaj, če se opravlja hišna ali osebna preiskava ali če se opravlja dejanje zunaj uradnih prostorov organa in ni mogoče dobiti zapisnikarja, lahko piše zapisnik tudi tisti, ki opravlja dejanje.
(3) Zapisnik, ki ga piše zapisnikar, se napravi tako, da tisti, ki dejanje opravlja, glasno narekuje zapisnikarju, kaj naj zapiše v zapisnik. Zapisnik se lahko vodi tudi na drug način, če je tako določeno s tem zakonom.
(4) Zaslišancu se dovoli, da narekuje odgovore v zapisnik sam. Ta pravica se mu lahko odreče, če jo zlorablja.
[159] **80. člen ZKP**

day and time when the act began and ended, the names and surnames of those present, stating in what capacity they are present and the criminal case in which the act is committed.
(2) The minutes must contain essential information on the course and content of the performed act. Only the essential content of the given confessions and statements is entered in the form of narration. Questions shall be entered in the minutes only if it is necessary for the answer to be understood or if the person who asked the question so requests. It must be clear from the minutes who asked the question. If necessary, the question asked and the answer to it shall be recorded verbatim in the minutes. If objects or files were seized during the act, this should be noted in the minutes, and the seized items should be attached to the minutes or who should keep them.
(3) In the case of acts such as inspection, house or personal search or identification of persons or objects (Article 242), data that are important with regard to the nature of such an act or are important for establishing the identity of individual objects must also be entered in the minutes. (description, dimensions and size of objects or traces, markings on objects, etc.); if sketches, drawings, plans, sound or image recordings and the like have been made, this must be stated in the minutes and attached to the minutes.

Procedures for house searches/private premises
Article 215 CPA[160] (1) The investigating judge shall order an investigation by reasoned written order on a reasoned written motion of the authorised state prosecutor. If the investigating judge disagrees with the written request of the authorised prosecutor, he

(1) V zapisnik se vpiše: naslov državnega organa, pred katerim se opravlja dejanje, kraj, kjer se opravlja dejanje, dan in ura, ko se je dejanje začelo in končalo, imena in priimki navzočih z navedbo, v kakšni lastnosti so navzoči in kazenska zadeva, v kateri se opravlja dejanje.
(2) Zapisnik mora obsegati bistvene podatke o poteku in vsebini opravljenega dejanja. Vanj se vpisuje v obliki pripovedovanja le bistvena vsebina danih izpovedb in izjav. Vprašanja se vpišejo v zapisnik samo, če je potrebno, da bi se razumel odgovor, ali če to zahteva tisti, ki je postavil vprašanje. Iz zapisnika mora biti razvidno, kdo je postavil vprašanje. Če je treba, se v zapisnik dobesedno zapišeta vprašanje, ki je bilo postavljeno in odgovor nanj. Če so bili pri dejanju zaseženi predmeti ali spisi, je treba to pripomniti v zapisniku, zasežene stvari pa priključiti zapisniku ali navesti kdo jih hrani
(3) Pri dejanjih, kot je ogled, hišna ali osebna preiskava ali pa prepoznava osebe ali predmetov (242. člen), je treba vpisati v zapisnik tudi podatke, ki so pomembni glede na naravo takega dejanja ali so pomembni za ugotovitev istovetnosti posameznih predmetov (opis, mere in velikost predmetov ali sledov, označbe na predmetih in drugo); če so bile napravljene skice, risbe, načrti, zvočni ali slikovni posnetki in podobno, je treba to navesti v zapisniku in jih priložiti zapisniku.
[160] **215. člen ZKP**
(1) Preiskavo na obrazložen pisni predlog upravičenega tožilca odredi preiskovalni sodnik z obrazloženo pisno odredbo. Če se preiskovalni sodnik ne strinja s pisnim predlogom upravičenega tožilca, z obrazloženim mnenjem zahteva, naj o tem odloči senat (šesti odstavek 25. člena), ki mora odločiti najpozneje v 72 urah od prejetja pisnega predloga in obrazloženega mnenja ter svojo odločitev brez odlašanja sporočiti upravičenemu tožilcu.
(2) Odredba o preiskavi se izroči pred začetkom preiskave tistemu, pri katerem naj se preiskava opravi ali ki naj se preišče. Pri tem se ga pouči, da ima pravico obvestiti odvetnika, ki je lahko navzoč pri preiskavi. Če tisti, na katerega se nanaša odredba o preiskavi zahteva, da je pri preiskavi navzoč odvetnik, se začetek preiskave odloži do prihoda odvetnika, vendar najdalj za dve uri.

shall, in a reasoned opinion, request the Chamber (Article 25 para 6) to rule on the matter, which shall decide within 72 hours of receipt of the written request and the reasoned opinion and shall communicate its decision to the authorised prosecutor without delay.
(2) The search warrant shall be handed over to the person to be searched or investigated before the search begins. He shall be informed that he has the right to inform a lawyer who may be present during the search. If the person to whom the search warrant relates requests that a lawyer be present during the search, the start of the search shall be delayed until the lawyer arrives, but not longer than for two hours.
(3) Before the search begins, the person subject to the search warrant shall be required to voluntarily surrender the person or objects to be searched.
(4) A search may also be commenced without prior delivery of the order and without prior request for the surrender of the person or things if armed resistance is expected or if it is necessary to conduct the search immediately and unexpectedly, or if the search is conducted in public places.
(5) A search shall normally be carried out between 6 a.m. and 10 p.m. It may also be carried out outside the time so fixed if it has been commenced within that time and has not been completed by 10 p.m., or if the reasons referred to in Article 218 of this Act are given, or if the examining magistrate assesses that the traces of the offence or objects relevant for the criminal proceedings could be destroyed as a result of the delay and specifically authorises this.
(6) The provisions of this and other Articles relating to searches of houses and persons shall apply mutatis mutandis also to searches of hidden compartments of means of transport.

Article 216 CPA[161] (1) The person whose home or premises are searched or his representative shall have the right to be present during the search. If the person whose dwelling or premises are being searched or his representative is not available, the court shall

(3) Pred začetkom preiskave se zahteva od tistega, na katerega se nanaša odredba o preiskavi, naj prostovoljno izroči osebo oziroma predmete, ki se iščejo.
(4) S preiskavo se lahko začne tudi brez poprejšnje izročitve odredbe in brez poprejšnje zahteve za izročitev osebe ali stvari, če se pričakuje oborožen odpor ali če je potrebno, da se preiskava opravi takoj in nepričakovano, ali če se opravi preiskava v javnih prostorih.
(5) Preiskava se praviloma opravlja med 6. in 22. uro. Opravlja se lahko tudi izven tako določenega časa, če se je v njem začela, pa se do 22. ure še ni končala ali če so podani razlogi iz 218. člena tega zakona ali če preiskovalni sodnik oceni, da bi bili lahko zaradi odlašanja uničeni sledovi kaznivega dejanja oziroma predmeti, pomembni za kazenski postopek, in to posebej dovoli.
(6) Določbe tega in ostalih členov, ki se nanašajo na hišno in osebno preiskavo, se smiselno uporabljajo tudi za preiskavo skritih prostorov prevoznih sredstev.

[161] **216. člen ZKP**
(1) Pri hišni preiskavi ima pravico biti navzoč tisti, čigar stanovanje ali prostor se preiskujejo ali njegov zastopnik. Če tisti, čigar stanovanje ali prostor se preiskuje, ali njegov zastopnik ni dosegljiv, mu postavi sodišče pooblaščenca po uradni dolžnosti izmed odvetnikov, hišno preiskavo pa opravi preiskovalni sodnik.

appoint an ex-officio representative from among the lawyers and the search shall be carried out by the examining magistrate.
(2) Locked premises, furniture or other things shall be opened by force only if the holder is not present or refuses to open them voluntarily. Unnecessary injury shall be avoided in the opening.
(3) Two adults shall be present as witnesses during a search of a house or a person. Only a woman may be searched; only women shall also be taken as witnesses. Witnesses shall be warned before the search begins that they are to watch how the search is conducted and that they have the right to make objections before signing the record of the search if they do not think that the contents of the record are correct.
(4) If a search is carried out on the premises of State bodies, undertakings or other legal persons, their head shall be invited to be present at the search. If an investigation is carried out on the premises of the National Assembly of the Republic of Slovenia or the Council of State of the Republic of Slovenia, a representative of the National Assembly or the Council of State shall be invited to be present at the investigation. If an investigation is carried out in the National Assembly on the premises of a parliamentary group, a parliamentary commission of inquiry or a competent working body of the National Assembly for the supervision of the intelligence and security services, a representative of the National Assembly and a representative of that group or body shall be invited to be present at the investigation.
(5) If an investigation is carried out in a military installation, the competent military elder shall be invited to be present at the investigation.
(6) Searches of the house and person shall be conducted with discretion so as not to disturb the peace of the house.
(7) A record shall be made of every search of the house or person and shall be signed by the person searched or to be searched, by his representative if present at the search,

(2) Zaklenjeni prostori, pohištvo ali druge stvari se odprejo s silo samo, če njihov imetnik ni navzoč ali če jih noče prostovoljno odpreti. Pri odpiranju se je treba ogibati nepotrebnih poškodb.
(3) Pri hišni ali osebni preiskavi morata biti navzoči dve polnoletni osebi kot priči. Preiskavo ženske sme opraviti samo ženska; tudi za priče se vzamejo samo ženske. Priče je treba pred začetkom preiskave opozoriti, da pazijo, kako se preiskava opravlja, in da imajo pravico podati pred podpisom zapisnika o preiskavi svoje ugovore, če mislijo, da vsebina zapisnika ni pravilna.
(4) Če se opravi preiskava v prostorih državnih organov, podjetij ali drugih pravnih oseb, se povabi njihov predstojnik, naj bo pri preiskavi navzoč. Če se opravi preiskava v prostorih Državnega zbora Republike Slovenije ali Državnega sveta Republike Slovenije, se povabi predstavnika Državnega zbora ali Državnega sveta, naj bo pri preiskavi navzoč. Če se v Državnem zboru opravi preiskava v prostorih poslanske skupine, parlamentarne preiskovalne komisije ali pristojnega delovnega telesa Državnega zbora za nadzor obveščevalno-varnostnih služb, se povabi predstavnika Državnega zbora ter predstavnika navedene skupine ali telesa, da naj bo navzoč pri preiskavi.
(5) Če se opravi preiskava v vojaškem objektu, se povabi pristojni vojaški starešina, naj bo pri preiskavi navzoč.
(6) Hišno in osebno preiskavo je treba opraviti obzirno, da se ne moti hišni mir.
(7) O vsaki hišni ali osebni preiskavi se napravi zapisnik, ki ga podpišejo tisti, pri katerem se opravi preiskava ali ki se preišče, njegov zastopnik, če je bil navzoč pri preiskavi, in tisti, katerih navzočnost je obvezna. Pri preiskavi se zasežejo samo tisti predmeti oziroma listine, ki so v zvezi z namenom preiskave v posameznem primeru. V zapisnik se vpišejo in v njem natančno opišejo predmeti oziroma listine, ki se zasežejo. Zapisnik se izda tistemu, pri katerem se opravi preiskava ali ki se preišče oziroma njegovemu zastopniku.

and by those whose presence is compulsory. In the course of a search, only those objects or documents shall be seized which are relevant to the purpose of the search in the particular case. The items or documents to be seized shall be entered in the record and shall be described in detail in the record. The record shall be issued to the person searched or examined or his representative.

Article 217 CPA[162] If, in the course of a search of a house or a person, objects are found which are not related to the offence for which the search was ordered, but which are indicative of another offence for which the offender is being prosecuted ex officio, they shall also be described in the record and seized. This shall be immediately reported to the state prosecutor for prosecution. These objects shall be returned immediately if the state prosecutor is satisfied that there is no reason to prosecute and no other legal reason why the objects should be taken (Article 498).

Procedure(s) concerning the obtainement of electronic Evidence/devices
Article 219a CPA[163] […] (2) The search shall be carried out on the basis of the prior written consent of the holder and of the users of the electronic device known and accessible to the police who have a reasonable expectation of privacy in the electronic device

[162] **217. člen ZKP**
Če se pri hišni ali osebni preiskavi najdejo predmeti, ki niso v zvezi s kaznivim dejanjem, zaradi katerega je bila preiskava odrejena, pač pa kažejo na drugo kaznivo dejanje, za katero se storilec preganja po uradni dolžnosti, se tudi ti opišejo v zapisniku in zasežejo. To se takoj sporoči državnemu tožilcu, da začne kazenski pregon. Ti predmeti se takoj vrnejo, če državni tožilec spozna, da ni razloga za kazenski pregon, pa tudi ne kakšnega drugega zakonskega razloga, da bi se morali predmeti vzeti (498. člen).

[163] **219.a člen ZKP**
[...] (2) Preiskava se opravi na podlagi vnaprejšnje pisne privolitve imetnika ter policiji znanih in dosegljivih uporabnikov elektronske naprave, ki na njej utemeljeno pričakujejo zasebnost (uporabnik), ali na podlagi obrazložene pisne odredbe sodišča, izdane na predlog državnega tožilca. Če se preiskava opravi na podlagi odredbe sodišča, se izvod te odredbe pred začetkom preiskave izroči imetniku oziroma uporabniku elektronske naprave, ki naj se preišče. Preiskava elektronske naprave, zasežene odvetniku, odvetniškemu kandidatu ali odvetniškemu pripravniku, se lahko opravi le na podlagi sodne odredbe, ki je obrazložena v skladu s šestim odstavkom 220. člena tega zakona.
(3) Predlog in odredba o preiskavi elektronske naprave morata vsebovati:
- podatke, ki omogočajo identifikacijo elektronske naprave, ki se bo preiskala;
- utemeljitev razlogov za preiskavo;
- opredelitev vsebine podatkov, ki se iščejo;
- druge pomembne okoliščine, ki narekujejo uporabo tega preiskovalnega dejanja in določajo način njegove izvršitve.
(4) Če se preiskava elektronske naprave odredi v odredbi za hišno ali osebno preiskavo, za izdajo tega dela odredbe in njeno izvršitev veljajo pogoji in postopki iz tega člena. V tem primeru tudi predlog za hišno ali osebno preiskavo poda državni tožilec.
(5) Izjemoma, če pisne odredbe ni mogoče pravočasno pridobiti ter če obstaja neposredna in resna nevarnost za varnost ljudi ali premoženja, lahko preiskovalni sodnik na ustni predlog državnega tožilca odredi preiskavo elektronske naprave z ustno odredbo. O predlogu državnega tožilca in odredbi preiskovalni sodnik izdela uradni zaznamek. Pisna odredba mora biti izdana najpozneje v dvanajstih urah po izdaji ustne odredbe, sicer policija, ki je odredbo izvršila, zapisniško uniči ali izbriše zavarovane podatke in o tem v osmih dneh obvesti preiskovalnega sodnika, državnega tožilca in imetnika oziroma uporabnika elektronske naprave, če je znan.

(the user), or on the basis of a reasoned written order of a court issued on the application of the state prosecutor. If the search is carried out on the basis of a court order, a copy of that order shall be handed to the owner or user of the electronic device to be searched before the search is initiated. The search of an electronic device seized from a lawyer, a lawyer candidate or a trainee lawyer may be carried out only on the basis of a court order, which shall be reasoned in accordance with Article 220 para 6 of this Law.
(3) The motion and the order for the search of an electronic device shall contain:
- information enabling the identification of the electronic device to be searched;
- a statement of the grounds for the search;
- a definition of the content of the data to be searched;
- other relevant circumstances which dictate the use of this investigative measure and determine the manner of its execution.
(4) Where the search of an electronic device is ordered in a search warrant, the conditions and procedures set out in this Article shall apply to the issuing of that part of the warrant and its execution. In such a case, the state prosecutor shall also make the proposal for the search warrant.
(5) Exceptionally, if a written order cannot be obtained in time and if there is an imminent and serious danger to the safety of persons or property, the investigating judge may, on an oral motion of the state prosecutor, order the search of an electronic device by means of an oral order. The investigating judge shall make an official record of the state prosecutor's proposal and the order. The written order must be issued no later than twelve hours after the oral order has been issued, otherwise the police force which executed the order shall destroy or delete the protected data on record and shall inform the investigating judge, the state prosecutor and the owner or user of the electronic device, if known, thereof within eight days.
(6) The holder or user of an electronic device shall provide access to the device, encryption keys or passwords and explanations of the use of the device necessary to achieve the purpose of the investigation. If he/she refuses to do so, he/she may be punished or

(6) Imetnik oziroma uporabnik elektronske naprave mora omogočiti dostop do naprave, predložiti šifrirne ključe oziroma šifrirna gesla in pojasnila o uporabi naprave, ki so potrebna, da se doseže namen preiskave. Če noče tako ravnati, se sme kaznovati oziroma zapreti po določbi drugega odstavka 220. člena tega zakona, razen če gre za osumljenca, obdolženca, osebo, ki ne sme biti zaslišana kot priča (235. člen), ali osebo, ki se lahko odreče pričevanju (236. člen).
(7) Preiskava se opravi tako, da se ohrani integriteta izvirnih podatkov in možnost njihove uporabe v nadaljnjem postopku. Preiskava mora biti opravljena na način, s katerim se v najmanjši možni meri posega v pravice oseb, ki niso osumljenci ali obdolženci, in varuje tajnost oziroma zaupnost podatkov ter ne povzroča nesorazmerna škoda.
(8) Preiskavo opravi strokovno usposobljena oseba. O preiskavi se napravi zapisnik, ki med drugim obsega:
- identifikacijo elektronske naprave, ki je bila pregledana;
- datum ter uro začetka in konca preiskave oziroma ločeno za več preiskav, če preiskava ni bila opravljena v enem delu;
- morebitne sodelujoče in navzoče osebe pri preiskavi;
- številko odredbe in sodišče, ki jo je izdalo;
- način izvedbe preiskave;
- ugotovitve preiskave in druge pomembne okoliščine.

imprisoned in accordance with the provisions of Article 220 para 2 of this Act, unless he/she is a suspect, an accused person, a person who may not be questioned as a witness (Article 235) or a person who may refuse to give evidence (Article 236).
(7) The investigation shall be conducted in such a way as to preserve the integrity of the original data and the possibility of their use in further proceedings. The investigation shall be carried out in a manner which minimises interference with the rights of persons other than suspects or accused persons and protects the secrecy or confidentiality of the information and does not cause disproportionate harm.
(8) The investigation shall be carried out by a professionally qualified person. A record of the investigation shall be made, including, but not limited to:
- the identification of the electronic device examined;
- the date and time of the beginning and end of the search or, if the search was not carried out in one part, separately for several searches;
- the persons, if any, involved in and present at the search;
- the number of the order and the court which issued it;
- the manner in which the search was conducted;
- the findings of the investigation and other relevant circumstances.
(9)[164] If it is necessary to carry out a search of an electronic device which has been seized and the data on it secured and sealed pursuant to Article 223a para 7 of this Act, and in

[164] (9) Če je treba opraviti preiskavo elektronske naprave, ki je bila zasežena in podatki na njej zavarovani ter zapečateni na podlagi sedmega odstavka 223.a člena tega zakona in ob smiselni uporabi petega odstavka 220. člena tega zakona, jo v prostorih sodišča oziroma v drugih prostorih, če je to potrebno zaradi uporabe tehničnih sredstev pri preiskavi, opravi izvedenec. Izvedenca s posebno odredbo postavi izvenobravnavni sodnik, če ga ni postavil že preiskovalni sodnik (sedmi odstavek 223.a člena). Z odredbo določi tudi morebitno uporabo drugih prostorov. Preiskava elektronske naprave se opravi ob smiselni uporabi drugega in tretjega odstavka 222. člena tega zakona.
(10) Na preiskavo iz prejšnjega odstavka izvenobravnavni sodnik povabi tudi zagovornika, če je bila elektronska naprava zasežena osumljencu ali obdolžencu, in zastopnika tistega, ki mu je bila elektronska naprava zasežena, če ga ima, predstavnika Odvetniške zbornice Slovenije pa, če je bila elektronska naprava zasežena odvetniku, odvetniškemu kandidatu ali odvetniškemu pripravniku. Navedene osebe lahko ugovarjajo, da so se pri preiskavi našli podatki iz prvega odstavka 222.a člena tega zakona. Ob tem sme izvenobravnavni sodnik odrediti, da je treba najdene podatke obravnavati kot posebej zaščitene podatke ter določiti druge potrebne ukrepe, kot so: prepoved prepisovanja podatkov, razen če je to neogibno zaradi izdelave izvida in mnenja, določitev načina obdelovanja podatkov in drugi, tudi tehnični ukrepi, s katerimi se zagotovi varstvo tajnosti ali zaupnosti podatkov ter prepreči prekomerno poseganje v pravice oseb, ki niso osumljenci ali obdolženci. Pri preiskavi se uporabljajo določbe tega zakona o izvedenstvu. Policija pri izvedbi preiskave ne sme sodelovati.
(11) Najdeni podatki se pregledajo ob uporabi določb drugega do šestega odstavka 222.a člena tega zakona.
(12) Če se pri preiskavi najdejo podatki, ki niso v zvezi s kaznivim dejanjem, zaradi katerega je bila preiskava odrejena, temveč kažejo na drugo kaznivo dejanje, za katero se storilec preganja po uradni dolžnosti, se to navede v zapisniku in takoj sporoči državnemu tožilcu, da začne kazenski pregon. Ti podatki pa se takoj uničijo, če državni tožilec spozna, da ni razloga za kazenski pregon in tudi ne kakšnega drugega zakonskega razloga, da bi se morali podatki hraniti. O uničenju se sestavi zapisnik.
(13) Če v tem členu ni določeno drugače, se za odreditev in izvršitev odredbe o preiskavi elektronske naprave smiselno uporabljajo določbe tretjega in četrtega odstavka 215. člena ter četrtega, petega in sedmega odstavka 216. člena tega zakona.
(14) Če je bila preiskava elektronske naprave opravljena brez odredbe sodišča ali v nasprotju z njo ali brez pisne privolitve iz drugega odstavka tega člena, sodišče svoje odločbe ne sme opreti na zapisnik o preiskavi in na tako pridobljene podatke.

application mutatis mutandis of Article 220 para 5 of this Act, it shall be carried out by an expert on the premises of the court or, if necessary, on other premises, in order to make use of technical means in the search. The expert shall be appointed by a special order of the extrajudicial judge, if he has not already been appointed by the investigating judge (Article 223a para 7). The order shall also determine the possible use of other premises. The search of an electronic device shall be carried out in accordance with the provisions of Article 222 paras 2 and 3 of this Act.
(10) The extra-judicial judge shall also invite the defence counsel to the search referred to in the preceding paragraph, if the electronic device has been seized from the suspect or the accused, and the representative of the person from whom the electronic device has been seized, if any, and the representative of the Bar Association of Slovenia, if the electronic device has been seized from the lawyer, lawyer candidate or lawyer trainee. Those persons may object to the fact that the data referred to in Article 222a para 1 of this Act were found during the search. In this connection, the extrajudicial judge may order that the data found shall be treated as specially protected data and may prescribe other necessary measures, such as: prohibiting the copying of the data unless this is necessary for the purpose of drawing up the report and opinion, prescribing the manner in which the data shall be processed and other measures, including technical measures, to ensure the protection of the secrecy or confidentiality of the data and to prevent excessive interference with the rights of persons other than the suspects or accused. The provisions of this Act on expertise shall apply to the investigation. The police may not participate in the conduct of the investigation.
(11) The data found shall be examined in application of the provisions of Article 222a paras 2 to 6 of this Act.
(12) If, in the course of the investigation, information is found which is not related to the criminal offence for which the investigation was ordered, but which points to another criminal offence for which the perpetrator is being prosecuted ex officio, this shall be stated in the record and shall be immediately reported to the state prosecutor for the purpose of initiating the criminal prosecution. However, the data shall be destroyed immediately if the state prosecutor is satisfied that there is no reason to prosecute and no other legal reason why the data should be retained. A record of the destruction shall be drawn up.
(13) Unless otherwise provided for in this Article, the provisions of Article 215 paras 3 and 4 and Article 216 paras 4, 5 and 7 of this Act shall apply mutatis mutandis to the ordering and execution of an order to search an electronic device.
(14) If the search of an electronic device has been carried out without or contrary to a court order or without the written consent referred to in paragraph 2 of this Article, the court may not base its decision on the record of the search and on the information so obtained.

Procedures for seizure

Article 222 CPA[165] (1) If files that may be used as evidence are seized, they shall be listed. If this is not possible, they are placed in a wrapper and sealed. The owner of the file may also affix his seal to the cover.
(2) Those whose files have been confiscated shall be invited to be present at the opening of the cover. If he does not respond to the invitation or if he is absent, the cover shall be opened and the files shall be examined and recorded in his absence.
(3) When inspecting files, care must be taken not to inform unprofessional persons about their contents.

Article 222a CPA[166] See above → Article 30 Investigation measures and other measures, Para 2: Specific restrictions in national law that apply with regard to certain categories of persons or professionals with an LLP obligation, Art. 29

[165] **222. člen ZKP**
(1) Če se zasežejo spisi, ki se utegnejo uporabiti kot dokaz, se popišejo. Če to ni mogoče, se dajo v ovitek in zapečatijo. Lastnik spisa lahko pritisne na ovitek tudi svoj pečat.
(2) Tisti, ki so mu bili spisi zaseženi, se povabi, naj bo navzoč pri odpiranju ovitka. Če se ne odzove vabilu ali če je odsoten, se ovitek odpre in spisi pregledajo in popišejo v njegovi nenavzočnosti.
(3) Pri pregledovanju spisov je treba paziti, da za njihovo vsebino ne zvedo nepoklicane osebe.

[166] **222.a člen ZKP**
(1) Zaseženi predmeti in spisi se dajo v ovitek, zapečatijo in izročijo v hrambo izvenobravnavnemu sodniku, če je verjetno:
1) da je predmete, spise ali podatke, ki jih vsebujejo zaseženi predmeti ali spisi, zagovorniku zaupal osumljenec ali obdolženec (2. točka 235. člena) ali
2) da bi oseba, ki so ji bili predmeti ali spisi zaseženi, z njihovo izročitvijo ali posredovanjem podatkov, ki jih ti vsebujejo, lahko prekršila dolžnost varovanja tajnosti spovedi (4. točka prvega odstavka 236. člena), dolžnost varovanja poklicne tajnosti (5. točka prvega odstavka 236. člena) ali dolžnost varovanja novinarske zaupnosti (6. točka prvega odstavka 236. člena).
(2) Popis in pregled predmetov ali listin iz prejšnjega odstavka se opravi na naroku ob smiselni uporabi drugega in tretjega odstavka prejšnjega člena. Na narok izvenobravnavni sodnik povabi tudi državnega tožilca, zagovornika, če so bili predmeti ali spisi zaseženi osumljencu ali obdolžencu, in zastopnika tistega, ki so mu bili predmeti ali spisi zaseženi, če ga ima, osebo, ki ne sme biti zaslišana kot priča (2. točka 235. člena) in osebo, ki se lahko odreče pričevanju (4., 5. in 6. točka prvega odstavka 236. člena), lahko pa povabi tudi policiste, ki so izvedli zaseg. Če so zaseženi predmeti ali spisi odvetniku, odvetniškemu kandidatu ali odvetniškemu pripravniku, se povabi tudi predstavnik Odvetniške zbornice Slovenije. Policisti, ki so izvedli zaseg, in državni tožilec, se ne smejo seznaniti z vsebino zaseženih predmetov ali spisov.
(3) Če izvenobravnavni sodnik pri pregledu predmetov ali spisov, zaseženih odvetniku, odvetniškemu kandidatu ali odvetniškemu pripravniku, ugotovi, da je predmete, spise ali podatke, ki jih ti vsebujejo, odvetniku, odvetniškemu kandidatu ali odvetniškemu pripravniku zaupal osumljenec ali obdolženec kot svojemu zagovorniku (1. točka prvega odstavka tega člena), se ti deloma ali v celoti nemudoma ponovno zapečatijo in po pravnomočnosti sklepa iz šestega odstavka tega člena, s katerim je bilo zahtevi ugodeno, vrnejo osebi, kateri so bili zaseženi, razen če osumljenec ali obdolženec ne izjavi drugače ali če so podani zakonski razlogi, da bi se morali predmeti ali spisi vzeti (498. člen).
(4) Če izvenobravnavni sodnik pri pregledu predmetov in spisov ugotovi, da ti vsebujejo podatke iz 2. točke prvega odstavka tega člena in niso bili zaseženi skladno z ustavno in zakonito zahtevo ali nalogom oziroma da za zaseg predmetov ali listin tudi niso bili izpolnjeni pogoji iz prvega odstavka 164. člena tega zakona, se ti popišejo, nato pa nemudoma deloma ali v celoti ponovno zapečatijo ter po pravnomočnosti sklepa iz šestega odstavka tega člena, s katerim je bilo zahtevi ugodeno, vrnejo osebi, kateri so bili zaseženi, razen v primerih iz tretjega odstavka 65. člena tega zakona ali če so podani zakonski razlogi, da bi se morali predmeti ali spisi vzeti (498. člen), ali če so

Article 223a CPA[167] ***[concerning preservation of electronic evidence]*** (1) Where an electronic device (Article 219a(1)) is seized for the purpose of carrying out an investi-

izpolnjeni pogoji, določeni v zakonu, pod katerimi so te osebe odvezane dolžnosti varovanja tajnosti oziroma so dolžne posredovati zaupne podatke pristojnim organom.
(5) Pri postopanju na podlagi tretjega in četrtega odstavka tega člena sme izvenobravnavni sodnik po potrebi odrediti tudi, da morajo osebe, ki so se s podatki seznanile, te ohraniti v tajnosti.
(6) O zahtevi tistega, ki so mu bili predmeti ali spisi iz prvega odstavka tega člena zaseženi, njegovega zastopnika, zagovornika oziroma predstavnika Odvetniške zbornice Slovenije za vrnitev podatkov ali njihovem izbrisu iz kazenskega spisa, odloči izvenobravnavni sodnik z obrazloženim sklepom, iz katerega ne sme izhajati vsebina zaupnih podatkov oziroma vsebina podatkov, za katere vložnik zahteve zatrjuje, da so zaupni. Zoper sklep, s katerim izvenobravnavni sodnik zahtevo zavrne, se lahko pritoži vložnik zahteve. Zoper sklep, s katerim izvenobravnavni sodnik zahtevi ugodi, se lahko pritoži državni tožilec, ki se pri tem ne sme seznaniti z zaupnimi podatki oziroma s podatki, za katere vložnik zahteve v svoji pritožbi zatrjuje, da so zaupni. O pritožbi odloči višje sodišče v roku osmih dni. Iz sklepa višjega sodišča ne sme izhajati vsebina zaupnih podatkov oziroma podatkov, ki bi bili glede na odločitev višjega sodišča lahko zaupni. Po pravnomočnosti sklepa, s katerim je zahteva zavrnjena, se predmeti oziroma spisi vrnejo državnemu tožilcu oziroma policiji.

[167] **223.a člen ZKP**
(1) Če se zaseže elektronska naprava (prvi odstavek 219.a člena) zaradi oprave preiskave, se podatki v elektronski obliki zavarujejo tako, da se shranijo na drug ustrezen nosilec podatkov na način, da se ohrani istovetnost in integriteta podatkov ter možnost njihove uporabe v nadaljnjem postopku ali se izdela istovetna kopija celotnega nosilca podatkov, pri čemer se zagotovi integriteta kopije teh podatkov. Če to ni mogoče, se elektronska naprava zapečati, če je mogoče, pa samo tisti del elektronske naprave, ki naj bi vseboval iskane podatke.
(2) Če je bila elektronska naprava zasežena brez odredbe sodišča in je bila zaradi zavarovanja podatkov izdelana njihova kopija, vendar sodišče v dvanajstih urah ni izdalo odredbe za preiskavo po petem odstavku 219.a člena tega zakona oziroma ni bila dana privolitev po drugem odstavku 219.a člena tega zakona, policija zapisniško trajno uniči izdelano kopijo in o tem v osmih dneh pisno obvesti preiskovalnega sodnika, državnega tožilca, imetnika in znanega ter dosegljivega uporabnika elektronske naprave.
(3) Imetnik, uporabnik, upravljavec ali skrbnik elektronske naprave oziroma tisti, ki ima do nje dostop, mora na zahtevo organa, ki jo je zasegel, takoj ukreniti, kar je potrebno in je v njegovi moči, da se onemogoči uničenje, spreminjanje ali prikrivanje podatkov. Če noče tako ravnati, se sme kaznovati oziroma zapreti po določbi drugega odstavka 220. člena tega zakona, razen če gre za osumljenca, obdolženca, osebo, ki ne sme biti zaslišana kot priča (235. člen) ali osebo, ki se lahko odreče pričevanju (236. člen).
(4) Imetnika in znanega ter dosegljivega uporabnika naprave se povabi, naj bo sam, njegov zastopnik, odvetnik ali strokovnjak navzoč pri zavarovanju podatkov po prvem odstavku tega člena. Če se ne odzove vabilu, če je odsoten ali če ni znan, se zavarovanje podatkov in izdelava istovetne kopije opravi v njegovi nenavzočnosti. Zavarovanje podatkov opravi ustrezno usposobljena oseba.
(5) Pri zavarovanju podatkov se v zapisnik zapiše tudi kontrolna vrednost in metoda njenega izračuna, oziroma se na drug ustrezen način v zapisniku zagotovi možnost naknadnega preverjanja istovetnosti in integritete zavarovanih podatkov. Izvod zapisnika se izroči osebi iz prejšnjega odstavka, ki je bila navzoča pri zavarovanju podatkov.
(6) Zaseg elektronske naprave in zavarovanje podatkov morata biti opravljena na način, s katerim se v najmanjši možni meri posega v pravice oseb, ki niso osumljenci ali obdolženci, in varuje tajnost oziroma zaupnost podatkov ter se ne povzroča nesorazmerna škoda zaradi nezmožnosti uporabe elektronske naprave.
(7) Pri zasegu elektronske naprave in zavarovanju podatkov se smiselno uporabljata šesti in sedmi odstavek 220. člena tega zakona, pri čemer se v primeru iz sedmega odstavka 220. člena tega zakona zavarovani podatki ne smejo pregledovati ali preiskovati. Če podatkov odvetniku, odvetniškemu kandidatu ali odvetniškemu pripravniku ni mogoče zaseči in zavarovati, ne da bi se prej pregledali ali preiskali, to lahko stori le preiskovalni sodnik ali sodni izvedenec, ki ga postavi on. Tako zavarovani podatki se izročijo v hrambo sodišču.
(8) Kopije zavarovanih podatkov se hranijo, dokler je to potrebno za postopek. Elektronska naprava se hrani, dokler podatki niso shranjeni na način, ki zagotovi istovetnost in integriteto zavarovanih podatkov, vendar ne več kakor tri mesece od dneva pridobitve. Če izdelava takšne kopije podatkov ni mogoča, se elektronska naprava ali del elektronske naprave, ki vsebuje iskane podatke, hrani, dokler je to potrebno za postopek, vendar ne več kakor šest mesecev od dneva pridobitve, razen če je bila zasežena elektronska naprava uporabljena za izvršitev kaznivega dejanja oziroma je sama elektronska naprava dokaz v kazenskem postopku.

gation, the data in electronic form shall be protected by storing them on another appropriate data medium in such a way as to preserve the identity and integrity of the data and the possibility of their use in further proceedings, or by making an identical copy of the entire data medium, while ensuring the integrity of the copy of those data. If this is not possible, the electronic device shall be sealed and, if possible, only that part of the electronic device which is intended to contain the data sought shall be sealed.
(2) If an electronic device has been seized without a court order and a copy has been made in order to secure the data, but the court has not issued a search warrant pursuant to section 219a(5) of this Act or consent has not been given pursuant to Article 219a para 2 of this Act within twelve hours, the police shall permanently destroy the copy made by record and shall inform the investigating judge, the state prosecutor, the holder and the known and available user of the electronic device in writing within eight days.
(3) The owner, user, operator or custodian of an electronic device, or whoever has access to it, shall, at the request of the seizing authority, immediately take all necessary and within his/her power to prevent the destruction, alteration or concealment of the data. If he refuses to do so, he may be punished or imprisoned in accordance with the provisions of Article 220 para 2 of this Act, unless he is a suspect, an accused, a person who may not be examined as a witness (Article 235) or a person who may refuse to give evidence (Article 236).
(4) The holder and the known and available user of the device shall be invited to be present himself, or his representative, lawyer or expert, at the securing of the information pursuant to paragraph 1 of this Article. If he or she does not respond to the invitation, is absent or is unknown, the securing of the data and the making of an identical copy shall be carried out in his or her absence. The data shall be secured by a suitably qualified person.
(5) When securing data, the control value and the method of its calculation shall also be recorded in the record, or the possibility of subsequent verification of the identity and integrity of the secured data shall be provided for in the record in another appropriate manner. A copy of the record shall be given to the person referred to in the preceding paragraph who was present when the data were secured.
(6) The seizure of the electronic device and the securing of the data shall be carried out in a manner which minimises interference with the rights of persons other than suspects or accused persons and protects the secrecy or confidentiality of the data and does not cause disproportionate damage as a result of the inability to use the electronic device.
(7) In the case of seizure of an electronic device and securing of data, the sixth and seventh paragraphs of Article 220 of this Act shall apply mutatis mutandis, provided

(9) Kopije podatkov, pridobljene v skladu z določbami tega člena, ki se ne nanašajo na kazenski pregon in za katere ni kakšnega drugega zakonskega razloga, da bi se smeli hraniti (498. člen), se izločijo iz spisa, če je to mogoče in se zapisniško uničijo, o čemer se v osmih dneh obvestijo preiskovalni sodnik, državni tožilec in imetnik in znan ter dosegljiv uporabnik elektronske naprave.

that in the case referred to in the seventh paragraph of Article 220 of this Act, the secured data may not be inspected or investigated. If it is not possible to seize and secure the data of a lawyer, a lawyer candidate or a trainee lawyer without first examining or investigating them, this may only be done by the examining magistrate or a judicial expert appointed by him. The data so secured shall be handed over to the court for safekeeping.
(8) Copies of the protected data shall be kept for as long as is necessary for the proceedings. The electronic device shall be kept until the data have been stored in a manner which ensures the identity and integrity of the protected data, but not for more than three months from the date of acquisition. If it is not possible to make such a copy of the data, the electronic device or the part of the electronic device containing the data sought shall be kept for as long as is necessary for the proceedings, but not more than six months from the date of acquisition, unless the seized electronic device was used in the commission of a criminal offence or the electronic device itself is evidence in criminal proceedings.
(9) Copies of data obtained in accordance with the provisions of this Article, which are not relevant to the criminal prosecution and for which there is no other legal reason why they may be kept (Article 498), shall, if possible, be excluded from the case file and shall be destroyed by record, of which the investigating judge, the state prosecutor and the owner and known and accessible user of the electronic device shall be notified within eight days.

Provisons that applies for every seizure
Article 224 CPA[168] Objects seized during criminal proceedings shall be returned to the owner or holder if the proceedings are stopped and there are no reasons to seize them (Article 498).

4. Hearing of the accused
Article 227 CPA[169] **et seq.** (1) When the defendant is questioned for the first time, he must be asked for his first and last name and any nickname, including his previous personal name if it has been changed, where he was born, where he lives, day, month and

[168] **224. člen ZKP**
Predmeti, ki se med kazenskim postopkom zasežejo, se vrnejo lastniku oziroma imetniku, če se postopek ustavi in ni razlogov, da se vzamejo (498. člen).
[169] 4. Zaslišanje obdolženca
227. člen ZKP
(1) Ko se obdolženec zaslišuje prvič, ga je treba vprašati za ime in priimek in morebitni vzdevek, tudi prejšnje osebno ime, če je bilo spremenjeno, kje je rojen, kje stanuje, dan, mesec in leto rojstva, EMŠO, državljanstvo, poklic, funkcije na državni ali samoupravni lokalni ravni, kakšne so njegove družinske razmere, ali je pismen, katere šole ima, oziroma ali je podčastnik, častnik ali vojaški uslužbenec, kakšni so njegov osebni dohodek in njegove premoženjske razmere, ali je bil že obsojen, pa obsodba še ni bila izbrisana, kdaj in zakaj, in ali je in kdaj izrečeno kazen prestal, ali teče zoper njega postopek za kakšno drugo kaznivo dejanje, če je mladoleten, pa tudi,

year of birth, EMŠO, citizenship, profession, functions at the national or self-governing local level, what is his family situation, is he literate, which schools has he attended, or is he a non-commissioned officer, officer or military employee, what is his personal income and financial situation, has he already been convicted, and the conviction has not yet been expunged, when and why, and whether and when he has served his sentence, whether he is being prosecuted for any other crime, if he is a minor, and also who is his legal representative.The defendant must be instructed that he must come to the summons and immediately report any change of address or intended change of residence, and warn him of the consequences if he does not do so.
(2) The accused is then told what actions he is accused of and what is the basis for the accusation. He is instructed that he is not obliged to defend himself and answer questions, and if he defends himself, he is not obliged to testify against himself or his relatives or to admit guilt, and that he has the right to take a lawyer of his own choice, who may be present at the hearing.
(3) If it is a crime for which the Criminal Code stipulates that the defendant may have his sentence reduced in certain cases (paragraph three of Article 294 of the Criminal Code), he must also be told this.
(4) The accused shall be questioned orally. He may be allowed to use his notes during the hearing.
(5) During the interrogation, the accused must be allowed to state in an unhindered narration about all the circumstances that burden him and to state all the facts that are beneficial to his defence.
(6) When the defendant finishes his testimony, he is asked questions if it is necessary to fill in the gaps or eliminate contradictions and ambiguities in his narration.

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kdo je njegov zakoniti zastopnik. Obdolženca je treba poučiti, da mora na vabilo priti in takoj sporočiti vsako spremembo naslova ali nameravano spremembo prebivališča, ter ga opozoriti na posledice, če ne bi tako ravnal.
(2) Obdolžencu se nato pove, katerega dejanja je obdolžen in kaj je podlaga za obdolžitev. Pouči se ga, da se ni dolžan zagovarjati in odgovarjati na vprašanja, če se zagovarja, pa ni dolžan izpovedati zoper sebe ali svoje bližnje ali priznati krivdo ter da ima pravico vzeti si zagovornika po lastni izbiri, ki je lahko navzoč pri zaslišanju.
(3) Če gre za kazniva dejanja, za katera je v Kazenskem zakoniku predvideno, da se sme obdolžencu v določenih primerih kazen omiliti (tretji odstavek 294. člena Kazenskega zakonika), mu je tudi to treba povedati.
(4) Obdolženec se zaslišuje ustno. Pri zasliševanju se mu lahko dovoli, da uporablja svoje zapiske.
(5) Pri zasliševanju je treba obdolžencu omogočiti, da se v neoviranem pripovedovanju izjavi o vseh okoliščinah, ki ga obremenjujejo, in da navede vsa dejstva, ki so v korist njegovi obrambi.
(6) Ko obdolženec konča svojo izpovedbo, se mu postavijo vprašanja, če je treba, da se izpolnijo vrzeli ali odpravijo nasprotja in nejasnosti v njegovem pripovedovanju.
(7) Zasliševanje se mora opraviti tako, da se v polni meri spoštuje obdolženčeva osebnost.
(8) Proti obdolžencu se ne smejo uporabiti sila, grožnja ali druga podobna sredstva (tretji odstavek 266. člena), da bi se dosegla kakšna njegova izjava ali priznanje.
(9) Obdolženec sme biti zaslišan brez zagovornika, če se je izrecno odpovedal tej pravici, obramba pa ni obvezna ali če zagovornik ni navzoč, čeprav je bil obveščen o zaslišanju (178. člen).
(10) Če obdolženec ni bil poučen o svojih pravicah iz drugega odstavka tega člena ali če dani pouk in izjava obdolženca glede pravice do zagovornika nista zapisana v zapisnik ali če je bilo ravnano v nasprotju z določbami osmega ali devetega odstavka tega člena, sodišče ne sme opreti svoje odločbe na obdolženčevo izpovedbo.

(7) The interrogation must be conducted in such a way that the defendant's personality is fully respected.
(8) Force, threats or other similar means may not be used against the accused (Article 266 para 3) in order to obtain a statement or confession from him.
(9) The accused may be interrogated without a defence attorney if he has expressly waived this right, and defence is not mandatory or if the defence attorney is not present, even though he has been informed of the interrogation (Article 178).
(10) If the defendant was not instructed about his rights from the second paragraph of this article, or if the instructions given and the defendant's statement regarding the right to a defence attorney were not recorded in the minutes, or if the actions were taken in violation of the provisions of the eighth or ninth paragraph of this article, the court may not base their decisions on the defendant's confession.

5. Interrogation of witnesses
Article 234 CPA[170] **et seq.** (1) Persons who are likely to be able to say something about the criminal act and the perpetrator and about other important circumstances are called as witnesses.
(2) The injured party, the injured party as a prosecutor and a private prosecutor may be heard as witnesses.
(3) Anyone who is summoned as a witness is obliged to respond to the summons and, unless otherwise stipulated in this law, also to testify.

7. Expertise
Article 248 CPA[171] **et seq.** When it is necessary to obtain the report and opinion of someone who has the necessary expertise in order to establish or assess an important fact, it is ordered that this be done by experts.

[170] 5. Zasliševanje prič
234. člen ZKP
(1) Za priče se vabijo osebe, za katere je verjetno, da bi mogle kaj povedati o kaznivem dejanju in storilcu in o drugih pomembnih okoliščinah.
(2) Oškodovanec, oškodovanec kot tožilec in zasebni tožilec se smejo zaslišati kot priče.
(3) Vsakdo, kdor je povabljen za pričo, se je dolžan odzvati vabilu in, če ni v tem zakonu določeno drugače, tudi pričati.
[171] 7. Izvedenstvo
248. člen ZKP
Kadar je za ugotovitev ali presojo kakšnega pomembnega dejstva potrebno dobiti izvid in mnenje nekoga, ki ima potrebno strokovno znanje, se odredi, naj to opravijo izvedenci.

3. Article 33 Pre-trial arrest and cross-border surrender

1. The handling European Delegated Prosecutor may order or request the arrest or pre-trial detention of the suspect or accused person **in accordance with the national law applicable in similar domestic cases.**
2. Where it is necessary to arrest and surrender a person who is not present in the Member State in which the handling European Delegated Prosecutor is located, the latter shall issue or request the competent authority of that Member State to issue a European Arrest Warrant in accordance with Council Framework Decision 2002/584/JHA (3).

a) General relation to national law: applicable Codes

Criminal Procedure Act, Cooperation in Criminal Matters with the Member States of the European Union Act

1

b) Para 1: Provisions for arrest and pre-trial detention

aa. Arrest

The provisions on arrest can be taken from the Chapter XVII. Prior to this, Article 157 contains the police arrest and detention which is limited to max. 48 hours. The police must immediately notify the state prosecutor of any deprivation of liberty. The prosecutor can give instructions to the police regarding further measures (see Article 160a of the CPA/ZKP). In general, however, this form of deprivation of liberty is entirely in the hands of the police, the state prosecutor (i.e. EPPO/EDP) has no influence on it (the detainee can contest the possible illegality of the deprivation of liberty by appealing to the court).

2

Criminal Procedure Code

Article 157[172] (1) Police officers may take someone's liberty if any of the reasons for detention from the first paragraph of Article 201 or the first paragraph of Article 432 of this law are given, but they must bring him to the competent investigating judge without delay. Upon arraignment, the police officer informs the investigating judge why and when the arrestee was taken into custody. Upon arraignment, the investigating judge shall also be handed a copy of the criminal complaint with the record of the suspect's

[172] **157. člen ZKP**
(1) Policisti smejo nekomu vzeti prostost, če je podan katerikoli od razlogov za pripor iz prvega odstavka 201. člena ali prvega odstavka 432. člena tega zakona, vendar ga morajo brez odlašanja privesti pristojnemu preiskovalnemu sodniku. Ob privedbi sporoči policist preiskovalnemu sodniku, zakaj in kdaj je bila privedenemu odvzeta prostost. Preiskovalnemu sodniku se ob privedbi izroči tudi kopija kazenske ovadbe z zapisnikom o zaslišanju osumljenca in drugimi prilogami, razen uradnih zaznamkov o obvestilih, ki jih je policija zbrala od osumljenca, preden mu je bil dan pouk po četrtem odstavku 148. člena tega zakona. Te uradne zaznamke pošlje policija skupaj z ovadbo državnemu tožilcu.
(2) Policisti smejo izjemoma nekomu vzeti prostost in ga pridržati, če so podani utemeljeni razlogi za sum, da je storil kaznivo dejanje, za katero se storilec preganja po uradni dolžnosti, če je pridržanje potrebno zaradi ugotovitve istovetnosti, preverjanja alibija, zbiranja obvestil in dokaznih predmetov o tem kaznivem dejanju in so za pripor podani razlogi iz 1. in 3. točke prvega odstavka 201. člena tega zakona in 1. in 2. točke prvega odstavka 432. člena tega zakona, v primeru iz 2. točke prvega odstavka 201. člena tega zakona pa le, če je opravičena bojazen, da bo ta oseba uničila sledove kaznivega dejanja.
(3) Oseba, ki ji je bila vzeta prostost brez odločbe sodišča, mora biti kot osumljenec takoj poučena po določbah prvega odstavka 4. člena ter četrtega odstavka 148. člena tega zakona. Če je oseba, ki ji je bila odvzeta prostost, tuj državljan, se jo obvesti, da je pristojni organ na njeno zahtevo dolžan o odvzemu prostosti obvestiti tudi konzulat njene države.
(4) Če osumljenec izjavi, da si bo vzel zagovornika, policija odloži njegovo zaslišanje kot tudi opravo drugih preiskovalnih dejanj, razen tistih, ki bi jih bilo nevarno odlašati, do prihoda zagovornika, vendar najdlje za dve uri od tedaj, ko je bila osumljencu dana možnost, da obvesti zagovornika. Na zahtevo osumljenca mu mora policija pomagati, da si lahko vzame zagovornika. Zaslišanje osumljenca se opravi v navzočnosti zagovornika po določbah 148.a člena tega zakona. Če osumljenec izjavi, da si zagovornika ne bo vzel, ali če izbrani zagovornik ne pride v roku dveh ur, ravna policija po šestem odstavku 148. člena tega zakona.
(5) Pridržanje po drugem odstavku tega člena lahko traja največ oseminštirideset ur. Po preteku tega roka mora policist pridržano osebo izpustiti na prostost, ali pa ravnati po prvem odstavku tega člena. Če pridržane osebe, ki je na misiji v tujini, zaradi oddaljenosti ali drugih izjemnih objektivnih razlogov ni mogoče brez odlašanja privesti k preiskovalnemu sodniku, ki je pristojen po prvem odstavku 29. člena tega zakona, se o tem takoj obvesti osebo, ki ji je vzeta prostost in državnega tožilca, ob privedbi pa je potrebno pisno obrazložiti zamudo.
(6) Če pridržanje po drugem odstavku tega člena traja več kot šest ur, mora policist takoj v pisni obliki z odločbo obvestiti osebo, ki ji je odvzeta prostost, o razlogih za odvzem prostosti, ter jo poučiti, da ima za namene priprave pritožbe pravico pregledati gradivo zadeve, ki je povezano s pridržanjem. Pregled določenega gradiva se sme z odločbo o pridržanju odreči, če bi bilo lahko resno ogroženo življenje ali pravice druge osebe, ali če bi pregled vplival na potek predkazenskega postopka oziroma preiskave, ali če to narekujejo posebni razlogi obrambe ali varnosti države.
(7) Oseba, ki ji je vzeta prostost ima, dokler traja pridržanje in še tri dni po koncu pridržanja, pravico do pritožbe zoper odločbo iz predhodnega odstavka tega člena. Pritožba ne zadrži ukrepa odvzema prostosti. O pritožbi mora odločiti senat pristojnega sodišča (šesti odstavek 25. člena) v oseminštiridesetih urah.
(8) Če pridržanje po drugem odstavku tega člena traja manj kot šest ur, mora policist osebi, ki ji je bila odvzeta prostost, najkasneje ob prenehanju pridržanja izročiti uradni zaznamek, iz katerega so razvidni podatki o njej, razlog pridržanja, pravice pridržane osebe, točen čas začetka in, če je to mogoče, tudi točen čas prenehanja pridržanja. Čas izročitve uradnega zaznamka oseba potrdi s podpisom. Če podpis odkloni, policist to navede na uradnem zaznamku.
(9) O vsakem odvzemu prostosti policija takoj obvesti državnega tožilca, ki ji lahko da navodila glede nadaljnjih ukrepov (160.a člen). Policija je dolžna ravnati po teh navodilih.

interrogation and other attachments, except for official notes on the information collected by the police from the suspect before he was instructed in accordance with the fourth paragraph of Article 148 of this Act. These official notes are sent by the police together with the criminal complaint to the state prosecutor.

(2) The police may exceptionally take someone's liberty and detain him if there are reasonable grounds for suspecting that he has committed a criminal act for which the perpetrator is prosecuted ex officio, if the detention is necessary to establish identity, check an alibi, collect information and items of evidence about this criminal act and the reasons for detention are given from points 1 and 3 of the first paragraph of Article 201 of this Act and points 1 and 2 of the first paragraph of Article 432 of this Act, in the case from point 2 of the first paragraph of 201 Article of this Act only if there is a justified fear that this person will destroy traces of a criminal act.

(3) A person whose liberty has been taken without a court decision must be immediately instructed as a suspect in accordance with the provisions of the first paragraph of Article 4 and the fourth paragraph of Article 148 of this Act. If the person who was deprived of his liberty is a foreign citizen, he is informed that, at his request, the competent authority is also obliged to inform the consulate of his country about the deprivation of his liberty.

(4) If the suspect declares that he will hire a defence attorney, the police shall postpone his questioning as well as the performance of other investigative actions, except for those that would be dangerous to delay, until the arrival of the defence attorney, but no longer than two hours from the time when the suspect was given the opportunity to inform counsel. At the request of the suspect, the police must help him to get a lawyer. The questioning of the suspect is carried out in the presence of the defence attorney in accordance with the provisions of Article 148a of this Act. If the suspect declares that he will not hire a lawyer, or if the chosen lawyer does not arrive within two hours, the police shall act in accordance with the sixth paragraph of Article 148 of this law.

(5) Detention under the second paragraph of this article it can take a maximum of forty-eight hours. After the expiration of this period, the police officer must release the detained person, or act according to the first paragraph of this article. If a detained person who is on a mission abroad, due to distance or other exceptional objective reasons, it is not possible to bring him without delay to the investigating judge who is competent under the first paragraph of Article 29 of this law, the person whose liberty has been taken away and the state prosecutor are immediately notified of this, and the delay must be explained in writing when brought.

(6) If the detention according to the second paragraph of this article lasts more than six hours, the police officer must immediately inform the person deprived of his liberty in writing of the reasons for the deprivation of his liberty, and inform him that for the purposes of preparing a complaint he has the right review case material related to detention. Inspection of certain material may be waived by a decision on detention if the life or rights of another person could be seriously endangered, or if the inspection would affect the course of the pre-trial proceedings or investigation, or if this is dictated by special reasons of defence or national security.

(7) A person who has been deprived of his liberty has the right to appeal against the decision from the previous paragraph of this article, as long as the detention lasts and for three days after the end of the detention. An appeal does not suspend the measure of deprivation of liberty. The panel of the competent court must decide on the appeal (paragraph six of Article 25) within forty-eight hours.

(8) If the detention according to the second paragraph of this article lasts less than six hours, the police officer must hand over to the person who has been deprived of his liberty, no later than at the end of the detention, an official note that shows the information about him, the reason for the detention, the rights of the detained person, the exact time of commencement and, if possible, the exact time of termination of detention. The person confirms the time of delivery of the official certificate by signing. If the signature is refused, the police officer shall state this on the official note.

(9) The police shall immediately inform the state prosecutor of any deprivation of liberty, who may give her instructions regarding further measures (Article 160a). The police are obliged to act according to these instructions.

3 **Chapter XVII Measures to Ensure the Attendance of the Defendant, to Eliminate the Danger of Recurrence and for the Successful Execution of the Criminal Procedure**

1. Common provision

Article 192[173] (1) The measures that can be used to ensure the defendant's presence, to eliminate the risk of recurrence and to successfully carry out criminal proceedings are:

[173] XVII. poglavje
Ukrepi Za Zagotovitev Obdolženčeve Navzočnosti, Za Odpravo Ponovitvene Nevarnosti In Za Uspešno Izvedbo Kazenskega Postopka
1. Skupna določba
192. člen ZKP

summons, summons, the defendant's promise not to leave his residence, a ban on approaching a certain place or person, reporting to the police stations, bail, house arrest and detention.
(2) When deciding which of the measures from the previous paragraph should be used, the court must take into account the conditions set for individual measures. When choosing a measure, he must also take into account that he does not use a stricter measure if the same purpose can be achieved with a milder one.
(3) These measures are also lifted ex officio if the reasons that dictated them cease or are replaced by another, milder measure, if the conditions for this appear.

5.a House arrest
Article 199a[174] (1) If there are reasons from points 1 to 3 of the first paragraph of Article 201 of this Act, but the order of detention is not absolutely necessary for the safety of

(1) Ukrepi, ki se lahko uporabijo za zagotovitev obdolženčeve navzočnosti, za odpravo ponovitvene nevarnosti in za uspešno izvedbo kazenskega postopka, so: vabilo, privedba, obljuba obdolženca, da ne bo zapustil prebivališča, prepoved približanja določenemu kraju ali osebi, javljanje na policijski postaji, varščina, hišni pripor in pripor.
(2) Pri odločanju o tem, kateri od ukrepov iz prejšnjega odstavka naj se uporabi, mora sodišče upoštevati pogoje, ki so določeni za posamezne ukrepe. Pri izbiri ukrepa mora tudi upoštevati, da ne uporabi strožjega ukrepa, če se da isti namen doseči z milejšim.
(3) Ti ukrepi se odpravijo tudi po uradni dolžnosti, če prenehajo razlogi, ki so jih narekovali oziroma se nadomestijo z drugim, milejšim ukrepom, če se za to pokažejo pogoji.
[174] 5.a Hišni pripor
199.a člen
(1) Če obstajajo razlogi iz 1. do 3. točke prvega odstavka 201. člena tega zakona, vendar odreditev pripora ni neogibno potrebna za varnost ljudi ali potek kazenskega postopka, lahko sodišče zoper obdolženca odredi hišni pripor. Sklep o odreditvi, podaljšanju ali odpravi hišnega pripora se vselej pošlje tudi policijski postaji, na območju katere se izvaja ukrep.
(2) S sklepom o odreditvi hišnega pripora sodišče določi, da se obdolženec ne sme oddaljiti iz poslopja, v katerem stalno ali začasno prebiva, oziroma javne ustanove za zdravljenje ali oskrbo. Obdolžencu, zoper katerega je odrejen hišni pripor, lahko sodišče omeji ali prepove stike z osebami, ki z njim ne prebivajo oziroma ga ne oskrbujejo.
(3) Obdolžencu, zoper katerega je odrejen hišni pripor, sme sodišče izjemoma dovoliti, da se za določen čas oddalji iz prostorov, kjer se izvaja hišni pripor, kadar je to neizogibno potrebno, da si zagotovi najnujnejše življenjske potrebščine, ali za opravljanje dela. O tem sodišče obvesti policijsko postajo, na območju, katere se izvaja ukrep.
(4) V primeru, da se obdolženec brez dovoljenja sodišča oddalji iz poslopja, v katerem stalno ali začasno prebiva, oziroma javne ustanove za zdravljenje ali oskrbo ali pa to stori izven dovoljenega časa, lahko sodišče zoper njega odredi pripor. O tej posledici je potrebno obdolženca vselej predhodno opozoriti.
(5) Sodišče nadzoruje izvajanje ukrepa hišnega pripora samo ali preko policije. Policija sme vsak čas, tudi brez zahteve sodišča preverjati izvajanje ukrepa hišnega pripora, o morebitnih kršitvah ukrepa pa brez odlašanja obvestiti sodišče. Policija osebne in druge podatke obdolženca vnese v ustrezno evidenco po določbah zakona, ki ureja policijo.
(6) Če policija obdolženca brez dovoljenja iz tretjega odstavka tega člena zaloti zunaj kraja, določenega v sklepu, mu vzame prostost in ga brez odlašanja privede k preiskovalnemu sodniku. O odvzemu prostosti mora policija takoj obvestiti državnega tožilca. Ob privedbi policist sporoči preiskovalnemu sodniku, zakaj in kdaj je bila obdolženemu odvzeta prostost. Preiskovalni sodnik mora obdolženca brez odlašanja, najpozneje pa v štiriindvajsetih urah, odkar mu je bil pripeljan, zaslišati o okoliščinah kršitve ukrepa in odločiti, ali bo zoper obdolženca v skladu s četrtim odstavkom tega člena odredil pripor. Pri zaslišanju sta lahko navzoča državni tožilec in zagovornik. Če je že vložen obtožni akt, preiskovalni sodnik po zaslišanju obdolženca pošlje zadevo senatu okrožnega sodišča (šesti odstavek 25. člena) oziroma sodniku posamezniku pri okrajnem sodišču, ki mora najpozneje v oseminštiridesetih urah odločiti, ali bo zoper obdolženca v skladu s četrtim odstavkom tega člena odredil pripor. Do odločitve o priporu preiskovalni sodnik s sklepom odredi pridržanje, za katerega se smiselno

people or the course of criminal proceedings, the court may order house arrest against the defendant. The decision to order, extend or abolish house arrest is always also sent to the police station in whose area the measure is being implemented.

(2) By ordering house arrest, the court determines that the defendant may not leave the building in which he resides permanently or temporarily, or the public institution for treatment or care. The court may limit or prohibit the defendant, against whom house arrest has been ordered, from having contact with persons who do not live with him or who do not take care of him.

(3) The court may exceptionally allow the defendant, against whom house arrest has been ordered, to leave the premises where house arrest is carried out for a certain period of time, when this is unavoidably necessary in order to secure the most necessary necessities of life, or to perform work. The court shall inform the police station in the area of which the measure is being implemented.

(4) In the event that the defendant leaves the building in which he permanently or temporarily resides, or the public institution for treatment or care, without the permission of the court, or does so outside the permitted time, the court may order detention against him. The defendant must always be warned in advance about this consequence.
(5) The court supervises the implementation of house arrest alone or through the police. The police may check the implementation of the measure of house arrest at any time, even without a request from the court, and inform the court of any violations of the measure without delay. The police enter the defendant's personal and other data into the relevant records in accordance with the provisions of the law governing the police.

(6) If the police catch the accused outside the place specified in the decision without the permission referred to in the third paragraph of this article, they shall take his liberty and bring him to the investigating judge without delay. The police must immediately inform the state prosecutor about the deprivation of liberty. Upon arraignment, the police officer informs the investigating judge why and when the accused was deprived of his liberty. The investigating judge must interrogate the accused without delay, but no later than twenty-four hours after he was brought before him, about the circumstances

uporabljajo določbe četrtega in petega odstavka 203. člena tega zakona. Če se zoper obdolženca, ki nima zagovornika, odredi pripor, se mu postavi zagovornik po uradni dolžnosti. Sklep o postavitvi zagovornika se vroči zagovorniku skupaj s sklepom o priporu.
(7) Če v tem členu ni drugače določeno, se glede odreditve, časa trajanja, podaljšanja in odprave hišnega pripora, kot tudi glede vštevanja hišnega pripora v izrečeno kazen, smiselno uporabljajo določbe tega zakona o priporu.
(8) O podaljšanju hišnega pripora pred vložitvijo obtožnice odloča na obrazložen predlog preiskovalnega sodnika ali državnega tožilca vselej senat (šesti odstavek 25. člena). S predlogom mora biti seznanjen obdolženec, če ima zagovornika, pa tudi ta, v roku iz drugega odstavka 205. člena tega zakona.

of the violation of the measure and decide whether he will order detention against the accused in accordance with the fourth paragraph of this article. The state prosecutor and defence attorney may be present at the hearing. If an indictment has already been filed, the investigating judge, after questioning the defendant, sends the case to the district court panel (paragraph six of Article 25 Article) or to an individual judge at the district court, who must decide within forty-eight hours at the latest whether to order detention against the defendant in accordance with the fourth paragraph of this Article. Pending the decision on detention, the investigating judge orders detention by decision, for which the provisions of the fourth and fifth paragraphs of Article 203 of this Act apply mutatis mutandis. If detention is ordered against a defendant who does not have a defence attorney, an ex officio defence attorney is appointed. The decision on the appointment of a defence attorney is served on the defence attorney together with the decision on detention. If detention is ordered against a defendant who does not have a defence attorney, an ex officio defence attorney is appointed. The decision on the appointment of a defence attorney is served on the defence attorney together with the decision on detention. If detention is ordered against a defendant who does not have a defence attorney, an ex officio defence attorney is appointed. The decision on the appointment of a defence attorney is served on the defence attorney together with the decision on detention.

(7) Unless otherwise specified in this article, the provisions of this law on detention shall apply mutatis mutandis with regard to the ordering, duration, extension and abolition of house arrest, as well as with regard to the inclusion of house arrest in the imposed sentence.

(8) The senate always decides on the extension of house arrest before the indictment is filed, based on the reasoned proposal of the investigating judge or the state prosecutor (paragraph six of Article 25). The defendant, if he has a defence attorney, must be informed of the motion, as well as the latter, within the time limit referred to in the second paragraph of Article 205 of this law.

bb. Pre-trial detention

Criminal Procedure Code **4**

6. Custody

Article 200[175] (1) Detention may be ordered only under the conditions specified in this Act.

[175] 6. Pripor
200. člen ZKP
(1) Pripor se sme odrediti samo ob pogojih, ki so določeni v tem zakonu.

(2) Detention may last the shortest necessary time. It is the duty of all authorities involved in criminal proceedings and authorities providing them with legal assistance to act particularly quickly if the accused is in custody.
(3) Detention shall be lifted at any time during the proceedings, as soon as the reasons for which it was ordered cease.
(4) An appeal against a decision to order, extend or cancel detention must be filed within three days from the day the decision was served, unless the provisions of this law on detention provide otherwise.

Article 201[176] (1) If there is reasonable suspicion that a certain person has committed a criminal act, detention may be ordered against him:
1) if the person is hiding, if it is not possible to establish their identity or if there are other circumstances that indicate the danger of them escaping;
2) if there is a justified fear that it will destroy traces of a criminal act, or if special circumstances indicate that it will hinder the course of criminal proceedings by influencing witnesses, participants or concealers;
3) if the weight, the method of service or the circumstances in which the crime was committed and her personal characteristics, previous life, environment and conditions in which she lives or some other special circumstances indicate the danger that she will repeat the crime, complete the attempted crime or committed the criminal act with which he threatens.
(2) In the case referred to in point 1 of the previous paragraph, detention, which was ordered only because it was not possible to establish the identity of the person, lasts until the identity is established. In the case referred to in point 2 of the previous paragraph, detention shall be lifted as soon as the evidence for which it was ordered is provided.

(2) Pripor sme trajati najkrajši potrebni čas. Dolžnost vseh organov, ki sodelujejo v kazenskem postopku, in organov, ki jim dajejo pravno pomoč je, da postopajo posebno hitro, če je obdolženec v priporu.
(3) Pripor se v kateremkoli času med postopkom odpravi, brž ko prenehajo razlogi, zaradi katerih je bil odrejen.
(4) Zoper sklep o odreditvi, podaljšanju ali odpravi pripora je treba pritožbo podati v treh dneh od dne, ko je bil sklep vročen, razen če določbe tega zakona o priporu ne določajo drugače.

[176] **201. člen**
(1) Če je podan utemeljen sum, da je določena oseba storila kaznivo dejanje, se sme pripor zoper njo odrediti:
1) če se skriva, če ni mogoče ugotoviti njene istovetnosti ali če so druge okoliščine, ki kažejo na nevarnost, da bi pobegnila;
2) če je upravičena bojazen, da bo uničila sledove kaznivega dejanja, ali če posebne okoliščine kažejo, da bo ovirala potek kazenskega postopka s tem, da bo vplivala na priče, udeležence ali prikrivalce;
3) če teža, način storitve ali okoliščine, v katerih je bilo kaznivo dejanje storjeno in njene osebne lastnosti, prejšnje življenje, okolje in razmere v katerih živi ali kakšne druge posebne okoliščine kažejo na nevarnost, da bo ponovila kaznivo dejanje, dokončala poskušeno kaznivo dejanje ali storila kaznivo dejanje, s katerim grozi.
(2) V primeru iz 1. točke prejšnjega odstavka traja pripor, ki je bil odrejen samo zato, ker ni bilo mogoče ugotoviti istovetnosti osebe, toliko časa, dokler istovetnost ni ugotovljena. V primeru iz 2. točke prejšnjega odstavka se pripor odpravi, brž ko so zagotovljeni dokazi, zaradi katerih je bil odrejen.
(3) Kot posebne okoliščine iz 1., 2. in 3. točke prvega odstavka tega člena se štejejo zlasti obdolženčeve kršitve ukrepov iz 195., 195.a, 195.b, 196. in 199.a člena tega zakona.

(3) In particular, the defendant's violations of measures from Articles 195, 195a, 195b, 196 and 199a of this Act are considered special circumstances from points 1, 2 and 3 of the first paragraph of this article.

Article 202[177] (1) Detention is ordered by the *investigating judge* of the competent court at the proposal of the state prosecutor. The proposal for ordering and extending detention must be explained.

→ *In the cases of the EPPO the proposal for the detention order will be made by the EPPO/EDP.*

(2) Detention is ordered by a written decision, which includes: the name and surname of the person deprived of his liberty; the crime of which he is charged; legal reason for detention; instruction on the right to appeal; explanation of all the decisive facts that dictated the order of detention, whereby the investigating judge must clearly state the reasons from which the reasonable suspicion that the person has committed a crime arises, explain the decisive facts from points 1 to 3 of the first paragraph of the previous article and say, why ordering detention in a specific case is inevitably necessary for the safety of people or the course of the proceedings.
(3) The decision on detention shall be delivered to the person to whom it refers when he is released, but no later than forty-eight hours after he was released, or when he was brought before the investigating judge (paragraphs one and five of Article 157 Article). The files must state the time he was taken into custody and the time he was served with the order.

[177] **202. člen**
(1) Pripor odredi preiskovalni sodnik pristojnega sodišča na predlog državnega tožilca. Predloga za odreditev in podaljšanje pripora morata biti obrazložena.
(2) Pripor se odredi s pisnim sklepom, ki obsega: ime in priimek tistega, ki mu je odvzeta prostost; kaznivo dejanje, ki ga je obdolžen; zakonski razlog za pripor; pouk o pravici do pritožbe; obrazložitev vseh odločilnih dejstev, ki so narekovala odreditev pripora, pri čemer mora preiskovalni sodnik določno navesti razloge, iz katerih izhaja utemeljen sum, da je oseba storila kaznivo dejanje, obrazložiti odločilna dejstva iz 1. do 3. točke prvega odstavka prejšnjega člena in povedati, zakaj je odreditev pripora v konkretnem primeru neogibno potrebna za varnost ljudi oziroma potek postopka.
(3) Sklep o priporu se izroči tistemu, na katerega se nanaša takrat, ko mu je vzeta prostost, najpozneje pa v oseminštiridesetih urah, odkar mu je bila vzeta prostost, oziroma ko je bil priveden k preiskovalnemu sodniku (prvi in peti odstavek 157. člena). V spisih morata biti navedeni ura, ko mu je bila vzeta prostost, in ura, ko mu je bil izročen sklep.
(4) Zoper sklep o priporu se sme priprti pritožiti na senat (šesti odstavek 25. člena) v štiriindvajsetih urah od ure, ko mu je bil sklep izročen. Če je priprti prvič zaslišan po preteku tega roka, se lahko pritoži ob tem zaslišanju. Pritožbo s prepisom zapisnika o zaslišanju, če je bil priprti zaslišan, in sklep o priporu je treba takoj poslati senatu. Pritožba ne zadrži izvršitve sklepa.
(5) Če se preiskovalni sodnik ne strinja s predlogom državnega tožilca za odreditev pripora, zahteva, naj o tem odloči senat (šesti odstavek 25. člena). Zoper sklep, s katerim senat odredi pripor, se sme priprti pritožiti, vendar pritožba ne zadrži njegove izvršitve. Glede izročitve sklepa in vložitve pritožbe se uporabljajo določbe tretjega in četrtega odstavka tega člena.
(6) V primerih iz četrtega in petega odstavka tega člena mora senat, ki odloča o pritožbi, odločiti v oseminštiridesetih urah.
(7) V primerih iz petega odstavka tega člena lahko preiskovalni sodnik ob zahtevi, naj o predlogu državnega tožilca za odreditev pripora odloči senat, vselej odredi katerega izmed nadomestnih ukrepov iz tega poglavja.

(4) The detainee may appeal against the decision on detention to the Senate (paragraph six of Article 25) within twenty-four hours from the time the decision was delivered to him. If the detainee is interrogated for the first time after the expiration of this period, he may appeal during this interrogation. The appeal with a transcript of the minutes of the interrogation, if the detainee was interrogated, and the decision on detention must be sent to the Senate immediately. The appeal does not delay the execution of the decision.
(5) If the investigating judge does not agree with the state prosecutor's proposal to order detention, he requests that the senate decide on it (paragraph six of Article 25). The detainee may appeal against the decision by which the senate orders detention, but the appeal does not suspend its execution. The provisions of the third and fourth paragraphs of this article apply to the delivery of the decision and the filing of an appeal.
(6) In the cases referred to in the fourth and fifth paragraphs of this article, the panel that decides on the appeal must make a decision within forty-eight hours.
(7) In the cases referred to in the fifth paragraph of this article, the investigating judge may always order one of the substitute measures from this chapter upon the request that the state prosecutor's proposal to order detention be decided by the senate.

Article 203[178] (1) The investigating judge must immediately instruct the person whose liberty was taken and who was brought to him in accordance with Article 4 of this Act. If it is a foreign citizen, he must also inform him that, at his request, the competent authority is obliged to inform the consulate of his country about the deprivation of liberty. The instructions of the investigating judge and the statement of the person whose freedom was taken must be recorded in the minutes. If necessary, the investigating judge helps him to find a lawyer.
(2) The investigating judge must interrogate the person whose liberty was taken without delay, but no later than forty-eight hours after the person was brought to him.
(3) If the person who has been deprived of his liberty does not hire a lawyer within twenty-four hours from the time he was informed of this right, or declares that he will not hire a lawyer, the court shall appoint one ex officio.

[178] **203. člen ZKP**
(1) Preiskovalni sodnik mora tistega, ki mu je bila vzeta prostost in mu je bil pripeljan, takoj poučiti po 4. členu tega zakona. Če gre za tujega državljana, ga mora tudi obvestiti, da je pristojni organ na njegovo zahtevo dolžan o odvzemu prostosti obvestiti konzulat njegove države. Pouk preiskovalnega sodnika in izjava tistega, ki mu je bila vzeta prostost, morata biti zapisana v zapisnik. Če je potrebno, mu preiskovalni sodnik pomaga, da si najde zagovornika.
(2) Preiskovalni sodnik mora tistega, ki mu je bila vzeta prostost, brez odlašanja, najkasneje pa v oseminštiridesetih urah, odkar mu je bila oseba pripeljana, zaslišati.
(3) Če si tisti, ki mu je vzeta prostost, ne vzame zagovornika v štiriindvajsetih urah od ure, ko je bil poučen o tej pravici, ali izjavi, da si zagovornika ne bo vzel, mu ga postavi sodišče po uradni dolžnosti.
(4) Preiskovalni sodnik v primerih iz prejšnjih odstavkov s sklepom odredi pridržanje za potreben čas, vendar najdalj za oseminštirideset ur od ure, ko mu je bila pripeljana oseba, ki ji je bila vzeta prostost. Za pritožbo zoper ta sklep se smiselno uporablja določba sedmega odstavka 157. člena tega zakona.
(5) Pridržanje po prejšnjem odstavku se izvršuje v prostorih za pripor.

(4) In the cases referred to in the previous paragraphs, the investigating judge orders detention for the necessary time, but no longer than forty-eight hours from the time when the person whose freedom was taken away was brought to him. The provision of the seventh paragraph of Article 157 of this Act applies mutatis mutandis to the appeal against this decision.
(5) Detention according to the previous paragraph is carried out in detention facilities.

Article 204[179] If the investigating judge did not instruct the person who was deprived of his liberty in accordance with Article 4 of this law, or this instruction is not written down, the court may not base its decision on the confession of the person whose liberty was deprived of him.

Article 204a[180] (1) Immediately after the hearing, the state prosecutor must declare whether he will request the initiation of criminal proceedings and propose detention or any of the alternative measures from this chapter.
(2) If the state prosecutor announces the procedure in terms of the previous paragraph, he must explain the circumstances that may affect the decision on individual measures. The defendant and his defence attorney can give their suggestions and opinions when responding to the implementation of the state prosecutor.
(3) When the parties have declared on all issues that may affect the decision to apply the measures from this chapter, the investigating judge decides on the parties' proposals.
(4) If detention has been ordered against the defendant and if the state prosecutor does not file a written request for the initiation of criminal proceedings within forty-eight hours of being informed of the detention, the investigating judge shall terminate the detention and release the detainee.

Article 205[181] (1) According to the decision of the investigating judge, the defendant may be held in custody for a maximum of one month from the day he was released.

[179] **204. člen ZKP**
Če preiskovalni sodnik tistemu, ki mu je bila vzeta prostost, ni dal pouka po 4. členu tega zakona, ali ta pouk ni zapisan, sodišče ne sme svoje odločbe opreti na izpovedbo tistega, ki mu je bila vzeta prostost.
[180] **204.a člen ZKP**
(1) Takoj po zaslišanju mora državni tožilec izjaviti, ali bo zahteval uvedbo kazenskega postopka ter predlagal pripor ali katerega od nadomestnih ukrepov iz tega poglavja.
(2) Če državni tožilec napove postopanje v smislu prejšnjega odstavka, mora obrazložiti okoliščine, ki lahko vplivajo na odločitev o posameznih ukrepih. Obdolženec in njegov zagovornik lahko pri odgovoru na izvajanje državnega tožilca podajata svoje predloge in stališča.
(3) Ko se stranke izjavijo o vseh vprašanjih, ki lahko vplivajo na odločitev o uporabi ukrepov iz tega poglavja, preiskovalni sodnik odloči o predlogih strank.
(4) Če je bil zoper obdolženca odrejen pripor in če državni tožilec v oseminštiridesetih urah od ure, ko je bil obveščen o priporu, ne vloži pisne zahteve za uvedbo kazenskega postopka, preiskovalni sodnik pripor odpravi in priprtega izpusti.
[181] **205. člen ZKP**

After this time, he may be detained in detention only on the basis of a decision on the extension of detention.
(2) According to the decision of the senate (paragraph six of Article 25), detention may be extended by a maximum of two months. An appeal is allowed against the senate's decision, but it does not delay its execution. If proceedings are ongoing for a criminal offence for which the law prescribes a prison sentence of more than five years, the Senate of the Supreme Court may extend the detention by a maximum of three months. The decision on the extension of detention is issued by the court on the proposal of the state prosecutor, who must submit the proposal at least 5 days before the end of the detention. The defendant and his lawyer must be notified of the proposal without delay, and they can make a statement about the information in the proposal within 24 hours of receiving the notification. The defendant and the defence attorney can familiarize themselves with the proposal and make a statement about the allegations at a special hearing.
(3) The investigating judge submits the proposal for the extension of detention together with the files to the panel of the competent court with an explanation of which procedural actions he intends to perform during the investigation or about the estimated time of completion of the investigation.
(4) If an indictment is not filed by the deadline from the second paragraph of this article, the detention shall be terminated and the accused shall be released.

Article 206[182] During the investigation, the investigating judge may cancel the detention in agreement with the state prosecutor, if the proceedings are ongoing at his request, unless he cancels it due to the expiration of the time limit, which may last, or if the state prosecutor has resigned from the prosecution. If the investigating judge and the state prosecutor do not agree, the investigating judge requests that the panel decide on it; he must decide on the matter within forty-eight hours.

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(1) Po sklepu preiskovalnega sodnika sme biti obdolženec pridržan v priporu največ mesec dni od dneva, ko mu je bila vzeta prostost. Po tem času sme biti pridržan v priporu samo na podlagi sklepa o podaljšanju pripora.
(2) Pripor se sme po odločbi senata (šesti odstavek 25. člena) podaljšati največ za dva meseca. Zoper sklep senata je dovoljena pritožba, ki pa ne zadrži njegove izvršitve. Če teče postopek za kaznivo dejanje, za katero je v zakonu predpisana kazen zapora nad pet let, sme senat vrhovnega sodišča podaljšati pripor največ še za tri mesece. Sklep o podaljšanju pripora izda sodišče na predlog državnega tožilca, ki mora predlog vložiti najmanj 5 dni pred iztekom pripora. S predlogom mora biti brez odlašanja seznanjen obdolženec in njegov zagovornik, ki se lahko v roku 24 ur od prejema obvestila izjavita o navedbah v predlogu. Obdolženec in zagovornik se lahko s predlogom seznanita in se izjavita o navedbah na posebnem naroku.
(3) Preiskovalni sodnik predlog za podaljšanje pripora skupaj s spisi predloži senatu pristojnega sodišča s pojasnilom, katera procesna dejanja še namerava opraviti med preiskavo oziroma o predvidenem času zaključka preiskave.
(4) Če do izteka rokov iz drugega odstavka tega člena ni vložena obtožnica, se pripor odpravi in se obdolženec izpusti.

[182] **206. člen ZKP**
Med preiskavo sme preiskovalni sodnik odpraviti pripor v soglasju z državnim tožilcem, če teče postopek na njegovo zahtevo, razen če ga odpravlja zaradi poteka roka, kolikor sme trajati, ali če je državni tožilec odstopil od pregona. Če se preiskovalni sodnik in državni tožilec ne strinjata, zahteva preiskovalni sodnik, naj o tem odloči senat; ta mora odločiti o stvari v oseminštiridesetih urah.

Article 207[183] (1) Unless otherwise specified in this Act (paragraph three of Article 272), the decision on detention shall be made after the indictment has been filed until the judgment of the court of first instance is delivered by the Senate. The detainee may appeal against the decision ordering detention within twenty-four hours from the time the decision was served on him. The higher court must decide on the appeal within forty-eight hours.
(2) After the expiration of two months from the last decision on detention, the Senate must, even without a proposal from the parties, examine whether the reasons for detention are still given, and issue a decision by which it finds that the reasons for detention are still given, or cancel the detention.
(3) An appeal against the decision from the previous paragraphs does not delay its execution.
(4) There is no appeal against a decision by which the Senate rejects a proposal to order or cancel detention.
(5) After the indictment has been filed, detention may last a maximum of two years. If the defendant is not convicted within this period, the detention is terminated and the defendant is released.

c) Para 2: Cross-border surrender

Competent authorities of the Member States (list of the States which are not identical with the issuing, handling MS + provisions for the EAW [European Arrest Warrant in accordance with Council Framework Decision 2002/584/JHA])	**5**

The Slovenian notification pursuant to Article 117 EPPO Reg. says: **6**

> "If criminal proceedings are pending in the Republic of Slovenia against a person who resides in a foreign country, or if that person has been punished by a domestic court, the minister responsible for justice may file a request for his or her extradition (Article 534 para 1 of the Criminal Procedure Act /ZKP). Bilateral or multilateral agreements may provide different rules of the

[183] **207. člen ZKP**
(1) Če ni v tem zakonu drugače določeno (tretji odstavek 272. člena), odloča o priporu po vložitvi obtožnice do izreka sodbe sodišča prve stopnje senat. Zoper sklep o odreditvi pripora se sme priprti pritožiti v štiriindvajsetih urah od ure, ko mu je bil sklep vročen. O pritožbi mora višje sodišče odločiti v oseminštiridesetih urah.
(2) Senat mora po preteku dveh mesecev od zadnjega sklepa o priporu tudi brez predloga strank preizkusiti, ali so še dani razlogi za pripor, in izdati sklep, s katerim ugotovi, da so razlogi za pripor še podani, ali pa pripor odpravi.
(3) Pritožba zoper sklep iz prejšnjih odstavkov ne zadrži njegove izvršitve.
(4) Zoper sklep, s katerim senat zavrne predlog za odreditev ali odpravo pripora, ni pritožbe.
(5) Po vložitvi obtožnice lahko pripor traja največ dve leti. Če v tem roku obtožencu ni izrečena obsodilna sodba, se pripor odpravi in se obtoženec izpusti.

extradition request procedure. The EAW provisions apply mutatis mutandis to the surrender procedure between the Republic of Slovenia, the Republic of Iceland and the Kingdom of Norway, pursuant to the Agreement between the European Union and the Republic of Iceland and the Kingdom of Norway on the surrender procedure between the Member States of the European Union and Iceland and Norway."

7

Criminal Procedure Code

Article 534[184] **[partially discontinued]**
(1) If criminal proceedings are pending against someone who is in a foreign country, in the Republic of Slovenia, or if he has been punished by a domestic court, the minister responsible for justice may submit a request for his extradition.
(2) The request is sent to a foreign country through diplomatic channels; documents and information from Article 523 of this Act shall be attached to it.

Further provisions may be found in the

→ Cooperation in Criminal Matters with the Member States of the European Union Act

The above mentioned Act regarding the cooperation in criminal matters with the European Member States law is quite extensive. It regulates the procedure and conditions for ordering EAW and cross-border judicial surrender procedure for the purpose of prosecution or executing a custodial sentence or detention order. It regulates the rights of a person who is in the process of surrender, the questioning of a person by an investigating judge, detention, the procedure for lifting immunity, the transfer and deportation of a person, etc. It also regulates the establishment of joint investigative teams and the joint implementation of investigative measures, the exchange of data from criminal records and cooperation with Eurojust and the European Judicial Network. Competent authorities in the Republic of Slovenia enforce decisions of competent authorities of other Member States on the basis of mutual recognition of decisions. The provisions of this law do not apply to questions of cooperation in criminal matters that are otherwise regulated by a directly applicable legal act of the EU.

[184] **534. člen**
(delno se preneha uporabljati)
(1) Če teče zoper nekoga, ki je v tuji državi, v Republiki Sloveniji kazenski postopek ali če ga je domače sodišče kaznovalo, lahko vloži minister, pristojen za pravosodje, prošnjo za njegovo izročitev.
(2) Prošnja se pošlje tuji državi po diplomatski poti; priložijo se ji listine in podatki iz 523. člena tega zakona.

d) Fraud-related peculiarities

The Cooperation in Criminal Matters with the Member States of the European Union Act contains special provisions regarding the temporary preservation of a request for confiscation of pecuniary benefit and the confiscation of pecuniary benefit from a person who is in the surrender proceedings (these provisions are lex specialis in relation to the provisions of the Criminal Code). → See Articles 25 and 84 and Chapter 20.

aa. In national case-law

As an example the Decision of the Constitutional Court of the Republic of Slovenia, No. Up-384/15, dated 18 July 2016 is cited as follows:

"With a constitutional complaint, the applicant challenged the decisions of the District Court and Higher Court in Kranj, which allowed the surrender of the applicant to the Federal Republic of Germany on the basis of the EAW for criminal proceedings for 26 criminal offences of professional fraud under Articles 263 and 253 of the Criminal Code of the Federal Republic of Germany (StGB) and 57 criminal offences of embezzlement of wages according to Article 266a of StGB. The Court of First Instance also allowed surrender for 57 criminal offences of tax evasion under Article 370 of the Tax Rules (Abgabenordnung). The Higher Court confirmed the surrender, albeit partially rejecting the challenged decision. The Constitutional Court found that in the challenged decisions the courts did not adequately respond to the applicant's proposal to raise a preliminary question to the Court of Justice of the European Union (ECJ).

Because the surrender of a requested person to another country on the basis of the EAW is an area regulated by the European Union law, the national courts must interpret national regulations in the light of EU law and in accordance with its purpose. The national court must decide with sufficient clarity on the proposal for a preliminary ruling by the ECJ and in doing so take into account the criteria derived from Article 267 of the Treaty on the Functioning of the European Union and the practice of the ECJ. According to the Constitutional Court, the courts should adequately explain why they did not follow the proposal of the appellant's lawyers to submit a specific question for a preliminary ruling to the ECJ. Finding that the courts have not fulfiled their obligation, the Constitutional Court annulled the challenged decisions due to a violation of the right to equal protection of rights from Article 22 of the Constitution in relation to the right to judicial protection from the first paragraph of Article 23 of the Constitution."[185]

[185] Decision of the High Court in Ljubljana no. I Kp 775/2015 dated 17 April 2015, ECLI:SI:USRS:2016:Up.384.15, see https://www.us-rs.si/odlocitev/?q=zakon+o+sodelovanju+v+kazenskih+zadevah+z+dr%C5%BEavami+%C4%8Dlanicami&caseId=&df=&dt=&af=&at=&pri=1&vd=&vo=&vv=&vs=&ui=&va=&page=1&sort=&order=&id=112257. Accessed 10 July 2023.

bb. In the case-law of the ECJ and ECtHR

8 We are not familiar with Slovenian cases before the ECJ and ECtHR that relate to the arrest on the basis of EAW and cross-border surrender with regard to PIF offences.

4. Some provisions on Defence laws relating to EPPO actions concerning PIF Crime offences

Defence in a situation, in which the EPPO investigates a suspect is crucial for a state that obeys the rule of law, Article 2 TEU, 47 Charter of Fundamental Rights. EDPs are unlike national prosecutors not compellable by the State Prosecutors Act if it comes to disciplinary requests[186] but must communicate failures to the EPPO. **1**

First of all, the **suspect has a right to be informed**: **2**

3

Article a165.a CPA

(1) In the procedure proceeding on the basis of Council Regulation (EU) 2017/1939 of 12 October 2017 on the implementation of enhanced cooperation in connection with the establishment of the European Public Prosecutor's Office (OJ L No. 283 of 31 October 2017, p 1; hereinafter: Regulation 2017/1939/EU), the investigation according to XVI. does not comply with the chapter of this law. Provisions XVI. the chapters of this Act are used in such a procedure, if they do not conflict with this Act and Article 165a of this Act.

(2) The ***state prosecutor, either alone or with the help of the police, informs the suspect about the progress of the procedure under Regulation 2017/1939/EU as soon as possible***. If this is unavoidable due to the implementation of investigative actions or measures from 149.a, 149.b, 149.c, 149.č, 149.e, 150., 150.a, 150.b, 151., 155., 155. a

[186] **Article 8 State Prosecutors Act**
(responsibility of the state prosecutor)
(1) The state prosecutor is responsible for violations in the performance of the state prosecutor's office in accordance with this Act.
(2) A public prosecutor cannot be charged before a disciplinary court for an opinion he gave while performing his duties as a public prosecutor.
(3) In disciplinary cases against state prosecutors, the disciplinary courts decide under this Act.

and Article 156 of this law, inform the suspect ***as soon as possible without harming their implementation***.

a) Specialised legal law firms

4 Slovenia has no specialised law firms that would only provide defence in EPPO matters but it has a Bar, that offers information about Lawyers in the White Collar Crime Area.

5 **Article 183 CPA**[187] If the parties and the defence attorney were not present during individual investigative acts, and the investigating judge considers that it would be useful for the further course of the investigation to learn about important evidence, he informs them that they can learn about this evidence within a certain period and that they give their proposals for conducting new evidence

b) Defence in the investigation phase

aa. The Input from the Regulation 2017/1939

(1) Access to national case file

6 **Article 73 CPA**[188] When a request is made by a legitimate prosecutor for criminal prosecution, or when an investigating judge performs individual investigative actions before issuing a decision on an investigation, the defence attorney has the right to inspect and transcribe the files and view the collected exhibits.

Article 128 CPA[189] (1) Anyone with a legitimate interest may be allowed to inspect and copy individual criminal files.

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[187] **183. člen ZKP**
Če stranke in zagovornik niso bili navzoči pri posameznih preiskovalnih dejanjih, preiskovalni sodnik pa oceni, da bi bilo koristno za nadaljnji potek preiskave, da se seznanijo s pomembnimi dokazi, jih obvesti, da se lahko v določenem roku seznanijo s temi dokazi in da podajo svoje predloge za izvedbo novih dokazov.

[188] **73. člen ZKP**
Ko je podana zahteva upravičenega tožilca za kazenski pregon oziroma ko preiskovalni sodnik pred izdajo sklepa o preiskavi opravi posamezna preiskovalna dejanja, ima zagovornik pravico pregledati in prepisati spise in si ogledati zbrane dokazne predmete.

[189] **128. člen ZKP**
(1) Vsakemu, ki ima opravičen interes, se sme dovoliti pregled in prepis posameznih kazenskih spisov.
(2) Dokler postopek teče, dovoljuje pregled in prepis spisov organ, pred katerim teče postopek; ko pa je postopek končan, dovoli to predsednik sodišča ali uradna oseba, ki jo on določi. Če so spisi pri državnem tožilcu, dovoljuje pregled in prepis državni tožilec.
(3) Pregled in prepis posameznih kazenskih spisov se sme odreči, če to narekujejo posebni razlogi obrambe ali varnosti države ali če je bila javnost izključena z glavne obravnave. Zoper tak sklep je dovoljena pritožba, ki ne zadrži njegove izvršitve.
(4) Pregled in prepis podatka o naslovu ali prebivališču oškodovanca se lahko omejita tudi v skladu s 66. členom tega zakona.

(2) As long as the procedure is ongoing, the authority before which the procedure is ongoing permits inspection and copying of files; but when the proceedings are over, the president of the court or an official designated by him allows it. If the files are with the state prosecutor, the state prosecutor allows inspection and transcription.
(3) Inspection and transcription of individual criminal files may be waived if this is dictated by special reasons for the defence or security of the state or if the public has been excluded from the main hearing. An appeal is allowed against such a decision, which does not delay its execution.
(4) Inspection and copying of information on the address or residence of the injured party may also be restricted in accordance with Article 66 of this Act.
(5) The provisions of Articles 59 and 73 of this Act shall apply to the review and transcription of files, which shall be permitted to a private prosecutor, the injured party as prosecutor, the injured party and the defence counsel.
(6) The accused has the right to inspect and transcribe files and view exhibits.
(7) If documents containing confidential information were used in the procedure and were used as a basis for the decision, the parties and the defence attorney have the right to inspect them. The judge may decide, depending on the level of protection of classified information and the difficulties in ensuring appropriate security conditions, to allow inspection of files containing classified information in the premises of the court, which do not meet the security conditions, as determined by the law governing classified data, upon introduction additional security measures. Copying or copying of documents and other parts of the file containing classified information is not permitted, except under the conditions stipulated by the law governing classified information.

(5) Za pregled in prepis spisov, ki naj bo dovoljen zasebnemu tožilcu, oškodovancu kot tožilcu, oškodovancu in zagovorniku, veljajo določbe 59. oziroma 73. člena tega zakona.
(6) Obdolženec ima pravico pregledati in prepisati spise in si ogledati dokazne predmete.
(7) Če so bili v postopku uporabljeni dokumenti, ki vsebujejo tajne podatke in so bili uporabljeni kot podlaga za odločitev, jih imajo stranke in zagovornik pravico pregledati. Sodnik lahko odloči, da glede na stopnjo varovanja tajnih podatkov in težav z zagotavljanjem primernih varnostnih pogojev dopusti vpogled v spise, ki vsebujejo tajne podatke, v prostorih sodišča, ki ne izpolnjujejo varnostnih pogojev, kot jih določa zakon, ki ureja tajne podatke, ob uvedbi dodatnih varnostnih ukrepov. Prepis ali kopiranje listin in drugih delov spisa, ki vsebujejo tajne podatke, ni dovoljen, razen pod pogoji, kot jih določa zakon, ki ureja tajne podatke.
(8) Vpogled v listine in dele spisa, ki vsebujejo tajne podatke, se v skladu s pogoji iz prejšnjih odstavkov lahko dopusti tudi izvedencem, cenilcem, tolmačem, če je seznanitev s to vsebino nujna za opravo njihovega dela ter jih sodišče opozori, da morajo podatke varovati v skladu z določbami zakona, ki ureja tajne podatke, in na posledice in njihovo odgovornost v primeru razkritja teh podatkov.
(9) Obdolženec in zagovornik imata pri državnem tožilcu pravico pregledati uradne zaznamke o obvestilih, ki jih je državni tožilec izločil iz spisov (prvi odstavek 83. člena).
(10) Spis v elektronski obliki imajo upravičenci po tem zakonu pravico pregledovati in prepisovati tudi v elektronski obliki v informacijskem sistemu e-sodstvo, v katerem stranka dokaže svojo istovetnost.
(11) Upravičenci do pregleda spisa po določbah tega zakona imajo pravico v informacijskem sistemu e-sodstvo spremljati potek postopka.
(12) V skladu z zakonom, ki ureja dostop do informacij javnega značaja, lahko, ne glede na določbe tega zakona, vsakdo ustno ali pisno zahteva od organa, da mu omogoči dostop do informacij javnega značaja v posameznih kazenskih zadevah.

	(8) In accordance with the conditions set out in the previous paragraphs, access to documents and parts of the file containing confidential information may also be granted to experts, appraisers, interpreters, if familiarization with this content is necessary for the performance of their work and the court warns them that they must to protect the data in accordance with the provisions of the law governing confidential data, and to the consequences and their responsibility in the event of the disclosure of this data. (9) The defendant and the defence attorney have the right to inspect the official records of notifications that the state prosecutor removed from the files (first paragraph of Article 83) at the state prosecutor's office. (10) According to this law, beneficiaries have the right to review and transcribe the file in electronic form also in electronic form in the e-judiciary information system, in which the client proves his identity. (11) Beneficiaries of file inspection under the provisions of this Act have the right to monitor the progress of the proceedings in the e-judiciary information system. (12) In accordance with the law governing access to information of a public nature, regardless of the provisions of this law, anyone may orally or in writing request the authority to grant him access to information of a public nature in individual criminal cases.
7	In case of a detention: **Article 157 CPA**[190] […] (6) If the detention according to the second paragraph of this article lasts more than six hours, the police officer must immediately inform the person deprived of his liberty in writing of the reasons for the deprivation of his liberty, and inform him that for the purposes of preparing a complaint *he has the right review case material related to detention*. Inspection of certain material may be waived by a decision on detention if the life or rights of another person could be seriously endangered, or if the inspection would affect the course of the pre-trial proceedings or investigation, or if this is dictated by special reasons of defence or national security. […]

(2) Access to EPPO case file

8 The access to the EPPO case file is determined by the EPPO Regulation (see Article 42 EPPO Regulation et seq.).

[190] **157. člen ZKP**
[…] (6) Če pridržanje po drugem odstavku tega člena traja več kot šest ur, mora policist takoj v pisni obliki z odločbo obvestiti osebo, ki ji je odvzeta prostost, o razlogih za odvzem prostosti, ter jo poučiti, da ima za namene priprave pritožbe pravico pregledati gradivo zadeve, ki je povezano s pridržanjem. Pregled določenega gradiva se sme z odločbo o pridržanju odreči, če bi bilo lahko resno ogroženo življenje ali pravice druge osebe, ali če bi pregled vplival na potek predkazenskega postopka oziroma preiskave, ali če to narekujejo posebni razlogi obrambe ali varnosti države. […]

bb. Defence while investigation is under-way, Art. 28–33 EPPO Regulation

(1) In cases involving investigative measures of Art. 30 EPPO Regulation

A fundamental role, while the investigation is ongoing is that the suspect shall not be questioned without a defence attorney: **9**

Article 148a CPA[191] **10**

(1) The suspect may be questioned only in the presence of a defence attorney. The state prosecutor may also be present at the hearing, and the police must inform him of this in an appropriate manner.
(2) The questioning of the suspect is carried out by the police in accordance with the provisions of this Act, which apply to the questioning of the accused (Articles 227 to 233). A record of the hearing shall be drawn up in accordance with the provisions of Articles 79 to 82 of this Act. This record may be used as evidence in criminal proceedings. The questioning of the suspect may be recorded with an audio and video recording device after prior notification.
(3) If the suspect was not instructed about his rights from the fourth paragraph of the previous article, or if the instruction given and the suspect's statement regarding the right to a defence attorney were not recorded in the minutes, or if he was questioned without the presence of a defence attorney, or if it was acted in violation of the provisions of the eighth paragraph Article 227 of this law, the court may not base its decision on his testimony.

(2) Defence in case of arrest and pre-trial detention, Art. 33 EPPO Regulation

Article a165.a CPA [see above → Art. 28, via the general investigation provisions] **11**

[…] (6) In proceedings based on Regulation 2017/1939/EU, ***the state prosecutor must file an indictment against the detained suspect (fourth paragraph of Article 204.a of this Act) no later than six months from the order of detention, otherwise the investigating judge shall terminate the detention and the detainee release.*** In accordance with the provisions of this law, the investigating judge who ordered the detention is also responsible for supervising the execution of the detention.

[191] **148.a člen ZKP**
(1) Zaslišanje osumljenca se sme opraviti samo v navzočnosti zagovornika. Pri zaslišanju je lahko navzoč tudi državni tožilec, o čemer ga mora na primeren način obvestiti policija.
(2) Zaslišanje osumljenca opravi policija po določbah tega zakona, ki veljajo za zaslišanje obdolženca (227. do 233. člen). O zaslišanju se sestavi zapisnik po določbah 79. do 82. člena tega zakona. Ta zapisnik se lahko uporabi kot dokaz v kazenskem postopku. Zaslišanje osumljenca se lahko po predhodnem obvestilu posname z napravo za zvočno in slikovno snemanje.
(3) Če osumljenec ni bil poučen o svojih pravicah iz četrtega odstavka prejšnjega člena ali če dani pouk in izjava osumljenca glede pravice do zagovornika nista zapisana v zapisnik ali če je bil zaslišan brez navzočnosti zagovornika ali če je bilo ravnano v nasprotju z določbami osmega odstavka 227. člena tega zakona, sodišče ne sme opreti svoje odločbe na njegovo izpovedbo.

(7) In the procedure proceeding on the basis of Council Regulation (EU) 2017/1939, the total duration of temporary insurance before the indictment is filed (Article 502b of this Act) may not be longer than four years.

c) Defence in Indictment phase and the trial phase

An important question to answer at this stage is, before which court will the EPPO prosecute and how should the defence look like. Of utmost importance for the defence in the indictment phase and the trial phase are the procedural rights and guarantees stipulated in **Art. 29 of the Constitution** (the right to have adequate time and facilities to prepare the defence, to be present at the trial and to conduct defence or to be defended by a legal representative, to present all evidence to one's benefit, the privilege against self-incrimination etc.). These rights are also guaranteed to the accused by the CPA/ZKP.

12 **Article 29 Constitution of the Republic Slovenia**[192] **(Legal guarantees in criminal proceedings)**
The following rights must also be guaranteed to anyone who is accused of a criminal act in full equality:
- that he has adequate time and opportunities to prepare his defence;
- to be tried in his presence and to defend himself or with a lawyer;
- that he is guaranteed the implementation of evidence in his favour;
- that he is not obliged to testify against himself or his relatives, or to admit guilt.

13 The State Prosecutor's Act also regulates this situation quite clearly:

14 **Article 21 (Appearing before the courts)**[193] (1) State prosecutors who have at least the title of district state prosecutor may appear before district courts.

[192] **29. člen URS**
(pravna jamstva v kazenskem postopku)
Vsakomur, ki je obdolžen kaznivega dejanja, morajo biti ob popolni enakopravnosti zagotovljene tudi naslednje pravice:
- da ima primeren čas in možnosti za pripravo svoje obrambe;
- da se mu sodi v njegovi navzočnosti in da se brani sam ali z zagovornikom;
- da mu je zagotovljeno izvajanje dokazov v njegovo korist;
- da ni dolžan izpovedati zoper sebe ali svoje bližnje, ali priznati krivdo.

[193] **21. člen**
(nastopanje pred sodišči)
(1) Pred okrajnimi sodišči lahko nastopajo državni tožilci, ki imajo najmanj naziv okrajnega državnega tožilca.
(2) Pred okrožnimi sodišči lahko nastopajo državni tožilci, ki imajo najmanj naziv okrožnega državnega tožilca.
(3) Pred višjimi sodišči lahko nastopajo državni tožilci, ki imajo najmanj naziv višjega državnega tožilca.
(4) Pred Vrhovnim sodiščem Republike Slovenije (v nadaljnjem besedilu: Vrhovno sodišče) lahko nastopajo samo vrhovni državni tožilci.
(5) Ne glede na drugi odstavek tega člena lahko pred okrožnimi sodišči nastopajo tudi okrajni državni tožilci, a le v okviru pooblastil, ki jih za določene vrste zadev, za posamezno zadevo, za določene vrste procesnih dejanj ali za posamezno procesno dejanje posebej določi vodja državnega tožilstva. Za posamezno procesno dejanje posebej lahko pooblasti okrajnega državnega tožilca za nastopanje pred okrožnim sodiščem tudi pristojni državni tožilec.

(2) State prosecutors who have at least the title of district state prosecutor may appear before district courts.
(3) State prosecutors who have at least the title of senior state prosecutor may appear before higher courts.
(4) Only Supreme State Prosecutors may appear before the Supreme Court of the Republic of Slovenia (hereinafter: the Supreme Court).
(5) Notwithstanding the second paragraph of this article, district state prosecutors may also appear before district courts, but only within the framework of the powers that are specifically determined by the head for certain types of cases, for individual cases, for certain types of procedural actions or for individual procedural actions of the State Prosecutor's Office. For an individual procedural act, the competent state prosecutor can also authorize the district state prosecutor to appear before the district court.
(6) Irrespective of the third paragraph of this article, district or district state prosecutors may also appear together with the senior state prosecutor in proceedings before the second-level appeals court, according to the authorization determined for each case by the head of the competent appeal department with the consent of the head of the competent state prosecutor's office, who filed or represented the criminal charges in the first instance proceedings.
(7) Notwithstanding the first to fourth paragraphs of this article, the European Prosecutor (hereinafter: the European Prosecutor) ***and the European Delegated Prosecutor (hereinafter: the European Delegated Prosecutor) may appear before all courts in the Republic of Slovenia,*** and before the Supreme Court only if it is not a procedure with extraordinary legal means. In the procedure with extraordinary legal means, he can appear together with the Supreme State Prosecutor, according to the authorization determined for each case by the State Prosecutor General.

(6) Ne glede na tretji odstavek tega člena lahko v postopku pred pritožbenim sodiščem druge stopnje po pooblastilu, ki ga za posamezno zadevo določi vodja pristojnega pritožbenega oddelka s soglasjem vodje pristojnega državnega tožilstva, nastopajo skupaj z višjim državnim tožilcem tudi okrajni oziroma okrožni državni tožilci, ki so vložili oziroma zastopali kazensko obtožbo v postopku na prvi stopnji.
(7) Ne glede na prvi do četrti odstavek tega člena lahko evropski tožilec ali evropska tožilka (v nadaljnjem besedilu: evropski tožilec) in evropski delegirani tožilec ali evropska delegirana tožilka (v nadaljnjem besedilu: evropski delegirani tožilec) nastopata pred vsemi sodišči v Republiki Sloveniji, pred Vrhovnim sodiščem pa le, če ne gre za postopek z izrednimi pravnimi sredstvi. V postopku z izrednimi pravnimi sredstvi lahko po pooblastilu, ki ga za posamezno zadevo določi generalni državni tožilec, nastopa skupaj z vrhovnim državnim tožilcem.

C. OLAF-Regulation (EU, EURATOM) No 883/2013

I. General Introduction: Investigation Powers and National Law Related to OLAF in Slovenia (Art. 3–8 OLAF Regulation)

OLAF's task and role as well as it actions are determined primarily by Union law. The history of OLAF can be traced back to the early 2000s and its predecessor UCLAF.[194] OLAF has a renewed role within the changed anti-fraud architecture of the Union in the 2020s and is an important actor against fraud within the Multi-annual framework legislation and the Union's policies, which depend on the action of the Member States and the agreements concluded on the political levels. **1**

In addition to that OLAF and its investigators shall follow internal guidelines[195], manuals on procedures[196] reports and working arrangements with union partners[197] as well as Administrative Cooperation Agreements (ACAs) with national partners, EU external actors[198]. OLAF issues compendia, researches itself, organizes meetings and conferences and workshops for its national partners. All of these non-binding guides and handbooks might be useful in the course of investigations.[199] The statistics on latest actions and the past year can be deduced from the OLAF Reports, equal to the new EPPO's annual report and the PIF Report, which is issued by the EU Commission in close cooperation with OLAF, IBOAs and the EPPO as well as the input from ECA and national AFCOS, governments and researchers. **2**

The European Anti-fraud office is well accommodated in the Union anti-fraud architecture these days and the academic research is extensive and long lasting since the **3**

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[194] See *Hauck,* EU Fraud Commentary, Chronology Part 3 and 4 as well as the Commentary on Art. 1 OLAF Regulation.
[195] See EU Commission (OLAF) 2021a; EU Commission (OLAF) 2021b; EU Commission (OLAF) 2016. See all translations: https://anti-fraud.ec.europa.eu/guidelines-investigations-olaf-staff_en. Accessed 18 March 2024.
[196] Brüner 2009, whereby it is unclear if certain Manuals are really still used by investigators and the Office staff.
[197] OLAF, Working Arrangement between EPPO and OLAF, Point 4: „Exchange of information", 4.5 and 4.6 (cross double check between the databases for a PIF offence action), 5 („Mutual Reporting and transmittsion of potential cases"), 5.1, 5.1.1.European Commission – „Agreement establishing the moda-lities of cooperation between the European Commission and the European Public Prosecutor's Office" 18 June 2021, Art 5 para 1, 4, 5 („Reporting by the Commission") in combination with Annex I Contact points: „information will be transmitted via the head of OLAF to the head of operation at EPPO/central office", Annex III.A („Information on the Initiation of an Investigation – template").
[198] Prosecution Office of Hungary and OLAF. See State of Play – July 2022 Administrative Cooperation Arrangements (ACAs) with partner authorities in non-EU countries and territories and counterpart ad-ministrative investigative services of International Organisations, online: https://anti-fraud.ec.europa.eu/system/files/2022-07/list_signed_acas_en.pdf. Accessed 18 March 2024.
[199] See European Commission (OLAF) 2011; EU Commission (OLAF) 2017; EU Commission (OLAF) 2013; EU Commission (DG regional Policy) 2009; EU Commission (DG Policy, D.2) 2014.

2000s.[200] Last decade's landmark judgement "*Sigma Orionis SA vs European Commission*", decided by the European General Court[201], and clarified the application of national law and Union law[202] in relation to external investigations of OLAF.[203] In the light of this jurisprudence the resistance to the actions of OLAF, in order to awaken national law, might be a defence strategy that Economic operators use. If this is the case, OLAF has to rely on national homologue investigators and thus as well limitations, thresholds and conditions of national law i.e. investigative powers in various areas of budget spending and structural funds (direct management) and revenue-related obligations (indirect management).

4 Current debates evolve around the effectiveness of investigations with regard to digital evidence by virtue of the Regulation 2185/96, which stems in parts from a more analogue society.[204] More and more questions are raised if the analogue society in law enforcement and the area of criminal justice is a problem of the digital age and presents obstacles to effective investigations. The access to bank accounts and registers if highly important for OLAF investigators as well as their national homologues. The relationship to the EPPO, especially the regional centres of the EDPs in the present country should be close. In addition to that the external investigations require a good coordination, which shall be governed by the relevant AFCOS (see below Article 12a OLAF Regulation), which has been part of the current study and answered a questionnaire or commented and reviewed (for some countries that are very prone to frauds or countries that have recently changed their anti-fraud prevention in order to fulfil the requests for a national anti-fraud prevention strategy) Part B. of this chapter.

5 Another question and debate has ever since existed concerning the Reports of OLAF (cf. → Article 11), which can and shall constitute evidence – even – in national criminal trials. They concern EPPO cases (see → Articles 23–28 EPPO Regulation) or cases below the thresholds for which the EDPs could exercise their competence and jurisdiction on behalf of the EPPO. This area has been well researched by *Luchtman/Vervaele/Ligeti and others* in OLAF studies from the last decade, which we can refer to.[205]

[200] Brüner 2001, pp 17–26; Brüner 2008, pp 859–872; Brüner 2009; Gellert 2009, pp 85–88.
[201] GC (aka CFI), Case T-48/16, 3.5.2018, Sigma Orionis SA v. Commission, paras. 70 et seq., 80–81 published in the electronic Reports of Cases (Court Reports - general) and in the OJ, 01/06/2018.
[202] See De Bellis 2021, pp 431 et seq; Herrnfeld (2021) in: Herrnfeld, Burchard, Brodowski (eds) EPPO Commentary, pp 426 et seq; recently Wouters, Nowak, Chane, Hachez 2020, pp 132 et seq.
[203] De Bellis 2021, pp 431 et seq; see OLAF Website, List of rulings of the Court of Justice of the EU concerning OLAF, https://anti-fraud.ec.europa.eu/about-us/legal-background/list-rulings-court-justice-eu-concerning-olaf_en (Accessed 31 March 2022).
[204] See Carrera, Mitsilegas, Stefan 2021.
[205] See Michiel Luchtman/John Vervaele (eds), Report Investigatory powers and procedural safeguards: Improving OLAF's legislative framework through a comparison with other EU law enforcement authorities (ECN/ESMA/ECB), Utrecht University / RENFORCE, 2017.

The Manual Part B, alike to the first Part A on the EPPO and its investigative powers, gives a « *bilingue* » collection of the relevant laws – including the recently adopted on-the-spot checks laws (in relation to Regulation (EC) 2185/96) of certain countries – in relation to investigations and investigative powers as well as examples from Case law and trials, which relied upon evidence gathered by OLAF. In addition to the analysis parts of this chapter mentioned above the national authorities and the role of *the* AFCOS is explained below. **6**

The wording of Art. 1 OLAF Regulation is as follows: **7**

Art. 1 Objectives and tasks

1. In order to step up the fight against fraud, corruption and any other illegal activity affecting the financial interests of the European Union and of the European Atomic Energy Community (hereinafter referred to collectively, when the context so requires, as 'the Union'), the European Anti-Fraud Office established by Decision 1999/352/EC, ECSC, Euratom ('the Office') shall exercise the powers of investigation conferred on the Commission by:

(a) The relevant Union acts; and

(b) The relevant cooperation and mutual assistance agreements concluded by the Union with third countries and international organisations.

2. The Office shall provide the Member States with assistance from the Commission in organising close and regular cooperation between their competent authorities in order to coordinate their action aimed at protecting the financial interests of the Union against fraud. The Office shall contribute to the design and development of methods of preventing and combating fraud, corruption and any other illegal activity affecting the financial interests of the Union. The Office shall promote and coordinate, with and among the Member States, the sharing of operational experience and best procedural practices in the field of the protection of the financial interests of the Union, and shall support joint anti-fraud actions undertaken by Member States on a voluntary basis.

3. This Regulation shall apply without prejudice to:

(a) Protocol No 7 on the privileges and immunities of the European Union attached to the Treaty on European Union and to the Treaty on the Functioning of the European Union;

(b) the Statute for Members of the European Parliament;

(c) the Staff Regulations;

(d) Regulation (EU) 2016/679 of the European Parliament and of the Council;

(e) Regulation (EU) 2018/1725 of the European Parliament and of the Council

4. Within the institutions, bodies, offices and agencies established by, or on the basis of, the Treaties ('institutions, bodies, offices and agencies'), the Office shall conduct administrative investigations for the purpose of fighting fraud, corruption and any other

illegal activity affecting the financial interests of the Union. To that end, it shall investigate serious matters relating to the discharge of professional duties constituting a dereliction of the obligations of officials and other servants of the Union liable to result in disciplinary or, as the case may be, criminal proceedings, or an equivalent failure to discharge obligations on the part of members of institutions and bodies, heads of offices and agencies or staff members of institutions, bodies, offices or agencies not subject to the Staff Regulations (hereinafter collectively referred to as 'officials, other servants, members of institutions or bodies, heads of offices or agencies, or staff members').
4a. The Office shall establish and maintain a close relationship with the European Public Prosecutor's Office (EPPO) established in enhanced cooperation by Council Regulation (EU) 2017/1939 (3). That relationship shall be based on mutual cooperation, information exchange, complementarity and the avoidance of duplication. It shall aim in particular to ensure that all available means are used to protect the financial interests of the Union through the complementarity of their respective mandates and the support provided by the Office to the EPPO.
5. For the application of this Regulation, competent authorities of the Member States and institutions, bodies, offices and agencies may establish administrative arrangements with the Office. Those administrative arrangements may concern, in particular, the transmission of information, the conduct of investigations and any follow-up action.

8 Art. 2 of the OLAF Regulation contains definitions, which apply for all assessements of Seconded National Experts, Investigators, AFCOS staff or national authorities managing structural funds or other EU programmes. It might be cited e.g. for an OLAF Report (see below → Art. 11) in order to subsume or assess a conduct, which was investigated.

Art. 2 Definitions
The definitions have legal value and force. They stem from the original legislator of the Regulation. They are open to interpretation by parties and courts:
For the purposes of this Regulation:
(1) 'financial interests of the Union' shall include revenues, expenditures and assets covered by the budget of the European Union and those covered by the budgets of the institutions, bodies, offices and agencies and the budgets managed and monitored by them;
(2) 'irregularity' shall mean 'irregularity' as defined in Article 1(2) of Regulation (EC, Euratom) No 2988/95;
(3) 'fraud, corruption and any other illegal activity affecting the financial interests of the Union' shall have the meaning applied to those words in the relevant Union acts and the notion of 'any other illegal activity' shall include irregularity as defined in Article 1(2) of Regulation (EC, Euratom) No 2988/95;
(4) 'administrative investigations' ('investigations') shall mean any inspection, check or other measure undertaken by the Office in accordance with Articles 3 and 4, with a view

to achieving the objectives set out in Article 1 and to establishing, where necessary, the irregular nature of the activities under investigation; those investigations shall not affect the powers of the EPPO or of the competent authorities of Member States to initiate and conduct criminal proceedings;
(5) 'person concerned' shall mean any person or economic operator suspected of having committed fraud, corruption or any other illegal activity affecting the financial interests of the Union and who is therefore subject to investigation by the Office;
(6) 'economic operator' shall have the meaning applied to that term by Regulation (EC, Euratom) No 2988/95 and Regulation (Euratom, EC) No 2185/96;
(7) 'administrative arrangements' shall mean arrangements of a technical and/or operational nature concluded by the Office, which may in particular aim at facilitating the cooperation and the exchange of information between the parties thereto, and which do not create additional legal obligations;
(8) 'member of an institution' means a member of the European Parliament, a member of the European Council, a representative of a Member State at ministerial level in the Council, a member of the Commission, a member of the Court of Justice of the European Union (CJEU), a member of the Governing Council of the European Central Bank or a member of the Court of Auditors, with respect to the obligations imposed by Union law in the context of the duties they perform in that capacity.

1. Article 3 External investigations

1. In the areas referred to in Article 1, the Office shall carry out on-the-spot checks and inspections in Member States and, in accordance with cooperation and mutual assistance agreements and any other legal instrument in force, in third countries and on the premises of international organisations.

2. The Office shall ***carry out on-the-spot checks and inspections in accordance with this Regulation and, to the extent not covered by this Regulation, in accordance with Regulation (Euratom, EC) No 2185/96.***

3. Economic Operators shall cooperate with the Office in the course of its investigations. The Office may request written and oral information, including through interviews.
4. Where, in accordance with paragraph 3 of this Article, the ***Economic Operator concerned submits*** to an on-the-spot check and inspection authorised pursuant to this Regulation, Article 2(4) of Regulation (EC, Euratom) No 2988/95, the third subparagraph of Article 6(1) of Regulation (Euratom, EC) No 2185/96 and Article 7(1) of Regulation (Euratom, EC) No 2185/96 ***shall not apply insofar as those provisions require compliance with national law*** and are capable of restricting access to information and documentation by the Office to the same conditions as those that apply to national administrative inspectors.
5. At the request of the Office, the ***competent authority of the Member State*** concerned shall, without undue delay, provide the staff of the Office with the assistance needed in order to carry out their tasks effectively, as specified in the written authorisation referred to in Article 7(2).
The ***Member State concerned shall ensure***, in accordance with Regulation (Euratom, EC) No 2185/96, that the ***staff of the Office are allowed access to all information, documents and data relating to the matter under investigation which prove necessary in order for the on-the-spot checks and inspections to be carried out effectively and efficiently, and that the staff are able to assume custody of documents or data to ensure that there is no danger of their disappearance.*** Where privately owned devices are used for work purposes, those devices may be subject to inspection by the Office. The Office shall subject such devices to inspection only under the same conditions and to the same extent that national control authorities are allowed to investigate privately owned devices and where the Office has reasonable grounds for suspecting that their content may be relevant for the investigation.
6. Where the staff of the Office find that an ***Economic Operator resists*** an on-the-spot check and inspection authorised pursuant to this Regulation, namely where the Economic Operator refuses to grant the Office the necessary access to its premises or any other areas used for business purposes, conceals information or prevents the conduct of any of the activities that the Office needs to perform in the course of an on-the-spot check and inspection, the ***competent authorities, including, where appropriate, law enforcement authorities of the Member State concerned shall afford the staff of the Office the necessary assistance so as to enable the Office to conduct its on-the-spot check and inspection effectively and without undue delay.***
Article 2(4) of Regulation (EC, Euratom) No 2988/95
Subject to the Community law applicable, the procedures for the application of Community checks, measures and penalties shall be governed by the laws of the Member States.
the third subparagraph of Article 6(1) of Regulation (Euratom, EC) No 2185/96

Subject to the Community law applicable, they shall be required to comply, with the rules of procedure laid down by the law of the Member State concerned.

Article 7(1) of Regulation (Euratom, EC) No 2185/96

Commission inspectors shall have access, under the same conditions as national administrative inspectors and in compliance with national legislation, to all the information and documentation on the operations concerned which are required for the proper conduct of the on-the-spot checks and inspections. They may avail themselves of the same inspection facilities as national administrative inspectors and in particular copy relevant documents.

On-the-spot checks and inspections may concern, in particular:

- professional books and documents such as invoices, lists of terms and conditions, pay slips, statements of materials used and work done, and bank statements held by Economic Operators,
- computer data,
- production, packaging and dispatching systems and methods,
- physical checks as to the nature and quantity of goods or completed operations,
- the taking and checking of samples,
- the progress of works and investments for which financing has been provided, and the use made of completed investments,
- budgetary and accounting documents,
- the financial and technical implementation of subsidized projects.]

When providing assistance in accordance with this paragraph or with paragraph 5, the competent authorities of Member States ***shall act in accordance with national procedural rules applicable to the competent authority concerned. If such assistance requires authorisation from a judicial authority in accordance with national law***, such authorisation shall be applied for.

7. The Office shall conduct on-the-spot checks and inspections upon production of written authorisation, as provided for in Article 7(2). It shall, at the latest at the start of the on-the-spot check and inspection, inform the Economic Operator concerned of the procedure applicable to the on-the-spot check and inspection, including the applicable procedural safeguards, and the Economic Operator's duty to cooperate.

8. In the exercise of the powers assigned to it, the Office shall comply with the procedural guarantees provided for in this Regulation and in Regulation (Euratom, EC) No 2185/96. In the conduct of an on-the-spot check and inspection, the Economic Operator concerned shall have the right not to make self-incriminating statements and to be assisted by a person of the Economic Operator's choice. When making statements during an on-the-spot check and inspection, the Economic Operator shall be provided with the possibility to use any of the official languages of the Member State where that Economic Operator is located. The right to be assisted by a person of choice shall not prevent

access by the Office to the premises of the Economic Operator and shall not unduly delay the start of the on-the-spot check and inspection.
9. Where a Member State does not cooperate with the Office in accordance with paragraphs 5 and 6, the Commission may apply the relevant provisions of Union law in order to recover the funds related to the on-the-spot check and inspection in question.
10. As part of its investigative function, the Office shall carry out the checks and inspections provided for in Article 9(1) of Regulation (EC, Euratom) No 2988/95 and in the sectoral rules referred to in Article 9(2) of that Regulation in Member States and, ***in accordance with cooperation and mutual assistance agreements and any other legal instrument in force***, in third countries and on the premises of international organisations.
11. During an external investigation, the Office may have access to any relevant information and data, irrespective of the medium on which it is stored, held by the institutions, bodies, offices and agencies, connected with the matter under investigation, where necessary in order to establish whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union. For that purpose Article 4(2) and (4) shall apply.
12. Without prejudice to Article 12c(1), where, before a decision has been taken whether or not to open an external investigation, the Office handles information which suggests that there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union, it may inform the competent authorities of the Member States concerned and, where necessary, the institutions, bodies, offices and agencies concerned.
Without prejudice to the sectoral rules referred to in Article 9(2) of Regulation (EC, Euratom) No 2988/95, the competent authorities of the Member States concerned shall ensure that appropriate action is taken, in which the Office may take part, ***in accordance with national law***. Upon request, the competent authorities of the Member States concerned shall inform the Office of the action taken and of their findings on the basis of information referred to in the first subparagraph of this paragraph.

9 On-the-spot checks have been discussed in the last decade quite thoroughly[206], but not enough for all countries. For Slovenia, it is worth taking a closer look at the applicable provisions.

[206] See Bovend'eerdt 2018.

a) On the spot-checks and inspections – Renouncing the applicable national law – Para 2, 4

The national law is renounced if the economic operator, the beneficiary, the grant recipient etc. submits to the investigation of the Office. In this case Union law applies. **10**

b) Assistance needed, competent authorities and access to information in the Member States, para 5

Even in the case that Union law applies, OLAF may need the help and information from national authorities in the Member states (managing authorities, control bodies, customs and tax offices etc.). **11**

c) Resistance by the economic operator vs. law enforcement and effective investigations, para 6 or the new model and the relevance of resistance or conformity of the economic operator

If the economic operator, the beneficiary, the grant recipient etc. resists this conduct has an effect on the applicability of law. The ECJ rules in Sigma Orionis that national law applies in the case of resistance, which means that the investigations need to be in conformity with the national law applicable in similar national investigations. **12**

d) The basic principle of conformity to Regulations 2185/96 and 883/2013

aa. Submission: Compliance with Union law

In the case of compliance of an Slovenian economic operator Union law applies, thus the Regulation allows OLAF officials to conduct on-the-spot checks without prior information of national authorities. **13**

bb. Resistance: Assistance in conformity with national procedural rules applicable

Does the participant, the personal or economic operator concerned resist, the Regulation indicates that OLAF has to follow national law and inform national authorities that can provide assistance in conformity with national procedural rules applicable.[207] **14**

[207] ECJ, Case T-48/16 Sigma Orionis v. the Commission, Margin Number 112: "Finally, it should be noted that, according to the rules applicable to the actions carried out by OLAF, the requirement to obtain a judicial authorisation, if provided for by national law, only applies in the case of an objection raised by the economic operator and that OLAF must then have recourse to national police forces which, according to the rules applicable to them, must comply with national law."

e) Competent authorities

15 The table shows non-extensively the most important competent authorities, which need to be contacted if the economic operator resists and thus national law applies if OLAF wants to conduct investigations into irregularities:

16 Who is responsible depends on which area is affected (direct or shared management) and which type of irregularity or fraud is suspected, as well as in which payment (expenditure) or payment (revenue) area.

17 The competent authorities are the AFCOS body, the Ministry of Finance with its subordinated Departments and the authorities at local and regional level,[208] the Slovene Customs Administration, Slovene Court of Auditors, the other relevant Slovene Ministries and the Slovene Inspection Service.

18 The Financial Administration has various tasks in the area of budget inspection, revenue and expenditure related matters, which concern OLAF's competence if the EU budget is concerned.[209]

[208] See in the annex for a list of the Financial offices in Slovenia.

[209] Article 11 (tasks of the financial administration) FDA Act
(1) The tasks of the financial administration are:
1. assessment and calculation of mandatory duties,
2. customs clearance of goods,
3. financial control,
4. **financial investigation,**
5. control over the organization of gambling games,
6. control over reporting the entry and amount of cash into or from the EU area,
7. control over the import, export, transit and transfer of goods in accordance with customs regulations and regulations that determine special measures in the interests of safety, protection of health and life of people, animals and plants, protection of the environment, protection of cultural heritage, protection of intellectual rights property and trade policy measures,
8. enforcement,
9. decision-making in other administrative procedures, according to the regulations for the implementation of which the Financial Administration is competent,
10. decision-making in the misdemeanour procedure, according to the regulations for monitoring the implementation of which the financial administration is competent,
11. implementation of measures of foreign trade and common agricultural policy, for the implementation of which the financial administration is authorized,
12. storage, sale and destruction of seized, confiscated, surrendered or found goods and control over the destruction of goods,
13. cooperation and exchange of data with EU authorities, competent authorities of EU member states and competent authorities of other countries, as well as cooperation with international organizations and professional associations in the field of financial administration,
(2) In order to ensure the uniform application of regulations and the uniform performance of administration tasks, the supervisor issues work instructions to the financial offices from the work area of the financial administration.

f) National law and "checks and inspections" of OLAF

aa. Administrative procedure in general

Speaking of this area the main Act is the General Administrative Procedure Act (*Zakon o splošnem upravnem postopku* (ZUP)). **19**

It has the following structure and contents: **20**

FIRST PART OF THE GENERAL PROVISIONS	PROCEDURE AT THE FIRST LEVEL, Art. 125 et seq.
THE SECOND PART OF THE	

The administrative procedure in the area of customs is determined by the Customs Administration of the Republic of Slovenia.[210] **21**

The administrative procedure in the area of tax related duties and obligations (tax liabilities), VAT duties is determined by the Tax Administration of the Republic of Slovenia. The administration is carried out by the so-called Financial Offices (see above competent authorities). The Tax Administration is regulated by the Financial Administration Act (FDA) [*Zakon o finančni upravi* (ZFU)]. **22**

bb. Special administrative powers and provisions in certain areas of revenue and expenditure

To the special administrative procedure we can collect the VAT Act. The **VAT Act (*Zakon o davku na dodano vrednost*** (ZDDV-1)) contains the liability regimes, the administrative thresholds for goods that are exempt from VAT etc. The VAT Act is important to identify risks of VAT frauds. VAT frauds are still a very common scheme across the EU and cause a lot of EPPO investigations (2021–2023). This is a clear hint at the fact that fraudsters – especially those that act organized – test certain objects and certain regimes. If a product shall be exempt from VAT, they might test to defraud VAT offices etc. Such a case might be discovered via following the lead of an irregularity. OLAF and its national partners could eventually discover during an external investigation a future EPPO case. Often **VAT refunds** are requested in a carousel. These carousel frauds cause great damage to the EU. **23**

It is therefore important to deal with this issue and follow every potential irregularity lead, if you are an OLAF Unit Investigator or a SNE of OLAF!

This short introduction shall show us that it is important to deal with the **Slovene VAT Act**. It has the following contents: **24**

[210] See Council of the European Union (2012) Evaluation Report on the Fifth Round of Mutual Evaluations "Financial Crime And Financial Investigations", Report on Slovenia. Brussels, pp. 18.

I. CONTENT AND SCOPE OF THE LAW
II. TAXPAYERS, Art. 5 et seq.
III. TAXABLE TRANSACTIONS
IV. PLACE OF TAXABLE TRANSACTIONS, Art. 19 et seq.
V. TAXABLE EVENT AND OBLIGATION TO ACCOUNT FOR VAT, Art. 32 et seq.
VI. TAX BASE, Art. 36 et seq.
VII. VAT RATE, Art. 40 et seq.
VIII. VAT EXEMPTIONS, Art. 42 et seq.
IX. VAT DEDUCTION, Art. 52 et seq.
X. OBLIGATIONS OF TAX PAYERS AND CERTAIN PERSONS WHO ARE NOT TAX PAYERS, Art. 76 et seq.
XI. SPECIAL ARRANGEMENTS, Art. 94 et seq.
XIII. PENAL PROVISIONS, Art. 140 et seq. (Tax offences)
Art. 141 Serious Tax Offences
Annex I: List of supplies of goods and services to which a lower rate of VAT applies

Annex Ia: Outline list of electronically provided services from Article 30c of the Act

Annex II: Types of goods that can be stored in tax warehouses

Annex III: Art objects, collections and antiquities

Annex IIIa: List of supplies of waste, scrap and used materials and services in relation to which VAT payers are the recipients of these goods or services

Annex IV: List of supplies of goods and services to which a special lower rate of VAT applies

(1) Administrative provisions

The administrative provisions of the aforementioned Acts are thus very important in order to determine the inspection, but as well the legal situation in case of an irregularity: Was the recipient eligible, what kind of liability does he/she have, could he import/export the goods declared, was a failure during the process visible that causes an irregularity? **25**

(a) Administrative provisions in the area of customs duties and value added tax (VAT) = revenue

(aa) Principle of investigation

The general administrative procedure starts *ex officio*: **26**

Article 127[211] **27**
(1) The *ex officio* administrative procedure begins when the competent authority performs any action for this purpose.
(2) The administrative procedure at the request of the party is initiated from the date of submission of the party's request, unless it is a case of cases referred to in Article 129 of this Act.

The area of tax and customs investigation is determined by the relevant Acts. **28**

A real financial investigation starts like follows: **29**

"**Article 100 Financial Investigation** **30**
(2) A financial investigation **begins with the issuance of an investigation warrant**, which states the circumstances from which the grounds for suspicion arise, the actions and measures that should be taken, and the circumstances that should be investigated in the financial investigation, or the circle of entities, which are being investigated financially.
(3) The official conducting the financial investigation may instruct another official to perform individual actions.
(4) If there are reasons for suspecting insufficiently calculated mandatory duties or the existence of other irregularities within the jurisdiction of the financial administration, an inspection may be carried out as part of the financial investigation, which begins in accordance with the regulation governing the inspection procedure."[212]

[211] **127. člen**
(1) Upravni postopek po uradni dolžnosti se začne, ko opravi pristojni organ v ta namen kakršnokoli dejanje.
(2) Upravni postopek na zahtevo stranke je uveden z dnem vložitve zahteve stranke, če ne gre za primere iz 129. člena tega zakona.
[212] **100. člen**

31 Even if today the Customs Code of the Union determines the main procedures and rules on customs process, the Act on the Implementation of Customs Legislation of the European Union (ZICZEU) and the Financial Administration Act apply subsequently.[213]

(bb) External audit

32 External audits describe the powers that e.g. VAT offices are vested with in the area of revenue collection or administrative bodies that manage structural funds (see below (b)). As they are conducted on a regular basis, they might lead to an insertion of an economic operator in the Early Detention System of OLAF. Case-law on the matter that a person is inserted into this system exist and shows that this might be a relevant factor to ask a lawyer to appeal against such a decision of OLAF. External audits are therefore essential tools that can result in a position that is – justifiable or not – infringing the rights of the suspect of an irregularity etc.

(cc) Tax and customs investigation (Customs Code/General Tax Code)

33 A case study can be obtained from the annual reports of the Financial Administration. The following example shows a preferred new method of fraudsters: They use waste, which is exported to other countries and ship it all-over Europe, using the borders, where they would normally be obliged to pay special duties as fraud locations. The frauds that happen here are transnational per se. They have no interest in getting the waste job done, but see the waste as a quasi "gold object", which they can use to exploit either EU funds to diminish waste or recycle it or they use it for illegal energy production etc.

34 *Case Study 2: Fraud with Waste (Increase Registered by Investigation Authorities in 2020–2023)*

Case-Study: Fraud with Waste (Increase Registered by Investigation Authorities in 2020–2023)

The annual Report of the Slovenian Financial Administration for 2022 revealed the following: More and more issues of the origin of goods were registered and keep the customs authorities in action.

"In the period from 1 January 2022 to 31 December 2022, the Financial Administration of the Republic of Slovenia received proposals from financial offices for subsequent verification of 179 proofs of origin of goods issued abroad. Of these, it is subject

(finančna preiskava)
(2) Finančna preiskava se začne z izdajo naloga za preiskavo, v katerem se navedejo okoliščine, iz katerih izhajajo razlogi za sum, dejanja in ukrepe, ki naj se izvedejo, in okoliščine, ki naj se v finančni preiskavi raziščejo, oziroma krog subjektov, ki se finančno preiskujejo.

[213] See https://www.fu.gov.si/carina/poslovanje_z_nami/carinski_predpisi/#c1496.

to subsequent verification by foreign customs sent 166 proofs of origin to the authorities. The reasons for the check were: negative results of previous checks, justified doubt about the origin of goods when imported from the allegedly occupied territories of Israel, verification based on AM messages (OLAF) and random checks. The Financial Administration of the Republic of Slovenia has received the results of checks for 85 documents issued abroad (for claims sent in 2022, 2021 and 2020). Of these, 54 certificates were issued unjustifiably or partially unjustifiably, for which a proposal was submitted to the financial offices for the subsequent calculation of duties. 20 declarations from suppliers in the EU internal market were also sent to EU Member States for verification. For 15 statements suppliers' results were negative. Proofs of origin issued on the basis of the respective declarations of the suppliers are considered to be invalid. There are no verification results yet for the rest of the suppliers' statements."[214]

A very recent case shows a new fraudulent type of action:
"In 2022, the Financial Administration of the Republic of Slovenia, together with the Police and the Inspectorate of the Republic of Slovenia for Environment and Space, participated in 71 joint control actions, and in addition, it also participated in the international operation DEMETER VIII, organized by the World customs organization and TRASH, organized by OLAF as part of Europol's 'EMPACT EnviCrime' project. During the implementation of the control, the Financial Administration of the Republic of Slovenia discovered 231 violations of the legislation in the field of cross-border shipment of waste, whereby the total amount of the imposed fines amounted to €135,000.00."[215]

Another section of the same report addresses a further problem related to customs investigations:
"15.3. International customs operations In 2022, the Financial Administration of the Republic of Slovenia participated in 11 international operations organized by the World Customs Organization (WCO), European Anti-Fraud Office (OLAF), Working Group on Customs Cooperation of the Council of the European Union, Europol, Interpol and individual countries (members and non-members of the EU). The operations were, in terms of content, the length of time and the number of participants are different. They were aimed at the protection of human health (prohibited drugs, illegal substances in sports, counterfeit medicines and food supplements, pharmaceutical and cosmetics, etc.), protection of public order and security (weapons, restrictive measures, etc.), protection of the environment (waste, pesticides, ozone-damaging

[214] See Annual Report of the Financial Administration for 2022, p 71.
[215] See Annual Report of the Financial Administration for 2022, p 86.

substances, illegal trade in protected animal and plant species), protections economy (protection of intellectual property rights – counterfeit or health-damaging goods), prevention smuggling from the point of view of distorting competition and ensuring the stability of national public finance funding sources treasury and budget of the European Union (smuggling of excise goods) and identification of victims of human trafficking, examples forced labour and other forms of exploitation. The operations took place in various forms of transport (road, air, maritime, postal traffic)."[216]

35 Thus as a result the annual report clearly shows that OLAF's tasks does not end in the prevention and assessment of fraud, smuggling or irregularities with money and resources but with various goods, which are subject to customs legislation. OLAF has an ancillary task to ensure the safety of EU citizens via recognising potential threats from pharmaceuticals, excise goods and so on. This is a key information for OLAF and national inspectors or Seconded National Experts to OLAF: The relevant national law for an external investigation, might be – despite the presentation of this manual chapter – extended on the pharmaceutical laws, the excise laws etc. They can as well contain special rules on the administrative process in this area and the rights of e.g. inspector to enter a building or go on a suspected premise.

(dd) Fiscal supervision

36 The fiscal supervision is done by the Slovenian Ministry of Finance[217], which itself is not a competent body to deal with OLAF directly, but which is competent to implement the EU legislation in this area into national law.[218]

37 The Financial Administration Act e.g. stipulates a very important maxim in this area, which is controlled by the Ministry of Finance:

38

Article 7 (economy and efficiency)
The financial administration conducts its work economically and efficiently, using modern management systems and in such a way as to enable the most favourable results and the achievement of the goals defined in the strategic documents of the financial administration.

39 A supervisor might stop an investigator and deprive him of his/her rights:

40

Article 42 (withdrawal of powers)
(1) By decision, the supervisor deprives an official of the right to exercise powers if:
1. it is determined by a final decision in the disciplinary procedure that:

[216] Annual report of the Financial Administration for 2022, p 142.
[217] See Finančna uprava Republike Slovenije, https://www.fu.gov.si/. Accessed 18 March 2024.
[218] E.g. it has published a strategy until 2025, "Strategy of the Financial Administration of the Republic of Slovenia 2021–2025".

- has committed an act at work or in relation to work that has signs of a criminal offence that is prosecuted ex officio,
- exceeded, abandoned or otherwise abused the rights, obligations and responsibilities from the employment relationship,
- violated the principle of impartiality and political neutrality, as defined in the law governing the system of civil servants;

2. health restrictions result from the final decision of the competent authority, which renders him incapable of performing the duties of an official;
3. performs activities in violation of Article 88 of this Act (conflict of interests).

(2) An employee of the financial administration may be transferred to the appropriate position after the finality of the decision on the withdrawal of powers.
(3) After the decision on the revocation of powers has been served, the official's official ID card, uniform, firearms and other means used in the exercise of the powers shall be confiscated.

(b) Administrative provisions in the area of structural funds and internal policies (interne Politiken) = expenditure

(aa) Structural funds

The relevant administrative provisions for the area of structural funds shall be searched in the **41**

- General Administrative Procedure Act / *Zakon o splošnem upravnem postopku* (ZUP) (see below → Article 5 Opening of Investigations and →Article 7 Investigations Procedure)
- Financial Administration Act / *Zakon o finančni upravi* (ZFU)
- Inspection Control Act / *Zakon o inšpekcijskem nadzoru* (ZIN)

Other provisions may be found in the: **42**

- Public Finance Act / Zakon o javnih financah (ZJF)
- Rules on breaking down and measuring revenues and expenditures of legal entities under public law / Pravilnik o razčlenjevanju in merjenju prihodkov in odhodkov pravnih oseb javnega prava
- Financing of Municipalities Act/Zakon o financiranju občin (ZFO-1)
- Rules on the single chart of accounts for the budget, budget spending units and other entities under public l/Pravilnik o enotnem kontnem načrtu za proračun, proračunske uporabnike in druge osebe javnega prava

43 Some funds from the cohesion policy of period 2021–2027 are presented here:

44 *Table 5: Structural funds and national administrative authorities – Cohesion policy acc. to the CFR Regulation in Slovenia (2021–2027)*

The European Regional Development Fund (ERDF) – includes European Territorial Cooperation (Interreg)	**Just Transition fund**	**European Social Fund Plus (ESF+)**	**European Maritime, Fisheries and Aquaculture Fund (EMFAF)**	**European Rural Development Fund (EAFRD)* Not part of the CFR Regulation anymore (as of 2023)**
EU funds for Slovenia: 1 538 million euros[219]	EU funds for Slovenia: 258.7 million euros[220]	EU funds for Slovenia: 727 million euros[221]	EU funds for Slovenia: €23.9 million euros[222]	EU funds for Hungary in 2021 and 2022: 73.3 million euros[223] EU funds for Hungary in MFF 2021–2027 program: 795.6 million euros[224]

(bb) Internal policies

45 The General Administrative Procedure Act may provide the relevant provisions for the area of internal policies.

[219] Breakdown of Cohesion Policy allocations per Member State by the European Commission (period 2021–2027), see https://commission.europa.eu/system/files/2022-02/cohesion_policy.pdf. Accessed 18 March 2024.
[220] Website of the European Commission on the Cohesion policy, see https://cohesiondata.ec.europa.eu/stories/s/2021-2027-EU-allocations-available-for-programming/2w8s-ci3y/. Accessed 18 March 2024.
[221] Breakdown of Cohesion Policy allocations per Member State by the European Commission (period 2021–2027), see https://commission.europa.eu/system/files/2022-02/cohesion_policy.pdf. Accessed 18 March 2024.
[222] European Commission, Press release of 12.09.2022, see https://ec.europa.eu/commission/presscorner/detail/en/ip_22_5227. Accessed 18 March 2024.
[223] Breakdown of European Agricultural Fund for Rural Development per Member State (NextGenerationEU), see https://commission.europa.eu/system/files/2022-02/eafrd_-_ngeu_current_0_0.pdf. Accessed 18 March 2024.
[224] Breakdown of European Agricultural Fund for Rural Development per Member State (MFF), see https://commission.europa.eu/system/files/2022-02/eafrd_-_mff_current.pdf. Accessed 18 March 2024.

(c) Administrative provisions in the area of the common organization of the markets= expenditure

- Regulation on measures of agricultural structural policy and agricultural policy of rural development[225] **46**
- General Administrative Procedure Act (see below → Article 5 Opening of Investigations and → Article 7 Investigations Procedure)

(d) Administrative provisions in the area of direct expenditure

In the area of public procurement frauds are not unusable, what was revealed by many studies on the typologies of EU frauds. Thus, it is necessary to take the annual report of the Financial Administration of Slovenia serious. It stated for 2022 that public procurement needs more prevention and safety. **47**

The following Acts might apply. **48**

- General Administrative Procedure Act
- Public Procurement Act:[226]

The ninth chapter: Management **49**
Article 114[227] **(Monitoring the application of public procurement rules)**
(1) The ministry responsible for public procurement ensures monitoring of the application of the rules on public procurement. If the ministry responsible for public procurement finds out or receives information indicating specific violations or system problems, it must inform the Office of the Republic of Slovenia for Budget Control, the Audit

[225] *Uredba o ukrepih kmetijske strukturne politike in kmetijske politike razvoja podeželja*.
[226] *Zakon o javnem naročanju* (ZJN-3).
[227] Deveto poglavje
Upravljanje
114. člen ZJN-3 (spremljanje uporabe pravil o javnih naročilih)
(1) Ministrstvo, pristojno za javna naročila, zagotavlja spremljanje uporabe pravil o javnih naročilih. Če ministrstvo, pristojno za javna naročila, ugotovi ali prejme informacije, ki nakazujejo posebne kršitve ali sistemske težave, mora o tem obvestiti Urad Republike Slovenije za nadzor proračuna, Računsko sodišče Republike Slovenije, Državno revizijsko komisijo, Javno agencijo Republike Slovenije za varstvo konkurence ali Komisijo za preprečevanje korupcije.
(2) Ministrstvo, pristojno za javna naročila, o rezultatih spremljanja iz prejšnjega odstavka poroča Evropski komisiji do 18. aprila 2017 in vsaka nadaljnja tri leta. Poročilo vključuje informacije o najpogostejših razlogih za napačno uporabo ali pravno nejasnost, vključno z morebitnimi strukturnimi ali ponavljajočimi se težavami pri uporabi pravil, o ravni udeležbe malih in srednjih podjetij pri javnem naročanju ter o preprečevanju, odkrivanju in ustrezni prijavi primerov goljufije, korupcije, nasprotja interesov in podobnih hujših nepravilnostih pri javnem naročanju. Poročilo ima naravo informacije javnega značaja.
(3) Ministrstvo, pristojno za javna naročila, zagotavlja, da so brezplačno na voljo informacije in smernice za razlago in uporabo prava Evropske unije o javnih naročilih, ki bi naročnikom in gospodarskim subjektom pomagale pri pravilni uporabi teh pravil, ter podporo naročnikom pri načrtovanju in izvajanju postopkov javnega naročanja.
(4) Ministrstvo, pristojno za gospodarstvo, mora obvestiti Evropsko komisijo o vseh težavah, s katerimi se srečujejo slovenska podjetja pri pridobivanju naročil storitev v tretjih državah in ki nastanejo zaradi neupoštevanja določb mednarodnega delovnega prava.

Court of the Republic of Slovenia, the State Audit Commission, the Public Agency of the Republic of Slovenia for the Protection of Competition or the Commission to prevent corruption.
(2) The ministry responsible for public procurement shall report the monitoring results from the previous paragraph to the European Commission by April 18, 2017 and every three years thereafter. The report includes information on the most common reasons for misuse or legal ambiguity, including possible structural or recurring problems in the application of the rules, on the level of participation of SMEs in public procurement and on the prevention, detection and appropriate reporting of cases of fraud, corruption, conflicts of interest and similar serious irregularities in public procurement. The report has the nature of public information.
(3) The ministry responsible for public procurement ensures that information and guidelines for the interpretation and application of European Union law on public procurement are available free of charge, which would help clients and economic entities in the correct application of these rules, as well as support for clients in planning and implementation of public procurement procedures.
(4) The Ministry responsible for the economy must inform the European Commission of all problems encountered by Slovenian companies in obtaining orders for services in third countries and which arise due to non-compliance with the provisions of international labour law.

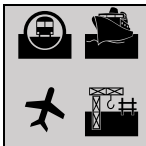
(2) Investigative powers

50 Investigative powers of OLAF and its national partners are different to those of the EDPs of the EPPO (see above → Part B). OLAF and the EPPO might carry out complementary investigations eventually (see below → Article 12 et seq. OLAF Regulation). The powers of OLAF are situated and located within the administrative laws. These laws might relate e.g. for a right to search to the CPC, but normally they are different to the criminal laws, which enable a prosecutor or the police to search someone or something etc. The specific rights differ from the wording of the various laws, which shall be presented within excerpts in the next part:

(a) Investigative powers in the area of customs duties and VAT

51 The Financial Administration Act contains most of the (a) Investigative powers in the area of customs duties, tax duties and VAT.

Financial Investigations Measures 1



Measures:

Financial Administration Act / *Zakon o finančni upravi*

The Financial Administration Act presents the powers of the officials:

IV. Authorities

Article 13 (Powers)[228] (1) In order to perform the tasks of the financial administration, the employees of the financial administration have, within the scope of the duties of the position for which they have concluded an employment contract, the authorizations specified by law, EU regulations and international agreements (hereinafter: authorizations).

(2) Officials who have special powers under this Act are:

- inspector,
- customs officer,
- investigator,
- controller and
- debt collector.

(3) When performing the duties referred to in the first paragraph of Article 11 of this Act, official persons shall exercise their powers in accordance with this Act throughout the entire territory of the Republic of Slovenia.

Article 14 (Powers of official persons)[229] (1) When performing the tasks of the financial administration, an official:

[228] IV. Pooblastila

13. člen (pooblastila)

(1) Za opravljanje nalog finančne uprave imajo uslužbenci finančne uprave v okviru nalog delovnega mesta, za katerega so sklenili pogodbo o zaposlitvi, pooblastila, določena z zakonom, predpisi EU in mednarodnimi pogodbami (v nadaljnjem besedilu: pooblastila).

(2) Uradne osebe, ki imajo posebna pooblastila po tem zakonu, so:

- inšpektor,
- carinik,
- preiskovalec,
- kontrolor in
- izterjevalec.

(3) Uradne osebe pri opravljanju nalog iz prvega odstavka 11. člena tega zakona izvajajo pooblastila v skladu s tem zakonom na celotnem območju Republike Slovenije.

[229] **14. člen (pooblastila uradnih oseb)**

(1) Pri opravljanju nalog finančne uprave uradna oseba:

1. ugotavlja identiteto osebe in status zavezanca,
2. zbira in pridobiva obvestila ter podatke,
3. zahteva predložitev podatkov, listin in dokumentov in drugih zapisov ter zavaruje podatke,
4. uporablja tehnične pripomočke za fotografiranje ali snemanje in sledilne naprave, ki uporabljajo globalni sistem pozicioniranja,

1. establishes the identity of the person and the status of the taxpayer,
2. collects and obtains information and data,
3. requests the submission of data, documents and other records and secures the data,
4. uses technical aids for photography or recording and tracking devices that use the global positioning system,
5. takes and examines samples of the goods,
6. determines the intended use of marked energy products and the content of means for marking energy products,
7. confiscate documents, documents, database carriers and other things,
8. enters land, premises and facilities and inspects them,
9. inspects devices, goods and other things,
10. stop means of transport,
11. inspects and investigates means of transport and transmission,
12. pass a security check,
13. examines persons,
14. uses coercive means,
15. prohibits the performance of activities and seals business premises, business books and other documentation,
16. use technical equipment, service dogs, service vehicles with priority,
17. detain the violator,
18. performs other actions that are in accordance with the purpose of performing the tasks of the financial administration.

(2) When performing tasks, the inspector exercises the powers from points 1 to 18 of the previous paragraph.

(3) When performing their tasks, the customs officer and the investigator exercise the powers from points 1 to 18 of the first paragraph of this article.

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5. odvzame in pregleduje vzorce blaga,
6. ugotavlja namensko uporabo označenih energentov in vsebnosti sredstev za označevanje energentov,
7. zaseže listine, dokumente, nosilce zbirk podatkov in druge stvari,
8. vstopa na zemljišča, v prostore in objekte ter jih pregleda,
9. pregleduje naprave, blago in druge stvari,
10. ustavi prevozna sredstva,
11. pregleduje in preiskuje prevozna ter prenosna sredstva,
12. opravi varnostni pregled,
13. pregleduje osebe,
14. uporablja prisilna sredstva,
15. prepove opravljanje dejavnosti in zapečati poslovne prostore, poslovne knjige in drugo dokumentacijo,
16. uporabi tehnično opremo, službene pse, službena vozila s prednostjo,
17. zadrži kršitelja,
18. opravlja druga dejanja, ki so v skladu z namenom opravljanja nalog finančne uprave.

(2) Inšpektor pri izvajanju nalog izvršuje pooblastila iz 1. do 18. točke prejšnjega odstavka.

(3) Carinik in preiskovalec pri izvajanju nalog izvršujeta pooblastila iz 1. do 18. točke prvega odstavka tega člena.

(4) Kontrolor pri izvajanju nalog izvršuje pooblastila iz 1. do 9. točke in 18. točke prvega odstavka tega člena.

(5) Izterjevalec pri izvajanju nalog izvršuje pooblastila iz 1. do 4. točke, 7. do 9. točke in 18. točke prvega odstavka tega člena.

(4) When performing tasks, the controller exercises the powers from points 1 to 9 and point 18 of the first paragraph of this article.
(5) When performing tasks, the debt collector exercises the powers from points 1 to 4, points 7 to 9 and point 18 of the first paragraph of this article.

If the investigators are hindered to exercise their powers, penal provisions might apply:
Article 95 (offences related to the exercise of powers)[230] (1) A legal person shall be fined between 2,000 and 10,000 euros for a misdemeanour, but if the legal person is considered a medium-sized or large business company according to the law governing commercial companies, a fine of between 5,000 and 16,000 euros shall be imposed for the misdemeanour, if:
1. does not allow an official person to view the official identification document and documents proving his status, as well as other documents and documents (Article 15),
2. does not provide information or submit documents to an official (Article 17),
3. does not allow an official to take samples of goods (Article 19),
4. does not allow an official to take energy products (Article 20),
5. does not enable an official to seize documents, documents, database carriers and things (Article 21),
6. does not allow an official person to enter and inspect land, premises and facilities (Article 22),
7. does not enable inspection of devices, goods and other things (Article 23),

[230] **95. člen**
(prekrški v zvezi izvrševanjem pooblastil)
(1) Z globo od 2.000 do 10.000 eurov se za prekršek kaznuje pravna oseba, če pa se pravna oseba po zakonu, ki ureja gospodarske družbe, šteje za srednjo ali veliko gospodarsko družbo, pa se za prekršek kaznuje z globo od 5.000 do 16.000 eurov, če:
1. ne omogoči uradni osebi vpogleda v uradni identifikacijski dokument in listine, ki dokazujejo njen status, ter druge listine in dokumente (15. člen),
2. uradni osebi ne sporoči podatkov oziroma predloži listin in dokumentov (17. člen),
3. ne omogoči uradni osebi odvzema vzorcev blaga (19. člen),
4. ne omogoči uradni osebi odvzema energentov (20. člen),
5. ne omogoči uradni osebi zasega listin, dokumentov, nosilcev zbirk podatkov in stvari (21. člen),
6. ne omogoči uradni osebi vstopa in pregleda zemljišč, prostorov in objektov (22. člen),
7. ne omogoči pregleda naprav, blaga in drugih stvari (23. člen),
8. ne ustavi prevoznega sredstva (24. člen),
9. ne omogoči pregleda in preiskave prevoznih in prenosnih sredstev (25. člen),
10. ne omogoči uradni osebi opraviti varnostnega pregleda (26. člen),
11. ne omogoči uradni osebi opraviti pregleda osebe (27. člen),
12. ne upošteva odredbe uradne osebe (peti odstavek 28. člena),
13. ne upošteva odločbe o prepovedi opravljanja dejavnosti (prvi odstavek 37. člena).
(2) Z globo od 1.000 do 5.000 eurov se za prekršek iz prejšnjega odstavka kaznuje samostojni podjetnik posameznik ali posameznik, ki samostojno opravlja dejavnost.
(3) Z globo od 850 do 2.200 eurov se za prekršek iz prvega odstavka tega člena kaznuje tudi odgovorna oseba pravne osebe, odgovorna oseba samostojnega podjetnika posameznika ali odgovorna oseba posameznika, ki samostojno opravlja dejavnost.
(4) Z globo od 450 do 650 eurov se za prekršek iz prvega odstavka tega člena kaznuje posameznik.

8. does not stop the means of transport (Article 24),
9. does not enable the inspection and investigation of means of transport and transport (Article 25),
10. does not allow an official to perform a security check (Article 26),
11. does not allow an official to perform an examination of a person (Article 27),
12. does not comply with the order of an official (Article 28 para 5),
13. does not take into account the decision on the prohibition of activities (first paragraph of Article 37).
(2) A fine of between 1,000 and 5,000 euros shall be imposed on an individual entrepreneur or an individual performing an activity independently for the offence referred to in the previous paragraph.
(3) A fine from 850 to 2,200 euros shall also be imposed on the responsible person of a legal entity, the responsible person of an independent individual entrepreneur, or the responsible person of an individual carrying out an activity independently for the offence referred to in the first paragraph of this article.
(4) An individual shall be fined from 450 to 650 euros for the offence referred to in the first paragraph of this article.

52 The special, detailed powers with their full wording are displayed below (see → Single measures).

(b) Investigative powers in the area of structural funds and internal policies

(aa) Inspection Control Act

53 The Slovenian legislation contains the Inspection Control Act (*Zakon o inšpekcijskem nadzoru* (ZIN)) which, by virtue of Article 1, "regulates the general principles of inspection control, the organization of inspections, the position, rights and duties of inspectors, the powers of inspectors, the inspection control procedure, inspection measures and other issues related to inspection control."[231] Inspection control is defined in Article 2 of the Act, as the "control over the implementation or observance of laws and other regulations" and the inspection supervision is "carried out by inspectors (…) as official persons with special powers and responsibilities."[232]

[231] **1. člen ZIN**
(vsebina zakona)
Ta zakon ureja splošna načela inšpekcijskega nadzora, organizacijo inšpekcij, položaj, pravice in dolžnosti inšpektorjev, pooblastila inšpektorjev, postopek inšpekcijskega nadzora, inšpekcijske ukrepe in druga vprašanja, povezana z inšpekcijskim nadzorom.
[232] **2. člen ZIN**
(inšpekcijski nadzor)
Inšpekcijski nadzor je nadzor nad izvajanjem oziroma spoštovanjem zakonov in drugih predpisov.

The application of the Inspection Control Act is ruled in **Article 3**[233]: **54**

For inspections, the operation of which is regulated by special laws, this law applies only to those issues that are not regulated by special laws.

Regarding all procedural issues that are not regulated by this law or by the special law from the previous paragraph, the law governing the general administrative procedure shall be applied.

When carrying out the tasks of inspection control, inspectors impose measures determined in accordance with this and by special laws.

This law, with the exception of the provisions on organization (Articles 8 to 11 inclusive), also applies to inspections carried out by local community authorities, unless otherwise determined by the law governing local self-government or another law.

This law does not apply to administrative inspection, inspection for the civil service system, budget inspection and other forms of internal administrative control over the operations of state bodies and local community bodies.

The provisions of Articles 1 to 20 and Article 24 of this Act apply to the administrative inspection, the inspection for the civil service system, the inspection for salaries in the public sector and the budget inspection.

The inspection is organized according to Article 8 ZIN: **55**

Article 8 ZIN[234] **(Organization of inspections)** Inspectors work within the framework of inspections organized for individual administrative areas. **56**

Inšpekcijski nadzor izvršujejo inšpektorice oziroma inšpektorji (v nadaljnjem besedilu: inšpektorji) kot uradne osebe s posebnimi pooblastili in odgovornostmi.

[233] **3. člen ZIN**
(uporaba zakona)
Za inšpekcije, katerih delovanje urejajo posebni zakoni, se ta zakon uporablja samo glede tistih vprašanj, ki niso urejena s posebnimi zakoni.
Glede vseh postopkovnih vprašanj, ki niso urejena s tem zakonom ali s posebnim zakonom iz prejšnjega odstavka, se uporablja zakon, ki ureja splošni upravni postopek.
Inšpektorji pri opravljanju nalog inšpekcijskega nadzora izrekajo ukrepe, določene v skladu s tem in s posebnimi zakoni.
Ta zakon, razen določb o organizaciji (od 8. do vključno 11. člena), se uporablja tudi za inšpekcijski nadzor, ki ga izvajajo organi lokalnih skupnosti, kolikor ni z zakonom, ki ureja lokalno samoupravo, ali z drugim zakonom določeno drugače.
Ta zakon se ne uporablja za upravno inšpekcijo, inšpekcijo za sistem javnih uslužbencev, proračunsko inšpekcijo in druge oblike notranjega upravnega nadzora nad poslovanjem državnih organov in organov lokalnih skupnosti.
Za upravno inšpekcijo, inšpekcijo za sistem javnih uslužbencev, inšpekcijo za plače v javnem sektorju in proračunsko inšpekcijo veljajo določbe od 1. do 20. člena in 24. člen tega zakona.

[234] **8. člen ZIN**
(organizacija inšpekcij)
Inšpektorji delujejo v okviru inšpekcij, ki se organizirajo za posamezno upravno področje.

Inspections operate in inspectorates, which have the status of a body within the composition of the ministry. If several inspectorates operate in the inspectorate, appropriate internal organizational units are formed in accordance with the regulations governing internal organization and systematization in state administration bodies.

Exceptionally, the inspection may work in a body within the composition of the ministry, which is not an inspectorate, or in another body, if so determined by a special law or regulation.

57 The powers of the inspectors during inspections are ruled within Articles 18 to 23 ZIN. Especially Article 19 is of importance.

58

V. Powers of the Inspector

Article 18[235] **(Performance of inspection control tasks)** When performing the tasks of inspection control, the inspector independently manages the procedure and issues decisions and conclusions in administrative and misdemeanour proceedings.
When performing the tasks of inspection control, the inspector is obliged to follow the instructions and directions of the supervisor or superior.
The authorization to carry out the tasks of inspection control is shown with an official card issued by the minister responsible for the area in which the inspection operates.
The general form of the card and the procedure for issuing it are prescribed by the minister responsible for administration, unless a special law provides otherwise.
The municipal inspector's official card is issued by the mayor of the municipality in which the municipal inspectorate operates. In cases where the municipal inspectorate operates within the framework of the inter-municipal inspectorate and performs inspection supervision for several municipalities, the municipal inspector card is issued by the mayor of the municipality in which the inter-municipal inspectorate is based.

Inšpekcije delujejo v inšpektoratih, ki imajo status organa v sestavi ministrstva. Če v inšpektoratu deluje več inšpekcij, se oblikujejo ustrezne notranje organizacijske enote v skladu s predpisi, ki urejajo notranjo organizacijo in sistemizacijo v organih državne uprave.
Izjemoma lahko inšpekcija deluje v organu v sestavi ministrstva, ki ni inšpektorat, oziroma v drugem organu, če tako določa poseben zakon ali uredba.

[235] V. Pooblastila Inšpektorja
18. člen ZIN
(opravljanje nalog inšpekcijskega nadzora)
Inšpektor pri opravljanju nalog inšpekcijskega nadzora samostojno vodi postopek ter izdaja odločbe in sklepe v upravnem in prekrškovnem postopku.
Inšpektor je pri opravljanju nalog inšpekcijskega nadzora dolžan upoštevati navodila in usmeritve predstojnika oziroma nadrejenega.
Pooblastilo za opravljanje nalog inšpekcijskega nadzora se izkazuje s službeno izkaznico, ki jo izda minister, pristojen za področje, na katerem deluje inšpekcija.
Splošno obliko izkaznice ter postopek za njeno izdajo predpiše minister, pristojen za upravo, če poseben zakon ne določa drugače.
Službeno izkaznico občinskega inšpektorja izda župan občine, v kateri deluje občinska inšpekcija. V primerih, ko občinska inšpekcija deluje v okviru medobčinskega inšpektorata in opravlja inšpekcijsko nadzorstvo za več občin, izda izkaznico občinskega inšpektorja župan občine, v kateri ima sedež medobčinski inšpektorat.

Article 19[236] **(Powers of the inspector)** When performing inspection control tasks, the inspector has the right to:
- ***inspect the premises, facilities, equipment, devices, work equipment, fixtures, objects, goods, substances, business books, contracts, documents and other documents as well as the operations and documentation of state bodies, companies, institutes, other organizations and communities and private individuals***,
- ***enter plots and lands of natural and legal persons***,
- ***inspect business books, contracts, documents and other documents as well as operations and documentation when they are managed and stored on an electronic medium*** and ***request the production of their written form, which must authentically confirm the electronic form***,
- to ***hear parties and witnesses in administrative proceedings***,
- ***examine documents that can be used to determine the identity of persons***,
- free of charge to ***obtain and use personal and other data from official records and other databases***, which are necessary to carry out the inspection,
- ***take samples of goods*** free of charge and ***carry out investigations*** of the samples taken,
- ***take samples of materials and equipment*** free of charge for the needs of investigations,

[236] **19. člen ZIN**
(pooblastila inšpektorja)
Pri opravljanju nalog inšpekcijskega nadzora ima inšpektor pri fizični ali pravni osebi, pri kateri opravlja inšpekcijski nadzor, pravico:
- pregledati prostore, objekte, postroje, naprave, delovna sredstva, napeljave, predmete, blago, snovi, poslovne knjige, pogodbe, listine in druge dokumente ter poslovanje in dokumentacijo državnih organov, gospodarskih družb, zavodov, drugih organizacij in skupnosti ter zasebnikov,
- vstopiti na parcele in zemljišča fizičnih in pravnih oseb,
- pregledati poslovne knjige, pogodbe, listine in druge dokumente ter poslovanje in dokumentacijo, kadar se vodijo in hranijo na elektronskem mediju ter zahtevati izdelavo njihove pisne oblike, ki mora verodostojno potrjevati elektronsko obliko,
- zaslišati stranke in priče v upravnem postopku,
- pregledati listine, s katerimi lahko ugotovi istovetnost oseb,
- brezplačno pridobiti in uporabljati osebne in druge podatke iz uradnih evidenc in drugih zbirk podatkov, ki so potrebni za izvedbo inšpekcijskega nadzora,
- brezplačno vzeti vzorce blaga in opraviti preiskave vzetih vzorcev,
- brezplačno vzeti vzorce materialov in opreme za potrebe preiskav,
- fotografirati ali posneti na drug nosilec vizualnih podatkov osebe, prostore, objekte, postroje, napeljave in druge predmete iz prve alinee,
- reproducirati listine, avdiovizualne zapise in druge dokumente,
- zaseči predmete, dokumente in vzorce v zavarovanje dokazov,
- opraviti navidezni nakup na način, da se po opravljenem nakupu izkaže s službeno izkaznico, če se na ta način lahko ugotovijo znaki prekrška oziroma podatki o kršitelju,
- opraviti druga dejanja, ki so v skladu z namenom inšpekcijskega nadzora.

Pravne in fizične osebe, zoper katere se ne vodi inšpekcijski postopek, in ki razpolagajo z domnevnimi dokazi oziroma drugimi, tudi osebnimi podatki, potrebnimi za izvedbo inšpekcijskega nadzora, morajo na zahtevo inšpektorja posredovati dokaze in druge, tudi osebne podatke, oziroma morajo omogočiti zaslišanje prič za pridobitev teh dokazov ali drugih, tudi osebnih podatkov, najkasneje v treh dneh od prejema njegove zahteve.
Pri opravljanju nalog inšpekcijskega nadzora lahko inšpektor za največ 15 dni odvzame dokumentacijo, ki jo potrebuje za obravnavanje dejanskega stanja v obravnavani zadevi, če meni, da obstaja utemeljen sum kršitev zakonov ali drugih predpisov, in če s tem ne ovira dejavnosti fizične ali pravne osebe. O odvzemu dokumentacije izda inšpektor potrdilo. Dokumentacije državnih organov, ki je določena kot tajna, inšpektor ne sme odvzeti.

- ***photograph or record on another visual data carrier persons, premises, facilities, equipment, installations and other objects from the first indent***,
- ***reproduce documents, audio-visual records and other documents***,
- ***seize objects, documents and samples to secure evidence***,
- make a virtual purchase in such a way that, after the purchase is made, it is shown with an official ID card, if signs of an offence or information about the offender can be determined in this way,
- perform ***other actions*** that are in accordance with the purpose of the inspection.

Legal and natural persons against whom the inspection procedure is not conducted, and who have alleged evidence or other, including personal data, necessary for the performance of the inspection must provide evidence and other data, including personal data, at the inspector's request, or must enable the hearing of witnesses to obtain this evidence or other, including personal data, no later than three days after receiving his request.

When performing the tasks of inspection control, the inspector may for a maximum of 15 days take away the documentation he needs to deal with the actual situation in the case in question, if he believes that there is a well-founded suspicion of violations of laws or other regulations, and if this does not hinder the activities of a natural or legal person. The inspector issues a certificate on the collection of documentation. The inspector may not take away the documentation of the state authorities, which is designated as secret.

Article 20[237] **(Entry into the taxpayer's premises, facilities and devices)**

The inspector has the right, without prior notice and without the permission of the taxpayer or his responsible person, regardless of working hours, to ***enter premises and facilities, land and plots of land, as well as equipment and devices*** from the previous article, unless otherwise provided by law.

The liable party may refuse entry to residential premises to an inspector who does not have a decision from a competent court.

If the taxpayer does not allow entry to the premises or facilities where the activity is carried out without justifiable reasons, the inspector has the right to ***enter the premises against the will of the taxpayer with the help of the police***. The costs of entry and any damage that inevitably occurs are borne by the taxpayer.

[237] **20. člen ZIN**
(vstop v prostore, objekte in k napravam zavezanca)
Inšpektor ima pravico brez predhodnega obvestila ter brez dovoljenja zavezanca oziroma njegove odgovorne osebe, ne glede na delovni čas, vstopiti v prostore in objekte, na zemljišča in parcele ter k opremi in napravam iz prejšnjega člena, če z zakonom ni drugače določeno.
Zavezanec lahko inšpektorju, ki nima odločbe pristojnega sodišča, odkloni vstop v stanovanjske prostore.
Če zavezanec brez upravičenih razlogov ne dovoli vstopa v prostore ali objekte, kjer se dejavnost opravlja, ima inšpektor pravico vstopiti v prostor mimo volje zavezanca ob pomoči policije. Stroške vstopa in morebitno škodo, ki pri tem neizogibno nastane, nosi zavezanec.

Article 21[238] **(Entry into business and other premises that do not belong to the taxpayer)** The owner of a business, production or other premises and land, which must be inspected as part of the inspection procedure, because there is a reasonable suspicion that the liable person in them carries out activities or that the taxpayer's belongings, which are subject to inspection, are located there, must allow the inspection to be carried out.

The person from the previous paragraph may refuse the visit in case of:

- that it is residential premises, but the inspector does not have a relevant court decision,
- to expose oneself to severe embarrassment, significant property damage or criminal prosecution by viewing,
- to violate the duty or right to protect commercial, professional, artistic or scientific secrecy by viewing it, or
- in other cases where viewing would violate the duty to keep confidential what she has learned as a priest, lawyer, doctor, or in the performance of another profession or activity that contains the same obligation.

If the person referred to in the first paragraph of this article does not allow the visit without justifiable reasons, the same measures can be applied against him as against a witness who refuses to testify, but if he does not allow the visit, the visit can also be carried out against his will.

If the person referred to in the first paragraph of this article does not allow the visit without justifiable reasons, or if this person cannot be found, there is a risk that the evidence, which is supposed to be located in the premises referred to in the first paragraph of this article, would be destroyed or alienated before the visit could be carried

[238] **21. člen ZIN**
(vstop v poslovne in druge prostore, ki ne pripadajo zavezancu)
Lastnica oziroma lastnik (v nadaljnjem besedilu: lastnik) ali posestnica oziroma posestnik (v nadaljnjem besedilu: posestnik) poslovnih, proizvodnih ali drugih prostorov in zemljišča, ki jih je v okviru postopka inšpekcijskega nadzora potrebno ogledati, ker obstaja utemeljen sum, da zavezanec v njih opravlja dejavnosti ali da se tam nahajajo stvari zavezanca, ki so predmet inšpekcijskega nadzora, mora dopustiti, da se opravi ogled.
Oseba iz prejšnjega odstavka sme odkloniti ogled v primeru:
- da gre za stanovanjske prostore, pa inšpektor nima ustrezne sodne odločbe,
- da bi z ogledom spravila sebe v hudo sramoto, občutno premoženjsko škodo ali v kazenski pregon,
- da bi z ogledom prekršila dolžnost ali pravico varovati poslovno, poklicno, umetniško ali znanstveno tajnost, ali
- v drugih primerih, pri katerih bi z ogledom bila kršena dolžnost, da mora ohraniti kot tajnost tisto, kar je izvedela kot duhovnik, odvetnik, zdravnik oziroma pri opravljanju drugega poklica ali dejavnosti, ki vsebuje enako obveznost.

Če oseba iz prvega odstavka tega člena brez opravičenih razlogov ne dovoli ogleda, se zoper njo lahko uporabijo enaki ukrepi, kot zoper pričo, ki noče pričati, če pa kljub temu ne dovoli ogleda, se lahko ogled opravi tudi proti njeni volji.
Če oseba iz prvega odstavka tega člena brez opravičenih razlogov ne dovoli ogleda ali te osebe ni mogoče najti, pa obstaja nevarnost, da bi bili dokazi, ki se predvidoma nahajajo v prostorih iz prvega odstavka tega člena uničeni ali odtujeni, preden bi bilo mogoče opraviti ogled teh prostorov, lahko inšpektor te prostore zapečati do oprave ogleda, vendar največ za sedem dni oziroma do trenutka, ko se ta oseba najde. O tem izda inšpektor poseben sklep. Zoper sklep iz prejšnjega odstavka je dovoljena pritožba v 15 dneh od vročitve sklepa. Pritožba zoper sklep ne zadrži njegove izvršitve.

out of these premises, the inspector may seal these premises until the inspection is carried out, but for a maximum of seven days or until the moment when this person is found. The inspector issues a special decision on this.
An appeal against the decision from the previous paragraph is allowed within 15 days from the service of the decision. An appeal against a decision does not delay its execution.

Article 22[239] **(Inspection of the taxpayer's residential premises)**
If the inspector has to inspect individual rooms in the apartment while performing inspection tasks, and the owner or user objects to this, he must obtain a decision from the competent court to inspect these rooms.
The court allows inspection of the premises from the previous paragraph if there are grounds for suspicion,
- that an unauthorized activity is carried out in the apartment,
- that an activity is carried out in the apartment in violation of the regulations,
- that objects, animals or other things are kept in the apartment in violation of the regulations, or
- that during the inspection of the apartment or individual things in the apartment, other violations of the regulations will be found.

During the inspection of the residential premises in accordance with the previous paragraph, two persons of legal age must be present as witnesses. The inspection of the residential premises is limited to the part of the residential premises that must be inspected to achieve the purpose of the inspection.

Article 23[240] **(Smooth performance of inspection control tasks)** The liable party must enable the inspector to carry out the tasks of inspection without interruption.

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[239] **22. člen ZIN**
(pregled stanovanjskih prostorov zavezanca)
Če mora inšpektor pri opravljanju nalog inšpekcijskega nadzora pregledati posamezne prostore v stanovanju, pa temu lastnik oziroma uporabnik nasprotuje, si mora za pregled teh prostorov pridobiti odločbo pristojnega sodišča.
Sodišče dovoli ogled prostorov iz prejšnjega odstavka, če obstajajo razlogi za sum,
- da se v stanovanju opravlja nedovoljena dejavnost,
- da se v stanovanju opravlja dejavnost v nasprotju s predpisi,
- da se v stanovanju hranijo predmeti, živali ali druge stvari v nasprotju s predpisi, ali
- da bodo pri ogledu stanovanja oziroma posameznih stvari v stanovanju ugotovljene druge kršitve predpisov.

Pri pregledu stanovanjskega prostora v skladu s prejšnjim odstavkom morata biti navzoči dve polnoletni osebi kot priči. Pregled stanovanjskega prostora je omejen na del stanovanjskega prostora, ki ga je treba pregledati za dosego namena inšpekcijskega nadzora.

[240] **23. člen ZIN**
(nemoteno opravljanje nalog inšpekcijskega nadzora)
Zavezanec mora inšpektorju omogočiti nemoteno opravljanje nalog inšpekcijskega nadzora.
Če inšpektor pri opravljanju nalog inšpekcijskega nadzora naleti na fizični odpor ali če tak odpor pričakuje, lahko zahteva pomoč policije.
Policisti nudijo pomoč inšpektorjem skladno z določbami zakona, ki ureja policijo.

If the inspector encounters physical resistance while performing inspection duties, or if he expects such resistance, he may request the help of the police.
Police officers provide assistance to inspectors in accordance with the provisions of the law governing the police.

(bb) Financial Administration Act

The Financial Administration Act may be consulted as well. **59**

Financial Administration Act **60**

Article 14[241] **(Powers of official persons)** (1) When performing the tasks of the financial administration, an official person:
1. determines the identity of the person and the status of the taxpayer,
2. collects and obtains information and data,
3. requests the submission of data, documents and other records and secures the data,
4. uses technical aids for photography or recording,
5. takes away and examines samples of goods,
6. determines the intended use of marked energy products and the content of means for marking energy products,
7. seizes documents, documents, data collection carriers and other things,
8. enters land, premises and facilities and inspects them,
9. inspects devices, goods and other things,
10. stops means of transport,

[241] **14. člen ZFU (pooblastila uradnih oseb)**
(1) Pri opravljanju nalog finančne uprave uradna oseba:
1. ugotavlja identiteto osebe in status zavezanca,
2. zbira in pridobiva obvestila ter podatke,
3. zahteva predložitev podatkov, listin in dokumentov in drugih zapisov ter zavaruje podatke,
4. uporablja tehnične pripomočke za fotografiranje ali snemanje,
5. odvzame in pregleduje vzorce blaga,
6. ugotavlja namensko uporabo označenih energentov in vsebnosti sredstev za označevanje energentov,
7. zaseže listine, dokumente, nosilce zbirk podatkov in druge stvari,
8. vstopa na zemljišča, v prostore in objekte ter jih pregleda,
9. pregleduje naprave, blago in druge stvari,
10. ustavi prevozna sredstva,
11. pregleduje in preiskuje prevozna ter prenosna sredstva,
12. opravi varnostni pregled,
13. pregleduje osebe,
14. uporablja prisilna sredstva,
15. prepove opravljanje dejavnosti in zapečati poslovne prostore, poslovne knjige in drugo dokumentacijo,
16. uporabi tehnično opremo, službene pse, službena vozila s prednostjo,
17. zadrži kršitelja,
18. opravlja druga dejanja, ki so v skladu z namenom opravljanja nalog finančne uprave.
(2) Inšpektor pri izvajanju nalog izvršuje pooblastila iz 1. do 18. točke prejšnjega odstavka.
(3) Carinik in preiskovalec pri izvajanju nalog izvršujeta pooblastila iz 1. do 18. točke prvega odstavka tega člena.
(4) Kontrolor pri izvajanju nalog izvršuje pooblastila iz 1. do 9. točke in 18. točke prvega odstavka tega člena.
(5) Izterjevalec pri izvajanju nalog izvršuje pooblastila iz 1. do 4. točke, 7. do 9. točke in 18. točke prvega odstavka tega člena.

11. examines and investigates means of transport and transport,
12. carries out a security check,
13. examines persons,
14. uses coercive means,
15. prohibits the performance of activities and seals business premises, business books and other documentation,
16. uses technical equipment, official dogs, official vehicles with priority,
17. arrest the violator,
18. perform other actions that are in accordance with the purpose of performing the tasks of the financial administration.

(2) When performing tasks, the inspector exercises the powers from points 1 to 18 of the previous paragraph.
(3) When performing their tasks, the customs officer and the investigator exercise the powers from points 1 to 18 of the first paragraph of this article.
(4) When performing tasks, the controller exercises the powers from points 1 to 9 and point 18 of the first paragraph of this article.
(5) When performing tasks, the debt collector exercises the powers from points 1 to 4, points 7 to 9 and point 18 of the first paragraph of this article.

Article 15[242] **(Determining the identity of the person and the legal status of the obligee)** (1) An official may determine the identity of a person when performing tasks from points 2 to 10 of the first paragraph of Article 11 of this Act. Determining the identity of a person includes checking the identity of natural persons and the legal status of other obligees.
(2) An official person verifies the identity of a natural person by explaining to him the reasons for determining the identity and then requests from him to inspect a public document with his photo issued by a state authority, and to check the information in official records.
(3) An official person verifies the legal status of the obligees by inspecting the documents that prove their status and other documents and documents from which the identity can be established, and verifies the information in the official records.

[242] **15. člen (ugotavljanje identitete osebe in pravnega statusa zavezanca)**
(1) Uradna oseba lahko ugotavlja identiteto osebe pri izvajanju nalog iz 2. do 10. točke prvega odstavka 11. člena tega zakona. Ugotavljanje identitete osebe zajema preverjanje identitete fizičnih oseb in pravnega statusa drugih zavezancev.
(2) Uradna oseba preveri identiteto fizične osebe tako, da ji pojasni razloge ugotavljanja identitete ter nato od nje zahteva vpogled javne listine z njeno fotografijo, ki jo je izdal državni organ, ter preveri podatke v uradnih evidencah.
(3) Uradna oseba preveri pravni status zavezancev tako, da vpogleda v listine, ki dokazujejo njegov status, in druge listine ter dokumente, iz katerih se ugotovi istovetnost, in preveri podatke v uradnih evidencah.

Article 16[243] **(Getting notifications and data)** (1) Officials obtain information and information from persons who could provide useful information for the performance of the tasks of the financial administration, as determined by law.
(2) The official is obliged to protect the confidentiality of the source of the application and the source of other information.
(3) An official obtains notifications from a person directly at the scene of the incident, in the office, at the person's place of work, in the premises where the person performs an activity, or in another suitable place.
(4) Information and data obtained may be used in the performance of the tasks of the financial administration.

Article 17[244] **(Submission, inspection, reproduction of data, documents, documents and other records and data security)** (1) An official may request the taxpayer and the

[243] **16. člen (pridobivanje obvestil in podatkov)**
(1) Uradna oseba pridobiva obvestila in podatke od oseb, ki bi lahko dale koristne podatke za opravljanje nalog finančne uprave, določene z zakonom.
(2) Uradna oseba je dolžna varovati tajnost vira prijave in vira drugih informacij.
(3) Uradna oseba pridobiva obvestila od osebe neposredno na kraju dogodka, v službenih prostorih, na delovnem mestu osebe, v prostorih, v katerih ta oseba opravlja dejavnost, ali na drugem primernem kraju.
(4) Pridobljena obvestila in podatki se lahko uporabijo pri opravljanju nalog finančne uprave.

[244] **17. člen (predložitev, pregled, razmnoževanje podatkov, listin, dokumentov in drugih zapisov ter zavarovanje podatkov)**
(1) Uradna oseba lahko zahteva od zavezanca in osebe, ki je dolžna sporočiti podatke in predložiti listine, dokumente in druge zapise, da ji v določenem roku in na določenem kraju sporoči kateri koli podatek ali predloži dokument, potreben za opravljanje nalog finančne uprave, ne glede na obliko, v kateri se nahaja. Oseba na zahtevo uradne osebe sporoči tudi podatke o osebi, pooblaščeni za opravljanje poslov, pri opravljanju katerih naj bi bila storjena kršitev predpisov.
(2) Uradna oseba lahko zahteva podatke, listine, dokumente in druge zapise tudi od vsake druge osebe, ki ni zavezanec, je pa posredno ali neposredno udeležena v poslu, ali vsake druge osebe, ki z zahtevanimi listinami in dokumenti razpolaga ali bi te listine in dokumente morala imeti.
(3) Podatke, listine, dokumente in druge zapise iz prvega odstavka tega člena zahteva uradna oseba od zavezanca praviloma ustno, od druge osebe pa pisno. Kadar uradna oseba oceni, da bi med pripravo pisne zahteve oseba lahko uničila ali zatajila obstoj podatkov, jih zahteva ustno in o tem napiše uradni zaznamek. V zahtevi mora navesti kraj in rok sporočitve podatkov in predložitve dokumentov ter opozoriti zavezanca in druge osebe, da bo ob nesporočitvi zahtevanih podatkov oziroma nepredložitvi listin in dokumentov storila prekršek.
(4) Uradna oseba lahko podatke, listine, dokumente in druge zapise tudi pregleda. Pregleda lahko tudi podatke, listine in dokumente drugih oseb, ki so pri osebi, pri kateri se opravljajo naloge finančne uprave.
(5) Uradna oseba lahko podatke, listine, dokumente in druge zapise tudi razmnožuje. Kadar uradna oseba razmnoži podatke, listine in dokumente, mora vsak izvod vidno označiti in opremiti z datumom izdelave.
(6) Kadar se podatki elektronsko obdelujejo, lahko uradna oseba zahteva njihovo pisno obliko, ki mora verodostojno potrjevati vsebino elektronskega zapisa ali zahteva kopijo podatkov v elektronski obliki.
(7) Uradna oseba lahko kopira podatke v elektronski obliki in izdela ali zahteva izdelavo verodostojne kopije celotnega nosilca podatkov ter zahteva šifrirne ključe ali šifrirna gesla, če so potrebna za dostop do podatkov ali njihovo berljivost, vendar le, če se podatki nanašajo na opravljanje dejavnosti ali pridobivanje prihodkov in ni posega v tajnost pisem in drugih občil.
(8) Podatki iz prejšnjega odstavka se kopirajo v navzočnosti zavezanca. Če zavezanec ni navzoč ali ni pripravljen sodelovati, se lahko izjemoma kopira v navzočnosti dveh polnoletnih prič.
(9) Kadar uradna oseba pri opravljanju nalog zahteva kopijo podatkov v elektronski obliki ali sama kopira podatke v elektronski obliki, se podatki v elektronski obliki zavarujejo tako, da se shranijo na drug ustrezen nosilec podatkov na način, da se ohrani verodostojnost in celovitost podatkov ter možnost njihove uporabe v nadaljnjem

person who is obliged to provide information and submit documents, documents and other records to provide any information or submit a document necessary for the performance of the tasks of the financial administration within a specified period and at a specified place. regardless of the form in which it is found. At the request of an official person, the person also communicates information about the person authorized to carry out business, during the performance of which a violation of the regulations was allegedly committed.
(2) An official person may also request information, documents, documents and other records from any other person who is not an obligee, but is indirectly or directly involved in the business, or from any other person who has or would have the requested documents and documents at his disposal and must have documents.
(3) Information, documents, documents and other records referred to in the first paragraph of this article shall be requested by an official person from the obligor as a rule orally, and from another person in writing. When an official assesses that during the preparation of a written request a person could destroy or deny the existence of data, he orally requests it and writes an official note about it. In the request, he must indicate the place and deadline for the communication of information and submission of documents and warn the taxpayer and other persons that failure to communicate the required information or failure to submit documents and documents will commit an offence.
(4) An official may also inspect information, documents, documents and other records. He can also review the data, documents and documents of other persons that are with the person with whom the tasks of the financial administration are performed.
(5) An official may also reproduce information, documents, documents and other records. When an official reproduces information, documents and documents, each copy must be visibly marked and equipped with the date of production.
(6) When data are processed electronically, an official may request their written form, which must authentically confirm the content of the electronic record, or request a copy of the data in electronic form.
(7) An official may copy data in electronic form and produce or request the production of an authentic copy of the entire data carrier and request encryption keys or encryption passwords if they are necessary for accessing the data or their readability, but only if the data relate to the performance of activities or obtaining revenue and does not interfere with the confidentiality of letters and other communications.
(8) The information from the previous paragraph is copied in the presence of the taxpayer. If the obligee is not present or is not willing to cooperate, it may exceptionally be copied in the presence of two adult witnesses.

postopku ali se izdela verodostojna kopija celotnega nosilca podatkov, pri čemer se zagotovi celovitost kopije teh podatkov.

(9) When an official person requests a copy of data in electronic form or copies the data in electronic form himself when performing his duties, the data in electronic form is secured by storing it on another suitable data carrier in such a way as to preserve the credibility and integrity of the data, and the possibility of their use in a further procedure or an authentic copy of the entire data carrier is made, while ensuring the integrity of the copy of this data.

Article 18[245] **(Use of technical aids for photography or recording)**
(1) An official may photograph or record objects, means of transport, goods, objects, documents or documents when performing the tasks of the financial administration.
(2) An official shall photograph or record a person if, on the basis of direct perception, he establishes grounds for suspecting that the person has on him or with him things that are the subject of or evidence of violations or that were used, intended for, or were created by violating the regulations. Before starting to use technical devices for taking pictures or recording, the person informs the person about this, and writes an official note, which also contains an indication of the reason, date and place of taking pictures or recording.

Article 19[246] **(Collection and inspection of goods samples)**
(1) An official may take samples of the goods from the owner or user of the goods for the purpose of analysis and examination of the goods without compensation.
(2) If the analysis or inspection cannot be performed in the financial administration, the analysis and inspection of the goods may be performed by another qualified professional organization.
(3) In the case of identified irregularities, the owner or user of the goods shall cover the costs of taking away the goods.
(4) A sample that retains its useful value after analysis shall be returned at the request of the owner or user of the goods.

[245] **18. člen (uporaba tehničnih pripomočkov za fotografiranje ali snemanje)**
(1) Uradna oseba lahko pri opravljanju nalog finančne uprave fotografira ali posname objekte, prevozna sredstva, blago, predmete, listine ali dokumente.
(2) Uradna oseba fotografira ali posname osebo, če na podlagi neposredne zaznave ugotovi razloge za sum, da ima oseba pri sebi ali s seboj stvari, ki so predmet ali dokaz kršitev ali so bile uporabljene, namenjene ali so nastale s kršitvijo predpisov. Pred začetkom uporabe tehničnih pripomočkov za fotografiranje ali snemanje osebe o tem seznani osebo, o čemer napiše uradni zaznamek, ki vsebuje tudi navedbo o razlogu, datumu in kraju fotografiranja ali snemanja.
[246] **19. člen (odvzem in pregled vzorcev blaga)**
(1) Uradna oseba lahko lastniku ali uporabniku blaga zaradi analize in pregleda blaga brez nadomestila odvzame vzorce blaga.
(2) Če analize ali pregleda ni mogoče opraviti v finančni upravi, lahko opravi analizo in pregled blaga druga usposobljena strokovna organizacija.
(3) Pri ugotovljenih nepravilnostih krije stroške odvzema blaga lastnik ali uporabnik blaga.
(4) Vzorec, ki po analizi ohrani uporabno vrednost, se na zahtevo lastnika ali uporabnika blaga vrne.

Article 20[247] **(Determining the intended use of energy products and determining the content of means for labeling energy products)**

(1) An official may determine the intended use of marked energy products used for heating, the content of marking agents and verify the legality of the sale of energy products for propulsion purposes by taking samples directly from the tank or other parts of motor vehicles or trailers or vessels, other engines, working devices or machines that contain energy.

(2) An official may determine the intended use of marked energy products used for heating, the content of marking agents, and verify the legality of the sale of energy products for propulsion purposes by taking samples from persons engaged in the activity of selling energy products.

(3) An official may determine the intended use of marked energy products and the content of marking agents in agricultural, forestry, freight, combined and other commercial vehicles, work equipment and machines on all land in the territory of the Republic of Slovenia, regardless of land ownership.

(4) The owner or user of a motor vehicle, vessel or other engine, other parts of motor vehicles or trailers, work devices or machines in which energy is contained, as well as any person who sells energy is obliged to enable the collection of samples of energy. The owner or user is warned that he is obliged to attend the collection of samples.

(5) If the person referred to in the previous paragraph does not enable the collection of samples, the official person, upon prior warning of the obligation to enable the collection of samples, takes the samples.

[247] **20. člen (ugotavljanje namenske uporabe energentov in ugotavljanje vsebnosti sredstev za označevanje energentov)**

(1) Uradna oseba lahko ugotavlja namensko uporabo označenih energentov, ki se uporabljajo za ogrevanje, vsebnost sredstev za označevanje ter preverja zakonitost prodaje energentov za pogonski namen z odvzemom vzorcev neposredno iz rezervoarja ali drugih delov motornih vozil ali priklopnikov oziroma plovil, drugih motorjev, delovnih naprav ali strojev, v katerih je energent.

(2) Uradna oseba lahko ugotavlja namensko uporabo označenih energentov, ki se uporabljajo za ogrevanje, vsebnost sredstev za označevanje ter preverja zakonitost prodaje energentov za pogonski namen z odvzemom vzorcev pri osebah, ki opravljajo dejavnost prodaje energentov.

(3) Uradna oseba lahko ugotavlja namensko uporabo označenih energentov in vsebnost sredstev za označevanje v kmetijskih, gozdarskih, tovornih, kombiniranih ter drugih gospodarskih vozilih, delovnih napravah in strojih na vseh zemljiščih na območju Republike Slovenije ne glede na lastništvo zemljišča.

(4) Lastnik ali uporabnik motornega vozila, plovila ali drugega motorja, drugih delov motornih vozil ali priklopnikov, delovnih naprav ali strojev, v katerih je energent, ter vsaka oseba, ki prodaja energente, je dolžna omogočiti odvzem vzorcev energentov. Lastnika ali uporabnika se opozori, da je dolžan prisostvovati odvzemu vzorcev.

(5) Če oseba iz prejšnjega odstavka ne omogoči odvzema vzorcev, uradna oseba, ob predhodnem opozorilu na dolžnost omogočanja odvzema vzorcev vzame vzorce.

Article 21[248] **(Seizure of documents, documents, database carriers and things)**
(1) For a maximum of 30 days, an official may seize documents, documents and things that are necessary for the performance of the tasks of the financial administration or if this is necessary for securing evidence, if there are reasons for suspecting a violation of laws and other regulations. Exceptionally, the official from the previous sentence can extend the deadline for the seizure of documents, documents and things in the case of a more demanding financial control or financial investigation, but up to a total of 90 days. Upon confiscation, an official person issues a certificate with a list of seized documents, documents and things.
(2) In accordance with the provisions of the previous paragraph, the official person also confiscates the carriers of data collections, if the data cannot be copied in electronic form in accordance with Article 17 of this Act. Upon confiscation, an official person issues a certificate with a list of confiscated database carriers.
(3) After the expiration of the period referred to in the first paragraph of this article, confiscated documents, documents, data collection carriers and things are returned, unless they were used for violations, were caused by violations, or in order to prevent further violations.
(4) The liable party may request the return of seized documents, documents, data collection carriers and things before the expiry of the deadline referred to in the first paragraph of this article, if he proves that he urgently needs them in his business.

[248] **21. člen (zaseg listin, dokumentov, nosilcev zbirk podatkov in stvari)**
(1) Uradna oseba lahko za največ 30 dni zaseže listine, dokumente in stvari, ki so potrebne za opravljanje nalog finančne uprave ali če je to potrebno zaradi zavarovanja dokazov, če so podani razlogi za sum kršitve zakonov in drugih predpisov. Izjemoma lahko uradna oseba iz prejšnjega stavka pri zahtevnejšem finančnem nadzoru ali finančni preiskavi podaljša rok za zaseg listin, dokumentov in stvari, vendar največ do skupno 90 dni. O zasegu uradna oseba izda potrdilo s seznamom o zaseženih listinah, dokumentih in stvareh.
(2) V skladu z določbami prejšnjega odstavka uradna oseba zaseže tudi nosilce zbirk podatkov, če podatkov v elektronski obliki ne more kopirati v skladu s 17. členom tega zakona. O zasegu uradna oseba izda potrdilo s seznamom zaseženih nosilcev zbirk podatkov.
(3) Po poteku roka iz prvega odstavka tega člena se zasežene listine, dokumenti, nosilci zbirk podatkov in stvari vrnejo, razen če so bili uporabljeni za kršitve, so s kršitvami nastali ali zato, da se preprečijo nadaljnje kršitve.
(4) Zavezanec lahko zahteva vračilo zaseženih listin, dokumentov, nosilcev zbirk podatkov in stvari pred potekom roka iz prvega odstavka tega člena, če izkaže, da jih nujno potrebuje pri poslovanju.

Article 22[249] **(Entry to land, premises and facilities and their inspection)**
(1) An official may enter all land, buildings, business premises used for carrying out activities or obtaining income, and view and inspect them. Commercial premises are also considered residential premises, which the taxpayer has designated as his headquarters or as business premises where the activity is carried out.
(2) An official may enter business premises, with the exception of apartments that do not belong to the taxpayer, and inspect them if there are reasons to suspect that the taxpayer is carrying out an activity there or that the taxpayer's belongings are there.
(3) With the permission of the taxpayer where the measure referred to in the first paragraph of this article is carried out, residential and other premises that are not designated as the headquarters of the activity may also be inspected, if there are reasons to suspect that an undeclared activity is being carried out in them or that it is likely, that during the inspection of the residential and other premises, or individual things in the premises, evidence of violations of regulations will be found, for the supervision of the implementation of which the financial administration is competent.
(4) Business premises, facilities and land are inspected in the presence of the taxpayer, owner or possessor of the premises, facility or land. If these persons are not present or are not willing to participate, the examination is exceptionally carried out in the presence of two adult witnesses.

[249] **22. člen (vstop na zemljišča, v prostore in objekte ter njihov pregled)**
(1) Uradna oseba lahko vstopi na vsa zemljišča, v objekte, poslovne prostore, ki se uporabljajo za opravljanje dejavnosti ali pridobivanje dohodkov, in si jih ogleda in pregleda. Za poslovne prostore se štejejo tudi stanovanjski prostori, ki jih je zavezanec določil kot svoj sedež oziroma kot poslovni prostor, kjer se opravlja dejavnost.
(2) Uradna oseba lahko vstopi v poslovne prostore, razen stanovanj, ki ne pripadajo zavezancu, ter jih pregleda, če obstajajo razlogi za sum, da zavezanec v njih opravlja dejavnost ali da so tam stvari zavezanca.
(3) Z dovoljenjem zavezanca, pri katerem se ukrep iz prvega odstavka tega člena izvaja, se lahko pregledajo tudi stanovanjski in drugi prostori, ki niso določeni kot sedež dejavnosti, pa obstajajo razlogi za sum, da se v njih opravlja neprijavljena dejavnost ali je verjetno, da bodo pri pregledu stanovanjskega in drugega prostora oziroma posameznih stvari v prostoru najdeni dokazi o kršitvah predpisov, za nadzor nad izvajanjem katerih je pristojna finančna uprava.
(4) Poslovni prostori, objekti in zemljišča se pregledajo v navzočnosti zavezanca, lastnika ali posestnika prostora, objekta ali zemljišča. Če te osebe niso navzoče ali niso pripravljene sodelovati, se izjemoma pregled opravi v navzočnosti dveh polnoletnih prič.
(5) Kadar je treba nemudoma ukrepati, se prostori iz prejšnjega odstavka izjemoma pregledajo tudi brez navzočnosti prič, če ni mogoče takoj zagotoviti njihove navzočnosti.
(6) Uradna oseba pri opravljanju nalog iz tega zakona vstopi v stanovanjske in druge prostore zavezanca, kadar se pričakuje, da so v njih premičnine, iz katerih se dolg sme poplačati, če v poslovnih prostorih oziroma prostorih, v katerih se opravlja dejavnost in se uporabljajo za njeno izvajanje, ne najde premičnin za poplačilo dolga ali jih ne najde v zadostni vrednosti.
(7) Za vstop v stanovanje in druge neposlovne prostore iz prejšnjega odstavka je potrebno predhodno pridobiti odločbo pristojnega sodišča v skladu z določbami zakona, ki ureja prekrške, o hišni preiskavi.
(8) Uradna oseba vstopi tudi v kateri koli objekt in prostor na letališču, železniški postaji in v pristanišču, na zemljišče, na katerem je ali bi lahko bilo blago, in na zemljišče, čez katerega je ali bi lahko bila speljana kakršna koli napeljava, ki omogoča prenos blaga, ter na obalo oziroma drugo zemljišče, na katerem je oziroma bi lahko pristalo vodno ali zračno plovilo.
(9) Če gre za objekte oziroma zemljišča policije ali Slovenske vojske, uradna oseba seznani pristojno osebo policije ali Slovenske vojske, da je ob pregledu navzoča.

(5) When it is necessary to take immediate action, the premises from the previous paragraph are exceptionally inspected even without the presence of witnesses, if it is not possible to ensure their presence immediately.
(6) When carrying out the tasks referred to in this Act, an official shall enter the residential and other premises of the taxpayer when it is expected that they contain movable property from which the debt may be paid, if in business premises or premises where the activity is carried out and used for its implementation, does not find movable assets to repay the debt or does not find them of sufficient value.
(7) In order to enter the apartment and other non-business premises from the previous paragraph, it is necessary to first obtain a decision from the competent court in accordance with the provisions of the law governing misdemeanours on house searches.
(8) An official also enters any facility and space at the airport, railway station and port, on land on which goods are or could be, and on land over which any wiring is or could be laid, which enables the transfer of goods, and to the coast or other land on which a water or air vessel is or could land.
(9) If it concerns facilities or land of the police or the Slovenian army, the official person informs the competent person of the police or the Slovenian army that he is present during the inspection.

Article 23[250] **(Inspection of devices, goods and other things)** An official can inspect equipment, devices, work equipment, installations, goods, substances and other things.

Article 24[251] **(Stopping means of transport)** (1) When performing tasks in the territory of the Republic of Slovenia, an official may stop any means of transport in road and water traffic, with the exception of priority vehicles, escort vehicles, vehicles transporting a protected person, or vehicles of the Slovenian Army.
(2) Everyone must stop at a place designated by an official by giving signs in accordance with the regulations governing the traffic rules of conduct in road traffic. If the driver of the means of transport does not comply with the ordered action of the official and does not stop the vehicle, the official immediately informs the police and asks for their help in stopping the vehicle.

[250] **23. člen (pregled naprav, blaga in drugih stvari)**
Uradna oseba lahko pregleda postroje, naprave, delovna sredstva, napeljave, blago, snovi in druge stvari.
[251] **24. člen (ustavljanje prevoznih sredstev)**
(1) Uradna oseba lahko pri opravljanju nalog na območju Republike Slovenije ustavi vsako prevozno sredstvo v cestnem in vodnem prometu, razen vozil s prednostjo, vozil za spremstvo, vozil, ki prevažajo varovano osebo, ali vozil Slovenske vojske.
(2) Vsakdo mora ustaviti na mestu, ki ga odredi uradna oseba z dajanjem znakov po predpisih, ki urejajo prometna pravila ravnanja v cestnem prometu. Če voznik prevoznega sredstva ne upošteva odrejenega ukrepa uradne osebe in ne ustavi vozila, uradna oseba o tem takoj obvesti policijo in jo zaprosi za pomoč pri ustavitvi vozila.
(3) Uradna oseba, pooblaščena za izvršitev pooblastila iz tega člena, mora biti za to posebej usposobljena. Program usposabljanja za ustavljanje prevoznih sredstev določi predstojnik.

(3) The official person authorized to execute the authorization referred to in this article must be specially qualified for this. The training program for stopping means of transport is determined by the supervisor.

Article 25[252] **(Inspection and investigation of transport and transferable means)**
(1) In order to detect violations of regulations, the financial administration is responsible for supervising their implementation, an official may carry out an inspection of transport and transferable means that have been brought into or are intended for export from the customs territory of the Union. In other cases, an official may inspect the means of transport and transport, if there are reasons for suspecting that a violation of the regulations has occurred with the means of transport or transport.
(2) Inspection of a means of transport or transport means an inspection of all freely accessible spaces and parts of a means of transport or transport, including the use of X-ray technology and radiation measurement and specially trained service dogs, without the use of special tools or technical aids.
(3) When inspecting a means of transport or transport, the owner or their user must provide all the necessary information and enable the inspection of all freely accessible parts of the means of transport or transport, which can be accessed without the use of special tools or technical aids, by unlocking or opening them themselves individual parts of the means of transport or transport. The official person specifically warns the owner or user of the obligation from the previous sentence.

[252] **25. člen (pregled in preiskava prevoznih in prenosnih sredstev)**
(1) Uradna oseba lahko zaradi odkrivanja kršitev predpisov, za nadzor nad izvajanjem katerih je pristojna finančna uprava, opravi pregled prevoznih in prenosnih sredstev, ki so bila vnesena ali so namenjena za iznos iz carinskega območja Unije. V drugih primerih lahko uradna oseba opravi pregled prevoznega in prenosnega sredstva, če so podani razlogi za sum, da je s prevoznim ali prenosnim sredstvom prišlo do kršitve predpisov.
(2) Pregled prevoznega ali prenosnega sredstva pomeni pregled vseh prosto dostopnih prostorov in delov prevoznega ali prenosnega sredstva, vključno z uporabo rentgenske tehnologije in meritve sevanja ter posebej usposobljenih službenih psov, brez uporabe posebnega orodja ali tehničnih pripomočkov.
(3) Pri pregledu prevoznega ali prenosnega sredstva mora lastnik ali njihov uporabnik dati vse potrebne podatke in omogočiti pregled vseh prosto dostopnih delov prevoznega ali prenosnega sredstva, do katerih je mogoč dostop brez uporabe posebnega orodja ali tehničnih pripomočkov, tako, da sam odklepa ali odpira posamezne dele prevoznega ali prenosnega sredstva. Uradna oseba lastnika oziroma uporabnika posebej opozori na obveznost iz prejšnjega stavka.
(4) Uradna oseba opravi preiskavo prevoznega ali prenosnega sredstva, kadar se pri pregledu pojavijo razlogi za sum kršitve predpisov, za nadzor nad izvajanjem katerih je pristojna finančna uprava, ali je lastnik oziroma uporabnik prevoznega ali prenosnega sredstva onemogočil izvedbo pregleda tega sredstva. Preiskava pomeni podroben pregled vseh delov in prostorov prevoznega ali prenosnega sredstva vključno s stvarmi v njem. Pri tem se lahko uporabijo tehnični pripomočki ali posebna orodja, s katerimi se lahko prevozno ali prenosno sredstvo oziroma stvari tudi odprejo in razstavijo, vključno s konstrukcijskimi odprtinami.
(5) Uradna oseba opravi pregled oziroma preiskavo ob navzočnosti zavezanca, lastnika ali uporabnika prevoznega ali prenosnega sredstva.
(6) Kadar je treba zaradi zavarovanja dokazov ali preprečitve nevarnosti nemudoma ukrepati, lahko uradna oseba opravi pregled in preiskavo prevoznega in prenosnega sredstva, če lastnik ali uporabnik ni navzoč in ga ni mogoče pravočasno obvestiti ali v primeru, če je zavezanec, lastnik ali uporabnik neznan.

(4) An official person shall conduct an investigation of a means of transport or a portable means of transport, when during the inspection there are reasons for suspecting a violation of regulations, the implementation of which is the responsibility of the financial administration, or if the owner or user of the means of transport or a portable means of transport has made it impossible to carry out an inspection of this means. The inspection means a detailed inspection of all parts and spaces of the means of transport or transport, including the things in it. Technical aids or special tools can be used for this, with which the means of transport or transport or things can also be opened and disassembled, including structural openings.
(5) An official person shall carry out an inspection or investigation in the presence of the taxpayer, owner or user of the means of transport or transport.
(6) When it is necessary to take immediate action in order to secure evidence or prevent a danger, an official may carry out an inspection and investigation of the means of transport and transport, if the owner or user is not present and cannot be notified in time, or if the obligee, owner or user is unknown.

Article 26[253] **(Security check)** (1) An official may perform a security check on a person if there is a likelihood of an attack on the person.
(2) The security check includes the check of the person, his belongings and portable and means of transport. Officials determine whether the person is armed and whether he or she has other dangerous objects or substances with him or her.
(3) During the security check of a person, an official searches his clothes, headgear and hair with his hands and examines his footwear.
(4) During the security inspection of things and portable means, an official person inspects things and portable means that a person has with him and that could contain weapons or other dangerous objects or substances.

[253] **26. člen (varnostni pregled)**
(1) Uradna oseba lahko opravi varnostni pregled osebe, če obstaja verjetnost njenega napada.
(2) Varnostni pregled obsega pregled osebe, njenih stvari in prenosnega ter prevoznega sredstva. Uradne osebe ugotavljajo, ali je oseba oborožena in ali ima pri sebi oziroma s sabo druge nevarne predmete ali snovi.
(3) Pri varnostnem pregledu osebe uradna oseba z rokami pretipa njena oblačila, pokrivalo in lase ter pregleda obutev.
(4) Pri varnostnem pregledu stvari in prenosnega sredstva uradna oseba pregleda stvari in prenosna sredstva, ki jih ima oseba pri sebi in bi bilo v njih lahko skrito orožje ali drugi nevarni predmeti ali snovi.
(5) Pri varnostnem pregledu prevoznega sredstva, ki je v neposredni bližini in dostopen osebi, ki jo varnostno pregleduje, uradna oseba pregleda njegovo notranjost, prtljažnik in druge prostore za prtljago, tovor ali opremo vozila.
(6) Varnostni pregled osebe opravi oseba istega spola, razen če varnostnega pregleda ni mogoče odložiti.
(7) Če uradna oseba pri varnostnem pregledu odkrije orožje, nevaren predmet ali snov, ga odvzame, osebi pa vrne po koncu postopka, razen če najde predmet, ki mora biti zasežen po zakonu, ki ureja kazenski postopek, zakonu, ki ureja postopek o prekrških, ali po drugem zakonu.

(5) During the security inspection of a means of transport, which is in the immediate vicinity and accessible to the person performing the security inspection, an official person inspects its interior, trunk and other spaces for luggage, cargo or vehicle equipment.
(6) The security check of a person is performed by a person of the same sex, unless the security check cannot be postponed.
(7) If an official person discovers a weapon, dangerous object or substance during a security check, he shall confiscate it and return it to the person at the end of the procedure, unless he finds an object that must be confiscated according to the law governing criminal proceedings, the law governing the procedure on misdemeanours, or under another law.

Article 27[254] **(Inspection of persons)** (1) An official may carry out an inspection of a person entering or exiting the customs territory of the Union, if there are grounds for suspicion, and in other cases, if there are reasonable grounds for suspecting that the person has objects with which they have been violated regulations for the supervision of the implementation of which the financial administration is competent and must be confiscated in accordance with the law.
(2) Before starting the inspection, the official person asks the person to hand over the items himself.
(3) A person must be examined by a person of the same sex, unless the examination cannot be postponed.
(4) During the inspection, the official searches the person's clothes with his hands and may ask him to take off individual upper parts of his clothes and inspect the contents of the things that the person has on him or with him.
(5) Examination of a person does not include physical examination and personal examination. If there are reasonable grounds to suspect that a person is carrying the objects of a crime by carrying them in his body, he shall be handed over to the police.

Article 28[255] **(Use of coercive means)** (1) When performing the tasks of the financial administration from points 1 to 4, 6, 7, 9 and 10 of the first paragraph of Article 11 of

[254] **27. člen (pregled oseb)**
(1) Uradna oseba lahko opravi pregled osebe, ki vstopa oziroma izstopa iz carinskega območja Unije, če so podani razlogi za sum, v drugih primerih pa če so podani utemeljeni razlogi za sum, da ima oseba pri sebi predmete, s katerimi so bili kršeni predpisi, za nadzor nad izvajanjem katerih je pristojna finančna uprava in jih je v skladu z zakonom treba zaseči.
(2) Pred začetkom pregleda uradna oseba zahteva od osebe, naj sama izroči predmete.
(3) Osebo mora pregledati oseba istega spola, razen če pregleda ni mogoče odložiti.
(4) Pri pregledu uradna oseba z rokami pretipa oblačila osebe in lahko od nje zahteva, da sleče posamezne vrhnje dele oblačil in pregleda vsebino stvari, ki jih ima oseba pri sebi oziroma s seboj.
(5) Pregled osebe ne vključuje telesnega pregleda in osebne preiskave. Če obstajajo utemeljeni razlogi za sum, da oseba prenaša predmete kaznivega dejanja tako, da jih prenaša v telesu, se jo izroči policiji.
[255] **28. člen (uporaba prisilnih sredstev)**

this Act, an official may use coercive means according to this Article, if he cannot prevent it with a warning or to divert danger from himself or another official, or to restrain the offender.
(2) Officials authorized to use coercive means are determined by the superior, based on the exposure to danger and threats to themselves and other officials.
(3) When performing the tasks of the financial administration, an official may use the following means of coercion:
1. means of locking and binding,
2. physical force,
3. gas spray,
4. firearms.
(4) The use of coercive means is when an official, in performing the tasks of the financial administration, uses any of the means from the previous paragraph to act directly on persons.
(5) Before using coercive means, the official person orders the person what he must do or refrain from doing and warns him that if the order is not followed, he will use coercive means, unless the warning would make it impossible to carry out the task of the financial administration or if the circumstances do not allow for the warning.

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(1) Pri opravljanju nalog finančne uprave iz 1. do 4., 6., 7., 9. in 10. točke prvega odstavka 11. člena tega zakona lahko uradna oseba uporabi prisilna sredstva po tem členu, če ne more z opozorilom preprečiti ali odvrniti nevarnosti od sebe ali druge uradne osebe ali zadržati kršitelja.
(2) Uradne osebe, pooblaščene za uporabo prisilnih sredstev, določi predstojnik, glede na izpostavljenost nevarnosti in ogroženosti sebe in druge uradne osebe.
(3) Pri opravljanju nalog finančne uprave lahko uradna oseba uporabi naslednja prisilna sredstva:
1. sredstva za vklepanje in vezanje,
2. telesno silo,
3. plinski razpršilec,
4. strelno orožje.
(4) Za uporabo prisilnih sredstev gre takrat, ko uradna oseba pri opravljanju nalog finančne uprave uporabi katero od sredstev iz prejšnjega odstavka za neposredno delovanje na osebe.
(5) Pred uporabo prisilnih sredstev uradna oseba odredi osebi, kaj mora storiti ali opustiti, in jo opozori, da bo ob neupoštevanju odredbe uporabila prisilno sredstvo, razen če bi opozorilo onemogočilo izvedbo naloge finančne uprave ali če okoliščine opozorila ne dopuščajo.
(6) Pri odločanju o ustrezni vrsti in intenzivnosti uporabe posameznega prisilnega sredstva mora uradna oseba upoštevati, da je sorazmerno načinu, sredstvu in moči upiranja ali napada osebe.
(7) Če sme uradna oseba uporabiti več prisilnih sredstev hkrati, mora uporabiti milejše. Hujše prisilno sredstvo sme uporabiti le, če je bila uporaba milejšega sredstva neuspešna ali če zaradi okoliščin zagotavljanja varnosti življenja ali osebne varnosti ne bi bila mogoča.
(8) Prisilna sredstva je dopustno uporabljati, dokler namen uporabe ni dosežen ali dokler se ne izkaže, da namena ne bo mogoče doseči.
(9) Uradna oseba takoj preneha uporabljati prisilno sredstvo, ko prenehajo razlogi za njihovo uporabo.
(10) Pri uporabi prisilnih sredstev morajo uradne osebe spoštovati človekovo osebnost in njegovo dostojanstvo.
(11) Uradna oseba o vsaki uporabi prisilnega sredstva poroča neposrednemu vodji organizacijske enote. O vsakem primeru uporabe strelnega orožja uradna oseba takoj obvesti tudi policijo.
(12) Uradna oseba, ki je pooblaščena za uporabo prisilnih sredstev, mora biti za to posebej usposobljena. Program usposabljanja in izpopolnjevanja za uporabo prisilnih sredstev določi predstojnik v sodelovanju z generalnim direktorjem policije.

(6) When deciding on the appropriate type and intensity of the use of individual means of coercion, the official must take into account that it is proportional to the method, means and strength of the person's resistance or attack.
(7) If an official is allowed to use several means of coercion at the same time, he must use milder ones. A more severe means of coercion may only be used if the use of a milder means was unsuccessful or if it would not be possible due to the circumstances of ensuring the safety of life or personal safety.
(8) It is permissible to use coercive means until the purpose of use is achieved or until it is proven that the purpose cannot be achieved.
(9) An official shall immediately stop using coercive means when the reasons for their use cease.
(10) When using coercive means, officials must respect human personality and dignity.
(11) An official shall report any use of coercive means to the immediate head of the organizational unit. The official shall immediately inform the police of any case of use of a firearm.
(12) An official who is authorized to use coercive means must be specially qualified for this. The training and development program for the use of coercive means is determined by the superior in cooperation with the general director of the police.

Article 29[256] **(Terms of use)** In order to carry out the tasks of the financial administration, an official can only use coercive means specified by this law, which are systematized and typified for use in the financial administration, in a prescribed manner.

Article 30[257] **(Special conditions of use)** An official is not allowed to use coercive means against children, visibly sick, elderly, incapacitated persons, visibly severely disabled and pregnant women, unless he cannot otherwise control their resistance or attack, or if they threaten the life of the official.

Article 31[258] **(Providing first aid)** If a person is injured as a result of the use of coercive means, the official must provide first aid or medical assistance as soon as the circumstances permit.

[256] **29. člen (pogoji za uporabo)**
Za opravljanje nalog finančne uprave lahko uradna oseba na predpisan način uporablja samo s tem zakonom določena prisilna sredstva, ki so sistemizirana in tipizirana za uporabo v finančni upravi.
[257] **30. člen (posebni pogoji za uporabo)**
Uradni osebi ni dovoljeno uporabiti prisilnih sredstev proti otrokom, vidno bolnim, starim, onemoglim osebam, vidno težkim invalidom in nosečim ženskam, razen če ne more drugače obvladati njihovega upiranja ali napada ali če ogrožajo življenje uradne osebe.
[258] **31. člen (zagotavljanje prve pomoči)**
Če je zaradi uporabe prisilnih sredstev oseba poškodovana, ji mora uradna oseba takoj, ko okoliščine dopuščajo, zagotoviti prvo pomoč ali zdravniško pomoč.

Article 32[259] **(Use of locking and binding means)** (1) An official may use the means of shackling and tying if, based on the circumstances, it can be expected that the person will resist or attack the official.
(2) An official may exceptionally use other convenient means to shackle and bind persons, if they are comparable and appropriate from the point of view of the expected consequences of their use.

Article 33[260] **(Use of physical force)** Physical force is used by an official if he cannot do otherwise:
1. to control the person's resistance or
2. to repel an attack.

Article 34[261] **(Definition of body force)** (1) The use of physical force is considered to be the direct use of force by an official with professional grips, blows and throws.
(2) In order to control passive resistance, an official shall use blows and throws only if he determines that the purpose of use will not be achieved with the professional methods referred to in the previous paragraph.

Article 35[262] **(Use of gas nebulizer)** (1) The gas dispenser shall be used by an official if the conditions for the use of physical force are met.
(2) To control passive resistance, an official may use a gas spray if he cannot use another, milder coercive means to control such resistance.

Article 36[263] **(Use of firearms)** (1) An official uses a firearm if he or she is unable to prevent a simultaneous illegal attack that endangers life from himself or another official.

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[259] **32. člen (uporaba sredstev za vklepanje in vezanje)**
(1) Sredstva za vklepanje in vezanje lahko uradna oseba uporabi, če je glede na okoliščine mogoče pričakovati, da se bo oseba upirala ali napadla uradno osebo.
(2) Za vklepanje in vezanje oseb lahko uradna oseba izjemoma uporabi tudi druga priročna sredstva, če so z vidika pričakovanih posledic uporabe primerljiva in ustrezna.

[260] **33. člen (uporaba telesne sile)**
Telesno silo uradna oseba uporabi, če ne more drugače:
1. obvladati upiranja osebe ali
2. odvrniti napada.

[261] **34. člen (opredelitev telesne sile)**
(1) Za uporabo telesne sile se šteje neposredna uporaba sile uradne osebe s strokovnimi prijemi, udarci in meti.
(2) Za obvladovanje pasivnega upiranja uradna oseba uporabi udarce in mete le, če ugotovi, da s strokovnimi prijemi iz prejšnjega odstavka ne bo dosegla namena uporabe.

[262] **35. člen (uporaba plinskega razpršilca)**
(1) Plinski razpršilec uradna oseba uporabi, če so izpolnjeni pogoji za uporabo telesne sile.
(2) Za obvladovanje pasivnega upiranja lahko uradna oseba uporabi plinski razpršilec, če ne more uporabiti drugega, milejšega prisilnega sredstva, s katerim bi obvladala takšno upiranje.

[263] **36. člen (uporaba strelnega orožja)**

(2) An attack on an official or a person from the previous paragraph is also considered if the person reaches for a weapon, other dangerous object or substance, pulls or tries to pull them, or holds them in such a position that an attack can occur at a moment's notice.
(3) If the circumstances allow for the safety of the official or other persons, before using a firearm, the official must warn the person against whom the firearm is to be used by calling "Stop, I will shoot!" and with a warning shot in a safe direction.

Article 37[264] **(Prohibition of activities and sealing of business premises, documents and objects)** (1) If, while performing the duties of the financial administration, an official finds that a law or other regulation, the implementation of which he supervises, has been violated, he may, if this is absolutely necessary to prevent further violations, prohibit the performance of the activity by decision until the irregularities are rectified, and at the same time seal the business premises, documents or objects.
(2) When performing the duties of the financial administration, an official shall seal business premises, documents or objects for a maximum of 15 days if there is a suspicion that they will be alienated or destroyed, or if necessary to prevent further violations. In more demanding cases, this deadline can be exceptionally extended, but up to a maximum of 60 days in total.
(3) An appeal against the decision referred to in the first paragraph of this article does not delay the execution of the decision.

Article 38[265] **(Use of technical equipment, service dogs, service vehicles with priority)** (1) An official may use special technical equipment, specially trained service dogs

(1) Uradna oseba uporabi strelno orožje, če ne more drugače odvrniti od sebe ali druge uradne osebe sočasnega protipravnega napada, s katerim je ogroženo življenje.
(2) Za napad na uradno osebo ali osebo iz prejšnjega odstavka se šteje tudi, če oseba seže po orožju, drugem nevarnem predmetu ali snovi, jih potegne ali poskusi potegniti ali drži v takem položaju, v katerem lahko v trenutku pride do napada.
(3) Če okoliščine glede na varnost uradne osebe ali drugih oseb dopuščajo, mora uradna oseba preden uporabi strelno orožje, osebo, zoper katero naj bi uporabila strelno orožje, opozoriti s klicem "Stoj, streljal bom!" in z opozorilnim strelom v varno smer.

[264] **37. člen (prepoved opravljanja dejavnosti in zapečatenje poslovnih prostorov, dokumentov in predmetov)**
(1) Če uradna oseba pri opravljanju nalog finančne uprave ugotovi, da je kršen zakon ali drug predpis, katerega izvajanje nadzoruje, lahko, če je to nujno potrebno zaradi preprečitve nadaljnje kršitve, do odprave nepravilnosti z odločbo prepove opravljanje dejavnosti ter hkrati zapečati poslovne prostore, dokumente ali predmete.
(2) Uradna oseba pri opravljanju nalog finančne uprave za največ 15 dni zapečati poslovne prostore, dokumente ali predmete, če obstaja sum, da bodo odtujeni ali uničeni oziroma po potrebi zaradi preprečitve nadaljnje kršitve. V zahtevnejših primerih se lahko ta rok izjemoma podaljša, vendar skupno do največ 60 dni.
(3) Pritožba zoper odločbo iz prvega odstavka tega člena ne zadrži izvršitve odločbe.

[265] **38. Člen (uporaba tehnične opreme, službenih psov, službenih vozil s prednostjo)**
(1) Uradna oseba lahko pri opravljanju nalog iz 1. do 4., 6., 7., 9. in 10. točke prvega odstavka 11. člena tega zakona uporablja posebno tehnično opremo, posebej izurjene službene pse za odkrivanje prepovedanih drog, tobačnih izdelkov in drugih stvari (denarja, prehrambenih izdelkov in drugo) ter službena vozila s prednostjo, opremljena z napravami za dajanje posebnih svetlobnih in zvočnih znakov.

for the detection of illegal drugs, tobacco products and other things (money, food products, etc.) and service vehicles with priority, equipped with devices for giving special light and sound signals.
(2) Special technical equipment are tools, devices and other accessories, devices with X-ray or similar technology, devices for measuring radiation and special vehicles equipped with X-ray or similar technology and devices for measuring radiation, intended for inspection and investigation of means of transport, inspection of persons, devices, goods and other things and performing a security inspection.

Article 39[266] **(Detention of the offender)** (1) An official shall detain a person caught in violation of customs, excise and other regulations, for supervision over the implementation of which is the competent service, if he could avoid sanctioning or further proceedings by voluntarily leaving the place of the violation. The detention can last for a maximum of two hours.
(2) The official person immediately informs the detained person of the reasons for the detention and withholds his personal documents.
(3) An official may bring a detained person to the misdemeanour authority without a special order.

Article 40[267] **(Purchase and free transfer of goods)** (1) An official may purchase goods or services for the purpose of detecting violations of regulations for the supervision of the implementation of which the financial administration is competent.
(2) Goods purchased for the purpose of performing the tasks of the financial administration, which are not needed by the financial administration, may be transferred free of charge to state bodies, humanitarian organizations or public institutions, if they need them to carry out their activities.

(2) Posebna tehnična oprema so orodje, naprave in drugi pripomočki, naprave z rentgensko ali podobno tehnologijo, naprave za merjenje sevanj ter specialna vozila, opremljena z rentgensko ali podobno tehnologijo in napravami za merjenje sevanj, namenjeni pregledu in preiskavi prevoznih, prenosnih sredstev, pregledu oseb, naprav, blaga in drugih stvari ter opravljanju varnostnega pregleda.

[266] **39. člen (zadržanje kršitelja)**
(1) Uradna oseba zadrži osebo, ki jo zaloti pri kršitvi carinskih, trošarinskih in drugih predpisov, za nadzor nad izvajanjem katerih je pristojna služba, če bi se ta lahko s samovoljnim odhodom s kraja kršitve izognil sankcioniranju oziroma izvedbi nadaljnjega postopka. Zadržanje lahko traja najdlje dve uri.
(2) Uradna oseba zadržano osebo takoj seznani z razlogi zadržanja in ji zadrži osebne dokumente.
(3) Uradna oseba lahko zadržano osebo brez posebne odredbe privede k prekrškovnemu organu.

[267] **40. člen (nakup in brezplačni odstop blaga)**
(1) Uradna oseba lahko zaradi odkrivanja kršitev predpisov, za nadzor nad izvajanjem katerih je pristojna finančna uprava, kupi blago ali storitve.
(2) Blago, kupljeno za namene opravljanja nalog finančne uprave, ki ga finančna uprava ne potrebuje, se lahko brezplačno odstopi državnim organom, humanitarnim organizacijam ali javnim zavodom, če ga ti potrebujejo za opravljanje svoje dejavnosti.

(c) Investigative powers in the area of common market organisations

61 For the relevant legislation for investigative powers in the area of common market organizations see the

- General Administrative Procedure Act (see below → Article 5 Opening of Investigations and → Article 7 Investigations Procedure),
- the Inspection Control Act (see above → Investigative powers in the area of structural funds and internal policies) and
- the Regulation on measures of agricultural structural policy and agricultural policy of rural development/Uredba o ukrepih kmetijske strukturne politike in kmetijske *politike razvoja podeželja*

(d) Investigative powers in the area of direct expenditure

62 The investigative powers in the area of direct expenditure can be derived from the following Acts:

- General Administrative Procedure Act
- Inspection Control Act (see above → Investigative powers in the area of structural funds and internal policies)
- Public Procurement Act / *Zakon o javnem naročanju* (ZJN-3):

63 **Article 114**[268] **(Monitoring the application of public procurement rules)** (1) The ministry responsible for public procurement ensures monitoring of the application of the rules on public procurement. If the ministry responsible for public procurement finds out or receives information indicating specific violations or system problems, it must

[268] Deveto poglavje
Upravljanje
114. člen ZJN-3
(spremljanje uporabe pravil o javnih naročilih)
(1) Ministrstvo, pristojno za javna naročila, zagotavlja spremljanje uporabe pravil o javnih naročilih. Če ministrstvo, pristojno za javna naročila, ugotovi ali prejme informacije, ki nakazujejo posebne kršitve ali sistemske težave, mora o tem obvestiti Urad Republike Slovenije za nadzor proračuna, Računsko sodišče Republike Slovenije, Državno revizijsko komisijo, Javno agencijo Republike Slovenije za varstvo konkurence ali Komisijo za preprečevanje korupcije.
(2) Ministrstvo, pristojno za javna naročila, o rezultatih spremljanja iz prejšnjega odstavka poroča Evropski komisiji do 18. aprila 2017 in vsaka nadaljnja tri leta. Poročilo vključuje informacije o najpogostejših razlogih za napačno uporabo ali pravno nejasnost, vključno z morebitnimi strukturnimi ali ponavljajočimi se težavami pri uporabi pravil, o ravni udeležbe malih in srednjih podjetij pri javnem naročanju ter o preprečevanju, odkrivanju in ustrezni prijavi primerov goljufije, korupcije, nasprotja interesov in podobnih hujših nepravilnostih pri javnem naročanju. Poročilo ima naravo informacije javnega značaja.
(3) Ministrstvo, pristojno za javna naročila, zagotavlja, da so brezplačno na voljo informacije in smernice za razlago in uporabo prava Evropske unije o javnih naročilih, ki bi naročnikom in gospodarskim subjektom pomagale pri pravilni uporabi teh pravil, ter podporo naročnikom pri načrtovanju in izvajanju postopkov javnega naročanja.
(4) Ministrstvo, pristojno za gospodarstvo, mora obvestiti Evropsko komisijo o vseh težavah, s katerimi se srečujejo slovenska podjetja pri pridobivanju naročil storitev v tretjih državah in ki nastanejo zaradi neupoštevanja določb mednarodnega delovnega prava.

inform the Office of the Republic of Slovenia for Budget Control, the Audit Court of the Republic of Slovenia, the State Audit Commission, the Public Agency of the Republic of Slovenia for the Protection of Competition or the Commission to prevent corruption.
(2) The ministry responsible for public procurement shall report the monitoring results from the previous paragraph to the European Commission by April 18, 2017 and every three years thereafter. The report includes information on the most common reasons for misuse or legal ambiguity, including possible structural or recurring problems in the application of the rules, on the level of participation of SMEs in public procurement and on the prevention, detection and appropriate reporting of cases of fraud, corruption, conflicts of interest and similar serious irregularities in public procurement. The report has the nature of public information.
(3) The ministry responsible for public procurement ensures that information and guidelines for the interpretation and application of European Union law on public procurement are available free of charge, which would help clients and economic entities in the correct application of these rules, as well as support for clients in planning and implementation of public procurement procedures.
(4) The Ministry responsible for the economy must inform the European Commission of all problems encountered by Slovenian companies in obtaining orders for services in third countries and which arise due to non-compliance with the provisions of international labour law.

On public expenditure Slovenian legal information system lists the following legislation:[269] **64**

- Act on Certain Concession Agreements (ZNKP)
- Act on the strengthening of the joint reserve fund with the guarantee of the Republic of Slovenia for the provision of extraordinary macro-financial assistance to Ukraine (ZOSRIMP)
- Act on additional measures to prevent the spread, mitigation, control, recovery and elimination of the consequences of COVID-19 (ZDUPŠOP)

(3) Protection of information

Different kind of secrets exist and might be an obstacle to an investigation. Even if the Banking Act asks for the protection of information in Article 15, the Banking Act (Article 16 disclosure) and other Acts allow the access to such information in certain cases. **65**

[269] See http://www.pisrs.si/Pis.web/pravniRedRSDrzavniNivoKazalaTematskoKazaloPredpis?pog1=7&pog2=2&pog3=0&pog4=0&treeId=244. Accessed 12 January 2024.

(a) Tax secrecy

66 Articles 48, 49 of the Financial Administration Act describe that the Tax Administration manages a tax register, which includes sensible, private and potential secret information, which an investigator might want to access. And it registers information from EU Regulations within this register:

67

Article 60 (Types of records)[270] (1) The Financial Administration maintains collections of personal and other data (hereinafter: records), which are collected and further processed by employees of the Financial Administration when performing the tasks of the Financial Administration.
(2) The Financial Administration manages and maintains:
1. tax records,
2. bookkeeping records,
3. records on the management of financial control,
4. records of financial investigations,
5. records of filed criminal charges and notices,
6. customs records,
7. excise tax records,
14. records on the storage of goods,
15. records of controls over the organization of gambling games according to the law governing gambling games,
16. records prescribed by other regulations, EU regulations and international agreements,
17. records of farm households.

[270] **60. člen (vrste evidenc)**
(1) Finančna uprava vodi zbirke osebnih in drugih podatkov (v nadaljnjem besedilu: evidence), ki jih pri opravljanju nalog finančne uprave zbirajo in nadalje obdelujejo uslužbenci finančne uprave.
(2) Finančna uprava vodi in vzdržuje:
1. evidenco o davkih,
2. knjigovodske evidence,
3. evidenco o vodenju finančnega nadzora,
4. evidenco finančnih preiskav,
5. evidenco o vloženih kazenskih ovadbah in naznanilih,
6. carinsko evidenco,
7. evidenco trošarin,
8. evidenco informacij za izvedbene namene,
9. evidenco o uporabi prisilnih sredstev,
10. evidenco predloženih instrumentov zavarovanja,
11. evidenco o davčni izvršbi,
12. evidenco poročevalskih enot in deklarantov v zvezi z zbiranjem statističnih podatkov o blagovni menjavi z državami članicami EU,
13. evidenco okoljskih dajatev,
14. evidenco o hrambi blaga,

All these information would be valuable if OLAF Units could get access to it or obtain data from it. Therefore the secret and the protection of information plays a vital role. **68**

The Financial Administration Act contains the following provisons, which declare that a tax secret exists and declares how the processing of such data is possible: **69**

Article 47 (Authorization for the processing of data that is tax secrecy or other personal data with contractual contractors)[271] (1) The Financial Administration may, by contract, entrust individual tasks related to the processing of data that are tax secrets, or other personal data, to a contract processor who is registered to perform this activity. (2) The contractual processor performs individual tasks related to the processing of data that are tax secrets or other personal data within the framework of the authorizations defined by the financial administration and may not process them for any other purpose. Mutual rights and obligations are regulated by a contract, which must be concluded in writing and must also contain conditions and measures to ensure the protection and insurance of data that is tax secrecy, or other personal data. The Financial Administration supervises the implementation of procedures and measures for the protection and insurance of data submitted for contractual processing.
(3) The contractual processor must immediately return data that is tax secrecy, or other personal data that it has contractually processed, to the financial administration:
1. in the event of a dispute between the financial administration and the contractual processor,
2. upon termination of the contractual processor, **70**

[271] **47. člen (pooblastilo za obdelavo podatkov, ki so davčna tajnost, oziroma drugih osebnih podatkov pri pogodbenih izvajalcih)**
(1) Finančna uprava lahko posamezna opravila v zvezi z obdelavo podatkov, ki so davčna tajnost, oziroma drugih osebnih podatkov s pogodbo zaupa pogodbenemu obdelovalcu, ki je registriran za opravljanje te dejavnosti.
(2) Pogodbeni obdelovalec opravlja posamezna opravila v zvezi z obdelavo podatkov, ki so davčna tajnost, oziroma drugih osebnih podatkov v okviru pooblastil, ki jih je opredelila finančna uprava in jih ne sme obdelovati za noben drug namen. Medsebojne pravice in obveznosti se uredijo s pogodbo, ki mora biti sklenjena v pisni obliki in mora vsebovati tudi pogoje in ukrepe za zagotovitev varstva in zavarovanja podatkov, ki so davčna tajnost, oziroma drugih osebnih podatkov. Finančna uprava nadzoruje izvajanje postopkov in ukrepov za varstvo in zavarovanje podatkov, danih v pogodbeno obdelavo.
(3) Pogodbeni obdelovalec mora podatke, ki so davčna tajnost, oziroma druge osebne podatke, ki jih je pogodbeno obdeloval, nemudoma vrniti finančni upravi:
1. v primeru spora med finančno upravo in pogodbenim obdelovalcem,
2. ob prenehanju pogodbenega obdelovalca,
3. na podlagi zahteve finančne uprave,
4. po opravljeni obdelavi.
(4) V vseh primerih iz prejšnjega odstavka mora pogodbeni obdelovalec vrniti ali komisijsko v prisotnosti uslužbenca finančne uprave uničiti tudi vse morebitne kopije teh podatkov. Na podlagi pisne zahteve pogodbenega obdelovalca, ki izkaže pravni interes za uvedbo sodnega ali drugega postopka, se morebitne kopije teh podatkov ne uničijo, temveč jih uslužbenec finančne uprave osebno prevzame, napiše o tem uradni zaznamek in jih shrani v prostorih finančne uprave za uporabo v morebitnih sodnih ali drugih postopkih.
(5) Pogodbeni obdelovalec brez odlašanja preda finančni upravi tudi vse morebitne kopije teh podatkov. Podatke nato komisijsko uniči finančna uprava.
(6) Pogodbeni izvajalec mora omogočiti vpogled v svoj informacijski sistem zaradi preverjanja, ali so dane vse kopije oziroma izbrisani vsi podatki.

3. based on the request of the financial administration,
4. after processing.
(4) In all cases from the previous paragraph, the contractual processor must return or destroy all possible copies of this data in the presence of an employee of the financial administration. On the basis of a written request from the contractual processor who demonstrates a legal interest in initiating legal or other proceedings, any copies of this data are not destroyed, but an employee of the financial administration personally takes them over, writes an official note about it and stores them in the premises of the financial administration for use in any legal or other proceedings.
(5) The contractual processor shall also hand over all possible copies of this data to the financial administration without delay. The data is then destroyed on commission by the financial administration.
(6) The contractor must provide access to its information system in order to check whether all copies have been provided or all data has been deleted.

(b) Administrative secrecy (Administrative laws)

71 The General Administrative Procedure Act allows the administrative inspector to obtain information even if a secret exists, see. Article 307 of this Act.

72 **Article 307**[272] […] (2) The administrative inspector has the right to enter the authority's premises and the right to inspect documentation relating to administrative procedures and administrative operations, including secret data, personal data, business secrets, tax secrets and other protected data.

(c) Data secrecy (Data protection laws, Customs Code, General Tax Code)

73 The Data Protection Regulation requires all competent national authorities to name a Data Protection Officer. Thus the customs administration, the tax administration and the VAT offices need to present such contacts.

74 In the area of the operations of the Financial Offices of the Slovenian Tax Administration the Data protection Officer is presented easily on the Website.[273]

[272] **307. člen**
[…] (2) Upravni inšpektor ima pravico do vstopa v prostore organa in pravico do vpogleda v dokumentacijo, ki se nanaša na upravne postopke in upravno poslovanje, vključno s tajnimi podatki, osebnimi podatki, poslovnimi skrivnostmi, davčnimi tajnostmi in drugimi varovanimi podatki.
[273] See Mitja Levstekpersonal data protection officer, Financial Administration of the Republic of Slovenia 01 478 39 29 dpo.furs@gov.si.

(d) Official secrecy

Official secrecies might exist in the trade sector, the customs area, the tax area and in a standard administrative procedure. They are often prescribed in a contract about a certain action. These secrets must be followed and cannot be infringed as long as inspectors cannot prove to have a right to obtain information despite this secret. **75**

(4) Investigation reports

The Financial Administration Act prescribes the drawing of reports: **76**

Article 100 (Financial investigation)[274] **77**
[…] (5) After completing the financial investigation, the official shall draw up a final investigative report, in which he describes the findings of the financial investigation.

(5) Support to the inspectors (Customs Code, General Tax Code)

The Financial Administration Act contains Article 99 granting status to encourage voluntary fulfilment of obligations – but is, de facto, a support to the inspectors combined with a kind of gift. **78**

(6) Preservation of Evidence

The preservation of evidence is mainly important for a future trial e.g. an administrative trial about an irregularity. If OLAF assesses that an irregularity was present and the investigation according to Articles 3, 5, 7 OLAF Regulation revealed that an action is needed, the Unit will inform the national authority to follow the recommendation of OLAF. The SNE of the Unit of OLAF will then propose a special recommendation based on the national law, which is presented exemplary in Article 11 OLAF Regulation below. An instant preservation of evidence can be achieved via the seizure of document or things, which is in Slovenia e.g. possible with the application of Article 21 Financial Administration Act (see below → Single Measures, Seizure). **79**

g) Single measures

Single measures must be explored by their full wording as they contain many details, which would be lost if they would only be summarized. For the actual decision on what to do the OLAF Units and the SNEs of OLAF's Units as well as the national body competent to help OLAF will need to meet and discuss the best strategy on how to do the **80**

[274] **100. člen (finančna preiskava)**
[…] (5) Uradna oseba po opravljeni finančni preiskavi sestavi zaključno preiskovalno poročilo, v katerem opiše ugotovitve finančne preiskave.

external investigation and on-the-spot check. The national law, which is applicable has been summarized above and will be now explored further but not exhaustively.

aa. Interviewing/Questioning of "persons concerned" (in relation to suspects/defendants)

81 Within the general administrative procedure an oral hearing might be part of the investigation:

82

6. Oral hearing
Article 154[275] (1) The official conducting the proceedings may, at his own discretion or at the request of a party, schedule an oral hearing whenever this is useful for clarifying the matter, but he must schedule it in cases involving two or more parties with conflicting interests, or when it is necessary to conduct a tour or to question witnesses or experts.
(2) If the authority has adequate technological options, the official may, at the request of the parties, call for a videoconference hearing instead of an oral one.
(3) The provisions of this Act on oral hearings shall apply mutatis mutandis to videoconference hearings.

bb. The taking of statements from economic operators

83 The taking of statements (*izjav*) from economic operators is a standard procedure used in customs procedures and even the VAT Act frequently refers to certain statements (see e.g. Article 74i para 4 on the refund conditions).

84 The General Administrative Procedure Act contains the following provision:

85

5. Customer statement
Article 188[276] (1) If there is not enough other evidence to establish a fact, the oral statement of the party may also be taken as evidence to establish such a fact. A party's statement may be taken as evidence even in minor matters, if a fact is to be proved by

[275] 6. Ustna obravnava
154. člen
(1) Uradna oseba, ki vodi postopek, lahko po lastnem preudarku ali na predlog stranke razpiše ustno obravnavo vselej, kadar je to koristno za razjasnitev zadeve, mora pa jo razpisati v zadevah, v katerih sta udeleženi dve ali več strank z nasprotujočimi si interesi, ali kadar je treba opraviti ogled ali pa zaslišati priče ali izvedence.
(2) Če pri organu obstajajo ustrezne tehnološke možnosti, lahko uradna oseba na predlog strank razpiše namesto ustne videokonferenčno obravnavo.
(3) Za videokonferenčno obravnavo se smiselno uporabljajo določbe tega zakona o ustni obravnavi.

[276] **188. člen**
(1) Če za ugotovitev nekega dejstva ni dovolj drugih dokazov, se sme vzeti kot dokaz za ugotovitev takega dejstva tudi ustna izjava stranke. Izjava stranke se sme vzeti kot dokaz tudi v malo pomembnih zadevah, če naj bi se neko dejstvo sicer dokazovalo z zaslišanjem priče, ki živi v kraju, oddaljenem od sedeža organa, ali če bi bilo sicer zaradi iskanja drugih dokazov oteženo uveljavljanje pravic stranke.
(2) Verodostojnost izjave stranke se presoja po načelu iz 10. člena tega zakona.
(3) Preden sprejme izjavo, mora uradna oseba, ki vodi postopek, opozoriti stranko na kazensko in materialno odgovornost, če bi dala krivo izjavo.

questioning a witness who lives in a place far from the seat of the authority, or if the exercise of the party's rights would otherwise be difficult due to the search for other evidence.
(2) The credibility of the client's statement is assessed according to the principle from Article 10 of this Act.
(3) Before accepting the statement, the official person in charge of the procedure must warn the party of the criminal and material liability if he/she makes a false statement.

cc. Interviewing/Questioning of witnesses

Article 164 para 2 of the General Administrative Procedure Act stipulates that the interview or the questioning of witnesses is a potential source of evidence and information in the process of determining an administrative decision. Articles 182 and 183 contain further rules on how to testify and when a person might refuse to testify as a witness. **86**

Furthermore, the Inspection Control Act contains a relevant provision in another area: **87**

Article 19[277] **(Powers of the inspector)** **88**
When performing inspection control tasks, the inspector has the right to:

[277] **19. člen ZIN**
(pooblastila inšpektorja)
Pri opravljanju nalog inšpekcijskega nadzora ima inšpektor pri fizični ali pravni osebi, pri kateri opravlja inšpekcijski nadzor, pravico:
- pregledati prostore, objekte, postroje, naprave, delovna sredstva, napeljave, predmete, blago, snovi, poslovne knjige, pogodbe, listine in druge dokumente ter poslovanje in dokumentacijo državnih organov, gospodarskih družb, zavodov, drugih organizacij in skupnosti ter zasebnikov,
- vstopiti na parcele in zemljišča fizičnih in pravnih oseb,
- pregledati poslovne knjige, pogodbe, listine in druge dokumente ter poslovanje in dokumentacijo, kadar se vodijo in hranijo na elektronskem mediju ter zahtevati izdelavo njihove pisne oblike, ki mora verodostojno potrjevati elektronsko obliko,
- zaslišati stranke in priče v upravnem postopku,
- pregledati listine, s katerimi lahko ugotovi istovetnost oseb,
- brezplačno pridobiti in uporabljati osebne in druge podatke iz uradnih evidenc in drugih zbirk podatkov, ki so potrebni za izvedbo inšpekcijskega nadzora,
- brezplačno vzeti vzorce blaga in opraviti preiskave vzetih vzorcev,
- brezplačno vzeti vzorce materialov in opreme za potrebe preiskav,
- fotografirati ali posneti na drug nosilec vizualnih podatkov osebe, prostore, objekte, postroje, napeljave in druge predmete iz prve alinee,
- reproducirati listine, avdiovizualne zapise in druge dokumente,
- zaseči predmete, dokumente in vzorce v zavarovanje dokazov,
- opraviti navidezni nakup na način, da se po opravljenem nakupu izkaže s službeno izkaznico, če se na ta način lahko ugotovijo znaki prekrška oziroma podatki o kršitelju,
- opraviti druga dejanja, ki so v skladu z namenom inšpekcijskega nadzora.

Pravne in fizične osebe, zoper katere se ne vodi inšpekcijski postopek, in ki razpolagajo z domnevnimi dokazi oziroma drugimi, tudi osebnimi podatki, potrebnimi za izvedbo inšpekcijskega nadzora, morajo na zahtevo inšpektorja posredovati dokaze in druge, tudi osebne podatke, oziroma morajo omogočiti zaslišanje prič za pridobitev teh dokazov ali drugih, tudi osebnih podatkov, najkasneje v treh dneh od prejema njegove zahteve.
Pri opravljanju nalog inšpekcijskega nadzora lahko inšpektor za največ 15 dni odvzame dokumentacijo, ki jo potrebuje za obravnavanje dejanskega stanja v obravnavani zadevi, če meni, da obstaja utemeljen sum kršitev zakonov ali drugih predpisov, in če s tem ne ovira dejavnosti fizične ali pravne osebe. O odvzemu dokumentacije izda inšpektor potrdilo. Dokumentacije državnih organov, ki je določena kot tajna, inšpektor ne sme odvzeti.

- inspect the premises, facilities, equipment, devices, work equipment, fixtures, objects, goods, substances, business books, contracts, documents and other documents as well as the operations and documentation of state bodies, companies, institutes, other organizations and communities and private individuals,
- enter plots and lands of natural and legal persons,
- inspect business books, contracts, documents and other documents as well as operations and documentation when they are managed and stored on an electronic medium and request the production of their written form, which must authentically confirm the electronic form,
- to ***hear parties and witnesses in administrative proceedings***,
- examine documents that can be used to determine the identity of persons, […]

dd. Inspections

89 Inspections in general are very important tools within an on-the-spot check. They are allowed by the relevant Acts in the area of the most prominent frauds, such as tax and customs frauds to the detriment of the Union's budget:

- Customs Inspection
- Tax Inspection
- Structural Funds Inspection
- Agricultural-related Inspections
- Classical Budget Inspections
- Other Special Inspections (e.g. wine producers, alcohol producers, etc.)
- Fishing Area

(1) General Administrative Procedure Act

90 This Act regulates the administrative inspection as a supervision and control over the implementation of the administrative decision:

91 **Article 307**[278] (1) Supervision over the implementation of this law and other laws regulating administrative procedures is carried out by the administrative inspection.
(2) The administrative inspector has the right to enter the authority's premises and the right to inspect documentation relating to administrative procedures and administrative operations, including secret data, personal data, business secrets, tax secrets and other

[278] **307. člen**
(1) Nadzor nad izvajanjem tega zakona in drugih zakonov, ki urejajo upravne postopke, opravlja upravna inšpekcija.
(2) Upravni inšpektor ima pravico do vstopa v prostore organa in pravico do vpogleda v dokumentacijo, ki se nanaša na upravne postopke in upravno poslovanje, vključno s tajnimi podatki, osebnimi podatki, poslovnimi skrivnostmi, davčnimi tajnostmi in drugimi varovanimi podatki. Organ mora upravnemu inšpektorju zagotoviti pogoje za delo in potrebne informacije.

protected data. The authority must provide the administrative inspector with working conditions and necessary information.

(2) Financial Administration Act

[See above for original text → Investigative powers in the area of structural funds and internal policies, Financial Administration Act] **92**

Article 17 (Submission, inspection, reproduction of data, documents, documents and other records and data security)
(1) An official may request the taxpayer and the person who is obliged to provide information and submit documents, documents and other records to provide any information or submit a document necessary for the performance of the tasks of the financial administration within a specified period and at a specified place. regardless of the form in which it is found. At the request of an official person, the person also communicates information about the person authorized to carry out business, during the performance of which a violation of the regulations was allegedly committed.
(2) An official person may also request information, documents, documents and other records from any other person who is not an obligee, but is indirectly or directly involved in the business, or from any other person who possesses the requested documents and documents or would have these documents and must have documents.
(3) Information, documents, documents and other records referred to in the first paragraph of this article shall be requested by an official person from the obligor as a rule orally, and from another person in writing. When an official assesses that during the preparation of a written request a person could destroy or deny the existence of data, he orally requests it and writes an official note about it. In the request, he must indicate the place and deadline for the communication of information and submission of documents and warn the taxpayer and other persons that failure to communicate the required information or failure to submit documents and documents will commit an offence.
(4) An official may also inspect information, documents, documents and other records. He can also review the data, documents and documents of other persons that are with the person with whom the tasks of the financial administration are performed.
(5) An official may also reproduce information, documents, documents and other records. When an official reproduces information, documents and documents, each copy must be visibly marked and equipped with the date of production.
(6) When data are processed electronically, an official may request their written form, which must authentically confirm the content of the electronic record, or request a copy of the data in electronic form.
(7) An official may copy data in electronic form and produce or request the production of an authentic copy of the entire data carrier and request encryption keys or encryption

passwords if they are necessary for accessing the data or their readability, but only if the data relate to the performance of activities or obtaining revenue and does not interfere with the confidentiality of letters and other communications.
(8) The information from the previous paragraph is copied in the presence of the taxpayer. If the obligee is not present or is not willing to cooperate, it may exceptionally be copied in the presence of two adult witnesses.
(9) When an official person requests a copy of data in electronic form or copies the data in electronic form himself when performing his duties, the data in electronic form is secured by storing it on another suitable data carrier in such a way as to preserve the credibility and integrity of the data, and the possibility of their use in a further procedure or an authentic copy of the entire data carrier is made, while ensuring the integrity of the copy of this data.

Article 18 (Use of technical aids for photography or recording)
(1) An official may photograph or record objects, means of transport, goods, objects, documents or documents when performing the tasks of the financial administration.
(2) An official shall photograph or record a person if, on the basis of direct perception, he establishes grounds for suspecting that the person has on him or with him things that are the subject of or evidence of violations or that were used, intended for, or were created by violating the regulations. Before starting to use technical devices for taking pictures or recording, the person informs the person about this, and writes an official note, which also contains an indication of the reason, date and place of taking pictures or recording.

Article 18a (Use of technical aids to obtain data on the position and movement of goods)
(1) When carrying out a financial investigation, an official may, when there are reasons for suspecting that an act has been committed, with which the most serious violations of taxation regulations in the field of excise duties, customs duties and value added tax, including the provision of mutual assistance to the competent authorities of the EU and EU Member States, to obtain data on the position and movement of goods using tracking devices that use the global positioning system to determine the position and movement of goods.
(2) An official shall use a tracking device if, given the circumstances of the case, the task from the previous paragraph could not be performed using other powers and technical aids from this Act.
(3) An official may install a tracking device only on the outside of the means of transport or transport.
(4) On the proposal of an official person, the use of a tracking device shall be decided by a person authorized by the supervisor with a decision containing the justification of

the conditions and circumstances referred to in the first and second paragraphs of this article.
(5) Data on the location and movement of goods obtained by using a tracking device may only be used in procedures that do not conflict with the purpose referred to in the first paragraph of this article.
(6) Data that will not be used to prove the violations referred to in the first paragraph of this article shall be deleted as soon as possible, but no later than within ten days of their creation.
(7) By using a tracking device, an official may not directly or indirectly identify and thereby obtain personal data about persons connected to the goods being tracked (drivers, cargo unloaders, passengers and other natural persons).
(8) Data on the position and movement of goods obtained through the use of a tracking device may not be collected and processed in connection with data on natural persons collected on the basis of other authorizations used by financial administration officials on the basis of this Act.
(9) The most serious violations of the regulations referred to in the first paragraph are the conduct or actions of taxpayers and other persons or institutions that may seriously jeopardize the financial interest or the interest of the protection and security of the Republic of Slovenia or the EU. The most serious violations of taxation regulations are primarily violations that are defined as serious tax offences in the tax regulations, depending on their gravity.

Article 19 (Collection and inspection of goods samples)
(1) An official may take samples of the goods from the owner or user of the goods for the purpose of analysis and examination of the goods without compensation.
(2) If the analysis or inspection cannot be performed in the financial administration, the analysis and inspection of the goods may be performed by another qualified professional organization.
(3) In the case of identified irregularities, the owner or user of the goods shall cover the costs of taking away the goods.
(4) A sample that retains its useful value after analysis shall be returned at the request of the owner or user of the goods.

Article 20 (Determining the intended use of energy products and determining the content of means for labelling energy products)
(1) An official can determine the intended use of marked energy products used for heating and to drive agricultural and forestry machinery and vehicles adapted for the transport of bee hives, the content of marking agents and verify the legality of the sale of energy products for power purposes by taking samples directly from tank or other

parts of motor vehicles or trailers or vessels, other engines, work devices or machines in which the energy is contained.
(2) An official can determine the intended use of marked energy products used for heating and to drive agricultural and forestry machinery and vehicles adapted for the transport of bee hives, the content of marking agents and verify the legality of the sale of energy products for power purposes by taking samples from persons, which are engaged in the sale of energy products.
(3) An official may determine the intended use of marked energy products and the content of marking agents in agricultural, forestry, freight, combined and other commercial vehicles, work equipment and machines on all land in the territory of the Republic of Slovenia, regardless of land ownership.
(4) The owner or user of a motor vehicle, vessel or other engine, other parts of motor vehicles or trailers, work devices or machines in which energy is contained, as well as any person who sells energy is obliged to enable the collection of samples of energy. The owner or user is warned that he is obliged to attend the collection of samples.
(5) If the person referred to in the previous paragraph does not enable the collection of samples, the official person, upon prior warning of the obligation to enable the collection of samples, takes the samples.

93 The main provision in this regard is prewritten in Articles 22 et seq. of this Act:

94 *[See above for original text → Investigative powers in the area of structural funds and internal policies, Financial Administration Act]*

Article 22 (Entry to land, premises and facilities and their inspection)
(1) An official may enter all land, buildings, business premises used for carrying out activities or obtaining income, and view and inspect them. Commercial premises are also considered residential premises, which the taxpayer has designated as his headquarters or as business premises where the activity is carried out.
(2) An official may enter business premises, with the exception of apartments that do not belong to the taxpayer, and inspect them if there are reasons to suspect that the taxpayer is carrying out an activity there or that the taxpayer's belongings are there.
(3) With the permission of the taxpayer where the measure referred to in the first paragraph of this article is carried out, residential and other premises that are not designated as the headquarters of the activity may also be inspected, if there are reasons to suspect that an undeclared activity is being carried out in them or that it is likely, that during the inspection of the residential and other premises, or individual things in the premises, evidence of violations of regulations will be found, for the supervision of the implementation of which the financial administration is competent.
(4) Business premises, facilities and land are inspected in the presence of the taxpayer, owner or possessor of the premises, facility or land. If these persons are not present or

are not willing to participate, the examination is exceptionally carried out in the presence of two adult witnesses.
(5) When it is necessary to take immediate action, the premises from the previous paragraph are exceptionally inspected even without the presence of witnesses, if it is not possible to ensure their presence immediately.
(6) When carrying out the tasks referred to in this Act, an official shall enter the residential and other premises of the taxpayer when it is expected that they contain movable property from which the debt may be paid, if in business premises or premises where the activity is carried out and used for its implementation, does not find movable assets to repay the debt or does not find them of sufficient value.
(7) In order to enter the apartment and other non-business premises from the previous paragraph, it is necessary to first obtain a decision from the competent court in accordance with the provisions of the law governing misdemeanours on house searches.
(8) An official also enters any facility and space at the airport, railway station and port, on land on which goods are or could be, and on land over which any wiring is or could be laid, which enables the transfer of goods, and to the coast or other land on which a water or air vessel is or could land.
(9) If it concerns facilities or land of the police or the Slovenian army, the official person informs the competent person of the police or the Slovenian army that he is present during the inspection.

Article 23 (Inspection of devices, goods and other things)
An official can inspect equipment, devices, work equipment, installations, goods, substances and other things.

Article 24 (Stopping means of transport)
(1) When performing tasks in the territory of the Republic of Slovenia, an official may stop any means of transport in road and water traffic, with the exception of priority vehicles, escort vehicles, vehicles transporting a protected person, or vehicles of the Slovenian Army.
(2) Everyone must stop at a place designated by an official by giving signs in accordance with the regulations governing the traffic rules of conduct in road traffic. If the driver of the means of transport does not comply with the ordered action of the official and does not stop the vehicle, the official immediately informs the police and asks for their help in stopping the vehicle.
(3) The official person authorized to execute the authorization referred to in this article must be specially qualified for this. The training program for stopping means of transport is determined by the supervisor.

Article 25 (Inspection and investigation of transport and transferable means)
(1) In order to detect violations of regulations, the financial administration is responsible for supervising their implementation, an official may carry out an inspection of transport and transferable means that have been brought into or are intended for export from the customs territory of the Union. In other cases, an official may inspect the means of transport and transport, if there are reasons for suspecting that a violation of the regulations has occurred with the means of transport or transport.
(2) Inspection of a means of transport or transport means an inspection of all freely accessible spaces and parts of a means of transport or transport, including the use of X-ray technology and radiation measurement and specially trained service dogs, without the use of special tools or technical aids.
(3) When inspecting a means of transport or transport, the owner or their user must provide all the necessary information and enable the inspection of all freely accessible parts of the means of transport or transport, which can be accessed without the use of special tools or technical aids, by unlocking or opening them themselves individual parts of the means of transport or transport. The official person specifically warns the owner or user of the obligation from the previous sentence.
(4) An official person shall conduct an investigation of a means of transport or a portable means of transport, when during the inspection there are reasons for suspecting a violation of regulations, the implementation of which is the responsibility of the financial administration, or if the owner or user of the means of transport or a portable means of transport has made it impossible to carry out an inspection of this means. The inspection means a detailed inspection of all parts and spaces of the means of transport or transport, including the things in it. Technical aids or special tools can be used for this, with which the means of transport or transport or things can also be opened and disassembled, including structural openings.
(5) An official person shall carry out an inspection or investigation in the presence of the taxpayer, owner or user of the means of transport or transport.
(6) When it is necessary to take immediate action in order to secure evidence or prevent a danger, an official may carry out an inspection and investigation of the means of transport and transport, if the owner or user is not present and cannot be notified in time, or if the obligee, owner or user is unknown.

Article 27 (Inspection of persons)
(1) An official may carry out an inspection of a person entering or exiting the customs territory of the Union, if there are grounds for suspicion, and in other cases, if there are reasonable grounds for suspecting that the person has objects with which they have been violated regulations for the supervision of the implementation of which the financial administration is competent and must be confiscated in accordance with the law.

(2) Before starting the inspection, the official person asks the person to hand over the items himself.
(3) A person must be examined by a person of the same sex, unless the examination cannot be postponed.
(4) During the inspection, the official searches the person's clothes with his hands and may ask him to take off individual upper parts of his clothes and inspect the contents of the things that the person has on him or with him.
(5) Examination of a person does not include physical examination and personal examination. If there are reasonable grounds to suspect that a person is carrying the objects of a crime by carrying them in his body, he shall be handed over to the police.

Article 28 (Use of coercive means)
(1) When performing the tasks of the financial administration from points 1 to 4, 6, 7, 9 and 10 of the first paragraph of Article 11 of this Act, an official may use coercive means according to this Article, if he cannot prevent it with a warning or to divert danger from himself or another official, or to restrain the offender.
(2) Officials authorized to use coercive means are determined by the superior, based on the exposure to danger and threats to themselves and other officials.
(3) When performing the tasks of the financial administration, an official may use the following coercive means:
1. means for interlocking and tying,
2. physical force,
3. gas dispenser,
4. firearms.
(4) The use of coercive means is when an official, in performing the tasks of the financial administration, uses any of the means from the previous paragraph to act directly on persons.
(5) Before using coercive means, the official person orders the person what he must do or refrain from doing and warns him that if the order is not followed, he will use coercive means, unless the warning would make it impossible to carry out the task of the financial administration or if the circumstances do not allow for the warning.
(6) When deciding on the appropriate type and intensity of the use of individual means of coercion, the official must take into account that it is proportional to the method, means and strength of the person's resistance or attack.
(7) If an official is allowed to use several means of coercion at the same time, he must use milder ones. A more severe means of coercion may only be used if the use of a milder means was unsuccessful or if it would not be possible due to the circumstances of ensuring the safety of life or personal safety.
(8) It is permissible to use coercive means until the purpose of use is achieved or until it is proven that the purpose cannot be achieved.

(9) An official shall immediately stop using coercive means when the reasons for their use cease.
(10) When using coercive means, officials must respect human personality and dignity.
(11) An official shall report any use of coercive means to the immediate head of the organizational unit. The official shall immediately inform the police of any case of use of a firearm.
(12) An official who is authorized to use coercive means must be specially qualified for this. The training and development program for the use of coercive means is determined by the superior in cooperation with the general director of the police.

(3) Inspection Control Act

95

Inspection Control Act

Article 19 (Powers of the inspector) [See above for original text → Investigative powers in the area of structural funds and internal policies, Inspection Control Act]
When performing inspection control tasks, the inspector has the right to:
- ***inspect the premises, facilities, equipment, devices, work equipment, fixtures, objects, goods, substances, business books, contracts, documents and other documents as well as the operations and documentation of state bodies, companies, institutes, other organizations and communities and private individuals***,
- ***enter plots and lands of natural and legal persons***,
- ***inspect business books, contracts, documents and other documents as well as operations and documentation when they are managed and stored on an electronic medium*** and ***request the production of their written form, which must authentically confirm the electronic form***,
- to hear parties and witnesses in administrative proceedings,
- examine documents that can be used to determine the identity of persons,
- free of charge to obtain and use personal and other data from official records and other databases, which are necessary to carry out the inspection,
- take samples of goods free of charge and carry out investigations of the samples taken,
- take samples of materials and equipment free of charge for the needs of investigations,
- photograph or record on another visual data carrier persons, premises, facilities, equipment, installations and other objects from the first indent,
- reproduce documents, audio-visual records and other documents,
- seize objects, documents and samples to secure evidence,
- make a virtual purchase in such a way that, after the purchase is made, it is shown with an official ID card, if signs of an offence or information about the offender can be determined in this way,
- perform other actions that are in accordance with the purpose of the inspection.

Legal and natural persons against whom the inspection procedure is not conducted, and who have alleged evidence or other, including personal data, necessary for the performance of the inspection must provide evidence and other data, including personal data, at the inspector's request, or must enable the hearing of witnesses to obtain this evidence or other, including personal data, no later than three days after receiving his request.
When performing the tasks of inspection control, the inspector may for a maximum of 15 days take away the documentation he needs to deal with the actual situation in the case in question, if he believes that there is a well-founded suspicion of violations of laws or other regulations, and if this does not hinder the activities of a natural or legal person. The inspector issues a certificate on the collection of documentation. The inspector may not take away the documentation of the state authorities, which is designated as secret.

Article 20 (Entry into the taxpayer's premises, facilities and devices)
[See above for original text → Investigative powers in the area of structural funds and internal policies, Inspection Control Act]
The inspector has the right, without prior notice and without the permission of the taxpayer or his responsible person, regardless of working hours, to ***enter premises and facilities, land and plots of land, as well as equipment and devices*** from the previous article, unless otherwise provided by law.
The liable party may refuse entry to residential premises to an inspector who does not have a decision from a competent court.
If the taxpayer does not allow entry to the premises or facilities where the activity is carried out without justifiable reasons, the inspector has the right to ***enter the premises against the will of the taxpayer with the help of the police***. The costs of entry and any damage that inevitably occurs are borne by the taxpayer.

Article 21 (Entry into business and other premises that do not belong to the taxpayer)
[See above for original text → Investigative powers in the area of structural funds and internal policies, Inspection Control Act]
The owner of a business, production or other premises and land, which must be inspected as part of the inspection procedure, because there is a reasonable suspicion that the liable person in them carries out activities or that the taxpayer's belongings, which are subject to inspection, are located there, must allow the inspection to be carried out.
The person from the previous paragraph may refuse the visit in case of:
- that it is residential premises, but the inspector does not have a relevant court decision,
- to expose oneself to severe embarrassment, significant property damage or criminal prosecution by viewing,

- to violate the duty or right to protect commercial, professional, artistic or scientific secrecy by viewing it, or
- in other cases where viewing would violate the duty to keep confidential what she has learned as a priest, lawyer, doctor, or in the performance of another profession or activity that contains the same obligation.

If the person referred to in the first paragraph of this article does not allow the visit without justifiable reasons, the same measures can be applied against him as against a witness who refuses to testify, but if he does not allow the visit, the visit can also be carried out against his will.

If the person referred to in the first paragraph of this article does not allow the visit without justifiable reasons, or if this person cannot be found, there is a risk that the evidence, which is supposed to be located in the premises referred to in the first paragraph of this article, would be destroyed or alienated before the visit could be carried out of these premises, the inspector may seal these premises until the inspection is carried out, but for a maximum of seven days or until the moment when this person is found. The inspector issues a special decision on this.

An appeal against the decision from the previous paragraph is allowed within 15 days from the service of the decision. An appeal against a decision does not delay its execution.

Article 22 (Inspection of the taxpayer's residential premises)

[See above for original text → Investigative powers in the area of structural funds and internal policies, Inspection Control Act]

If the inspector has to inspect individual rooms in the apartment while performing inspection tasks, and the owner or user objects to this, he must obtain a decision from the competent court to inspect these rooms.

The court allows inspection of the premises from the previous paragraph if there are grounds for suspicion,

- that an unauthorized activity is carried out in the apartment,
- that an activity is carried out in the apartment in violation of the regulations,
- that objects, animals or other things are kept in the apartment in violation of the regulations, or
- that during the inspection of the apartment or individual things in the apartment, other violations of the regulations will be found.

During the inspection of the residential premises in accordance with the previous paragraph, two persons of legal age must be present as witnesses. The inspection of the residential premises is limited to the part of the residential premises that must be inspected to achieve the purpose of the inspection.

Article 23 (Smooth performance of inspection control tasks)
[See above for original text → Investigative powers in the area of structural funds and internal policies, Inspection Control Act]
The liable party must enable the inspector to carry out the tasks of inspection without interruption.
If the inspector encounters physical resistance while performing inspection duties, or if he expects such resistance, he may request the help of the police.
Police officers provide assistance to inspectors in accordance with the provisions of the law governing the police.

ee. Searches

(1) Financial Administration Act

The following provision enables the authorities to seize things, which is de facto very important to gather evidence: **96**

[See above for original text → Investigative powers in the area of structural funds and internal policies, Financial Administration Act] **97**

Article 21 (Seizure of documents, documents, database carriers and things)
(1) For a maximum of 30 days, an official may seize documents, documents and things that are necessary for the performance of the tasks of the financial administration or if this is necessary for securing evidence, if there are reasons for suspecting a violation of laws and other regulations. Exceptionally, the official from the previous sentence can extend the deadline for the seizure of documents, documents and things in the case of a more demanding financial control or financial investigation, but up to a total of 90 days. Upon confiscation, an official person issues a certificate with a list of seized documents, documents and things.
(2) In accordance with the provisions of the previous paragraph, the official person also confiscates the carriers of data collections, if the data cannot be copied in electronic form in accordance with Article 17 of this Act. Upon confiscation, an official person issues a certificate with a list of confiscated database carriers.
(3) After the expiration of the period referred to in the first paragraph of this article, confiscated documents, documents, data collection carriers and things are returned, unless they were used for violations, were caused by violations, or in order to prevent further violations.
(4) The liable party may request the return of seized documents, documents, data collection carriers and things before the expiry of the deadline referred to in the first paragraph of this article, if he proves that he urgently needs them in his business.

Article 22 (Entry to land, premises and facilities and their inspection)
(1) An official may enter all land, buildings, business premises used for carrying out activities or obtaining income, and view and inspect them. Commercial premises are also considered residential premises, which the taxpayer has designated as his headquarters or as business premises where the activity is carried out.
(2) An official may enter business premises, with the exception of apartments that do not belong to the taxpayer, and inspect them if there are reasons to suspect that the taxpayer is carrying out an activity there or that the taxpayer's belongings are there.
(3) With the permission of the taxpayer where the measure referred to in the first paragraph of this article is carried out, residential and other premises that are not designated as the headquarters of the activity may also be inspected, if there are reasons to suspect that an undeclared activity is being carried out in them or that it is likely, that during the inspection of the residential and other premises, or individual things in the premises, evidence of violations of regulations will be found, for the supervision of the implementation of which the financial administration is competent.
(4) Business premises, facilities and land are inspected in the presence of the taxpayer, owner or possessor of the premises, facility or land. If these persons are not present or are not willing to participate, the examination is exceptionally carried out in the presence of two adult witnesses.
(5) When it is necessary to take immediate action, the premises from the previous paragraph are exceptionally inspected even without the presence of witnesses, if it is not possible to ensure their presence immediately.
(6) When carrying out the tasks referred to in this Act, an official shall enter the residential and other premises of the taxpayer when it is expected that they contain movable property from which the debt may be paid, if in business premises or premises where the activity is carried out and used for its implementation, does not find movable assets to repay the debt or does not find them of sufficient value.
(7) In order to enter the apartment and other non-business premises from the previous paragraph, it is necessary to first obtain a decision from the competent court in accordance with the provisions of the law governing misdemeanours on house searches.
(8) An official also enters any facility and space at the airport, railway station and port, on land on which goods are or could be, and on land over which any wiring is or could be laid, which enables the transfer of goods, and to the coast or other land on which a water or air vessel is or could land.
(9) If it concerns facilities or land of the police or the Slovenian army, the official person informs the competent person of the police or the Slovenian army that he is present during the inspection.

(2) Inspection Control Act

98

Article 19 (Powers of the inspector) [See above for original text → Investigative powers in the area of structural funds and internal policies, Inspection Control Act]
When performing inspection control tasks, the inspector has the right to:
- inspect the premises, facilities, equipment, devices, work equipment, fixtures, objects, goods, substances, business books, contracts, documents and other documents as well as the operations and documentation of state bodies, companies, institutes, other organizations and communities and private individuals,
- enter plots and lands of natural and legal persons,
- ***inspect business books, contracts, documents and other documents as well as operations and documentation when they are managed and stored on an electronic medium*** and ***request the production of their written form, which must authentically confirm the electronic form***,
- to hear parties and witnesses in administrative proceedings,
- ***examine documents that can be used to determine the identity of persons***,
- free of charge to ***obtain and use personal and other data from official records and other databases***, which are necessary to carry out the inspection,
- ***take samples of goods*** free of charge and ***carry out investigations*** of the samples taken,
- ***take samples of materials and equipment*** free of charge for the needs of investigations,
- ***photograph or record on another visual data carrier persons, premises, facilities, equipment, installations and other objects from the first indent***,
- ***reproduce documents, audio-visual records and other documents***,
- ***seize objects, documents and samples to secure evidence***,
- make a virtual purchase in such a way that, after the purchase is made, it is shown with an official ID card, if signs of an offence or information about the offender can be determined in this way,
- perform ***other actions*** that are in accordance with the purpose of the inspection.

Legal and natural persons against whom the inspection procedure is not conducted, and who have alleged evidence or other, including personal data, necessary for the performance of the inspection must provide evidence and other data, including personal data, at the inspector's request, or must enable the hearing of witnesses to obtain this evidence or other, including personal data, no later than three days after receiving his request.
When performing the tasks of inspection control, the inspector may for a maximum of 15 days take away the documentation he needs to deal with the actual situation in the case in question, if he believes that there is a well-founded suspicion of violations of laws or other regulations, and if this does not hinder the activities of a natural or legal person. The inspector issues a certificate on the collection of documentation. The inspector may not take away the documentation of the state authorities, which is designated as secret.

ff. The seizure of digital forensic evidence including bank account information

99 The seizure of digital forensic evidence including bank account information becomes more and more important. The recent changes of the OLAF Regulation No 883/2013 (as amended 2020/2223) codified that OLAF shall under the same conditions that apply to national competent authorities have access to bank account information. The relevant national law shall be displayed on the following pages:

100
- Banking Act (ZBan-3)
- VAT Act
- Customs legislation
- Financial Administration Act

101 The Banking Act contains a provision, which enables the relevant authorities to request information about a banking account:

102 **Article 16**[279] **(Disclosure of confidential information)** (1) The Bank of Slovenia may disclose confidential information to the supervisory authorities of the Republic of Slo-

[279] **16. člen**
(razkritje zaupnih informacij)
(1) Banka Slovenije lahko razkrije zaupne informacije nadzornim organom Republike Slovenije ali pristojnim organom drugih držav članic v zvezi z izvajanjem njihovih nalog in pristojnosti nadzora ter Evropski centralni banki, kadar izvaja pooblastila pristojnega organa v skladu z Uredbo 575/2013/EU.
(2) Banka Slovenije lahko razkrije zaupne informacije tudi naslednjim subjektom Republike Slovenije, druge države članice ali Evropske unije, v zvezi z izvajanjem njihovih nalog in pristojnosti:
1. organom, pristojnim za nadzor drugih subjektov finančnega sektorja in za nadzor finančnih trgov;
2. organom, pristojnim za izvajanje makrobonitetnega nadzora;
3. organom, pristojnim za reševanje institucij, ter organom, odgovornim za ohranjanje stabilnosti finančnega sistema;
4. sodišču in drugim organom, ki opravljajo dejanja v postopku prisilne likvidacije ali stečaja banke ali v drugem podobnem postopku;
5. sodišču, državnemu tožilstvu ali policiji v skladu s predpisi, ki urejajo izvedbo kazenskega ali predkazenskega postopka;
6. revizorjem, ki opravljajo naloge revidiranja računovodskih izkazov kreditnih institucij, investicijskih podjetij, zavarovalnic in finančnih institucij;
7. subjektom ali organom, ki upravljajo sisteme jamstva za vloge, glede informacij, ki jih potrebujejo za izvajanje svojih nalog;
8. centralni banki Evropskega sistema centralnih bank (v nadaljnjem besedilu: ESCB), Evropski centralni banki ali drugemu organu s podobnimi nalogami in pristojnostmi kot monetarne oblasti, kadar so te informacije pomembne za opravljanje njihovih zakonsko predpisanih nalog, vključno z vodenjem monetarne politike in s tem povezanim zagotavljanjem likvidnosti, pregledom nad plačili in nad delovanjem klirinških in poravnalnih sistemov, ter zagotavljanjem stabilnosti finančnega sistema;
9. pogodbenim ali institucionalnim shemam za zaščito vlog iz sedmega odstavka 113. člena Uredbe 575/2013/EU;
10. organom, pristojnim za pregled nad delovanjem plačilnih sistemov;
11. Evropskemu bančnemu organu v obsegu, potrebnem za izvajanje njegovih pristojnosti in nalog v skladu z Uredbo 1093/2010/EU, Evropskemu odboru za sistemska tveganja, kadar so te informacije pomembne za opravljanje njegovih nalog v skladu z Uredbo 1092/2010/EU, Evropskemu organu za zavarovanja in poklicne pokojnine, kadar so te informacije pomembne za opravljanje njegovih nalog v skladu z Uredbo 1094/2010/EU, in Evropskemu organu za vrednostne papirje in trge, kadar so te informacije pomembne za opravljanje njegovih nalog v skladu z Uredbo 1095/2010/EU;

venia or the competent authorities of other Member States in connection with the performance of their duties and supervisory powers, and to the European Central Bank when exercising the powers of the competent authority in accordance with Regulation 575/2013/EU.

(2) Banka Slovenije may also disclose confidential information to the following subjects of the Republic of Slovenia, other Member States or the European Union, in connection with the performance of their duties and responsibilities:

1. authorities responsible for the supervision of other subjects of the financial sector and for the supervision of financial markets;

2. authorities responsible for implementing macro prudential supervision;

3. authorities responsible for resolving institutions and authorities responsible for maintaining the stability of the financial system;

4. to the court and other bodies that perform actions in the procedure of forced liquidation or bankruptcy of the bank or in another similar procedure;

5. to the court, the state prosecutor's office or the police in accordance with the regulations governing the conduct of criminal or pre-criminal proceedings;

6. auditors who perform the tasks of auditing financial statements of credit institutions, investment companies, insurance companies and financial institutions;

7. entities or authorities that manage deposit guarantee systems, regarding the information they need to perform their tasks;

8. to the central bank of the European System of Central Banks (hereinafter referred to as the ESCB), the European Central Bank or another body with similar tasks and powers as the monetary authorities, when this information is important for the performance of their legally prescribed tasks, including the management of monetary policy and related to ensuring liquidity, reviewing payments and the operation of clearing and settlement systems, and ensuring the stability of the financial system;

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12. organom, ki so pristojni za nadzor nad organi, ki opravljajo dejanja v postopku prisilne likvidacije ali stečaja banke ali v drugem podobnem postopku;

13. organom, ki so pristojni za nadzor nad pogodbenimi ali institucionalnimi shemami za zaščito vlog iz sedmega odstavka 113. člena Uredbe 575/2013/EU;

14. organom, ki so pristojni za nadzor nad revizorji, ki opravljajo naloge revidiranja računovodskih izkazov nadzorovanih finančnih družb;

15. organom, ki so pristojni za odkrivanje ali pregon dejanj, ki pomenijo kršitev predpisov o poslovanju gospodarskih družb, če jih potrebujejo v postopkih, ki jih vodijo v okviru svojih pristojnosti;

16. centralni klirinško-depotni družbi ali drugi klirinški družbi oziroma poravnalnemu sistemu po zakonu, ki ureja trg finančnih instrumentov, v zvezi z opravljanjem storitev izravnave in poravnave poslov, sklenjenih na enem od trgov v Republiki Sloveniji, če Banka Slovenije oceni, da so te informacije potrebne, da se zagotovi ustrezno ukrepanje te družbe glede neizpolnitve oziroma morebitne neizpolnitve obveznosti udeležencev teh trgov;

17. pritožbenemu organu ali sodišču, ki v zvezi s konkretno informacijo vodi postopek na področju dostopa do informacij javnega značaja;

18. državnemu organu, ki opravlja nadzor nad varstvom osebnih podatkov;

19. finančnim obveščevalnim enotam, kot so določene v zakonu, ki ureja preprečevanje pranja denarja in financiranja terorizma, in drugim organom, ki opravljajo nadzor nad kreditnimi institucijami in finančnimi institucijami na podlagi predpisov, ki prenašajo Direktivo 2015/849/EU;

20. organom, ki so pristojni in odgovorni za uporabo pravil glede strukturnega ločevanja v bančni skupini.

9. contractual or institutional deposit protection schemes from the seventh paragraph of Article 113 of Regulation 575/2013/EU;
10. authorities responsible for the inspection of the operation of payment systems;
11. To the European Banking Authority to the extent necessary for the implementation of its powers and tasks in accordance with Regulation 1093/2010/EU, to the European Systemic Risk Board, when this information is relevant for the performance of its tasks in accordance with Regulation 1092/2010/EU, To the European Insurance and Occupational Pensions Authority when this information is relevant for the performance of its tasks in accordance with Regulation 1094/2010/EU and to the European Securities and Markets Authority when this information is relevant for the performance of its tasks in accordance with Regulation 1095/2010/EU;
12. authorities competent for the supervision of authorities that perform actions in the process of forced liquidation or bankruptcy of a bank or in another similar procedure;
13. authorities competent to supervise contractual or institutional deposit protection schemes from the seventh paragraph of Article 113 of Regulation 575/2013/EU;
14. authorities competent for the supervision of auditors who perform the tasks of auditing the financial statements of supervised financial companies;
15. authorities competent to detect or prosecute acts that constitute a violation of the regulations on the business of commercial companies, if they are needed in the procedures they lead within their jurisdiction;
16. to a central clearing and depository company or another clearing company or a settlement system pursuant to the law governing the market of financial instruments, in connection with the provision of equalization and settlement services for transactions concluded on one of the markets in the Republic of Slovenia, if the Bank of Slovenia assesses that these information necessary to ensure that this company takes appropriate action regarding non-fulfilment or potential non-fulfilment of obligations of the participants of these markets;
17. to an appellate body or court, which, in relation to specific information, conducts proceedings in the field of access to information of a public nature;
18. to the state authority that supervises the protection of personal data;
19. financial intelligence units, as defined in the law governing the prevention of money laundering and terrorist financing, and other bodies that supervise credit institutions and financial institutions based on regulations transposing Directive 2015/849/EU;
20. authorities competent and responsible for applying the rules regarding structural separation in the banking group.

(3)[280] The Bank of Slovenia may disclose to the subjects referred to in the first and second paragraphs of this article only that confidential information that the authority or person needs to perform its tasks or powers in accordance with the applicable regulations governing their operation and powers. If the confidential information includes confidential data about an individual customer, this data shall be forwarded to the entities referred to in the first and second paragraphs of this article only if, taking into account the second or third paragraph of Article 146 of this Act, these entities could also request the confidential data directly from the bank. […]

gg. Acquisition of digital evidence

If the Inspection Control Act applies, the provision below may help: **103**

Inspection Control Act **104**

Article 19 (Powers of the inspector) [See above for original text → Investigative powers in the area of structural funds and internal policies, Inspection Control Act]
When performing inspection control tasks, the inspector has the right to:
- ***inspect the premises, facilities, equipment, devices, work equipment, fixtures, objects, goods, substances, business books, contracts, documents and other documents as well as the operations and documentation of state bodies, companies, institutes, other organizations and communities and private individuals***,
- enter plots and lands of natural and legal persons,
- ***inspect business books, contracts, documents and other documents as well as operations and documentation when they are managed and stored on an electronic medium*** and ***request the production of their written form, which must authentically confirm the electronic form***,
- to hear parties and witnesses in administrative proceedings,
- examine documents that can be used to determine the identity of persons,

[280] (3) Banka Slovenije lahko subjektom iz prvega in drugega odstavka tega člena razkrije le tiste zaupne informacije, ki jih organ oziroma oseba potrebuje za izvajanje svojih nalog ali pristojnosti v skladu z veljavnimi predpisi, ki urejajo njihovo delovanje in pristojnosti. Če zaupne informacije vključujejo zaupne podatke o posamezni stranki, se ti podatki posredujejo subjektom iz prvega in drugega odstavka tega člena le, če bi zaupne podatke ob upoštevanju drugega ali tretjega odstavka 146. člena tega zakona lahko ti subjekti zahtevali tudi neposredno od banke.
(4) Kadar organi iz 12., 13. ali 14. točke drugega odstavka tega člena izvajajo pristojnosti odkrivanja in pregona kršitev predpisov s pomočjo oseb, ki so imenovane za izvajanje posameznih nalog in niso del javnega sektorja, lahko Banka Slovenije razkrije zaupne informacije tudi tem osebam. Banka Slovenije lahko zaupne informacije razkrije samo, če te osebe predložijo sklep organa iz 12., 13. ali 14. točke drugega odstavka tega člena o imenovanju za izvajanje posameznih nalog ali če Banko Slovenije o imenovanju teh oseb in posameznih nalogah, za katere so bile imenovane, obvesti organ iz 12., 13. ali 14. točke drugega odstavka tega člena.
(5) Subjekti, ki pridobijo zaupne informacije na podlagi tega člena, smejo te informacije uporabiti samo za izvajanje svojih pristojnosti nadzora oziroma nalog iz prvega odstavka tega člena in jih ne smejo razkriti drugi osebi ali državnemu organu, razen v primerih iz četrtega odstavka 14. člena tega zakona.
(6) Banka Slovenije sme zaupne informacije, ki jih je pridobila od pristojnega organa druge države članice ali pri opravljanju pregleda poslovanja podružnice banke države članice v skladu z oddelkom 10.2. tega zakona, razkriti subjektom iz 12. do 16. točke drugega odstavka tega člena s soglasjem pristojnega organa te države članice.

- free of charge to ***obtain and use personal and other data from official records and other databases***, which are necessary to carry out the inspection,
- take samples of goods free of charge and carry out investigations of the samples taken,
- take samples of materials and equipment free of charge for the needs of investigations,
- ***photograph or record on another visual data carrier persons, premises, facilities, equipment, installations and other objects from the first indent***,
- reproduce documents, audio-visual records and other documents,
- seize objects, documents and samples to secure evidence,
- make a virtual purchase in such a way that, after the purchase is made, it is shown with an official ID card, if signs of an offence or information about the offender can be determined in this way,
- perform other actions that are in accordance with the purpose of the inspection.

Legal and natural persons against whom the inspection procedure is not conducted, and who have alleged evidence or other, including personal data, necessary for the performance of the inspection must provide evidence and other data, including personal data, at the inspector's request, or must enable the hearing of witnesses to obtain this evidence or other, including personal data, no later than three days after receiving his request.

When performing the tasks of inspection control, the inspector may for a maximum of 15 days take away the documentation he needs to deal with the actual situation in the case in question, if he believes that there is a well-founded suspicion of violations of laws or other regulations, and if this does not hinder the activities of a natural or legal person. The inspector issues a certificate on the collection of documentation. The inspector may not take away the documentation of the state authorities, which is designated as secret.

hh. Digital forensic operations within inspections or on-the-spot checks

105 Digital forensic operations within inspections or on-the-spot checks became more and more important in the last decade already,

106 Bulgaria, which has included a special paragraph in the State Investigations Office Act, Article 31a (see → Bulgarian Chapter in this manual Volume Series) makes a direct reference to Article 7 of the applicable provision of Regulation 2185/96 and is therefore a role model with regard to Digital forensic operations within inspections or on-the-spot checks of OLAF.

107 If the Inspection Control Act applies, Article 19 may be of importance:

108

Inspection Control Act

Article 19 (Powers of the inspector) [See above for original text → Investigative powers in the area of structural funds and internal policies, Inspection Control Act]
When performing inspection control tasks, the inspector has the right to:

- ***inspect the premises, facilities, equipment, devices, work equipment, fixtures, objects, goods, substances, business books, contracts, documents and other documents as well as the operations and documentation of state bodies, companies, institutes, other organizations and communities and private individuals***,
- enter plots and lands of natural and legal persons,
- ***inspect business books, contracts, documents and other documents as well as operations and documentation when they are managed and stored on an electronic medium*** and ***request the production of their written form, which must authentically confirm the electronic form***,
- to hear parties and witnesses in administrative proceedings,
- examine documents that can be used to determine the identity of persons,
- free of charge to ***obtain and use personal and other data from official records and other databases***, which are necessary to carry out the inspection,
- take samples of goods free of charge and carry out investigations of the samples taken,
- take samples of materials and equipment free of charge for the needs of investigations,
- ***photograph or record on another visual data carrier persons, premises, facilities, equipment, installations and other objects from the first indent***,
- reproduce documents, audio-visual records and other documents,
- seize objects, documents and samples to secure evidence,
- make a virtual purchase in such a way that, after the purchase is made, it is shown with an official ID card, if signs of an offence or information about the offender can be determined in this way,
- perform other actions that are in accordance with the purpose of the inspection.

Legal and natural persons against whom the inspection procedure is not conducted, and who have alleged evidence or other, including personal data, necessary for the performance of the inspection must provide evidence and other data, including personal data, at the inspector's request, or must enable the hearing of witnesses to obtain this evidence or other, including personal data, no later than three days after receiving his request.

When performing the tasks of inspection control, the inspector may for a maximum of 15 days take away the documentation he needs to deal with the actual situation in the case in question, if he believes that there is a well-founded suspicion of violations of laws or other regulations, and if this does not hinder the activities of a natural or legal person. The inspector issues a certificate on the collection of documentation. The inspector may not take away the documentation of the state authorities, which is designated as secret.

ii. Investigative missions in third countries

109 The mission of OLAF together with Slovenian customs are mainly based on special agreements, which either the Slovene State or OLAF and the EU Commission have concluded with foreign states (e.g. South-East-Asian Customs Authorities etc.).

h) Cooperation and mutual assistance agreements

110 The cooperation in financial matters is possible according to the Financial Administration Act:

111

Article 44 (International cooperation)[281] In accordance with a bilateral agreement or on the basis of an EU regulation, representatives of foreign financial administrations, international organizations or EU bodies may also participate in the exercise of the powers of the financial administration in the Republic of Slovenia within the framework of the program of exchange of officials or education and training of officials.

Article 100 (Financial investigation)[282] (1) Financial investigation means the implementation of actions, measures and procedures in accordance with this law and the law governing the tax procedure, when there are reasons for suspecting that an act has been committed that violates the regulations on taxation or other regulations under the jurisdiction of the financial administration. Actions and measures of financial investigation are carried out in order to prevent, investigate and detect the most serious violations of taxation regulations and other regulations for the supervision of the implementation of which the financial administration is competent. **A financial investigation may also be initiated due to the implementation of actions and measures under this law and the law governing the tax procedure, in order to ensure mutual assistance to the authorities of the EU, EU Member States and third countries**.

[281] **44. člen (mednarodno sodelovanje)**
V skladu z dvostranskim dogovorom ali na podlagi predpisa EU lahko v okviru programa izmenjave uradnikov ali izobraževanja in usposabljanja uradnikov pri izvrševanju pooblastil finančne uprave v Republiki Sloveniji sodelujejo tudi predstavniki tujih finančnih uprav, mednarodnih organizacij ali organov EU.

[282] **100. člen (finančna preiskava)**
(1) Finančna preiskava pomeni izvajanje dejanj, ukrepov in postopkov po tem zakonu in po zakonu, ki ureja davčni postopek, ko so dani razlogi za sum, da je bilo storjeno dejanje, s katerim so bili kršeni predpisi o obdavčenju ali drugi predpisi iz pristojnosti finančne uprave. Dejanja in ukrepi finančne preiskave se izvajajo zaradi preprečevanja, preiskovanja in odkrivanja najtežjih kršitev predpisov o obdavčenju in drugih predpisov, za nadzor nad izvajanjem katerih je pristojna finančna uprava. Finančna preiskava se lahko uvede tudi zaradi izvajanja dejanj in ukrepov po tem zakonu in zakonu, ki ureja davčni postopek, za zagotovitev medsebojne pomoči organom EU, držav članic EU in tretjih držav. Najtežje kršitve predpisov o obdavčenju ali drugih predpisov iz pristojnosti finančne uprave so ravnanja ali dejanja davčnih zavezancev in drugih oseb ali institucij, s katerimi je lahko resno ogrožen finančni interes oziroma interes varstva in varnosti Republike Slovenije oziroma EU.

Obtaining evidence from another country might be complicated e.g. within a general administrative procedure. In this case the administrative inspector might do the following: **112**

Article 168[283] (1) If the authority deciding on the matter is not aware of the law applicable in a foreign country, it may inquire about it from the ministry responsible for justice. **113**
(2) The authority deciding the case may request the party to submit a public document issued by a competent foreign authority confirming which law applies in the foreign country. Evidence of foreign law against such a public document is permitted, unless otherwise stipulated by an international treaty.

The Banking Act allows the disclosure of information to foreign authorities: **114**

Article 18[284] **(Disclosure of information to international authorities)** (1) On the basis of a written request, the Bank of Slovenia may disclose or forward confidential information to the International Monetary Fund, the World Bank, the Bank for International Settlements and the Financial Stability Board (international). **115**

[283] **168. člen**
(1) Če organu, ki odloča o zadevi, ni znano pravo, ki velja v tuji državi, lahko poizve o tem pri ministrstvu, pristojnemu za pravosodje.
(2) Organ, ki odloča o zadevi, lahko zahteva od stranke, naj mu predloži javno listino, izdano od pristojnega tujega organa, s katero se potrjuje, katero pravo velja v tuji državi. Dokazovanje tujega prava proti taki javni listini je dovoljeno, če ni z mednarodno pogodbo drugače določeno.

[284] **18. člen Zakon o bančništvu (ZBan-3)**
(razkritje informacij mednarodnim organom)
(1) Banka Slovenije lahko na podlagi pisne zahteve razkrije ali posreduje zaupne informacije Mednarodnemu denarnemu skladu, Svetovni banki, Banki za mednarodne poravnave in Odboru za finančno stabilnost (mednarodni).
(2) Razkritje ali posredovanje zaupnih informacij iz prejšnjega odstavka je dopustno, če so izpolnjeni vsi naslednji pogoji:
- mednarodni organ iz prvega odstavka tega člena informacije pridobiva za namen iz tretjega odstavka tega člena;
- je pisna zahteva upravičena zaradi posamičnih nalog, ki jih mednarodni organ opravlja v skladu s svojimi pooblastili, in obsega vse podatke iz četrtega odstavka tega člena;
- so zahtevane informacije potrebne zgolj za opravljanje posamičnih nalog mednarodnega organa in ne presegajo nalog, ki jih v skladu z aktom o delovanju organa slednji opravlja;
- se za navedene mednarodne organe in osebe, ki bodo prejele informacije, uporabljajo pravila o obveznosti varovanja zaupnih informacij z vsebino, določeno v 14. in 15. členu tega zakona;
- mednarodni organ in osebe, ki bodo prejele informacije, pri obdelavi osebnih podatkov upoštevajo zahteve Uredbe 2016/679/EU.
(3) Mednarodni organi iz prvega odstavka tega člena lahko zaupne informacije pridobijo samo za naslednje namene:
- Mednarodni denarni sklad in Svetovna banka za namene ocenjevanja v okviru Programa za oceno finančnih sektorjev;
- Banka za mednarodne povezave za namene kvantitativnih ocen učinka;
- Odbor za finančno stabilnost za namene funkcije nadzora.
(4) Zahteva iz drugega odstavka tega člena mora obsegati vsaj:
- natančno opredeljeno naravo, obseg in obliko zahtevanih informacij ter način njihovega razkritja ali posredovanja,
- navedbo oseb, ki so neposredno povezane z opravljanjem posebne naloge.

(2) Disclosure or transmission of confidential information from the previous paragraph is permissible if all the following conditions are met:
- the international body referred to in the first paragraph of this article obtains information for the purpose referred to in the third paragraph of this article;
- the written request is justified due to individual tasks performed by the international body in accordance with its powers, and includes all the information from the fourth paragraph of this article;
- the requested information is necessary only for the performance of individual tasks of the international body and does not exceed the tasks performed by the latter in accordance with the act on the operation of the body;
- the rules on the obligation to protect confidential information with the content specified in Articles 14 and 15 of this Act apply to the aforementioned international bodies and persons who will receive the information;
- the international body and the persons who will receive the information take into account the requirements of Regulation 2016/679/EU when processing personal data.
(3) The international authorities referred to in the first paragraph of this article may obtain confidential information only for the following purposes:
- The International Monetary Fund and the World Bank for assessment purposes within the Program for the Assessment of Financial Sectors;
- Bank for international connections for the purposes of quantitative impact assessments;
- Financial Stability Board for the purposes of the supervisory function.
(4) The request from the second paragraph of this article must include at least:
- the precisely defined nature, scope and form of the required information and the method of its disclosure or transmission,
- listing of persons who are directly related to the performance of a specific task.
(5) The requested information may be forwarded or disclosed only to persons who are directly related to the performance of the individual task referred to in the second indent of the second paragraph of this article.
(6) Information from this article, which is not aggregated or anonymized, may not be forwarded to the authorities referred to in the first paragraph of this article, and may only be disclosed on the premises of the Bank of Slovenia.

[Article 4 Internal investigations – omitted]

(5) Zahtevane informacije se lahko posredujejo ali razkrijejo le osebam, ki so neposredno povezane z opravljanjem posamične naloge iz druge alineje drugega odstavka tega člena.
(6) Informacije iz tega člena, ki niso zbirne ali anonimizirane, se organom iz prvega odstavka tega člena ne smejo posredovati, razkrijejo pa se lahko le v prostorih Banke Slovenije.

2. Article 5 Opening of Investigations

1. The Director-General may open an investigation when there is a sufficient suspicion, which may also be based on information provided by any third party or anonymous information, that there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union. The decision by the Director-General whether or not to open an investigation shall take into account the investigation policy priorities and the annual management plan of the Office established in accordance with Article 17(5). That decision shall also take into account the need for efficient use of the Office's resources and for proportionality of the means employed. With regard to internal investigations, specific account shall be taken of the institution, body, office or agency best placed to conduct them, based, in particular, on the nature of the facts, the actual or potential financial impact of the case, and the likelihood of any judicial follow-up.
2. The decision to open an external investigation shall be taken by the Director-General, acting on his own initiative or following a request from a Member State concerned or any institution, body, office or agency of the Union.
The decision to open an internal investigation shall be taken by the Director-General, acting on his own initiative or following a request from the institution, body, office or agency within which the investigation is to be conducted or from a Member State.
3. While the Director-General is considering whether or not to open an internal investigation following a request as referred to in paragraph 2, and/or while the Office is conducting an internal investigation, the institutions, bodies, offices or agencies concerned shall not open a parallel investigation into the same facts, unless agreed otherwise with the Office.
4. Within two months of receipt by the Office of a request as referred to in paragraph 2, a decision whether or not to open an investigation shall be taken. It shall be communicated without delay to the Member State, institution, body, office or agency which made the request. Reasons shall be given for a decision not to open an investigation. If, on the expiry of that period of two months, the Office has not taken any decision, the Office shall be deemed to have decided not to open an investigation.
Where an official, other servant, member of an institution or body, head of office or agency, or staff member, acting in accordance with Article 22a of the Staff Regulations, provides information to the Office relating to a suspected fraud or irregularity, the Office shall inform that person of the decision whether or not to open an investigation in relation to the facts in question.
5. If the Director-General decides not to open an investigation, he or she may without delay send any relevant information, as appropriate, to the ***competent authorities of the Member State concerned*** for appropriate ***action to be taken in accordance with Union and national law*** or to the institution, body, office or agency concerned for appropriate action to be taken in accordance with the rules applicable to that institution, body, office

or agency. The Office shall agree with that institution, body, office or agency, if appropriate, on suitable measures to protect the confidentiality of the source of that information and shall, if necessary, ask to be informed of the action taken.
6. If the Director-General decides not to open an external investigation, he may without delay send any relevant information to the competent authorities of the Member State concerned for action to be taken where appropriate, in accordance with its national rules. Where necessary, the Office shall also inform the institution, body, office or agency concerned.

a) Competent authorities

116

- State administration body or other state body, a self-governing local community body
- Tax and customs administration → Financial Administration

b) National rules

117

General Administrative Procedure Act

The Second Part of the Procedure at the First Level
XI. Chapter Starting the Procedure and Customer Requests
1. Start of the Procedure
Article 125[285] (1) Administrative proceedings are initiated before the competent authority ex officio or at the request of the party.
(2) The provisions of this Act, which apply to a request, also apply to a request or other application, which by the nature of the matter is equated to a request.

Article 126[286] The competent authority initiates the procedure ex officio, if the law or a regulation based on the law so determines and if it finds or knows that, based on the existing factual situation, it is necessary to initiate an administrative procedure for public benefit.

[285] Drugi Del
Postopek Na Prvi Stopnji
XI. poglavje
Začetek Postopka In Zahtevki Strank
1. Začetek postopka
125. člen
(1) Upravni postopek se začne pred pristojnim organom po uradni dolžnosti ali na zahtevo stranke.
(2) Določbe tega zakona, ki veljajo za zahtevo, veljajo tudi za prošnjo ali drugo vlogo, ki je po naravi zadeve izenačena z zahtevo.
[286] **126. člen**
Pristojni organ začne postopek po uradni dolžnosti, če tako določa zakon ali na zakonu temelječ predpis in če ugotovi ali zve, da je treba glede na obstoječe dejansko stanje zaradi javne koristi začeti upravni postopek.

Article 127[287] (1) The ex officio administrative procedure begins when the competent authority performs any action for this purpose.
(2) The administrative procedure at the request of the party is initiated from the date of submission of the party's request, unless it is a case of cases referred to in Article 129 of this Act.

Article 128[288] In matters in which, by law or by the nature of the case, a client's request is required for the initiation of the administrative procedure and for the procedure itself, the competent authority may initiate and conduct the procedure only if such a request is made.

Inspection Control Act **118**

Article 18 [See above → Article 3 Investigative powers in the area of structural funds and internal policies.]

VI. Procedure for Performing the Tasks of Inspection Control
Article 24[289] **(Parties in the proceedings)** The inspector must deal with applications, complaints, communications and other applications in matters within his competence and, upon their request, inform the applicants of his measures no later than after the inspection has been completed and the last measure has been taken or the process has been stopped.
Regardless of the provisions of the Act on General Administrative Procedure, the inspector must also consider anonymous reports.
If the inspector in the process finds that the application is false, he stops the process. A report is considered false if the applicant files it even though he knows that the taxpayer has not violated the law or other regulation.

[287] **127. člen**
(1) Upravni postopek po uradni dolžnosti se začne, ko opravi pristojni organ v ta namen kakršnokoli dejanje.
(2) Upravni postopek na zahtevo stranke je uveden z dnem vložitve zahteve stranke, če ne gre za primere iz 129. člena tega zakona.
[288] **128. člen**
V zadevah, v katerih je po zakonu ali po naravi zadeve za začetek upravnega postopka in za sam postopek potrebna zahteva stranke, sme pristojni organ začeti in voditi postopek samo, če je taka zahteva podana.
[289] VI. Postopek Pri Opravljanju Nalog Inšpekcijskega Nadzora
24. člen
(stranke v postopku)
Inšpektor mora obravnavati prijave, pritožbe, sporočila in druge vloge v zadevah iz svoje pristojnosti in vlagatelje na njihovo zahtevo obvestiti o svojih ukrepih najkasneje po opravljenem nadzoru in sprejetem zadnjem ukrepu oziroma ustavitvi postopka.
Ne glede na določbe zakona o splošnem upravnem postopku mora inšpektor obravnavati tudi anonimne prijave.
Če inšpektor v postopku ugotovi, da je prijava lažna, postopek ustavi. Šteje se, da je prijava lažna, če jo vlagatelj vloži, čeprav ve, da zavezanec ni kršil zakona ali drugega predpisa.
V postopku inšpektorja ima položaj stranke v postopku zavezanec. Vlagateljica oziroma vlagatelj (v nadaljnjem besedilu: vlagatelj) pobude, prijave, sporočila ali druge vloge nima položaja stranke.

In the inspector's procedure, the position of the party in the procedure is held by the liable party. The applicant (hereinafter: the applicant) of the initiative, application, communication or other application does not have the status of a party.

Article 25[290] **(Authorization to perform individual actions in the procedure)**
Individual actions in the procedure before the issuance of a decision in inspection cases, in particular the determination of facts and circumstances relevant to the decision, may also be performed by other official persons employed in the inspection upon the authority of the chief inspector.
Officials from the previous paragraph do not have inspection powers and cannot issue decisions and conclusions that stop the procedure.

Article 26[291] **(Performing professional work in inspection matters)**
Individual professional work in inspection matters may be performed by specialised organizations, institutes or individuals, when this does not conflict with the public interest or the interests of the participants in the procedure.

Article 28[292] **(Stopping the process)** If, during the inspection process, it is established that the taxpayer did not violate the law or other regulation, the inspector stops the process. The procedure is stopped by a decision or in the form of a note on the suspension of the procedure at the end of the inspection report, and in the case of sampling, this is indicated on the accompanying letter when the analysis report is sent to the taxpayer. In the explanation of the decision or in the minutes, the inspector shall state the extent of the control performed and the reasons for stopping the procedure.

[290] **25. člen**
(pooblastilo za opravljanje posameznih dejanj v postopku)
Posamezna dejanja v postopku pred izdajo odločbe v inšpekcijskih zadevah, zlasti ugotavljanje dejstev in okoliščin, pomembnih za odločitev, lahko po pooblastilu glavnega inšpektorja opravljajo tudi druge uradne osebe, zaposlene v inšpekciji.
Uradne osebe iz prejšnjega odstavka nimajo inšpekcijskih pooblastil in tudi ne morejo izdajati odločb in sklepov, s katerimi se ustavi postopek.
[291] **26. člen**
(opravljanje strokovnih del v inšpekcijskih zadevah)
Posamezna strokovna dela v inšpekcijskih zadevah lahko opravljajo specializirane organizacije, zavodi ali posamezniki, kadar to ni v nasprotju z javnim interesom ali interesi udeležencev postopka.
[292] **28. člen**
(ustavitev postopka)
V primeru, da je v postopku inšpekcijskega nadzora ugotovljeno, da zavezanec ni storil kršitve zakona ali drugega predpisa, inšpektor ustavi postopek. Postopek se ustavi s sklepom ali v obliki zapisa o ustavitvi postopka na koncu zapisnika o inšpekcijskem pregledu, v primeru vzorčenja pa se to navede na spremni dopis, ko je zavezancu poslan izvid analize. V obrazložitvi sklepa oziroma v zapisniku inšpektor navede obseg opravljenega nadzora in razloge za ustavitev postopka.
V obrazložitvi odločbe, s katero inšpektor naloži zavezancu določene ukrepe, se navede tudi obseg opravljenega nadzora in ugotovitve, v katerih delih nadzora je inšpektor ugotovil, da zavezanec ni kršil predpisov.

In the justification of the decision by which the inspector imposes certain measures on the taxpayer, the extent of the control performed and the findings in which parts of the control the inspector found that the taxpayer did not violate the regulations are also stated.

Financial Administration Act **119**

Article 100[293] **(Financial investigation)** (1) Financial investigation means the implementation of actions, measures and procedures in accordance with this Act and in accordance with the Act governing the tax procedure, when there are reasons for suspecting that an act has been committed that violates the regulations on taxation or other regulations from the jurisdiction financial administration. Actions and measures of financial investigation are carried out in order to prevent, investigate and detect the most serious violations of taxation regulations and other regulations for the supervision of the implementation of which the financial administration is competent. A financial investigation may also be initiated due to the implementation of actions and measures under this law and the law governing the tax procedure, in order to ensure mutual assistance to the authorities of the EU, EU Member States and third countries.
(2) A financial investigation begins with the issuance of an investigation warrant, which states the circumstances from which the grounds for suspicion arise, the actions and measures that should be taken, and the circumstances that should be investigated in the financial investigation, or the circle of entities, which are being investigated financially.
(3) The official conducting the financial investigation may instruct another official to perform individual actions.
(4) If there are grounds for suspecting insufficiently calculated mandatory duties or the existence of other irregularities within the jurisdiction of the financial administration,

[293] **100. člen**
(finančna preiskava)
(1) Finančna preiskava pomeni izvajanje dejanj, ukrepov in postopkov po tem zakonu in po zakonu, ki ureja davčni postopek, ko so dani razlogi za sum, da je bilo storjeno dejanje, s katerim so bili kršeni predpisi o obdavčenju ali drugi predpisi iz pristojnosti finančne uprave. Dejanja in ukrepi finančne preiskave se izvajajo zaradi preprečevanja, preiskovanja in odkrivanja najtežjih kršitev predpisov o obdavčenju in drugih predpisov, za nadzor nad izvajanjem katerih je pristojna finančna uprava. Finančna preiskava se lahko uvede tudi zaradi izvajanja dejanj in ukrepov po tem zakonu in zakonu, ki ureja davčni postopek, za zagotovitev medsebojne pomoči organom EU, držav članic EU in tretjih držav. Najtežje kršitve predpisov o obdavčenju ali drugih predpisov iz pristojnosti finančne uprave so ravnanja ali dejanja davčnih zavezancev in drugih oseb ali institucij, s katerimi je lahko resno ogrožen finančni interes oziroma interes varstva in varnosti Republike Slovenije oziroma EU.
(2) Finančna preiskava se začne z izdajo naloga za preiskavo, v katerem se navedejo okoliščine, iz katerih izhajajo razlogi za sum, dejanja in ukrepe, ki naj se izvedejo, in okoliščine, ki naj se v finančni preiskavi raziščejo, oziroma krog subjektov, ki se finančno preiskujejo.
(3) Uradna oseba, ki vodi finančno preiskavo, lahko drugi uradni osebi naloži opravljanje posameznih dejanj.
(4) Če so dani razlogi za sum o premalo obračunanih obveznih dajatvah ali obstoju drugih nepravilnosti iz pristojnosti finančne uprave, se v okviru finančne preiskave lahko opravi inšpekcijski nadzor, ki se začne, ko inšpektor opravi kakršno koli dejanje zaradi opravljanja inšpekcijskega nadzora.
(5) Uradna oseba po opravljeni finančni preiskavi sestavi zaključno preiskovalno poročilo, v katerem opiše ugotovitve finančne preiskave.

an inspection may be carried out as part of the financial investigation, which begins when the inspector performs any action for the purpose of performing an inspection.
(5) After completing the financial investigation, the official shall draw up a final investigative report, in which he describes the findings of the financial investigation.

120 The following codes can be consulted for further rules:
- Rules on the implementation of the Tax Procedure Act / *Pravilnik o izvajanju Zakona o davčnem postopku*
- Tax Procedure Act / *Zakon o davčnem postopku* (ZDavP-2)
- Value Added Tax Act / *Zakon o davku na dodano vrednost* (ZDDV-1)

[Article 6 Access to information in databases prior to the opening of an investigation – omitted]

3. Article 7 Investigations Procedure

a) References to national law 362
b) References to national authorities 365

1. The Director-General shall direct the conduct of investigations on the basis, where appropriate, of written instructions. Investigations shall be conducted under his or her direction by the staff of the Office designated by him or her. The Director-General shall not personally carry out concrete investigative acts.
2. The staff of the Office shall carry out their tasks on production of a written authorisation showing their identity and their capacity. The Director-General shall issue such authorisation indicating the subject matter and the purpose of the investigation, the legal bases for conducting the investigation and the investigative powers stemming from those bases.
3. The competent authorities of Member States shall give the necessary assistance to enable the staff of the Office to fulfil their tasks in accordance with this Regulation effectively and without undue delay. When providing such assistance, the competent authorities of Member States shall ***act in accordance with any national procedural rules applicable to them***.
3a. At the request of the Office, which shall be explained in writing, in relation to matters under investigation, the relevant competent authorities of the Member States shall***, under the same conditions as those that apply to the national competent authorities***, provide the Office with the following:
(a) information available in the centralised automated mechanisms referred to in Article 32a(3) of Directive (EU) 2015/849 of the European Parliament and of the Council (4);

(b) where strictly necessary for the purposes of the investigation, the record of transactions.
The request of the Office shall include a justification of the appropriateness and proportionality of the measure with regard to the nature and gravity of the matters under investigation. Such request shall refer only to information referred to in points (a) and (b) of the first subparagraph.
Member States shall notify to the Commission the relevant competent authorities for the purposes of points (a) and (b) of the first subparagraph.
4. Where an investigation combines external and internal elements, Articles 3 and 4 shall apply respectively.
5. Investigations shall be conducted continuously over a period which must be proportionate to the circumstances and complexity of the case.
6. Where investigations show that it might be appropriate to take precautionary administrative measures to protect the financial interests of the Union, the Office shall without delay inform the institution, body, office or agency concerned of the investigation in progress. The information supplied shall include the following:
(a) the identity of the official, other servant, member of an institution or body, head of office or agency, or staff member concerned and a summary of the facts in question;
(b) any information that could assist the institution, body, office or agency concerned in deciding on the appropriate precautionary administrative measures to be taken in order to protect the financial interests of the Union;
(c) any special measures of confidentiality recommended, in particular in cases entailing the use of investigative measures falling within the competence of a national judicial authority or, in the case of an external investigation, within the competence of a national authority, ***in accordance with the national rules applicable to investigations***.
The institution, body, office or agency concerned may at any time consult the Office with a view to taking, in close cooperation with the Office, any appropriate precautionary measures, including measures for the safeguarding of evidence. The institution, body, office or agency concerned shall inform the Office without delay about any precautionary measures taken.
7. Where necessary, it shall be for the competent authorities of the Member States, at the Office's request, to take the ***appropriate precautionary measures under their national law***, in particular measures for the safeguarding of evidence.
8. If an investigation cannot be closed within 12 months after it has been opened, the Director-General shall, at the expiry of that 12-month period and every six months thereafter, report to the Supervisory Committee, indicating the reasons and, where appropriate, the remedial measures envisaged with a view to speeding up the investigation.

a) References to national law

Sources & national sections 1

Para 3	**General Administrative Procedure Act** **XII. chapter Procedure Until the Issuance of a Decision** **A) General Principles** **1. Common Provisions** **Article 138**[294] (1) Before issuing a decision, all facts and circumstances that are important for the decision must be ascertained, and the parties must be given the opportunity to assert and secure their rights and legal benefits. (2) This can be done in an abbreviated procedure or in a special ascertainment procedure. **Article 139**[295] (1) During the procedure, the official conducting the procedure may establish the actual situation at all times and provide

[294] XII. Poglavje
Postopek Do Izdaje Odločbe
A) Splošna Načela
1. Skupne določbe
138. člen
(1) Pred izdajo odločbe je treba ugotoviti vsa dejstva in okoliščine, ki so za odločitev pomembne, in strankam omogočiti, da uveljavijo in zavarujejo svoje pravice in pravne koristi.
(2) To se lahko opravi v skrajšanem postopku ali pa v posebnem ugotovitvenem postopku.

[295] **139. člen**
(1) Uradna oseba, ki vodi postopek, lahko med postopkom ves čas ugotavlja dejansko stanje in izvaja dokaze o vseh dejstvih, pomembnih za izdajo odločbe, tudi o tistih, ki v postopku še niso bila navedena.
(2) Uradna oseba, ki vodi postopek, odredi po uradni dolžnosti izvedbo vsakega dokaza, če spozna, da je to potrebno za razjasnitev zadeve.
(3) Uradna oseba, ki vodi postopek, si preskrbi po uradni dolžnosti podatke o dejstvih, o katerih vodi uradno evidenco organ, ki je pristojen za odločanje. Enako ravna uradna oseba glede dejstev, o katerih vodi uradno evidenco kakšen drug državni organ oziroma organ samoupravne lokalne skupnosti ali nosilec javnega pooblastila.
(4) Če uradne evidence ne vodi organ, ki je pristojen za odločanje, je dolžan od pristojnega organa podatke brezplačno zahtevati takoj oziroma najkasneje v roku treh delovnih dni po vložitvi vloge. Zaprošeni organ je dolžan te podatke posredovati takoj oziroma najkasneje v roku 15 dni, če ni v predpisu, ki ureja uradno evidenco, drugače določeno.
(5) Uradna oseba lahko pridobiva za potrebe ugotavljanja dejanskega stanja osebne podatke iz uradnih evidenc o stranki, ki je vložila zahtevo za uvedbo postopka, razen, če je stranka pridobitev teh podatkov izrecno prepovedala. Podatke, ki štejejo za davčno tajnost, ali se nanašajo na rasno in drugo poreklo, politična, verska in druga prepričanja, pripadnost sindikatu, spolno vedenje, kazenske obsodbe ter zdravstvene podatke, si lahko uradna oseba v skladu s prejšnjima odstavkoma priskrbi le, če tako določa zakon, ali na podlagi izrecne pisne privolitve stranke oziroma druge osebe, na katero se ti podatki nanašajo.
(6) Določbe prejšnjega odstavka se uporabljajo tudi v postopku, uvedenem po uradni dolžnosti, v katerem se odloča o pravici stranke.
(7) Določbe petega in šestega odstavka tega člena se štejejo za zadostno zakonsko podlago za pridobivanje osebnih podatkov v smislu zakona, ki ureja varstvo osebnih podatkov, ne glede na to, ali posebni (materialni) zakoni za posamezne vrste upravnih postopkov vsebujejo takšno podlago.
(8) Način pridobivanja podatkov o dejstvih, o katerih vodi uradno evidenco organ, ki je pristojen za odločanje, kakšen drug državni organ, organ samoupravne lokalne skupnosti ali nosilec javnega pooblastila, podrobneje določi Vlada Republike Slovenije z uredbo.

evidence of all facts relevant to the issuance of the decision, including those that have not yet been stated in the procedure.
(2) The official conducting the proceedings shall ex officio order the production of any evidence if he realizes that this is necessary to clarify the matter.
(3) The official in charge of the procedure obtains, ex officio, information on the facts of which official records are kept by the authority responsible for decision-making. The same is done by an official person with regard to facts on which official records are kept by some other state body or body of a self-governing local community or a holder of public authority.
(4) If the official record is not kept by the authority competent to make the decision, it is the duty of the competent authority to request the information free of charge immediately, or at the latest within three working days after the submission of the application. The requested authority is obliged to provide this information immediately or within 15 days at the latest, unless otherwise specified in the regulations governing official records.
(5) For the purposes of determining the actual situation, an official may obtain personal data from the official records of the party that has submitted a request for the initiation of the procedure, unless the party has expressly prohibited the acquisition of such data. In accordance with the previous paragraphs, an official can only obtain information that is considered tax secrecy, or that relates to racial and other origins, political, religious and other beliefs, trade union membership, sexual behaviour, criminal convictions and health information, if determined by law, or on the basis of the express written consent of the party or other person to whom this data relates.
(6) The provisions of the previous paragraph are also applied in the procedure initiated ex officio, in which the right of the party is decided.
(7) The provisions of the fifth and sixth paragraphs of this article are considered a sufficient legal basis for obtaining personal data in the sense of the law governing the protection of personal data, regardless of whether special (substantive) laws for individual types of administrative procedures contain such a basis.
(8) The Government of the Republic of Slovenia shall determine in more detail the method of obtaining data on facts of which official records are kept by the body competent to make decisions, any other state body, body of a self-governing local community or holder of public authority.

	Article 140[296] (1) The customer must state the factual situation on which he bases his claim accurately, truthfully and definitively. (2) If the facts are not generally known, the party must propose and, if possible, submit evidence for its allegations. If the client does not do this himself, the official person in charge of the procedure requests it from him. The party is not required to provide and submit evidence that can be provided more quickly and easily by the authority conducting the proceedings, nor is it required to submit such certificates, which the authorities are not obliged to issue under Article 180 of this Act. (3) If the party does not submit evidence within the specified period, the authority may not reject the request under the second paragraph of Article 67 of this Act for that reason alone, but must continue the procedure. **Et seq.**
Para 3a (a) (b)	e.g. provisions of the **Financial Administration Act** Tax registers, Articles 48 et seq.
Para 6 (c)	e.g. provisions of the **General Administrative Procedure Act**
Para 7	**General Administrative Procedure Act** **9. Preservation of Evidence** **Article 204**[297] (1) If there is a well-founded fear that some evidence will not be able to be taken later or that it will be difficult to take it later, this evidence can be taken for insurance at any time during the proceedings, as well as before the start of the proceedings.

[296] **140. člen**
(1) Dejansko stanje, na katero opira svoj zahtevek, mora stranka navesti natančno, po resnici in določno.
(2) Če ne gre za splošno znana dejstva, mora stranka za svoje navedbe predlagati dokaze in jih, če je mogoče, predložiti. Če stranka sama tega ne stori, zahteva to od nje uradna oseba, ki vodi postopek. Od stranke se ne zahteva, naj preskrbi in predloži dokaze, ki jih lahko hitreje in lažje preskrbi organ, ki vodi postopek, in tudi ne, naj predloži taka potrdila, ki jih organi po 180. členu tega zakona niso dolžni izdajati.
(3) Če stranka v določenem roku ne predloži dokazov, organ samo zaradi tega ne sme zavreči zahteve po drugem odstavku 67. člena tega zakona, temveč mora postopek nadaljevati.

[297] 9. Zavarovanje dokazov
204. člen
(1) Če je utemeljena bojazen, da se kakšen dokaz pozneje ne bo mogel izvesti ali da bo njegova izvedba pozneje otežkočena, se lahko izvede ta dokaz za zavarovanje kadarkoli med postopkom, pa tudi še pred začetkom postopka.
(2) Zavarovanje dokazov se opravi po uradni dolžnosti ali na predlog stranke oziroma tistega, ki ima od tega pravno korist.
(3) V vlogi, s katero se zahteva zavarovanje dokazov, mora predlagatelj navesti dejstva, ki naj se dokažejo, dokaze, ki naj se izvedejo in razloge zaradi katerih misli, da se kasneje dokaz ne bo mogel izvesti ali da bo njegova izvedba težja.
(4) Če je v postopku udeležena ali bo udeležena stranka z nasprotnim interesom, se tej osebi vroči vloga za zavarovanje dokazov. Če nujnost zavarovanja terja takojšnje zavarovanje, se lahko dokazi zavarujejo tudi brez predhodne seznanitve stranke z nasprotnim interesom.

	(2) Preservation of evidence is carried out ex officio or at the request of the party or the person who has a legal benefit from it. (3) In the application requesting the securing of evidence, the applicant must state the facts that should be proven, the evidence that should be presented and the reasons for which he thinks that the proof will not be able to be presented later or that it will be more difficult to do so. (4) If a party with an adverse interest is involved or will be involved in the proceedings, this person shall be served with an application for securing evidence. If the necessity of securing requires immediate securing, the evidence can be secured even without prior knowledge of the party with an adverse interest. **Article 205**[298] (1) The authority leading the proceedings is responsible for securing evidence during the proceedings. (2) The authority in whose area the things to be seen are located, or in whose area the persons to be questioned reside, is responsible for securing evidence before the start of the proceedings. (3) Preservation of evidence is permitted even after the finality or finality of the decision, if this is necessary for a procedure with extraordinary legal means. **Article 206**[299] (1) A special decision is issued on securing evidence. (2) An appeal is allowed against the decision rejecting the proposal to secure evidence.

Source: The authors.

b) References to national authorities

- State administration body or other state body, a self-governing local community body
- Tax and customs administration → Financial Administration

[298] **205. člen**
(1) Za zavarovanje dokazov med postopkom je pristojen organ, ki vodi postopek.
(2) Za zavarovanje dokazov pred začetkom postopka je pristojen organ, na katerega območju so stvari, ki si jih je treba ogledati, oziroma na katerega območju prebivajo osebe, ki jih je treba zaslišati.
(3) Zavarovanje dokazov je dovoljeno tudi po dokončnosti oziroma pravnomočnosti odločbe, če je to potrebno za postopek z izrednimi pravnimi sredstvi.
[299] **206. člen**
(1) O zavarovanju dokazov se izda poseben sklep.
(2) Zoper sklep, s katerim se zavrne predlog za zavarovanje dokazov, je dovoljena pritožba.

4. Article 8 Duty to inform the Office

[…] 2. The institutions, bodies, offices and agencies and, unless ***prevented by national law***, the ***competent authorities of the Member States*** shall, at the request of the Office or on their own initiative, transmit without delay to the Office any document or information they hold which relates to an ongoing investigation by the Office. […]
3. The institutions, bodies, offices and agencies and, unless ***prevented by national law***, the ***competent authorities of Member States*** shall transmit without delay to the Office, at the request of the Office or on their own initiative, any other information, documents or data considered pertinent which they hold, relating to the fight against fraud, corruption and any other illegal activity affecting the financial interests of the Union.

121 A report obligation can at least be determined from the principle of sincere cooperation with Union bodies, cf. Article 4 para 3 TEU. This principle applies in all areas of potential irregularities and frauds (for the typology of EU frauds see the EU Fraud Commentary and see above Article 26 EPPO Regulation, where the material scope of the EPPO is determined). Additionally Article 12a in combination with Article 8 para 2 and 3 OLAF Regulation 883/2013 obliges the AFCOS of the present Member State to report to OLAF any of the requested material. The obligations exist throughout the different areas of irregularities (tax revenue related, customs revenue related; tax expenditure related i.e. structural funds area, direct grants etc.) and are therefore enshrined in different national laws. The competent authorities of the Member States are either the same that can conduct external investigations (in cases of resistance, *Sigma Orionis*[300]) or those that must be informed by the Director General if he/she decides not open a case according to Article 5 para 5 OLAF Regulation No 883/2013 as amended 2020/2223.

122 The report obligation, which shall be exercised by the competent authority in Slovenia on their own initiative can be exemplified with the provisions in the Financial Administration Act. The provisions show the wide range of information, which can be obtained by the partners of OLAF in Slovenia via accessing their own record systems if the suspected conduct falls within the scope of OLAF:

123 **Article 64**[301] **(Records on the management of financial control)** The records on the management of financial control contain data on the course, findings and other circumstances of financial control.

[300] See Art 3 OLAF Regulation above.
[301] **64. člen (evidenca o vodenju finančnega nadzora)**
Evidenca o vodenju finančnega nadzora vsebuje podatke o poteku, ugotovitvah in drugih okoliščinah finančnega nadzora.

Article 65[302] **(Record of financial investigations)** The records of financial investigations contain information about the place, time and other circumstances of the financial investigation, the persons, means of transport and other objects that are being investigated financially, and about the course and findings of the financial investigation.

Article 66[303] **(Records of filed criminal charges and notices)** (1) The record of filed criminal charges and notices contains data on filed charges and reported criminal acts, data on decisions of the prosecution and data on legally pronounced court decisions that the financial administration detects in the performance of its duties.
(2) Data on the decisions of the prosecutor's office and data on legally pronounced court decisions shall be submitted to the financial administration by the competent state prosecutor's office without prior request.

Article 67[304] **(Customs records)** (1) Customs records contain:
1. data from customs declarations and notifications,
2. data from permits and certificates issued in accordance with the regulations from point 7 of the first paragraph of Article 11 of this Act,
3. data on the holders of permits and licenses for performing representation business in customs matters,
4. data on the implemented customs measures.
(2) The data from the previous paragraph are specified in more detail in the regulations from point 7 of the first paragraph of Article 11 of this Act.

Why could the competent national authorities be hindered or prevented to submit information on their own initiative to OLAF? The reasons can only be based on circumstances prescribed by the law of the Member State. Most likely the law, which contains regulations on the records of certain information will contain a rule on who is competent **124**

[302] **65. člen (evidenca finančnih preiskav)**
Evidenca finančnih preiskav vsebuje podatke o kraju, času in drugih okoliščinah opravljanja finančne preiskave, osebah, prevoznih sredstvih in drugih objektih, ki se finančno preiskujejo, in o poteku ter ugotovitvah finančne preiskave.
[303] **66. člen (evidenco o vloženih kazenskih ovadbah in naznanilih)**
(1) Evidenca o vloženih kazenskih ovadbah in naznanilih vsebuje podatke o vloženih ovadbah in naznanilih kaznivih dejanj, podatke o odločitvah tožilstva ter podatke o pravnomočno izrečenih sodnih odločbah, ki jih pri opravljanju svojih nalog zazna finančna uprava.
(2) Podatke o odločitvah tožilstva in podatke o pravnomočno izrečenih sodnih odločbah predloži finančni upravi brez predhodne zahteve pristojno državno tožilstvo.
[304] **67. člen (carinska evidenca)**
(1) Carinska evidenca vsebuje:
1. podatke iz carinskih deklaracij in obvestil,
2. podatke iz dovoljenj in potrdil, izdanih v skladu s predpisi iz 7. točke prvega odstavka 11. člena tega zakona,
3. podatke o imetnikih dovoljenj in licenc za opravljanje poslov zastopanja v carinskih zadevah,
4. podatke o izvedenih carinskih ukrepih.
(2) Podatki iz prejšnjega odstavka so podrobneje določeni v predpisih iz 7. točke prvega odstavka 11. člena tega zakona.

to access the system and if any thresholds need to be followed e.g. a tax secret or a customs rule, which prescribes confidentiality.

125 **Article 77**[305] **(Data protection)** (1) The provisions of the Act governing the protection of personal data, the protection of trade secrets, the protection of data considered to be tax secrecy and the protection of confidential data shall apply to the collection, processing, storage, sending, use and preservation of data contained in the records.
(2) Archival material, which the financial administration hands over to the competent archives on the basis of the regulations governing archival material and archives containing data marked as tax secret, is accessible in state archives after 75 years from the date of creation, unless otherwise provided by law.

[305] **77. člen (varovanje podatkov)**
(1) Za zbiranje, obdelavo, shranjevanje, pošiljanje, uporabo in hrambo podatkov, vsebovanih v evidencah, se uporabljajo določbe zakona, ki ureja varstvo osebnih podatkov, varstvo poslovnih skrivnosti, varstvo podatkov, ki se štejejo za davčno tajnost in varstvo tajnih podatkov.
(2) Arhivsko gradivo, ki ga finančna uprava preda pristojnim arhivom na podlagi predpisov, ki urejajo arhivsko gradivo in arhive, ki vsebuje podatke, označene z davčno tajnostjo, je dostopno v državnih arhivih po 75 letih od nastanka, če ni z zakonom drugače določeno.

III. References to National law in the OLAF Regulation (Art. 9–17 OLAF Regulation)

1. Article 9 Procedural guarantees

[…] 3. As soon as an investigation reveals that an official, other servant, member of an institution or body, head of office or agency, or staff member may be a person concerned, that official, other servant, member of an institution or body, head of office or agency, or staff member shall be informed to that effect, provided that this does not prejudice the conduct of the investigation or of any investigative proceedings ***falling within the remit of a national judicial authority.***
4. […] In duly justified cases where necessary to preserve the confidentiality of the investigation or an ongoing or future criminal investigation by the EPPO or a national judicial authority, the Director-General may, where appropriate after consulting the EPPO or ***the national judicial authority concerned***, decide to defer the fulfilment of the obligation to invite the person concerned to comment. […]

a) Art. 9 para 3 – Remit of a national judicial authority

The remit of a national judicial authority is displayed by its foundation, the legal scope and the provisions concerning its scope. National judicial authorities are authorities that can decide and judge a subject matter and even, if following the rules and acting according to the law, decide on matters to follow-up the case. Judicial authorities that can conduct investigations on their own are limited. Foremost the wording encompasses the courts acting only following an accusation or a file brought by the prosecution offices, offices powered to conduct administrative fine proceedings and other proceedings leading to a sanctioning procedure. **126**

b) Art. 9 para 4 – National judicial authorities

The judicial system of Slovenia allows us to determine the national judicial authorities.[306] **127**

- Supreme Court
- Higher courts

[306] See https://www.gov.si/en/policies/rule-of-law-and-justice/the-judicial-system/#:~:text=Courts%20and%20the%20court%20system&text=General%20courts%20operate%20at%20four,highest%20court%20in%20the%20country. Accessed 18 March 2024.

- District courts
- Local courts
- Administrative Court

128 In criminal matters the judicial authorities include thus the criminal courts and the prosecution offices. The second instance is provided for by the Courts of Appeal, the higher courts and finally the Supreme Court is the highest judicial authority in matters falling within the jurisdiction of courts in civil and criminal proceedings, with the exception of matters decided by the Constitutional Court and the Supreme Administrative Court.

129 In administrative matters the administrative courts are competent to judge on cases. Finally the Supreme Court primarily conducts proceedings on extraordinary remedies.

2. Article 10 Confidentiality and data protection

[…] 3. The institutions, bodies, offices or agencies concerned shall ensure that the confidentiality of the investigations conducted by the Office is respected, together with the legitimate rights of the persons concerned, and, where **judicial proceedings** have been initiated, that ***all national rules applicable to such proceedings*** have been adhered to. […]

130 National rules applicable to judicial proceedings in Slovenia are regulated in various Acts:

- The Courts Act
- General Administrative Procedure Code, Articles 300 et seq. Law Enforcement and Articles 200 et seq.
- The CPC

3. Article 11 Investigation report and action to be taken following investigations

[…] 2. In drawing up the reports and recommendations referred to in paragraph 1, account shall be taken of the relevant provisions of Union law and, in so far as it is applicable, ***of the national law of the Member State concerned***.

Reports drawn up on the basis of the first subparagraph, together with all evidence in support and annexed thereto, shall constitute admissible evidence:
(a) in judicial proceedings of a non-criminal nature before national courts and in administrative proceedings in the Member States;

(b) in ***criminal proceedings of the Member State*** in which their use proves necessary in the ***same way and under the same conditions*** as administrative reports drawn up by ***national administrative inspectors*** and shall be subject to the ***same evaluation rules as those applicable to administrative reports drawn up by national administrative inspectors*** and shall have the same evidentiary value as such reports;
(c) in judicial proceedings before the CJEU and in administrative proceedings in the institutions, bodies, offices and agencies.
Member States shall notify to the Office ***any rules of national law relevant*** for the purposes of point (b) of the second subparagraph.
With regard to point (b) of the second subparagraph, Member States shall, upon request of the Office, send to the Office the ***final decision of the national courts*** once the ***relevant judicial proceedings*** have been finally ***determined*** and the final court decision has become ***public***.
The power of the CJEU and national courts and competent bodies ***in administrative and criminal proceedings to freely assess the evidential value*** of the reports drawn up by the Office shall not be affected by this Regulation. […]
3. Reports and recommendations drawn up following an external investigation and any relevant related documents shall be sent to the ***competent authorities of the Member States*** concerned in accordance with the rules relating to external investigations and, if necessary, to the institution, body, office or agency concerned. The competent authorities of the Member State concerned and, if applicable, the institution, body, office or agency shall take such action as the results of the external investigation warrant and shall report thereon to the Office within a time limit laid down in the recommendations accompanying the report and, in addition, at the request of the Office. Member States may notify to the Office the relevant national authorities competent to deal with such reports, recommendations and documents.

a) References to national law

Sources & national sections 2 **131**

Para 2	The following Acts might apply: - Court of Audit Act / Zakon o računskem sodišču (ZRacS-1) - Accounting Act / Zakon o računovodstvu (ZR) - Financial Administration Act / Zakon o finančni upravi (ZFU) - General Administrative Procedure Act / Zakon o splošnem upravnem postopku (ZUP) - Fiscal Rule Act / Zakon o fiskalnem pravilu (ZFisP) - Public Procurement Act / Zakon o javnem naročanju (ZJN-3) - Tax Procedure Act / Zakon o davčnem postopku (ZDavP-2)

	- Value Added Tax Act / Zakon o davku na dodano vrednost (ZDDV-1) - Court of Audit Act / Zakon o računskem sodišču (ZRacS-1) - Courts Act / Zakon o sodiščih (ZS) Special provisions on the obligation to issue reports have been dealt with already above (see Article 3 OLAF Regulation "Investigation reports").
Para 2 (a)	The rules on evidence and evidence by experts in a general administrative procedure are regulated in Articles 160 et seq. of the General Administrative Procedure Act. If OLAF officials e.g. a Unit Head, a Unit Investigator, a SNE of OLAF shall be heard they might act as experts in the procedure: **6. Experts** **Article 189**[307] (1) If the determination or assessment of any fact that is important for the resolution of the case requires expertise that the official conducting the procedure does not have, evidence shall be provided with experts. (2) Evidence with an expert shall be conducted if the official conducting the procedure deems it necessary for the reasons from the previous paragraph. (3) The advance payment or the cost of the performance of the evidence with an expert shall be borne by the party that has a stronger legal interest in the performance of the evidence, or the party that requested the initiation of the procedure. If several parties are interested in having the evidence conducted with an expert, the advance payment or the cost of the evidence shall be borne by all of these parties in a proportional share. **Article 190**[308] (1) For the performance of evidence with experts, the official person in charge of the procedure appoints, ex officio or at the request of the

[307] 6. Izvedenci
189. člen
(1) Če je za ugotovitev ali presojo kakšnega dejstva, ki je pomembno za rešitev zadeve, potrebno strokovno znanje, s katerim uradna oseba, ki vodi postopek, ne razpolaga, se opravi dokaz z izvedenci.
(2) Dokaz z izvedencem se izvede, če uradna oseba, ki vodi postopek, oceni, da je to potrebno iz razlogov iz prejšnjega odstavka.
(3) Predujem oziroma strošek izvedbe dokaza z izvedencem bremeni tisto stranko, ki ima močnejši pravni interes za izvedbo dokaza, oziroma stranko, ki je zahtevala uvedbo postopka. Če ima več strank interes, da se izvede dokaz z izvedencem, bremeni predujem oziroma strošek izvedbe dokaza vse te stranke v sorazmernem deležu.
[308] 190. člen
(1) Za izvedbo dokaza z izvedenci določi uradna oseba, ki vodi postopek, po uradni dolžnosti ali na predlog stranke enega izvedenca, če sodi, da bo dokazovanje z izvedenci zapleteno, pa tudi dva ali več izvedencev. O tem je treba izdati pisni sklep, v katerem se opredeli naloge izvedenca in določi rok za njihovo izvedbo.

	client, one expert, if he judges that the evidence with experts will be complicated, as well as two or more experts. A written decision must be issued on this, in which the tasks of the expert are defined and the deadline for their implementation is set. (2) Experts are designated as persons or organizations that have the expertise necessary to clarify the state of the matter. If an organization acts as an expert, one or more authorized persons appear in the proceedings on its behalf. (3) The client must be given the opportunity to make a statement about who should be the expert. If there are urgent measures in the public interest that cannot be delayed, the official may appoint an expert without the party's declaration. (4) Anyone who cannot be a witness cannot be designated as an expert. **Article 191**[309] (1) Whoever is designated as an expert is obliged to give a report and an opinion. (2) An expert may refuse to undertake this duty for the same reasons for which a witness may refuse to testify, as well as for other valid reasons, such as being overloaded with expert or other work. (3) Exemption from duty may also be requested by the employer where the expert is employed. (4) The provisions of this article shall also apply mutatis mutandis to authorized persons of the organization designated as an expert.
Para 2 (b)	**Article 100** (Financial investigation) of the Financial Administration Act can be an example here: [See above for the original text → Article 5 Opening of Investigations, National rules] […] (5) After completing the financial investigation, the official shall draw up a final investigative report, in which he describes the findings of the financial investigation.

(2) Za izvedence se določijo osebe ali organizacije, ki imajo strokovno znanje, ki je potrebno za razjasnitev stanja zadeve. Če se za izvedenca postavi organizacija, nastopa v postopku v njenem imenu ena ali več pooblaščenih oseb.
(3) Stranki je treba dati možnost, da se izjavi o tem, kdo naj bo izvedenec. Če gre za nujne ukrepe v javnem interesu, s katerimi ni mogoče odlašati, lahko uradna oseba postavi izvedenca, ne da bi se o tem izjavila stranka.
(4) Za izvedenca ne more biti določen, kdor ne more biti priča.

[309] **191. člen**
(1) Kdor je določen za izvedenca, je dolžan dati izvid in mnenje.
(2) Izvedenec lahko odreče prevzem te dolžnosti iz enakih razlogov, iz katerih priča lahko odreče pričanje, pa tudi iz drugih utemeljenih razlogov, kot so preobremenjenost z izvedenskim ali drugim delom.
(3) Oprostitev dolžnosti lahko zahteva tudi delodajalec, pri katerem je izvedenec zaposlen.
(4) Določbe tega člena se smiselno uporabljajo tudi za pooblaščene osebe organizacije, ki je določena za izvedenca.

	The **CPA/ZKP** applies as well.
Para 2 (c)	If OLAF got information from the Slovene Government or the Slovenian AFCOS body for the purpose of Art 11 para 2 c and b could not be clarified. If the information exists, the OLAF Investigator, Unit Head or SNE of OLAF should ask colleagues and OLAF staff or consult the internal data-bases and intranet to check if such information have been submitted.

Source: The authors.

b) National authority, para 3

132 A possible follow-up action, which an external investigation warrants might be the execution of an administrative decision, see e.g. Articles 282 et seq. General Administrative Procedure Act. Articles 319 et seq. contain rules on the law enforcement in this area.

133 **Article 284**[310] The enforcement of a decision issued in an administrative procedure is carried out in order to recover a monetary claim or fulfil a non-monetary obligation.

134 Another possible follow-up action, which an external investigation warrants might be the issuance of fines, e.g. in the VAT sector this is done via the authorities, which are called competent according to the VAT Act:

[310] **284. člen**
Izvršba odločbe, izdane v upravnem postopku, se opravi zato, da se izterja denarna terjatev ali izpolni nedenarna obveznost.

Article 142[311] **(Fine in cases where the nature of the offence is particularly serious)** 135
(1) In cases where the nature of the misdemeanour referred to in Article 141 of this Act is particularly serious due to the amount of damage caused or the amount of unlawful pecuniary gain obtained or due to the perpetrator's intent or his purpose of self-interest, an individual shall be fined between 2,500 and 15,000 euros for the misdemeanour, a fine of between 3,500 and 75,000 euros is imposed on a self-employed individual entrepreneur or an individual carrying out an activity independently, a fine of between 4,500 and 100,000 euros is imposed on a legal person for a misdemeanour, if the legal person is considered a a medium-sized or large company, for the offence is fined from 10,500 to 150,000 euros.
(2) A fine in the amount of 1,000 to 20,000 euros shall also be imposed for the offence referred to in the previous paragraph to the responsible person of an independent individual entrepreneur or the responsible person of an individual who performs an activity independently.
(3) A fine of between 1,200 and 20,000 euros is also imposed on the responsible person of a legal entity for the offence referred to in the first paragraph of this article, and if the legal entity is considered a medium-sized or large economic company according to the law governing commercial companies, the responsible person a person of a legal entity shall be fined from 1,400 to 20,000 euros for the offence referred to in the first paragraph of this article.
(4) For the purposes of this article, the nature of the misdemeanour is considered to be particularly serious due to the amount of unlawful financial gain obtained, if the misdemeanour referred to in Article 141 of this Act causes or could cause the non-payment of VAT, which in the event of the offence being committed by an individual exceeds 5,000

[311] **142. člen (globa v primerih, ko je narava prekrška posebno huda)**
(1) V primerih, ko je narava prekrška iz 141. člena tega zakona posebno huda zaradi višine povzročene škode oziroma višine pridobljene protipravne premoženjske koristi ali zaradi storilčevega naklepa oziroma njegovega namena koristoljubnosti, se z globo od 2.500 do 15.000 eurov za prekršek kaznuje posameznik, z globo od 3.500 do 75.000 eurov se za prekršek kaznuje samostojni podjetnik posameznik ali posameznik, ki samostojno opravlja dejavnost, z globo od 4.500 do 100.000 eurov se za prekršek kaznuje pravna oseba, če se pravna oseba po zakonu, ki ureja gospodarske družbe, šteje za srednjo ali veliko gospodarsko družbo, pa se za prekršek kaznuje z globo od 10.500 do 150.000 eurov.
(2) Z globo v višini od 1.000 do 20.000 eurov se za prekršek iz prejšnjega odstavka kaznuje tudi odgovorna oseba samostojnega podjetnika posameznika oziroma odgovorna oseba posameznika, ki samostojno opravlja dejavnost.
(3) Z globo v višini od 1.200 do 20.000 eurov se za prekršek iz prvega odstavka tega člena kaznuje tudi odgovorna oseba pravne osebe, če se pravna oseba po zakonu, ki ureja gospodarske družbe, šteje za srednjo ali veliko gospodarsko družbo, pa se odgovorna oseba pravne osebe za prekršek iz prvega odstavka tega člena kaznuje z globo od 1.400 do 20.000 eurov.
(4) Za potrebe tega člena se šteje, da je narava prekrška posebno huda zaradi višine pridobljene protipravne premoženjske koristi, če se s prekrškom iz 141. člena tega zakona povzroči ali bi se lahko povzročilo neplačilo DDV, ki v primeru storitve prekrška s strani posameznika presega 5.000 eurov, v primeru storitve prekrška s strani samostojnega podjetnika posameznika ali posameznika, ki samostojno opravlja dejavnost, presega 8.000 eurov, v primeru storitve prekrška s strani pravne osebe presega 10.000 eurov in v primeru storitve prekrška s strani pravne osebe, ki se po zakonu, ki ureja gospodarske družbe, šteje za srednjo ali veliko gospodarsko družbo, presega 25.000 eurov.

euros, in the case of commission of a misdemeanour by a self-employed individual or an individual carrying out an activity independently, it exceeds 8,000 euros, in the case of a commission of a misdemeanour by a legal entity, it exceeds 10,000 euros and in the case of a commission of a misdemeanour by a legal entity that is, which regulates companies, is considered a medium or large company, exceeds 25,000 euros.

Article 143[312] **(Authority to impose a range fine)**
For misdemeanours from this Act, a fine may be imposed in the **expedited misdemeanour procedure** in an amount that is higher than the minimum prescribed fine determined by this Act.

4. Article 12 Exchange of information between the Office and the competent authorities of the Member States

1. Without prejudice to Articles 10 and 11 of this Regulation and to the provisions of Regulation (Euratom, EC) No 2185/96, the Office may transmit to the competent authorities of the Member States concerned information obtained in the course of external investigations in due time to enable them to take appropriate action ***in accordance with their national law***. It may also transmit such information to the institution, body, office or agency concerned.
2. Without prejudice to Articles 10 and 11, the Director-General shall transmit to the ***judicial authorities of the Member State concerned*** information obtained by the Office, in the course of internal investigations, concerning facts which fall within the ***jurisdiction of a national judicial authority***. […]

[312] **143. člen (pooblastilo za izrek globe v razponu)**
Za prekrške iz tega zakona se sme v hitrem postopku o prekršku izreči globa tudi v znesku, ki je višji od najnižje predpisane globe, določene s tem zakonom.

3. The ***competent authorities of the Member State concerned*** shall, unless ***prevented by national law***, inform the Office without delay, and in any event within 12 months of receipt of the information transmitted to them in accordance with this Article, of the action taken on the basis of that information.
4. The Office may ***provide evidence*** in proceedings before national courts and tribunals ***in conformity with national law*** and the Staff Regulations. […]

a) Art. 12 para 1 OLAF Regulation (competent authorities & appropriate action in accordance with their national law)

Competent authorities **136**

- Supreme State Prosecutor's Office of the Republic of Slovenia
- Specialised State Prosecutor's Office of the Republic of Slovenia
- District State Prosecutor's Offices
- District Courts
- District Court in Ljubljana (As central Court when the territorial jurisdiction cannot be stated)
- Police authorities
- Ministry of Justice – Department for Mutual Legal Assistance

Appropriate action acc. to national law **137**

- National follow-up acc. to the General Administrative Procedure Act
- National follow-up acc. to the special administrative laws e.g. Financial Administration Act and Excise Duty Act

b) Art. 12 para 2 OLAF Regulation (judicial authorities of the Member State concerned)

- **Which are these national authorities?** **138**
  - District Courts
  - District Court in Ljubljana (As central Court when the territorial jurisdiction cannot be stated)
  - Ministry of Interior
  - Prosecution Offices

c) Art. 12 para 3 OLAF Regulation (Information to the Office by competent authorities of the Member State concerned)

These are the authorities, which were presented under a) and b) above. They are obliged to fulfil the time-limit by virtue of Article 12 para 3 OLAF Regulation. **139**

140 **Prevention by national law**
The right to withhold information (for a certain time) may result from provisions, which ensure the secrecy of an action under national law.

d) Art. 12 para 4 OLAF Regulation (Providing evidence in court proceedings before national courts and tribunals in conformity with national law)

141 Among the relevant provisions for the reference in Article 12 para 4 of the OLAF Regulation are the ones within the General Administrative Procedure Act that are presented below (mn. 8). Provisions of the Criminal Procedure Act (ZKP) are not portrayed here, but may also apply.

142

General Administrative Procedure Act

1. General provisions
Article 164[313] (1) The facts on the basis of which a decision is issued shall be established with evidence.
(2) Everything that is suitable for determining the state of the case and that corresponds to the individual case is used as evidence, especially documents, witnesses, statements of parties, experts and inspections.
(3) The actual situation can also be established on the basis of data in computerized records.
(4) Data from the records of the previous paragraph are considered part of the document, even if they are not contained in it in written or deed form. Where this information is accessible is entered in the minutes. If minutes are not kept during the procedure, an official note is drawn up.

Article 165[314] (1) Whether a fact needs to be proven or not is decided by the official conducting the procedure, depending on whether this fact may influence the decision on

[313] 1. Splošne določbe
164. člen
(1) Dejstva, na podlagi katerih se izda odločba, se ugotovijo z dokazi.
(2) Kot dokaz se uporabi vse, kar je primerno za ugotavljanje stanja zadeve in kar ustreza posameznemu primeru, zlasti pa listine, priče, izjave strank, izvedence in oglede.
(3) Dejansko stanje se lahko ugotavlja tudi na podlagi podatkov v informatiziranih evidencah.
(4) Podatki iz evidenc prejšnjega odstavka se štejejo za del dokumenta, čeprav se v njem v pisni oziroma listinski obliki ne nahajajo. V zapisnik se vpiše, kje so ti podatki dostopni. Če se v postopku ne vodi zapisnik, se o tem sestavi uradni zaznamek.
[314] **165. člen**
(1) Ali je treba kakšno dejstvo dokazovati ali ne, odloča uradna oseba, ki vodi postopek, glede na to, ali utegne to dejstvo vplivati na odločitev o zadevi. Dokazi se izvedejo praviloma potem, ko se ugotovi, kaj je v dejanskem pogledu sporno ali kaj je treba dokazati.
(2) Dokazovati ni treba dejstev, ki so splošno znana.
(3) Dokazovati tudi ni treba dejstev, katerih obstoj zakon domneva, pač pa je dovoljeno dokazovati, da ne obstajajo, če ni z zakonom drugače določeno.

the case. As a rule, the evidence is conducted after it has been determined what is factually disputed or what needs to be proven.
(2) It is not necessary to prove facts that are generally known.
(3) It is also not necessary to prove facts, the existence of which is presumed by law, but it is permitted to prove that they do not exist, unless otherwise stipulated by law.

Article 166[315] If evidence before the authority leading the proceedings is impracticable or is associated with disproportionate costs or a long delay, evidence can be taken or individual evidence can be taken before the requested authority.
Article 167[316] If the regulation stipulates that the case can be resolved on the basis of facts and circumstances that are not fully proven or are only indirectly established by evidence (facts and circumstances that are likely to be proven), the production of evidence for this purpose is not bound by the provisions of this law on implementation of evidence.

Article 168[317] (1) If the authority deciding on the matter is not aware of the law applicable in a foreign country, it may inquire about it from the ministry responsible for justice.
(2) The authority deciding the case may request the party to submit a public document issued by a competent foreign authority confirming which law applies in the foreign country. Evidence of foreign law against such a public document is permitted, unless otherwise stipulated by an international treaty.

Et. seq., e.g. witnesses, Article 181 et seq.

[315] **166. člen**
Če je dokazovanje pred organom, ki vodi postopek, neizvedljivo ali pa povezano z nesorazmernimi stroški ali z veliko zamudo, se lahko opravi dokazovanje ali izvedejo posamezni dokazi pred zaprošenim organom.
[316] **167. člen**
Če določa predpis, da se zadeva lahko reši na podlagi dejstev in okoliščin, ki niso popolnoma dokazane ali se z dokazi samo posredno ugotavljajo (dejstva in okoliščine, ki so verjetno izkazane), izvedba dokazov v ta namen ni vezana na določbe tega zakona o izvajanju dokazov.
[317] **168. člen**
(1) Če organu, ki odloča o zadevi, ni znano pravo, ki velja v tuji državi, lahko poizve o tem pri ministrstvu, pristojnemu za pravosodje.
(2) Organ, ki odloča o zadevi, lahko zahteva od stranke, naj mu predloži javno listino, izdano od pristojnega tujega organa, s katero se potrjuje, katero pravo velja v tuji državi. Dokazovanje tujega prava proti taki javni listini je dovoljeno, če ni z mednarodno pogodbo drugače določeno.

5. Article 12a Anti-fraud coordination services

1. Each Member State shall, for the purposes of this Regulation, designate a service (the 'anti-fraud coordination service') to facilitate effective cooperation and exchange of information, including information of an operational nature, with the Office. Where appropriate, ***in accordance with national law***, the anti-fraud coordination service may be regarded as a competent authority for the purposes of this Regulation. […]

a) General remarks

aa. Definition and History

143 Cooperation, Coordination and Facilitation are buzz words in anti-fraud literature.[318] Anti-fraud coordination services are known worldwide and exist in many international organizations and cooperate with nation states.[319] In the EU the term "AFCOS" has a *very special meaning* as it means the *Anti-fraud coordination services created on behalf of the European Anti-fraud Office* for the facilitation of interactions with the national Member States of the EU (see recitals below).[320] The obligation to designate these services runs and derives from primary Union law. Article 325 TFEU (ex-Art. 280 TEC) requests the Union *and* the Member States to fight fraud (together). The history of these services, adapted to the financial and budgetary law sector and set-up in the Member

[318] Kuhl 2019, pp 135, 160 et seq; Wells 2014; Spink 2019; Saporta, Maraney 2022; FCPA 2020; ECA 2022; Malan 2022, pp 135–139; focusing on the customs area Van der Paal, Nurk, De Vlieger et al 2019; de Vries 2022, pp 401–463; House of Lords 2012, pp 32 et seq.

[319] Bartsiotas, Achamkulangare 2016; See World Customs Organization, http://www.wcoomd.org/en/about-us/partners/international_organizations.aspx. Accessed 12 January 2024; see UNDOC, https://www.unodc.org/unodc/en/corruption/COSP/session9-resolutions.html (Accessed 12 January 2024), focusing on the designation of anti-corruption bodies. They exist even on national level and are especially common in federal state systems, see Austria, which was special „Betrugsbekämpfungskoordinator:innen" https://www.bmf.gv.at/en/topics/combating-fraud/anti-fraud-units/anti-fraud-coordinators.html (Accessed 12 January 2024): "In each office there is an Anti-Fraud Coordinator (AFC; in German: Betrugsbekämpfungskoordinator, BBKO) for the individual sectors and regional customs units. They are members of the management and communicate in their function at management level and with each other. The AFC is the point of contact for all anti-fraud matters at the local level, within the department for other organisational units, as well as externally for institutions and public authorities. They also act as an information hub to the outside world, for example when it comes to external information exchange or cooperation with external institutions and authorities."

[320] Kuhl 2019, p 164.

States' internal justice and financial systems dates back to the early 2000s.[321] Historically, the coordinating bodies emerged primarily in the new Member States that were awaiting accession. The European Parliament has already in 2010 called for the AFCOS to be set up as independent bodies in the MS. Today one could not be further from this idea than ever, since the AFCOS are mostly subordinated deep in the structure of a Financial or Treasury Department/Ministry, Financial Inspections Services of the Treasury Department/Ministry, the Department of Commerce or the Ministry/Department of the Interior. The simplicity of the coordination from within a ministry and the size of the administrative apparatus certainly speak in favour of this, but the interconnectedness is also problematic from the point of view of efficiency (states with political goodwill coordinate very easily and others are politically manoeuvrable):

> "***Friday 24 April 2009 Protection of the Communities' financial interests and the fight against fraud – Annual Report 2007 P6_TA(2009)0315 European Parliament resolution of 24 April 2009 on the protection of the Communities' financial interests and the fight against fraud – Annual Report 2007 (2008/2242(INI)) 2010/C 184 E/14 The European Parliament,"***
>
> 68. points out that the Anti-Fraud Coordination Units (AFCOS) set up for OLAF in the Member States that joined the European Union after 2004 are very important sources of information and contact points for OLAF; points out, however, ***that the functional added value of these offices (in particular in terms of reporting irregularities to the Commission) is minimal as long as they are not independent from national administrations***; therefore calls on the Commission to submit a proposal to Parliament's competent committee on how the work of these offices could be made more useful and considers it necessary to improve cooperation with the candidate countries"[322]

144 At least there is legal and technical oversight of the areas of administration in most states and nowadays the AFCOS are implemented at the highest level.[323]

[321] Quirke 2015, pp 236 et seq.

[322] See OJ, 8.7.2010, CE 184/72 Freitag, 24. April 2009 Schutz der finanziellen Interessen der Gemeinschaften und Betrugsbekämpfung – Jahresbericht 2007 P6_TA(2009)0315 Entschließung des Europäischen Parlaments vom 24. April 2009 zu dem Schutz der finanziellen Interessen der Gemeinschaften und der Betrugsbekämpfung – Jahresbericht 2007 (2008/2242(INI)) 2010/C 184 E/14 Das Europäische Parlament, "68. weist darauf hin, dass die Stellen zur Koordinierung der Betrugsbekämpfung (AFCOS), die für OLAF in den Mitgliedstaaten eingerichtet wurden, die der Europäischen Union nach 2004 beigetreten sind, für OLAF sehr wichtige Informationsquellen und Kontaktpunkte sind; verweist jedoch darauf, dass der funktionale Mehrwert dieser Büros (insbesondere hinsichtlich der Meldung von Unregelmäßigkeiten an die Kommission) minimal ist, solange sie nicht von den nationalen Verwaltungen unabhängig sind; fordert die Kommission daher auf, dem zuständigen Ausschuss des Parlaments einen Vorschlag dahingehend vorzulegen, wie die Arbeit dieser Büros nutzbringender gestaltet werden könnte, und hält es für notwendig, die Zusammenarbeit mit den Kandidatenländern zu verbessern; [...]."

[323] Byrne 2018, p 13.

145 However, the existing Member States are also aware of weaknesses in the fight against fraud. Only since 2010 and in the last decade has more attention been paid to these coordination points. They have become a *sine qua non* in the EU's fight against fraud and it seems that they are becoming more and more the "eyes and ears" of OLAF in the Member States. They only have their own investigative skills, which would make them an "extended arm" of OLAF in the Member States, if at all, e.g. in Bulgaria or Italy. On the other hand, in Germany and France, they are more active in the background and do not appear too clearly. Activity reports may also have to be requested by the Commission, i.e. the responsible departments of OLAF.

bb. Legislative developments

146 The Commission has evaluated the impact of the AFCOS in the past decade.[324] Recent changes at the beginning of the 2020s have enlarged the competences of the AFCOS. These are now even allowed to cooperate with each other and not only with OLAF in Luxembourg alone, which was the case prior to the amendments of the Regulation (EU) 2020/2223.[325]

147 The recent changes describe the role of the AFCOS in the recitals. Thus by reading them the task and role of these bodies becomes vivid:

148

(23) The Office is able, under Regulation (EU, Euratom) No 883/2013, to enter into administrative arrangements with ***competent authorities of Member States***, such as anti-fraud coordination services, and institutions, bodies, offices and agencies, in order to specify the arrangements for their cooperation under that Regulation, in particular ***concerning the transmission of information, the conduct of investigations and any follow-up action***.
(30) Due to the large diversity of national institutional frameworks, Member States should, on the basis of the principle of sincere cooperation, ***have the possibility to notify to the Office the authorities that are competent to take actions upon recommendations of the Office***, as well as the authorities that need to be informed, such as for financial, statistical or monitoring purposes, for the performance of their relevant duties. Such

[324] Commission Staff Working Document Evaluation of the application of Regulation (EU, EURATOM) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 Accompanying the document Commission report to the European Parliament and the Council, pp 3, 12, 72.
The Commission document was accompanied by a Report (called ICF Report 2017), which resulted from an external study: European Commission, European Anti-Fraud Office, Evaluation of the application of Regulation No 883/2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF): final report. Publications Office, 2017, https://data.europa.eu/doi/10.2784/281658.

[325] See Art 12a and Art. 12b of Regulation (EU, Euratom) 2020/2223 of the European Parliament and of the Council of 23 December 2020 amending Regulation (EU, Euratom) No 883/2013, as regards cooperation with the European Public Prosecutor's Office and the effectiveness of the European Anti-Fraud Office investigations, OJ L 437, 28.12.2020.

authorities ***may include national anti-fraud coordination services***. In accordance with the settled case-law of the CJEU, the Office recommendations included in its reports have no binding legal effects on such authorities of Member States or on institutions, bodies, offices and agencies.
(37) The anti-fraud coordination services of Member States were introduced by Regulation (EU, Euratom) No 883/2013 to facilitate an effective cooperation and exchange of information, including information of an operational nature, between the Office and Member States. The Commission evaluation report concluded that they have contributed positively to the work of the Office. The Commission evaluation report also identified the ***need to further clarify the role of those anti-fraud coordination services*** in order to ensure that the Office is provided with the necessary assistance to ensure that its investigations are effective, while leaving the organisation and powers of the anti-fraud coordination services to each Member State. In that regard, the anti-fraud coordination services should be able to provide or coordinate the ***necessary assistance*** to the Office ***to carry out its tasks effectively, before, during or at the end of an external or internal investigation***.
(40) It should be possible for the anti-fraud coordination services in the context of coordination activities to provide assistance to the Office, as well as for the anti-fraud coordination services ***to cooperate among themselves***, in order to further reinforce the available mechanisms for cooperation in the fight against fraud.

cc. Visualisation of old (prior to 2020) vs. new (since 2020) cooperation and role of the AFCOS

149

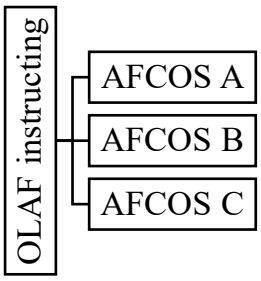

Figure 6: Visualisation of the old cooperation by virtue of Regulation No. 883/2013

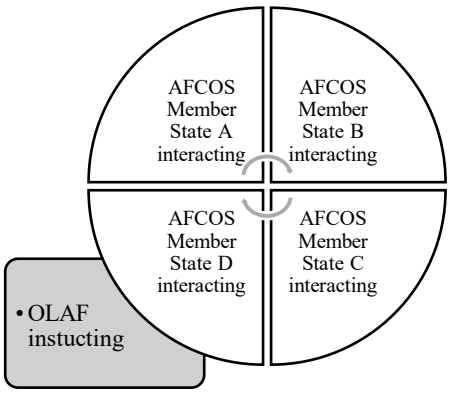

Figure 7: Visualisation of the new cooperation by virtue of Regulation No. 883/2013 (as amended 2020/2223)

b) A closer look at the relevant AFCOS in the present Member State

The Budget Supervision Office within the Ministry of Finance is the competent AFCOS of Slovenia. It consists of one person working full-time. It is merely an administrative office without investigative powers. The office is responsible for the reporting of irregularities to OLAF via the IMS platform and to make sure that the reports are filled with the proper data. The Slovenian AFCOS then follows these irregularities until the funds are recovered, sanctions (either administrative or penal) are ordered or a court decision is rendered.

150 The Budget Supervision Office provides support to OLAF investigators during their on-the-spot checks and connects them to the competent national authorities, e.g. the Financial Administration and the Ministry of Interior – Criminal Police Directorate.

[Article 12b–12d omitted]

6. Article 12e The Office's support to the EPPO

1. In the course of an investigation by the EPPO, and at the request of the EPPO in accordance with Article 101(3) of Regulation (EU) 2017/1939, the Office shall, in accordance with its mandate, support or complement the EPPO's activity, in particular by:
(a) Providing information, analyses (including forensic analyses), expertise and operational support;
(b) Facilitating coordination of specific actions of ***the competent national administrative authorities*** and bodies of the Union; […]

151 Among the national administrative authorities relevant for the reference in Article 12e are the

- State administration body or other state body, a self-governing local community body and the
- Tax and customs administration → Financial Administration

[Article 12f–g omitted]

7. Article 13 Cooperation of the Office with Eurojust and Europol

1. […] Where this may support and strengthen coordination and cooperation between ***national investigating and prosecuting authorities,*** or where the Office has forwarded to the competent authorities of the Member States information giving grounds for suspecting the existence of fraud, corruption or any other illegal activity affecting the financial interests of the Union in the form of serious crime, it shall transmit relevant information to Eurojust, within the mandate of Eurojust. […]

The national investigating and prosecuting authorities referred to in Article 13 are the **152**

- Supreme State Prosecutor's Office of the Republic of Slovenia
- Specialised State Prosecutor's Office of the Republic of Slovenia
- District State Prosecutor's Offices
- Police authorities
- District courts
- District Court in Ljubljana (As central Court when the territorial jurisdiction cannot be stated)
- Ministry of Justice – Department for Mutual Legal Assistance

[Article 14–16 omitted]

9. Article 17 Director-General

[…] 4. The Director-General shall report regularly, and at least annually, to the European Parliament, to the Council, to the Commission and to the Court of Auditors on the findings of investigations carried out by the Office, the action taken and the problems encountered, whilst respecting the confidentiality of the investigations, the legitimate rights of the persons concerned and of informants, and, where appropriate***, national law applicable to judicial proceedings***. Those reports shall also include an assessment of the actions taken by the ***competent authorities of Member States*** and the institutions, bodies, offices and agencies, following reports and recommendations drawn up by the Office.
7. The Director-General shall put in place an internal advisory and control procedure, including a legality check, relating, inter alia, to the respect of procedural guarantees and fundamental rights of the persons concerned and ***of the national law of the Member States concerned***, with particular reference to Article 11(2). The legality check shall be carried out by Office staff who are experts in law and investigative procedures. Their opinion shall be annexed to the final investigation report.

a) National law applicable to judicial proceedings

153 The following national law applies to judicial proceedings:

- Constitutional Court Act / Zakon o ustavnem sodišču (ZUstS)
- Courts Act / Zakon o sodiščih (ZS)
- General Administrative Procedure Act / Zakon o splošnem upravnem postopku (ZUP)
- Criminal Procedure Act / Zakon o kazenskem postopku (ZKP)
- Administrative Dispute Act / Zakon o upravnem sporu (ZUS-1)

b) Internal advisory and control procedure: Legality check involving national law

154 E.g. General Administrative Procedure Act:

First Part of the General Provisions **155**

Chapter I Basic Principles

1. Validity of the law

Article 1[326] (1) Administrative and other state bodies, bodies of self-governing local communities and holders of public authority must act in accordance with this law when, in administrative matters, directly applying regulations, they decide on the rights, obligations or legal benefits of individuals, legal entities and other parties.

(2) Public authority to conduct proceedings and make decisions in administrative matters is granted by law, and to conduct proceedings and make decisions in administrative matters from the original competence of the self-governing local community by a decree of the council of the self-governing local community.

2. Administrative matter

Article 2[327] (1) An administrative matter is a decision on the right, obligation or legal benefit of a natural or legal person or other party in the field of administrative law.

(2) It is considered to be an administrative matter if it is determined by regulation that the authority conducts administrative proceedings in a matter, decides in administrative proceedings or issues an administrative decision, or if this arises from the nature of the matter for the purpose of protecting the public interest.

3. Subsidiary application of the law

Article 3[328] (1) Individual questions of the administrative procedure may be regulated in a special law in a different way than they are regulated in this law for a certain administrative area, if this is necessary for the procedure in such an administrative area.

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[326] 1. Veljavnost zakona

1. člen ZUP

(1) Po tem zakonu morajo postopati upravni in drugi državni organi, organi samoupravnih lokalnih skupnosti in nosilci javnih pooblastil, kadar v upravnih zadevah, neposredno uporabljajoč predpise, odločajo o pravicah, obveznostih ali pravnih koristih posameznikov, pravnih oseb in drugih strank.

(2) Javno pooblastilo za vodenje postopka in odločanje v upravnih zadevah se podeli z zakonom, za vodenje postopka in odločanje v upravnih zadevah iz izvirne pristojnosti samoupravne lokalne skupnosti pa z odlokom sveta samoupravne lokalne skupnosti.

[327] 2. Upravna zadeva

2. člen ZUP

(1) Upravna zadeva je odločanje o pravici, obveznosti ali pravni koristi fizične ali pravne osebe oziroma druge stranke na področju upravnega prava.

(2) Šteje se, da gre za upravno zadevo, če je s predpisom določeno, da organ v neki zadevi vodi upravni postopek, odloča v upravnem postopku ali izda upravno odločbo oziroma, če to zaradi varstva javnega interesa izhaja iz narave zadeve.

[328] 3. Subsidiarna uporaba zakona

3. člen ZUP

(1) Posamezna vprašanja upravnega postopka so lahko za določeno upravno področje v posebnem zakonu drugače urejena, kot so urejena v tem zakonu, če je za postopanje na takem upravnem področju to potrebno.

(2) Na upravnih področjih, za katera je z zakonom predpisan poseben upravni postopek, se postopa po določbah posebnega zakona. Po določbah tega zakona pa se postopa v vseh vprašanjih, ki niso urejena s posebnim zakonom.

(2) In administrative areas for which a special administrative procedure is prescribed by law, the provisions of the special law shall be followed. The provisions of this law apply to all issues that are not regulated by a special law.
(3) This Act also applies in cases where public service providers decide on the rights or obligations of users of their services.

4. Application of the law in other matters of public law
Article 4[329] The administrative procedure is similarly applied in other public law matters that do not have the character of an administrative matter according to Article 2 of this Act, insofar as these areas are not regulated by a special procedure.

5. Meaning of the term "authority" and "official person"
Article 5[330] (1) According to this law, the term "authority" means a state administration body or other state body, a self-governing local community body, and a holder of public powers to whom the law gives authority to make decisions in administrative matters.
(2) In accordance with this Act, an official person is a person who, in accordance with the law, is authorized to make a decision in an administrative matter or to perform individual actions in an administrative procedure.

6. The principle of legality
Article 6[331] (1) The body makes decisions in administrative matters according to the law, by-laws, regulations of local communities and general acts issued for the exercise of public powers.

(3) Ta zakon se uporablja tudi v primeru, ko izvajalci javnih služb odločajo o pravicah ali obveznostih uporabnikov njihovih storitev.
[329] 4. Uporaba zakona v drugih javnopravnih zadevah
4. člen ZUP
Upravni postopek se smiselno uporablja tudi v drugih javnopravnih zadevah, ki nimajo značaja upravne zadeve po 2. členu tega zakona, kolikor ta področja niso urejena s posebnim postopkom.
[330] 5. Pomen izraza "organ" in "uradna oseba"
5. člen ZUP
(1) Z organom je po tem zakonu mišljen organ državne uprave ali drug državni organ, organ samoupravne lokalne skupnosti in nosilec javnih pooblastil, ki mu zakon daje pristojnost za odločanje v upravni zadevi.
(2) Z uradno osebo je po tem zakonu mišljena oseba, ki je v skladu z zakonom pooblaščena za odločanje v upravni zadevi ali za opravljanje posameznih dejanj v upravnem postopku.
[331] 6. Načelo zakonitosti
6. člen ZUP
(1) Organ odloča v upravni zadevi po zakonu, podzakonskih predpisih, predpisih lokalnih skupnosti in splošnih aktih, izdanih za izvrševanje javnih pooblastil.
(2) V upravnih zadevah, v katerih je organ po zakonu ali po predpisu lokalne skupnosti upravičen odločati po prostem preudarku, mora biti odločba izdana v mejah pooblastila in v skladu z namenom, za katerega mu je pooblastilo dano. Namen in obseg pooblastila določa zakon ali predpis lokalne skupnosti, ki vsebuje pooblastilo za odločanje po prostem preudarku.
(3) Tudi v upravnih zadevah, v katerih je organ upravičen odločati po prostem preudarku, mora postopati po tem zakonu.

(2) In administrative matters in which the authority is entitled by law or by regulation of the local community to make decisions based on free discretion, the decision must be issued within the limits of the authority and in accordance with the purpose for which the authority was given. The purpose and scope of the authorization is determined by the law or regulation of the local community, which contains the discretionary decision-making authority.
(3) Even in administrative matters in which the authority is entitled to make decisions at its discretion, it must act in accordance with this Act.

7. Protection of customer rights and protection of public benefits

Article 7[332] (1) When acting and making decisions, authorities must enable parties to secure and assert their rights as easily as possible; in doing so, they must ensure that the parties do not exercise their rights to the detriment of the rights of others and not in conflict with the public benefit determined by law or another regulation.
(2) When, based on the given actual situation, an official learns or judges that a party in the proceedings has a basis for asserting some right, he shall warn him of this.
(3) When deciding on the rights, obligations and legal benefits of the parties, those measures specified by the regulations are applied against them, which are more favourable for them, if they achieve the purpose of the regulation.
(4) The authority must ensure that the ignorance and ignorance of the party and other participants in the procedure do not harm their rights under the law.

8. The principle of material truth

Article 8[333] (1) In the procedure, it is necessary to establish the true factual situation and, for this purpose, establish all the facts that are important for a legal and correct decision.
(2) On the basis of probable facts, the authority can only make a decision if the law so provides.

[332] 7. Varstvo pravic strank in varstvo javnih koristi
7. člen ZUP
(1) Pri postopanju in odločanju morajo organi omogočiti strankam, da čim lažje zavarujejo in uveljavijo svoje pravice; pri tem morajo skrbeti za to, da stranke ne uveljavljajo svojih pravic v škodo pravic drugih in ne v nasprotju z javno koristjo, določeno z zakonom ali z drugim predpisom.
(2) Kadar uradna oseba glede na podano dejansko stanje izve ali sodi, da ima stranka v postopku podlago za uveljavitev kakšne pravice, jo na to opozori.
(3) Pri odločanju o pravicah, obveznostih in pravnih koristih strank se nasproti njim uporabljajo tisti s predpisi določeni ukrepi, ki so zanje ugodnejši, če se z njimi doseže namen predpisa.
(4) Organ mora skrbeti, da nevednost in neukost stranke in drugih udeležencev v postopku nista v škodo pravic, ki jim gredo po zakonu.
[333] 8. Načelo materialne resnice
8. člen ZUP
(1) V postopku je treba ugotoviti resnično dejansko stanje in v ta namen ugotoviti vsa dejstva, ki so pomembna za zakonito in pravilno odločbo.
(2) Na podlagi verjetno izkazanih dejstev lahko organ odloči le v primeru, da tako določa zakon.

9. The principle of hearing the client

Article 9[334] (1) Before a decision is issued, the party must be given the opportunity to state all the facts and circumstances relevant to the decision (party hearing).
(2) If there are parties with conflicting interests involved in the proceedings, each party must have the opportunity to make a statement about the claims and statements of the party with the opposing interest.
(3) The authority may not base its decision on facts regarding which all parties were not given the opportunity to declare themselves, except in cases specified by law.
(4) If the law does not specify the form in which they can be performed for individual actions in the procedure, the parties shall perform them outside the oral hearing in writing or orally on the record, and orally during the hearing.

10. Free evaluation of evidence

Article 10[335] The official person authorized to lead the procedure or to make a decision in an administrative matter decides according to his/her own conviction, based on conscientious and careful assessment of each piece of evidence and all the pieces of evidence together, and on the basis of the success of the entire process.

11. Duty to tell the truth and fair use of rights

Article 11[336] The parties must speak the truth before the authority and honestly use the rights granted to them by this and other laws governing the administrative procedure.

[334] 9. Načelo zaslišanja stranke
9. člen ZUP
(1) Preden se izda odločba, je treba dati stranki možnost, da se izjavi o vseh dejstvih in okoliščinah, ki so pomembne za odločbo (zaslišanje stranke).
(2) Če so v postopku udeležene stranke z nasprotujočimi interesi, mora imeti vsaka stranka možnost, da se izjavi o zahtevkih in navedbah stranke z nasprotnim interesom.
(3) Organ svoje odločbe ne sme opreti na dejstva, glede katerih vsem strankam ni bila dana možnost, da se o njih izjavijo, razen v primerih, določenih z zakonom.
(4) Če za posamezna dejanja v postopku ni z zakonom določeno, v kakšni obliki se lahko opravijo, jih opravijo stranke izven ustne obravnave pisno ali ustno na zapisnik, na obravnavi pa ustno.

[335] 10. Prosta presoja dokazov
10. člen ZUP
O tem, katera dejstva je šteti za dokazana, presodi uradna oseba, pooblaščena za vodenje postopka oziroma odločanje v upravni zadevi po svojem prepričanju, na podlagi vestne in skrbne presoje vsakega dokaza posebej in vseh dokazov skupaj ter na podlagi uspeha celotnega postopka.

[336] 11. Dolžnost govoriti resnico in poštena uporaba pravic
11. člen ZUP
Stranke morajo pred organom govoriti resnico in pošteno uporabljati pravice, ki so jim priznane s tem in drugimi zakoni, ki urejajo upravni postopek.

12. Independence in decision-making

Article 12[337] (1) The authority conducts administrative proceedings and decides on administrative matters independently within the framework and on the basis of laws, by-laws, regulations of local communities and general acts issued for the exercise of public powers.

(2) An official person independently performs actions in the administrative procedure and in this context establishes facts and circumstances and, based on the established facts and circumstances, applies regulations or general acts issued for the exercise of public powers.

13. Right of appeal

Article 13[338] (1) The party has the right to appeal against the decision issued at the first instance. Only by law can it be prescribed that appeals are not allowed in individual administrative matters.

(2) When a representative body or the government is competent for decision-making in the first instance, an appeal is not allowed.

(3) When the ministry is responsible for the decision in the first instance, an appeal is allowed only if the law stipulates so. The law must also specify who decides on the appeal.

(4) Under the conditions set out in this Act, the client has the right to appeal even if the authority of the first instance has not issued a decision on his request within a certain period.

14. Economy of the procedure

Article 14[339] The procedure must be conducted quickly, with as little expense and as little delay as possible for the parties and other participants in the procedure, but in such

[337] 12. Samostojnost pri odločanju
12. člen ZUP
(1) Organ vodi upravni postopek in odloča v upravnih zadevah samostojno v okviru in na podlagi zakonov, podzakonskih predpisov, predpisov lokalnih skupnosti in splošnih aktov, izdanih za izvrševanje javnih pooblastil.
(2) Uradna oseba samostojno opravlja dejanja v upravnem postopku in v tem okviru ugotavlja dejstva in okoliščine ter na podlagi ugotovljenih dejstev in okoliščin uporablja predpise oziroma splošne akte, izdane za izvrševanje javnih pooblastil.

[338] 13. Pravica pritožbe
13. člen ZUP
(1) Zoper odločbo, izdano na prvi stopnji, ima stranka pravico pritožbe. Samo z zakonom je mogoče predpisati, da v posameznih upravnih zadevah ni dovoljena pritožba.
(2) Kadar je za odločanje na prvi stopnji pristojen predstavniški organ ali vlada, pritožba ni dovoljena.
(3) Kadar je za odločanje na prvi stopnji pristojno ministrstvo, je pritožba dovoljena samo v primeru, da tako določa zakon. V zakonu mora biti tudi določeno, kdo o pritožbi odloča.
(4) Pod pogoji iz tega zakona ima stranka pravico pritožbe tudi v primeru, če organ prve stopnje ni izdal odločbe o njeni zahtevi v določenem roku.

[339] 14. Ekonomičnost postopka
14. člen ZUP

a way that everything necessary is provided to correctly determine the actual situation, protect the rights and legal interests of the party, and issue legal and correct decision.

[Article 18–21 omitted]

Postopek je treba voditi hitro, s čim manjšimi stroški in čim manjšo zamudo za stranke in druge udeležence v postopku, vendar tako, da se preskrbi vse, kar je potrebno, da se lahko pravilno ugotovi dejansko stanje, zavarujejo pravice in pravne koristi stranke ter izda zakonita in pravilna odločba.

Annex

List of Financial Offices

Financial offices
General Financial Office
MINISTRY OF FINANCE
FINANCIAL ADMINISTRATION OF THE REPUBLIC OF SLOVENIA
Šmartinska cesta 55
1000 Ljubljana

01 478 38 00
gfu.fu@gov.si
www.fu.gov.si/kontakti/generalni_financni_urad_gfu
Financial office of Brežice
MINISTRY OF FINANCE
FINANCIAL ADMINISTRATION OF THE REPUBLIC OF SLOVENIA
Road of the First Fighters 39 a
8250 Brežice

07 462 01 00
br.fu@gov.si
www.fu.gov.si/kontakti/financni_urad_brezice
Financial office of Celje
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Bibliography

General Literature EPPO Part

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Bobnar T (2013) Delovanje specializiranih preiskovalnih skupin kot (nov) izziv pri preiskovanju gospodarske kriminalitete [Operation of specialised investigation teams as a (new) challenge in the investigation of economic crime]. Revija za kriminalistiko in kriminologijo 64:163–168. online: https://www.policija.si/images/stories/Publikacije/RKK/PDF/2013/02/RKK2013-02_TatjanaBobnar_DelovanjeSpecializiranihPreiskovalnihSkupin.pdf. Accessed 12 June 2023.

Bohlander M (2009) Principles of German Criminal Law, Hart Publishing, Oxford and Portland, Oregon.

Child J J, Simester A P, Spencer J R, Stark F, Virgo G J (2022) Simester and Sullivan's Criminal Law, Theory and Doctrine, 8th edn, Bloomsbury Publishing, London.

Eser A (1987) Justification and Excuse. A Key Issue in the Concept of Crime. Freiburg: Max-Planck-Institut für ausländisches und internationales Strafrecht vol 1. online: https://d-nb.info/112342229X/34. pp 17–65.

European Commission, European Anti-Fraud Office (2017) Evaluation of the application of Regulation No 883/2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF): final report. EU Publications Office, Brussels. https://data.europa.eu/doi/10.2784/281658. Accessed 12 January 2024.

Frank Eler T (2020) Stvarna pristojnost Evropskega javnega tožilstva [Material jurisdiction of the European Public Prosecutor's Office]. Pravna praksa 24–25:16–17.

Gorkič P (2007) Nekatere posledice ustanovitve evropskega javnega tožilca [Some consequences of the establishment of the European Public Prosecutor's Office]. Pravna praksa 48:20–22.

Gorkič P (2010) Evropski javni tožilec je pred vrati [The European Public Prosecutor's Office at the door]. Pravna praksa 10:29.

Gorkič P (2013) Evropski javni tožilec: zdaj gre (zares) zares! [European Public Prosecutor's Office: Now it's (truly) real!]. Pavna praksa 34:II–VI.

Gorkič P (2017) Še vedno o uradu evropskega javnega tožilca [Still about the European Public Prosecutor's Office]. Pravna praksa 16–17:14–15.

Herrnfeld H-H, Esser R (2022) Europäische Staatsanwaltschaft Handbuch [European Public Prosecutor's Office Manual]. Nomos, Baden-Baden.

Horvat Š (2004) Zakon o kazenskem postopku (ZKP) s komentarjem. GV založba, Ljubljana.

Klement P (2021) Reporting of Crime Mechanisms and the Interaction Between the EPPO and OLAF as Key Future Challenges, eucrim, pp 51–52. https://doi.org/10.30709/eucrim-2021-005.

Malan J, Bosch Chen I (2021) Study, Impact of Organised Crime on the EU's Financial Interests. online: https://www.europarl.europa.eu/RegData/etudes/STUD/2021/697019/IPOL_STU(2021)697019_EN.pdf. Accessed 12 June 2023.

Márton B (2022) The Conflict of Competence between the European Public Prosecutor's Office and Spanish Prosecutors – Lessons Learned. Eucrim 4/2022, pp 286–288.

Mrva B (2020) Ali Slovenija potrebuje Evropsko javno tožilstvo? [Does Slovenia need a European Public Prosecutor's Office?]. Pravna praksa 29-30:20–21.

Safferling C (2008), Vorsatz und Schuld. Subjektive Täterelemente im deutschen und englischen Strafrecht. Mohr Siebeck, Tübingen.

Selinšek L (2003) Tax offenses – tax evasion – OLAF – the relationship between the criminal law protection of the financial interests of the state and the European Union, Podjetje in delo 6-7/2003 str., 1.10.2003.

Škof B, Bernik D, Tičar B (2010) Metode odkrivanja, preiskovanja in preprečevanja prepovedanih davčnih vrtiljakov – v Evropski uniji in Sloveniji [Methods of Detection, Investigation and Prevention of Illegal Tax Carousel Frauds – in the European Union and Republic of Slovenia]. Revija za kriminalistiko in kriminologijo 61:37–50.

Sluga T (2011) Preiskovalni sodnik ali sodnik garant v slovenskem kazenskem postopku? Diplomsko delo [Investigating judge or guarantor judge in Slovenian criminal proceedings? Graduation thesis]. online: https://dk.um.si/IzpisGradiva.php?lang=eng&id=21336. Univerza v Mariboru, Ljubljana.

Stasi A (2021) General Principles of Thai Criminal Law. Springer Singapore, Singapore.

Šugman Stubbs K (2001) Usklajenost slovenske kazenskoprocesne zakonodaje z nastajajočim kazenskim pravom Evropske unije (*Corpus Juris*) [Compliance of the Slovenian criminal procedure legislation with the emerging criminal law of the European Union (Corpus Juris)]. Zbornik znanstvenih razprav 61:265–287.

Šugman Stubbs K (2004) European public prosecutor in the context of Slovenian criminal law. Slovenian Law Review 1:123–136.

Vogrinec B (2021) Nov institucionalni in zakonodajni okvir za boj proti goljufijam na škodo EU [A new institutional and legislative framework to combat fraud against the EU]. Pravna praksa 45:6–8.

Vovk I (2013) Evropski javni tožilec [European Public Prosecutor]. Pravna praksa 29–30:40.

Walen A, Weisser B (2022) Causation and responsibility for Outcomes. In: Heinze A, Duff A, Roberts J, Ambos K, Weigend T (eds) Core Concepts in Criminal Law and Criminal Justice: Volume 2. CUP, Cambridge, pp 57–94.

Art. 28–33

Álvarez D V (2018) The Material Competence of the European Public Prosecutor's Office. In: Bachmaier Winter L (ed) The European Public Prosecutor's Office – Challenges Ahead. Springer Nature, Switzerland.

Claes A L, Horseele M (2022) Protection of procedural rights in administrative and criminal proceedings: the case of the privilege against self-incrimination in Belgian customs law. In: Harding C, Franssen V (eds) Criminal and Quasi-criminal Enforcement Mechanisms in Europe: Origins, Concepts, Future. Bloomsburg Publishing, Oxford, pp 301–343.

Farkas Á, Dannecker G and Jacsó J (2019) Criminal Law Aspects of the Protection of the Financial Interests of the European Union with particular emphasis on the national legislation on tax fraud, corruption, money laundering and criminal compliance with reference to cybercrime. Wolters Kluwer, Budapest.

Juszczak A, Sason E (2017) The Directive on the Fight against Fraud to the Union's Financial Interest by Means of Criminal Law – Laying Down the Foundation for a Better protection of the Union's Financial Interests? eucrim 2:80–87.

Ludwiczak Glassey M (2021) Le Parquet européen: perspectives suisses. European Papers 6:391–403.

OECD (2017) Effective Inter-Agency Co-operation in Fighting Tax Crimes and Other Financial Crimes – Third Edition. OECD Publishing, Paris. online: https://www.oecd.org/tax/crime/effective-inter-agency-co-operation-in-fighting-tax-crimes-and-other-financial-crimes-third-edition.pdf. Accessed 6 February 2023.

Skinns L (2019) Police Powers and Citizens' Rights Discretionary Decision-Making in Police Detention. Routledge, Taylor & Francis, Oxon.

General Literature OLAF

Bartsiotas G A, Achamkulangare G (2016) Fraud Prevention, Detection and Response in United Nations System Organizations. UN Publications Office, Geneva.

de Bellis M (2021) Multi-level Administration, Inspections and Fundamental Rights: Is Judicial Protection Full and Effective? German Law Journal 22:416–440.

Bovend'Eerdt K (2018) The Applicable Law in OLAF's On-The-Spot Inspections. European Law Blog. 28 June 2018. online: https://europeanlawblog.eu/2018/06/28/the-applicable-law-in-olafs-on-the-spot-inspections/. Accessed 12 June 2023.

Brüner F H (2001) Das Europäische Amt für Betrugsbekämpfung (OLAF) und seine Aufgaben bei der Erweiterung der Europäischen Union. In: Henke R (ed) Erweiterung der europäischen Union: Zusammenarbeit von Wirtschaft und Verwaltung. Köln, pp 17–26.

Brüner F H (2008) OLAF-Reform II – Kosmetischer Eingriff oder Großer Wurf? EuR 6:859–872.

Brüner F H (2009) OLAF Manual Operational Procedures. EU Publications Office, Brüssel.

Byrne D (2018) Role of Member State auditors in fraud prevention and detection. Presenation. online: https://ec.europa.eu/regional_policy/sources/docgener/informat/expert_training/2019/module6_role_ms_auditor.pdf. Accessed 12 June 2023.

Carrera S, Mitsilegas V and Stefan M (2021) Criminal Justice, Fundamental Rights and the Rule of Law in the Digital Age. Centre for European Policy Studies (CEPS) Brussels. online: https://www.ceps.eu/wp-content/uploads/2021/05/Criminal-Justice-Fundamental-Rights-and-the-Rule-of-law-in-the-Digital-Age.pdf. Accessed 12 January 2024.

Council of the European Union (2012) Evaluation Report on the Fifth Round of Mutual Evaluations "Financial Crime And Financial Investigations". Report on Slovenia. Brussels.

European Commission, DG regional Policy (2009) Information Note on Fraud Indicators for ERDF, ESF and CF. online: https://ec.europa.eu/regional_policy/sources/cocof/2009/cocof_09_0003_00_en.pdf. Accessed 12 June 2023.

European Commission, OLAF (2011) Compendium of Anonymised Cases – Structural Actions. EU Publications Office, Brussels. online: https://sfc.ec.europa.eu/system/files/documents/sfc-files/olaf-intern-2011.pdf. Accessed 12 January 2024.

European Commission, OLAF (2013) Detection of forged documents in the field of structural actions A practical guide for managing authorities elaborated by a group of Member States' experts coordinated by OLAF's unit D2- Fraud Prevention. online: https://sfc.ec.europa.eu/system/files/documents/sfc-files/2013-11-12-final-guide-forged-documents-en.pdf. Accessed 12 June 2023.

European Commission, DG Policy D.2 (2014) Handbook. The role of Member States' auditors in fraud prevention and detection for EU Structural and Investment Funds Experience and practice in the Member States.

European Commission, OLAF (2016) Guidelines on Digital Forensic Procedures for OLAF Staff. 15 February 2016. online: https://anti-fraud.ec.europa.eu/system/files/2021-07/guidelines_en_bb84583638.pdf. Accessed 12 June 2023.

European Commission, OLAF (2017) Fraud in Public Procurement A collection of Red Flags and Best Practices. Ref. Ares(2017)6254403, 20/12/2017. online: https://ec.europa.eu/sfc/sites/default/files/sfc-files/Fraud%20in%20Public%20Procurement_final%2020.12.2017%20ARES%282017%296254403.pdf. Accessed 12 June 2023.

European Commission, OLAF (2021a) Guidelines on Investigation Procedures for OLAF Staff. 6.10.2021. online: https://anti-fraud.ec.europa.eu/system/files/2021-10/gip_2021_en.pdf. Accessed 12 June 2023.

European Commission, OLAF (2021b) OLAF Guidelines on Data Protection for Investigative Activities. Ref.Ares(2021)7266396 – 25/11/2021. online: https://anti-fraud.ec.europa.eu/document/download/03a154eb-8404-483d-a487-3964be1df80f_en?filename=guidelines_dp_investigative_activities_en.pdf. Accessed 12 June 2023.

European Court of Auditors (2019) Delivering performance in Cohesion, Briefing Paper. EU Publications Office, Luxembourg. online: https://www.eca.europa.eu/Lists/ECADocuments/BRP_Performance_orientation_in_Cohesion/BRP_Performance_orientation_in_Cohesion_EN.pdf. Accessed 6 February 2023.

European Court of Auditors (2022) Cohesion and NextGenerationEU: concord or clash? Journal N°1. online: https://www.eca.europa.eu/lists/ecadocuments/journal22_01/journal22_01.pdf. Accessed 18 March 2024.

FCPA (2020) A Resource Guide to the FCPA U.S. Foreign Corrupt Practices Act, 2nd edn. online: https://www.justice.gov/criminal/criminal-fraud/file/1292051/dl. Accessed 18 March 2024.

Ferlinc A (2005) Evropski urad za boj proti finančnim goljufijam [European Ant-Fraud Office]. Pravna praksa 17:17–18.

Gellert L (2009) Gerichtliche Verwertbarkeit von Protokollen und Missionsberichten des OLAF, AW-Prax, pp 85–88.

Herrnfeld H-H, Burchard C, Brodowski D (2021) European Public Prosecutor's Office, Regulation (EU) 2017/1939 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO'). Article-by-Article Commentary. Nomos/Hart/Beck, Baden-Baden.

House of Lords – European Union Committee (2012) The Fight Against Fraud on the EU's Finances. 12th Report of Session 2012–13. The Stationery Office Limited, London. https://www.parliament.uk/globalassets/documents/lords-committees/eu-sub-com-e/FightAgainstFraud/SCE-Rpt-Fight-Against-Fraud-on-the-EUs-Finances-FINAL-REPORT.pdf. Accessed 12 January 2024.

Kuhl L (2019) Cooperation between administrative authorities in transnational muli-agency investigations in the EU: Still a long road ahead to Mutual Recognition. In: Ligeti K, Franssen V (eds) Challenges in the Field of economic and financial Crime in Europe and the US. Hart Publishing, Oxford and Portland, Oregon, pp 135–166.

Malan J (2022) Patterns of fraud in EU funds under shared management – similarities and differences between Member States. ECA Journal, pp 135–139.

Malan J, Bosch Chen I (2022) Possible Solutions for Missing Trader Intra-Community Fraud, Brussels. online: https://www.europarl.europa.eu/RegData/etudes/STUD/2022/731902/IPOL_STU(2022)731902_EN.pdf. Accessed 12 January 2024.

OECD (2019) Fraud and Corruption in European Structural and Investment Funds. A Spotlight on common schemes and preventive actions. OECD Publishing, Paris.

OLAF (2018) Digest of rulings of the Court of Justice of the European Union with relevance to OLAF.

Quirke B (2015) EU fraud and new member states – a success story. In: Vande Walle G, van Erp J, Huisman W (eds) The Routledge Handbook of White-Collar and Corporate Crime in Europe. Taylor & Francis, UK, pp 232–246.

Saporta G, Maraney S (2022) Practical Fraud Prevention: Fraud and AML Analytics for Fintech and eCommerce, Using SQL and Python. O'Reiley Media Inc., U.S.

Spink J W (2019) Food Fraud Prevention Introduction, Implementation, and Management. Springer, Berlin/Heidelberg.

Unger B, Ferwerda J and Rossel L (2021) Combating Fiscal Fraud and Empowering Regulators, Bringing Tax Money Back into the Coffers. OUP, Oxford.

de Vries A J (2022) Enforcement of Policies against illicit trade in tobacco products in the Netherlands. In: Vervaele J A E, Tosza S (eds) Combatting Illicit Trade in Tobacco Products In Search of Optimal Enforcement. Springer, Heidelberg/Berlin, pp 401–463.

Wells J T (2014) Principles of Fraud Examination. 4th edn. Wiley, Hoboken, New Jersey.

Wouters J, Nowak M, Chane A-L, Hachez N (2020) The European Union and Human Rights: Law and Policy. OUP, Oxford.

Further Reading

Koca M (2015) Ustanovitev Evropskega javnega tožilstva in njeni vplivi na slovensko kazensko procesno parvo: Magistrsko delo 2. stopnje bolonjskega programa [The Establishment of the European Public Prosecutor's Office and its Impact on Slovenian Criminal Procedure Law: Master's thesis of the second cycle of the Bologna programme]. Pravna fakulteta Ljubljana, Ljubljana.

Van Der Paal J, Nurk A, De Vlieger D, Janne H, De Ramon M, Heeren P, Kissane E (2019) Protection of EU financial interest on customs and VAT: Cooperation of national tax and customs authorities to prevent fraud. PE 636.470. online:

https://www.europarl.europa.eu/RegData/etudes/STUD/2019/636470/IPOL_STU(2019)636470_EN.pdf. Accessed 12 January 2024.

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This Slovenian EPPO/OLAF volume contains thorough information like case law, legal sources, and relevant anti-fraud organisations. A compilation of national statutory laws relating to EPPO investigations in Slovenia is also included, highlighting the legal details that link the references in the EPPO-Regulation to the relevant national laws. The European Anti-Fraud Office and the investigative missions of its national partners in Slovenia are the focus of the second part of the volume, which deals with OLAF investigations. Assoc Prof Dr Benjamin Flander has acted as the publication's national expert.

While written in English, the volume includes footnotes that reproduce the original Slovenian legislation in the local language. Easily navigable with the help of visual symbols, it is designed as a quick reference tool for academics, students, practitioners and other interested readers.

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