Neuradno prečiščeno besedilo Zakona o kazenskem postopku obsega:

- Zakon o kazenskem postopku (Uradni list RS, št. 63/94 z dne 13. 10. 1994),
- Popravek zakona o kazenskem postopku (Uradni list RS, št. 70/94 z dne 11. 11. 1994),
- Odločbo o razveljavitvi prvega odstavka 201. člena, prvega odstavka 361. člena in dela drugega odstavka 202. člena zakona o kazenskem postopku: o ugotovitvi, da točka 3 drugega odstavka 201. člena in 2. točka prvega odstavka 432. člena zakona o kazenskem postopku nista v skladu z ustavo; o ugotovitvi, da zakon o kazenskem postopku ni v skladu z ustavo, kolikor ne določa tudi milejših ukrepov za preprečevanje ponovitvene nevarnosti in o ugotovitvi, da določbe zakona o kazenskem postopku, ki urejajo postopek odločanja o odreditvi, podaljšanju in odpravi pripora, niso v skladu z ustavo (Uradni list RS, št. 25/96 z dne 16. 5. 1996),
- Odločbo o razveljavitvi členov od 150 do 156 zakona o kazenskem postopku (Uradni list RS, št. 5/98 z dne 23. 1. 1998),
- Zakon o spremembah in dopolnitvah zakona o kazenskem postopku – ZKP-A (Uradni list RS, št. 72/98 z dne 23. 10. 1998),
- Zakon o spremembi zakona o spremembah in dopolnitvah zakona o kazenskem postopku – ZKP-B (Uradni list RS, št. 6/99 z dne 29. 1. 1999),

The unofficial consolidated version of the Criminal Procedure Act comprises:

- Criminal Procedure Act (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 63/94 of 13 March 1994),
- Act Amending the Criminal Procedure Act (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 70/94 of 11 November 1994),
- Decision abrogating paragraph one of Article 201, paragraph one of Article 361 and part of paragraph two of Article 202 of the Criminal Procedure Act: establishing that point 3 of paragraph two of Article 201 and point 2 of paragraph one of Article 432 of the Criminal Procedure Act are inconsistent with the Constitution; establishing that the Criminal Procedure Act is inconsistent with the Constitution, insofar as it does not also impose milder measures for the prevention of recidivism, and establishing that the provisions of the criminal procedure act governing the decision-making procedure for ordering, extending and lifting pre-trial detention, are inconsistent with the Constitution (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 25/96 of 16 May 1996),
- Decision abrogating Articles 150 to 156 of the Criminal Procedure Act (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 5/98 of 23 January 1998),
- Act Amending the Criminal Procedure Act – ZKP-A (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 72/98 of 23 October 1998),
- Act Amending the Criminal Procedure Act – ZKP-B (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 6/99 of 29 January 1999),

- Zakon o spremembi zakona o spremembah in dopolnitvah zakona o kazenskem postopku – ZKP-C (Uradni list RS, št. 66/00 z dne 26. 7. 2000),
- Zakon o spremembah in dopolnitvah zakona o kazenskem postopku – ZKP-D (Uradni list RS, št. 111/01 z dne 29. 12. 2001),
- Odločbo o delni razveljavitvi drugega odstavka 41. člena zakona o kazenskem postopku (Uradni list RS, št. 44/03 z dne 12. 5. 2003),
- Zakon o spremembah in dopolnitvah zakona o kazenskem postopku – ZKP-E (Uradni list RS, št. 56/03 z dne 13. 6. 2003),
- Zakon o kazenskem postopku – uradno prečiščeno besedilo – ZKP-UPB1 (Uradni list RS, št. 116/03 z dne 27. 11. 2003),
- Zakon o spremembah in dopolnitvah zakona o kazenskem postopku – ZKP-F (Uradni list RS, št. 43/04 z dne 26. 4. 2004),
- Odločbo o razveljavitvi dela besedila prvega odstavka 502. člena in tretjega odstavka 109. člena Zakona o kazenskem postopku in ugotovitev skladnosti drugega odstavka 109. člena in prvega odstavka 506.a člena Zakona o kazenskem postopku z Ustavo (Uradni list RS, št. 68/04 z dne 21. 6. 2004),
- Zakon o kazenskem postopku – uradno prečiščeno besedilo – ZKP-UPB2 (Uradni list RS, št. 96/04 z dne 30. 8. 2004),
- Zakon o spremembah in dopolnitvah Zakona o kazenskem postopku – ZKP-G (Uradni list RS, št. 101/05 z dne 11. 11. 2005),
- Zakon o kazenskem postopku – uradno prečiščeno besedilo – ZKP-UPB3 (Uradni list RS, št. 8/06 z dne 26. 1. 2006),
- Zakon o spremembi in dopolnitvi Zakona o kazenskem postopku – ZKP-H (Uradni list RS, št. 14/07 z dne 16. 2. 2007),
- Zakon o kazenskem postopku – uradno prečiščeno besedilo – ZKP-UPB4 (Uradni list RS, št. 32/07 z dne 10. 4. 2007),
- Odločbo o ugotovitvi, da je 20. člen Zakona o spremembah in dopolnitvah Zakona o kazenskem postopku v neskladju z Ustavo in način njegove izvršitve (Uradni list RS, št. 40/07 z dne 7. 5. 2007),

- Act Amending the Criminal Procedure Act – ZKP-C (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 66/00 of 26 July 2000),
- Act Amending the Criminal Procedure Act (Official Gazette of the Republic of Slovenia – ZKP-D [*Uradni list RS*], No. 111/01 of 29 December 2001),
- Decision abrogating in part paragraph two of Article 41 of the Criminal Procedure Act (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 44/03 of 12 May 2003),
- Act Amending the Criminal Procedure Act (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 56/03 of 13 June 2003),
- Criminal Procedure Act – official consolidated text – ZKP-UPB1 (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 116/03 of 27 November 2003),
- Act Amending the Criminal Procedure Act – ZKP-F (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 43/04 of 26 April 2004),
- Decision abrogating part of the text of paragraph one of Article 502 and paragraph three of Article 109 of the Criminal Procedure Act and establishing that paragraph two of Article 109 and paragraph one of Article 506a of the Criminal Procedure Act is consistent with the Constitution (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 68/04 of 21 June 2004),
- Criminal Procedure Act – official consolidated text – ZKP-UPB2 (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 96/04 of 30 August 2004),
- Act Amending the Criminal Procedure Act – ZKP-G (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 101/05 of 11 November 2005),
- Criminal Procedure Act – official consolidated text – ZKP-UPB3 (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 8/06 of 26 January 2006),
- Act Amending the Criminal Procedure Act – ZKP-H (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 14/07 of 16 February 2007),
- Criminal Procedure Act – official consolidated text – ZKP-UPB4 (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 32/07 of 10 April 2007),
- Decision establishing that Article 20 of Act Amending the Criminal Procedure Act is inconsistent with the Constitution, and the method of its implementation (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 40/07 of 7 May 2007),

- Zakon o sodelovanju v kazenskih zadevah z državami članicami Evropske unije – ZSKZDČEU (Uradni list RS, št. 102/07 z dne 9. 11. 2007),
- Odločbo o ugotovitvi neustavnosti tretjega odstavka 421. člena Zakona o kazenskem postopku (Uradni list RS, št. 21/08 z dne 9. 2. 2008),

- Zakon o spremembah in dopolnitvah Zakona o brezplačni pravni pomoči – ZBPP-B (Uradni list RS, št. 23/08 z dne 7. 3. 2008),
- Odločbo o ugotovitvi, da je 137. člen Zakona o kazenskem postopku v neskladju z Ustavo (Uradni list RS, št. 65/08 z dne 30. 6. 2008),
- Zakon o spremembah in dopolnitvah Zakona o kazenskem postopku – ZKP-I (Uradni list RS, št. 68/08 z dne 8. 7. 2008),
- Zakon o spremembah in dopolnitvah Zakona o kazenskem postopku – ZKP-J (Uradni list RS, št. 77/09 z dne 2. 10. 2009),

- Odločbo o ugotovitvi, da je Zakon o kazenskem postopku v neskladju z Ustavo in odločba o razveljavitvi sodbe Vrhovnega sodišča (Uradni list RS, št. 88/09 z dne 5. 11. 2009),

- Odločbo o delni razveljavitvi četrtega stavka drugega odstavka 205. člena Zakona o kazenskem postopku in odločba o ugotovitvi kršitve pritožnikove pravice iz 22. člena Ustave (Uradni list RS, št. 29/10 z dne 9. 4. 2010),

- Zakon o državnem tožilstvu – ZDT-1 (Uradni list RS, št. 58/11 z dne 22. 7. 2011),
- Zakon o spremembah in dopolnitvah Zakona o kazenskem postopku – ZKP-K (Uradni list RS, št. 91/11 z dne 14. 11. 2011),

- Zakon o kazenskem postopku – uradno prečiščeno besedilo – ZKP-UPB8 (Uradni list RS, št. 32/12 z dne 4. 5. 2012),

- Zakon o spremembah in dopolnitvah Zakona o kazenskem postopku – ZKP-L (Uradni list RS, št. 47/13 z dne 31. 5. 2013),
- Zakon o spremembah in dopolnitvah Zakona o kazenskem postopku – ZKP-M (Uradni list RS, št. 87/14 z dne 5. 12. 2014),

- Odločbo o ugotovitvi, da sta Zakon o kazenskem postopku in Zakon o odvetništvu v neskladju z Ustavo in odločbo o ugotovitvi

- Cooperation in Criminal Matters with the Member States of the European Union Act – ZSKZDČEU (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 102/07 of 9 November 2007),
- Decision establishing that paragraph three of Article 421 of the Criminal Procedure Act is inconsistent with the Constitution (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 21/08 of 9 February 2008),
- Act Amending the Legal Aid Act – ZBPP-B (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 23/08 of 7 March 2008),
- Decision establishing that Article 137 of the Criminal Procedure Act (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 65/05 of 30 June 2008),
- Act Amending the Criminal Procedure Act – ZKP-I (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 68/08 of 8 July 2008),
- Act Amending the Criminal Procedure Act – ZKP-J (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 77/09 of 2 October 2009),
- Decision establishing that the Criminal Procedure Act is inconsistent with the Constitution, and Decision abrogating the judgment of the Supreme Court (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 88/09 of 5 November 2009),
- Decision abrogating in part the fourth sentence of paragraph two of Article 205 of the Criminal Procedure Act, and Decision establishing the violation of the appellant's right referred to in Article 22 of the Constitution (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 29/10 of 9 April 2010),
- State Prosecution Service Act – ZDT-1 (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 58/11 of 22 July 2011),
- Act Amending the Criminal Procedure Act (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 91/11 of 14 November 2011),
- Criminal Procedure Act – official consolidated text – ZKP-UPB8 (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 32/12 of 4 May 2012),
- Act Amending the Criminal Procedure Act – ZKP-L (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 47/13 of 31 May 2013),
- Act Amending the Criminal Procedure Act – ZKP-M (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 87/14 of 5 December 2014),
- Decision establishing that the Criminal Procedure Act and the Attorneys Act] are inconsistent with the Constitution, and Decision

kršitve človekove pravice (Uradni list RS, št. 8/16 z dne 5. 2. 2016),

- Odločbo o razveljavitvi četrtega odstavka 399. člena Zakona o kazenskem postopku, kolikor izključuje pritožbo zoper sklep Vrhovnega sodišča o odreditvi pripora po četrtem odstavku 394. člena v zvezi z drugim odstavkom 398. člena Zakona o kazenskem postopku (Uradni list RS, št. 64/16 z dne 14. 10. 2016),
- Odločbo o razveljavitvi tretje povedi prvega odstavka 78. člena Zakona o kazenskem postopku, kolikor se nanaša na primere, ko je domnevno žaljiva izjava usmerjena osebno zoper sodnika oziroma senat, pred katerim je bila dana oziroma ki je pristojen odločiti o vlogi, ki jo vsebuje; o razveljavitvi druge povedi 130. člena Zakona o kazenskem postopku, kolikor se nanaša na možnost spremembe denarne kazni, izrečene po prvem odstavku 78. člena tega zakona, v kazen zapora; ter o razveljavitvi sklepa Višjega sodišča v Mariboru in sklepa Okrajnega sodišča v Slovenj Gradcu (Uradni list RS, št. 65/16 z dne 20. 10. 2016),

- Zakon o spremembah in dopolnitvah Zakona o kazenskem postopku – ZKP-N (Uradni list RS, št. 22/19 z dne 5. 4. 2019),
- Odločbo o ugotovitvi, da je 41. člen Zakona o kazenskem postopku v neskladju z Ustavo in o razveljavitvi sodbe Vrhovnega sodišča (Uradni list RS, št. 55/20 z dne 20. 4. 2020),

- Odločbo o ugotovitvi, da je drugi odstavek 129.a člena Zakona o kazenskem postopku, kolikor določa petnajstdnevni rok za vložitev predloga o nadomestitvi kazni zapora s hišnim zaporom, ki teče od pravnomočnosti sodbe oziroma od zadnje vročitve prepisa sodbe dalje, v neskladju z Ustavo in odločba o ugotovitvi kršitve človekove pravice (Uradni list RS, št. 89/20 z dne 19. 6. 2020).

Z A K O N
o kazenskem postopku (ZKP)

(neuradno prečiščeno besedilo št. 36)

establishing the violation of a human right (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 8/16 of 5 February 2016),

- Decision abrogating paragraph four of Article 399 of the Criminal Procedure Act, insofar as it precludes an appeal against the Supreme Court's ruling ordering pre-trial detention under paragraph four of Article 394 in conjunction with paragraph two of Article 398 of the Criminal Procedure Act] (Official Gazette of the Republic of Slovenia *[Uradni list RS*], No. 64/16 of 14 October 2016),
- Decision abrogating the third sentence of paragraph one of Article 78 of the Criminal Procedure Act, insofar as it relates to instances where the allegedly offensive statement is directed personally against the judge or the panel before which it is made, or that is competent to decide on the submission that contains such a statement; annulling the second sentence of Article 130 of the Criminal Procedure Act, insofar as it concerns the alternative of changing the fine imposed under paragraph one of Article 78 of this Act to a sentence of imprisonment; and setting aside the decision of the Maribor Higher Court and the decision of Slovenj Gradec Local Court] (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 65/16 of 20 October 2016),
- Act Amending the Criminal Procedure Act – ZKP-N (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 22/19 of 5 April 2019).
- Decision establishing that Article 41 of the Criminal Procedure Act is inconsistent with the Constitution, and Decision abrogating the judgment of the Supreme Court (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 55/20 of 20 April 2020),
- Decision establishing that paragraph two of Article 129.a of the Criminal Procedure Act is inconsistent with the Constitution, insofar as it imposes a fifteen-day deadline for filing a motion to replace a prison sentence with house arrest, which runs from the finality of the judgment or from the last service of the transcript of the judgment, and Decision establishing the violation of a human right (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 89/20 of 19 June 2020).

C R I M I N A L P R O C E D U R E A C T
(ZKP)

(Unofficial consolidated version No. 36)

PRVI DEL
SPLOŠNE DOLOČBE

I. poglavje
TEMELJNA NAČELA

1. člen

(1) Ta zakon določa pravila, ki naj zagotovijo, da se nihče, ki je nedolžen, ne obsodi, storilcu kaznivega dejanja pa izreče kazenska sankcija ob pogojih, ki jih določa kazenski zakon in na podlagi zakonitega postopka.

(2) Preden se izda pravnomočna sodba, sme biti obdolženec omejen v svoji prostosti in v svojih pravicah samo ob pogojih, ki jih določa ta zakon.

2. člen

Kazensko sankcijo sme izreči storilcu kaznivega dejanja samo z zakonom ustanovljeno pristojno sodišče v postopku, ki se uvede in izvede po tem zakonu.

3. člen

(1) Kdor je obdolžen kaznivega dejanja, velja za nedolžnega, dokler njegova krivda ni ugotovljena s pravnomočno sodbo.

(2) Sodišče sme obsoditi obdolženca samo, če je prepričano o njegovi krivdi.

4. člen

(1) Oseba, ki ji je vzeta prostost, mora biti v materinem

SECTION ONE
GENERAL PROVISIONS

Chapter I
FUNDAMENTAL PRINCIPLES

Article 1

(1) This Act lays down rules to ensure that no person who is innocent shall be convicted and that criminal sanctions shall be imposed on the perpetrator of a criminal offence under the conditions defined by criminal law and based on due process.

(2) Before a final judgment is issued, the liberty and rights of the accused person may only be restricted under the conditions laid down by this Act.

Article 2

A criminal sanction may only be imposed on the perpetrator of a criminal offence by the competent court constituted by an Act in a procedure to be instituted and implemented in accordance with this Act.

Article 3

(1) Any person charged with a criminal offence shall be presumed innocent until proven guilty in a final judgment.

(2) The court may convict the accused person only if it is convinced of his or her guilt.

Article 4

(1) A person deprived of liberty must be informed immediately of

jeziku ali jeziku, ki ga razume, takoj obveščena o razlogih za odvzem prostosti. Takoj mora biti poučena, da ni dolžna ničesar izjaviti, da ima pravico do takojšnje pravne pomoči zagovornika, ki si ga svobodno izbere, in o tem, da je pristojni organ na njeno zahtevo dolžan o odvzemu prostosti obvestiti njene najbližje. Osumljenec, ki mu je vzeta prostost, mora biti obveščen tudi o pravicah iz 8. člena tega zakona ter o pravici iz četrtega odstavka tega člena.

(2) Osumljenec ima pravico do zagovornika od odvzema prostosti dalje.

(3) Za odvzem prostosti osumljencu se šteje vsaka omejitev prostosti, ki pomeni prisilno zadržanje.

(4) Če si osumljenec, ki mu je vzeta prostost, glede na svoje premoženjske razmere ne more zagotoviti zagovornika sam, mu ga na njegovo zahtevo in stroške države postavi policija, če je to v interesu pravičnosti. Postavljeni zagovornik opravlja to dolžnost tudi v postopku po 204.a členu tega zakona in v kazenskem postopku zoper obdolženca, pod enakimi pogoji kot zagovornik, ki ga postavi sodišče.

(5) Osumljenec, ki mu je vzeta prostost, mora biti o svojih pravicah iz tega člena in 157. člena tega zakona poučen pisno, v vsebini iz Priloge 1, ki je sestavni del tega zakona. Pisno obvestilo mora biti sestavljeno v materinem jeziku osumljenca ali v jeziku, ki ga osumljenec razume. Če pisno obvestilo v ustreznem jeziku ni na voljo, se osumljenca, ki mu je vzeta prostost, o pravicah najprej pouči ustno v jeziku, ki ga razume, nato pa se brez nepotrebnega odlašanja zagotovi tudi pisno obvestilo.

5. člen

(1) Obdolžencu se mora že pri prvem zaslišanju povedati, katerega dejanja je obdolžen in kaj je podlaga za obdolžitev.

the reasons for his or her deprivation of liberty in his or her mother tongue or in a language that he or she understands. Such person must be informed immediately that he or she is not obliged to make any statements, that he or she is entitled to the immediate legal assistance of a defence counsel of his or her own choice, and that the competent authority is obliged to inform, upon the request of the person deprived of liberty, his or her next of kin of the deprivation of liberty. A suspect who is arrested must also be informed of the rights referred to in Article 8 of this Act and of the right referred to in paragraph four of this Article.

(2) A suspect shall be entitled to a defence counsel from the moment of his or her deprivation of liberty.

(3) Any restriction of liberty that involves forced detention shall be deemed to be deprivation of liberty of the suspect.

(4) If a suspect who has been deprived of liberty is unable to retain a defence counsel by himself or herself owing to his or her financial situation, the defence counsel shall be appointed by the police upon the request of the suspect and at the expense of the State, provided this is in the interests of justice. The appointed defence counsel shall also perform such duty in proceedings under Article 204a of this Act and in criminal proceedings against the accused person under the same conditions as a defence counsel appointed by the court.

(5) A suspect who has been deprived of liberty must be informed in writing of his or her rights under this Article and Article 157 of this Act, as laid down in Annex 1, which is an integral part of this Act. The written notification shall be drawn up in the mother tongue of the suspect or in a language that he or she understands. If the written notification is not available in the relevant language, the suspect who has been deprived of liberty shall first be informed of his or her rights orally in a language that he or she understands, and then a written notification shall also be provided without undue delay.

Article 5

(1) At the first interrogation, the accused person must be informed of the offence he or she is charged with and of the grounds for the charge.

(2) Obdolžencu se mora omogočiti, da se izjavi o vseh dejstvih in dokazih, ki ga obremenjujejo, in da navede vsa dejstva in dokaze, ki so mu v korist.

(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.

6. člen

(1) Kazenski postopek teče v slovenskem jeziku.

(2) Če je pri sodišču v skladu z ustavo v uradni rabi tudi jezik italijanske ali madžarske narodne skupnosti, lahko na način, določen z zakonom, kazenski postopek teče tudi v jeziku te narodne skupnosti.

7. člen

(1) Tožbe, pritožbe in druge vloge se podajajo sodišču v slovenskem jeziku.

(2) Na območjih, kjer živijo pripadniki italijanske ali madžarske narodne skupnosti, lahko pripadniki teh narodnih skupnosti podajajo vloge v italijanskem oziroma madžarskem jeziku, če je pri sodišču jezik te narodne skupnosti v uradni rabi.

(3) Tujec, ki mu je vzeta prostost, ima pravico podajati sodišču vloge v svojem jeziku, v drugih primerih pa tuji državljani lahko podajajo vloge v svojem jeziku samo ob pogoju vzajemnosti.

8. člen

(1) Stranke, priče, osumljenci in drugi udeleženci v postopku imajo pri preiskovalnih in drugih sodnih dejanjih ali na glavni

(2) The accused person must be given an opportunity to be heard regarding all incriminating facts and evidence and to present all facts and evidence to his or her benefit.

(3) The accused person shall be under no obligation to plead his or her case or answer any questions, and if he or she does plead his or her case, he or she shall be under no obligation to incriminate himself or herself or his or her close relatives, or to confess guilt.

Article 6

(1) Criminal proceedings shall be conducted in the Slovenian language.

(2) If the language of the Italian or Hungarian national community is also used as the official language of the court in accordance with the Constitution, criminal proceedings may also be conducted in the language of such national community in the manner defined by an Act.

Article 7

(1) Actions, appeals and other submissions shall be filed with the court in the Slovenian language.

(2) In the areas where members of the Italian or Hungarian national community reside, members of these national communities may file their submissions in the Italian or Hungarian language if these languages are used as the official languages of the court.

(3) An alien who has been deprived of liberty shall have the right to file submissions with the court in his or her language; in all other cases, foreign nationals shall be allowed to file submissions in their language only under the condition of reciprocity.

Article 8

(1) The parties, witnesses, suspects and other participants in proceedings shall have the right to use their own language in investigative

obravnavi pravico uporabljati svoj jezik na način, kot ga določa ta zakon.

(2) Če preiskovalno, drugo sodno dejanje ali glavna obravnava ne tečejo v jeziku oseb iz prejšnjega odstavka, je treba zagotoviti ustno tolmačenje tistega, kar oni ali drugi govorijo ter pisno prevajanje listin in drugega pisnega dokaznega gradiva, ki so bistveni za uveljavljanje njegovih pravic (bistveni dokumenti), zlasti pa:

- za osumljenca in obdolženca obtožni akti, vabila, vse odločbe o odvzemu prostosti, sodbe, odločbe sodišč o izločitvi dokazov, zavrnitvi dokaznih predlogov in izločitvi sodnikov;

- za oškodovanca na njegovo zahtevo vabila, sklepi o zavrženju kazenske ovadbe, sklepi o zavrženju ali zavrnitvi zahteve za preiskavo, sklepi o ustavitvi postopka, sklepi o zavrženju obtožnega akta, sodbe in pouk o pravici prevzeti oziroma nadaljevati pregon (60., 62. in 433. člen tega zakona).

(3) Ne glede na prejšnji odstavek lahko sodišče na predlog oškodovanca, osumljenca ali obdolženca odloči, da je glede na konkretne okoliščine primera treba zagotoviti tolmačenje ali prevajanje tudi drugega gradiva ali dejanj, da se zagotovi uresničevanje jamstev ali pravic v predkazenskem ali kazenskem postopku.

(4) Sodišče lahko izjemoma odloči, da se pisno ali ustno povzamejo ali da se ustno tolmačijo tisti deli sicer bistvenih dokumentov, ki niso pomembni za razumevanje kazenske zadeve ali za morebitno uporabo pravnih sredstev s strani posamezne osebe iz prvega odstavka tega člena.

(5) Osebe iz prvega odstavka tega člena lahko pri opravljanju preiskovalnih in drugih sodnih dejanj ali na glavni obravnavi in v primerih iz drugega in tretjega odstavka tega člena na podlagi smiselne uporabe sedmega odstavka 82. člena tega zakona vložijo ugovor, če menijo, da tolmačenje ali prevajanje ni ustrezno, ker ne omogoča uresničevanja jamstev ali pravic v predkazenskem ali kazenskem postopku, ali če zaradi potrebe njihovega spoštovanja menijo, da je glede na konkretne okoliščine primera treba zagotoviti

and other judicial acts or at the main hearing in the manner prescribed by this Act.

(2) If an investigative or other judicial act or the main hearing is not carried out in the language of the persons referred to in the preceding paragraph, the interpretation of their statements and or the statements of others shall be provided, as well as the translation of documents and other written evidence essential for the exercise of their rights (essential documents), and in particular:
- for the suspects and accused persons: indictments, summonses, all decisions on the deprivation of liberty, judgments, court decisions on the exclusion of evidence, on the rejection of motions for evidence and on the disqualification of judges;
- for the injured party at his or her request: summonses, decisions dismissing criminal complaints, decisions dismissing or rejecting requests for investigation, decisions discontinuing the proceedings, decisions rejecting indictments, judgments and instructions on the right to assume or continue prosecution (Articles 60, 62 and 433 of this Act).

(3) Notwithstanding the preceding paragraph, the court may, upon a motion of the injured party, the suspect or the accused person, decide that, given the specific circumstances of the case, other written material or acts should also be interpreted or translated in order to ensure the fulfilment of guarantees or the exercise of rights in pre-trial or criminal proceedings.

(4) The court may decide by way of exception to summarise in writing or orally, or to interpret those parts of otherwise essential documents that are not relevant to the persons referred to in paragraph one of this Article to understand their case or to possibly use the legal remedies under this Act.

(5) The persons referred to in paragraph one of this Article may lodge an objection during the carrying out of investigative and other judicial acts or at the main hearing, and in the cases referred to in paragraphs two and three of this Article, in accordance with the *mutatis mutandis* application of paragraph seven of Article 82 of this Act, if they consider that the interpretation or translation is not appropriate because it does not facilitate the fulfilment of guarantees or the exercise of rights in pre-trial or criminal proceedings, or if they believe that given the specific

tolmačenje ali prevajanje tudi v drugih primerih v skladu s tretjim odstavkom tega člena.

(6) O pravici do prevajanja in tolmačenja je treba osebe iz prvega odstavka tega člena poučiti. Če zna jezik, v katerem teče postopek, se lahko posameznik prostovoljno in izrecno odpove prevajanju ali tolmačenju določenega preiskovalnega in drugega sodnega dejanja ali dela glavne obravnave ali določenih sodnih ali drugih pisanj v skladu s tem členom. Pouk in izjava posameznika se vpišeta v zapisnik.

(7) Prevaja in tolmači sodna tolmačka ali sodni tolmač (v nadaljnjem besedilu: sodni tolmač). Če za določen jezik ni na razpolago sodnega tolmača, lahko sodišče po uradni dolžnosti ali na predlog državnega tožilca ali policije v skladu s smiselno uporabo 233. člena v zvezi s četrtim odstavkom 249. člena tega zakona postavi za opravljanje prevajanja ali tolmačenja drugo ustrezno osebo, ki obvlada tuj jezik, za katerega ni sodnih tolmačev ali jih primanjkuje.

(8) Določbe tega člena se smiselno uporabljajo tudi za gluhe in neme osebe.

(9) Stroški za tolmačenje ali prevajanje se ne zaračunajo osebam iz prvega in osmega odstavka tega člena in bremenijo proračun.

9. člen

(1) Vabila, odločbe in druga pisanja pošilja sodišče v slovenskem jeziku.

(2) Sodišče, pri katerem je v uradni rabi tudi italijanski oziroma madžarski jezik, vroča vabila tudi v tem jeziku, odločbe in druga pisanja pa v tem jeziku le, kadar sodišče vodi postopek v obeh uradnih jezikih. Udeleženci v postopku se lahko odpovejo pravici do vročanja odločb in drugih pisanj v madžarskem in italijanskem jeziku. Odpoved je treba zapisati v zapisnik.

circumstances of the case, interpretation or translation in other instances in accordance with paragraph three of this Article should also be provided in order to safeguard them.

(6) The persons referred to in paragraph one of this Article shall be informed of the right to translation and interpretation. If the person concerned knows the language of the proceedings, he or she may voluntarily and expressly waive the right to translation or interpretation of a particular investigative and other judicial act or part of the main hearing or certain judicial or other documents, in accordance with this Article. The instruction and the statement of such person shall be noted in the record.

(7) Translation and interpretation shall be provided by a female or male court interpreter (hereinafter: court interpreter). If there is no court interpreter available for a particular language, the court may, *ex officio* or on the motion of the state prosecutor or the police, in accordance with the *mutatis mutandis* application of Article 233 in conjunction with paragraph four of Article 249 of this Act, appoint another suitable person who speaks the foreign language for which there are no court interpreters or there are too few, to provide translation or interpretation.

(8) The provisions of this Article shall apply *mutatis mutandis* to deaf and mute persons.

(9) The costs of interpretation or translation shall not be charged to the persons referred to in paragraphs one and eight of this Article, and shall be charged to the budget.

Article 9

(1) Summonses, orders and other documents shall be delivered by the court in the Slovenian language.

(2) The courts in which the Italian or Hungarian language are also officially used shall also serve summonses in the Italian or Hungarian language, while court orders and other documents shall be served in the Italian or Hungarian language only where the procedure is conducted in both official languages. Participants in proceedings may waive their right to have court orders and other documents served on them in the Hungarian or the Italian language. The waiver should be entered in the record.

(3) Osebi, ki ji je vzeta prostost, se vroči tudi prevod pisanj iz prvega odstavka tega člena v jeziku, ki ga uporablja v postopku, če se po drugem odstavku prejšnjega člena tega zakona ni odpovedala pravici do prevajanja.

10. člen

(1) Nihče ne sme biti preganjan in kaznovan zaradi kaznivega dejanja, za katero je bil s pravnomočno sodno odločbo oproščen ali obsojen ali je bil kazenski postopek zoper njega pravnomočno ustavljen ali je bila obtožba zoper njega pravnomočno zavrnjena.

(2) Pravnomočna sodna odločba se sme spremeniti v postopku z izrednimi pravnimi sredstvi samo v obsojenčevo korist.

11. člen

Prepovedano je izsiljevati od obdolženca ali kakšnega drugega udeleženca v postopku priznanje oziroma kakšno drugo izjavo.

12. člen

(1) Obdolženec ima pravico, da se brani sam ali s strokovno pomočjo zagovornika, ki si ga izbere sam izmed odvetnikov.

(2) Če si obdolženec ne vzame zagovornika sam, mu ga postavi sodišče, kadar je to določeno s tem zakonom, da se zagotovi njegova obramba.

(3) **(prenehal veljati)**.

(4) Obdolžencu se mora zagotoviti primeren čas in možnosti za pripravo obrambe.

(3) A person who has been deprived of liberty shall also be served the documents referred to in paragraph one of this Article translated into the language which he or she uses in the proceedings, unless such person has waived his or her right to translation pursuant to paragraph two of the preceding Article of this Act.

Article 10

(1) No one shall be prosecuted and punished for a criminal offence in respect of which he or she has been acquitted or convicted by a final court decision, or if the criminal proceedings against him or her have been discontinued with the force of *res judicata*, or charges against him or her rejected, with the force of *res judicata*.

(2) A final court decision may be changed in proceedings involving extraordinary legal remedies solely to the benefit of the convicted person.

Article 11

The forcing of a confession or any other statement from the accused person or any other participant in the proceedings shall be prohibited.

Article 12

(1) The accused person shall have the right to conduct his or her own defence or to defend himself or herself with the expert assistance of a defence counsel that he or she chooses from among attorneys.

(2) If the accused person does not retain a defence counsel by himself or herself, the court shall appoint the defence counsel for such person where so provided by this Act.

(3) **(Ceased to be in force)**.

(4) The accused person must be provided with a reasonable period of time and the conditions for the preparation of his or her defence.

13. člen

Kdor je bil neupravičeno obsojen za kaznivo dejanje ali mu je bila neutemeljeno vzeta prostost, ima pravico biti rehabilitiran, pravico do povrnitve škode in druge pravice, ki jih določa zakon.

14. člen

Obdolženca ali drugega udeleženca v postopku, ki bi iz nevednosti lahko opustil kakšno dejanje v postopku ali zaradi tega ne bi izkoristil svojih pravic, pouči sodišče o pravicah, ki mu gredo po tem zakonu in o posledicah, če bi dejanje opustil.

15. člen

Sodišče si mora prizadevati, da se postopek izvede brez zavlačevanja in da onemogoči kakršnokoli zlorabo pravic, ki jih imajo udeleženci v postopku.

16. člen

(1) V kazenskem postopku imata obdolženec in tožilec položaj enakopravnih strank, kolikor ta zakon ne določa drugače.

(2) Tožilec mora navesti dejstva, na katera opira svoj zahtevek in predlagati dokaze, s katerimi ta dejstva dokazuje.

(3) Obdolženec ima pravico navajati dejstva in predlagati dokaze, ki so mu v korist.

17. člen

(1) Sodišče in državni organi, ki sodelujejo v kazenskem

Article 13

Any person who has been unjustifiably convicted of a criminal offence or unfoundedly deprived of liberty shall have the right to rehabilitation and compensation of damages, as well as other rights provided by this Act.

Article 14

An accused person or other participants in the proceedings who might omit the performance of an act or fail to exercise his or her rights in the proceedings due to ignorance, shall be informed by the court of the rights he or she is entitled to under this Act, as well as about the consequences of such omission.

Article 15

The court must undertake to implement proceedings without delay and to prevent any abuse of the rights held by the participants in the proceedings.

Article 16

(1) In criminal proceedings, the accused person and the prosecutor shall have the status of equal parties, unless otherwise provided by this Act.

(2) The prosecutor must state the facts on which his or her charges are based, and present evidence proving these facts.

(3) The accused person shall have the right to state facts and present evidence to his or her benefit.

Article 17

(1) The court and state bodies participating in criminal

postopku, morajo po resnici in popolnoma ugotoviti dejstva, pomembna za izdajo zakonite odločbe.

(2) Enako pazljivo morajo preizkusiti in ugotoviti tako dejstva, ki obdolženca obremenjujejo, kakor tudi dejstva, ki so mu v korist.

18. člen

(1) Pravica sodišča in državnih organov, ki sodelujejo v kazenskem postopku, da presojajo, ali je podano kakšno dejstvo ali ne, ni vezana na nobena posebna formalna dokazna pravila in ne z njimi omejena.

(2) Sodišče ne sme opreti sodne odločbe na dokaze, ki so bili pridobljeni s kršitvijo ustavno določenih človekovih pravic in temeljnih svoboščin, kot tudi ne na dokaze, ki so bili pridobljeni s kršitvijo določb kazenskega postopka in je zanje v tem zakonu določeno, da se sodna odločba nanje ne more opreti, ali ki so bili pridobljeni na podlagi takega nedovoljenega dokaza.

18.a člen

Policija, državno tožilstvo, sodišče in drugi državni organi, strokovnjaki, izvedenci, sodni in drugi tolmači ter poravnalci morajo med predkazenskim in kazenskim postopkom še posebej skrbno in obzirno ravnati z oškodovanci, osumljenci, obdolženci in obsojenci, kadar je to potrebno zaradi njihove ranljivosti, kot na primer starosti, zdravja, nebogljenosti, ali druge podobne okoliščine.

19. člen

(1) Kazenski postopek se uvede na zahtevo upravičenega tožilca.

(2) Za dejanja, za katera se storilec preganja po uradni dolžnosti, je upravičeni tožilec državni tožilec, za dejanja, za katera se preganja na zasebno tožbo, pa je upravičeni tožilec zasebni tožilec.

proceedings must truthfully and fully establish the facts relevant for rendering a legitimate decision.

(2) They must examine and establish with equal attention the facts that incriminate the accused person and the facts that are to his or her benefit.

Article 18

(1) The right of the court and the state bodies participating in criminal proceedings to assess whether a certain fact is established or not shall not be bound or constrained by any specific formal rules of evidence.

(2) The court may not base its decision on evidence obtained in violation of human rights and basic freedoms guaranteed by the Constitution, nor on evidence obtained in violation of the provisions of the criminal procedure and which under this Act may not serve as the basis for a court decision, or which has been obtained on the basis of such inadmissible evidence.

Article 18a

The police, the state prosecution service, courts and other state authorities, experts, expert witnesses, court and other interpreters and mediators must treat the injured parties, suspects, accused persons and convicts with particular care and act with due consideration where necessary because of their vulnerability such as age, health condition, disability, or other similar circumstances.

Article 19

(1) Criminal proceedings shall be instituted at the request of the authorised prosecutor.

(2) In cases involving criminal offences prosecutable *ex officio*, the authorised prosecutor shall be the state prosecutor. In cases involving criminal offences prosecuted through private action, the authorised

(3) Če državni tožilec spozna, da ni razlogov za uvedbo ali za nadaljevanje kazenskega postopka, lahko stopi na njegovo mesto oškodovanec kot tožilec ob pogojih, ki so določeni s tem zakonom.

prosecutor shall be the private prosecutor.

(3) If the state prosecutor finds that there are no grounds to institute or continue criminal proceedings, the injured party may assume prosecution by himself or herself subject to the conditions laid down by this Act.

20. člen

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.

Article 20

The state prosecutor shall be obliged to institute criminal prosecution if reasonable suspicion exists that a criminal offence prosecutable *ex officio* has been committed, unless otherwise provided by this Act.

21. člen

(1) V kazenskem postopku sodijo sodišča zborno.

(2) Pri okrajnem sodišču sodi sodnik posameznik.

Article 21

(1) Cases in criminal proceedings shall be judged by panels of judges.

(2) Cases brought before local courts shall be judged by a single judge.

22. člen

Če je predpisano, da ima uvedba kazenskega postopka za posledico omejitev posameznih pravic in zakon ne določa česa drugega, nastanejo te posledice s pravnomočnostjo obtožnice; pri kaznivih dejanjih, za katera je kot glavna kazen predpisana denarna kazen ali zapor do treh let, pa z dnem, ko je izdana obsodilna sodba, ne glede na to ali je postala pravnomočna ali ne.

Article 22

If it is prescribed that the institution of criminal proceedings shall entail the limitation of certain rights and if an Act does not provide otherwise, these consequences shall apply as of the date when the indictment has become final; regarding criminal offences punishable by a fine or a sentence of imprisonment of up to three years as a principal sentence, these consequences shall apply as of the date when the judgment of conviction has been issued, irrespective of whether or not it has become final.

23. člen

(1) Če je uporaba kazenskega zakona odvisna od predhodne odločitve o kakšnem pravnem vprašanju, za katero je pristojno sodišče v kakšnem drugem postopku ali kakšen drug

Article 23

(1) If the application of criminal law depends on a preliminary ruling on a question of law for which the court in some other proceedings is competent, or for which another state body is competent, the court trying

državni organ, lahko sodišče, ki sodi v kazenski zadevi, samo odloči tudi o tem vprašanju po določbah, ki veljajo za dokazovanje v kazenskem postopku. Odločitev kazenskega sodišča o takem pravnem vprašanju pa ima učinek samo za kazensko zadevo, ki jo to sodišče obravnava.

(2) Če je o takem predhodnem vprašanju že odločilo sodišče v kakšnem drugem postopku ali je o njem odločil kakšen drug državni organ, taka odločba ne veže kazenskega sodišča glede presoje vprašanja, ali je bilo določeno kaznivo dejanje storjeno ali ne.

II. poglavje
PRISTOJNOST SODIŠČ

1. Stvarna pristojnost in sestava sodišč

24. člen

Sodišča sodijo v kazenskih zadevah v mejah svoje stvarne pristojnosti, ki jo določa zakon.

25. člen

(1) Na prvi stopnji:

1) sodijo okrožna sodišča o kaznivih dejanjih, za katera je v zakonu predpisana kazen zapora petnajstih ali več let, v senatih, ki jih sestavljajo dva sodnika in trije sodniki porotniki, o kaznivih dejanjih, za katera je predpisana milejša kazen in o kaznivih dejanjih zoper čast in dobro ime, storjenih z javno objavo teh dejanj s tiskom, po radiu, televiziji ali z drugim sredstvom javnega obveščanja, na spletnih straneh ali na javnem shodu, na gramofonski plošči, zgoščenki, filmu, DVD-ju ali drugih videosredstvih, zvočnih ali podobnih sredstvih, ki so namenjena širšemu krogu ljudi, pa v senatih, ki jih sestavljajo en sodnik in dva sodnika porotnika;

1.a) sodi sodnik posameznik pri okrožnem sodišču o kaznivih dejanjih

the criminal case may also decide on such a question of law on its own pursuant to the provisions applicable for evidence-taking in criminal proceedings. However, the decision of the criminal court on such a question of law shall only apply to the specific criminal case considered by the court.

(2) If such a preliminary question of law has already been determined by the court in some other proceedings, or if it has been determined by another state body, such decision shall not be binding on the criminal court in determining whether a specific criminal offence has been committed or not.

Chapter II
JURISDICTION OF COURTS

1. Subject-matter jurisdiction and composition of courts

Article 24

In criminal cases, courts shall administer justice within the limits of their subject-matter jurisdiction as provided by an Act.

Article 25

(1) At first instance:

1) district courts shall rule on criminal offences punishable by a sentence of imprisonment of fifteen years or more prescribed by an Act, sitting as panels composed of two professional judges and three lay judges, and on criminal offences punishable by less severe sentences and criminal offences of libel committed through the public disclosure of these offences by the press, radio, television or other mass media, on websites or at public meetings, on a vinyl record, CD, film, DVD or other video, audio or similar media intended for a wider audience, sitting as panels composed of one professional judge and two lay judges;

1a) in district courts, the criminal offences referred to in the preceding

iz prejšnje točke v primeru iz 2. točke drugega odstavka 285.f člena tega zakona;

1.b) je sodnik pri okrožnem sodišču, ki je za to določen (v nadaljnjem besedilu: izvenobravnavni sodnik), pristojen tudi za naslednja procesna dejanja:

a) da odloči o žaljivi izjavi (tretji odstavek 78. člena);

b) da odloči glede varovanja podatkov (peti odstavek 154. člena, deveti do enajsti odstavek 219.a člena, prvi do šesti odstavek 222.a člena);

c) da spremeni pravnomočno sodbo tudi brez obnove kazenskega postopka (peti odstavek 407. člena);

č) da odloči o spremembi varnostnih ukrepov (drugi odstavek 496. člena);

d) da odloči o preklicu pogojne obsodbe in preklicu pogojne obsodbe z varstvenim nadzorstvom (prvi, tretji in četrti odstavek 506. člena);

e) da odloči o izbrisu obsodbe (peti odstavek 511. člena);

f) da odloči o prenehanju varnostnih ukrepov (četrti odstavek 513. člena);

2) sodi sodnik posameznik pri okrajnem sodišču o kaznivih dejanjih, za katera je kot glavna kazen predpisana denarna kazen ali kazen zapora do treh let;

3) je sodnik posameznik pri okrajnem sodišču v postopku o izrednih pravnih sredstvih ter v posebnih postopkih pristojen tudi za naslednja procesna dejanja, za katera je sicer po določbah tega zakona pristojen predsednik senata, izvenobravnavni sodnik ali senat iz šestega odstavka tega člena:

a) da odloči o zahtevi za obnovo kazenskega postopka (prvi odstavek 412. člena);

b) **(črtana)**;

c) da zavrže zahtevo za varstvo zakonitosti (drugi odstavek 422. člena);

č) da odloči o spremembi varnostnih ukrepov (drugi odstavek 496. člena);

d) da odloči o preklicu pogojne obsodbe (tretji in četrti odstavek 506. člena);

e) da odloči o izbrisu obsodbe (peti odstavek 511. člena);

f) da odloči o prenehanju varnostnih ukrepov (četrti odstavek

point in the cases referred to in point 2 of paragraph two of Article 285f of this Act, shall be ruled on by a single judge;

1b) the district court judge designated for this purpose (hereinafter: pre-trial judge) shall also be competent for the following procedural acts:

a) to decide on the offensive statement (paragraph three of Article 78);

b) to decide on data protection (paragraph five of Article 154, paragraphs nine to eleven of Article 219a, paragraphs one to six of Article 222a);

c) to change the final judgment without reopening the criminal proceedings (paragraph five of Article 407);

č) to decide on a change of precautionary measures (paragraph two of Article 496);

d) to decide on the revocation of a suspended sentence and the revocation of a suspended sentence with custodial supervision (paragraphs one, three and four of Article 506);

e) to decide on the expungement of the conviction (paragraph five of Article 511);

f) to decide on the termination of precautionary measures (paragraph four of Article 513);

2) in local courts, criminal offences punishable by a fine or a sentence of imprisonment of up to three years as a principal sentence shall be ruled on by a single judge;

3) in local courts, in proceedings involving extraordinary legal remedies and in special proceedings, a single judge shall also be competent for the following procedural acts that otherwise, under the provisions of this Act, fall under the competence of the president of the panel, pre-trial judge or the panel referred to in paragraph six of this Article:

a) to decide on a request for the reopening of criminal proceedings (paragraph one of Article 412);

b) **(Deleted)**;

c) to dismiss requests for the protection of legality (paragraph two of Article 422);

č) to decide on a change of precautionary measures (paragraph two of Article 496);

d) to decide on the revocation of a suspended sentence (paragraphs three and four of Article 506);

e) to decide on expungement of a conviction (paragraph five of Article 511);

f) to decide on the termination of precautionary measures

513. člena).

(2) Na drugi stopnji sodijo višja sodišča v senatih, ki jih sestavljajo trije sodniki.

(3) Na tretji stopnji sodi vrhovno sodišče v senatu, ki ga sestavlja pet sodnikov.

(4) Dejanja v preiskavi opravlja preiskovalni sodnik okrožnega sodišča, preiskovalna dejanja v postopku pred okrajnim sodiščem pa opravlja sodnik posameznik tega sodišča.

(5) Predsednik sodišča in predsednik senata odločata v primerih, ki so določeni v tem zakonu. Predsednik sodišča lahko z letnim razporedom pooblasti drugega sodnika tega sodišča za odločanje o zadevah določene vrste, za katere je pristojen po tem zakonu.

(6) V senatu, ki ga sestavljajo trije sodniki, odločajo okrožna sodišča o pritožbah zoper sklepe preiskovalnega sodnika okrožnega in sodnika posameznika okrajnega sodišča, kadar opravlja preiskovalna dejanja in zoper druge sklepe, če je tako določeno v tem zakonu, odločajo na prvi stopnji zunaj glavne obravnave, izvajajo postopek in izdajajo sodbe po določbah 517. člena tega zakona ter dajejo predloge v primerih, ki so določeni v tem ali v kakšnem drugem zakonu.

(7) V senatu, ki ga sestavljajo trije sodniki, odloča vrhovno sodišče o pritožbi zoper sklep sodišča druge stopnje glede pripora (sedmi odstavek 392. člena ter tretji in četrti odstavek 394. člena). V senatu, ki ga sestavlja pet sodnikov, odloča vrhovno sodišče o pritožbi zoper sklep o odreditvi pripora (četrti odstavek 399. člena v zvezi s četrtim odstavkom 394. člena in drugim odstavkom 398. člena).

(8) O predlogu za zavrnitev zahteve za varstvo zakonitosti kot očitno neutemeljene (drugi odstavek 421. in drugi odstavek 425. člena), odloča vrhovno sodišče v senatu, ki ga sestavljajo trije sodniki. O zahtevi za varstvo zakonitosti odloča vrhovno sodišče v senatu, ki ga sestavlja pet sodnikov, če pa je zahteva vložena zoper

(paragraph four of Article 513).

(2) At second instance, higher courts shall rule in criminal cases, sitting as panels composed of three judges.

(3) At third instance, the Supreme Court shall rule in criminal cases, sitting as a panel composed of five judges.

(4) Investigative acts in proceedings before a district court shall be carried out by the investigating judge of the district court, and investigative acts in proceedings before a local court by a single judge of the local court.

(5) The president of the court and the president of the panel shall rule in the cases laid down by this Act. In the annual work schedule, the president of the court may authorise another judge of that court to rule in specific-type cases that fall within the competence of the president under this Act.

(6) District courts, sitting as a panel composed of three judges, shall decide on appeals against the rulings of investigating judges of district courts and single judges of local courts when they carry out investigative acts, and on appeals against other decisions if so provided by this Act; they shall rule at first instance outside the main hearing, conduct proceedings and issue judgments under the provisions of Article 517 of this Act, and submit motions in the instances defined by this Act or another act.

(7) The Supreme Court, sitting as a panel composed of three judges, shall rule on appeals against the decisions of the court of second instance regarding detention (paragraph seven of Article 392 and paragraphs three and four of Article 394). The Supreme Court shall decide on an appeal against a decision ordering detention sitting as a panel composed of five judges (paragraph four of Article 399 in conjunction with paragraph four of Article 394 and paragraph two of Article 398).

(8) The motion to reject a request for the protection of legality as manifestly unfounded (paragraph two of Article 421 and paragraph two of Article 425) shall be decided by the Supreme Court, sitting as a panel composed of three judges. Requests for the protection of legality shall be decided by the Supreme Court, sitting as a panel of five judges; if a

odločbo iz tretjega odstavka tega člena, pa odloča o tem senat, ki ga sestavlja sedem sodnikov. O zahtevi za varstvo zakonitosti zoper pravnomočno odločbo o priporu iz četrtega odstavka 420. člena tega zakona odloča vrhovno sodišče v senatu treh sodnikov, razen če je pripor odredilo sodišče druge stopnje (četrti odstavek 394. člena) ali če je bil pripor podaljšan s sklepom senata vrhovnega sodišča (drugi odstavek 205. člena). V tem primeru o zahtevi za varstvo zakonitosti odloča vrhovno sodišče v senatu petih sodnikov.

(9) V senatu, ki ga sestavljajo trije sodniki, odloča vrhovno sodišče o pritožbi zoper sklep o kaznovanju, ki ga je izdalo višje sodišče in o pritožbi zoper sklep o kaznovanju, ki ga je izdal predsednik vrhovnega sodišča (peti odstavek 78. člena).

2. Krajevna pristojnost

26. člen

(1) Krajevno pristojno je praviloma sodišče, na katerega območju je bilo kaznivo dejanje storjeno ali poskušeno.

(2) Zasebna tožba se lahko vloži tudi pri sodišču, na katerega območju ima obdolženec stalno ali začasno prebivališče.

(3) Če je bilo kaznivo dejanje storjeno ali poskušeno na območjih raznih sodišč ali na meji teh območij ali če je negotovo, na katerem območju je bilo storjeno ali poskušeno, je pristojno tisto sodišče, ki je na zahtevo upravičenega tožilca prvo začelo postopek; če se postopek še ni začel, pa sodišče, pri katerem je bila najprej zahtevana uvedba postopka.

27. člen

Če je bilo kaznivo dejanje storjeno na domači ladji ali na domačem letalu medtem, ko je bila ladja v domačem pristanišču

request for protection of legality is lodged against the decision referred to in paragraph three of this Article, it shall be decided by a panel of seven judges. A request for protection of legality against a final decision on detention referred to in paragraph four of Article 420 of this Act shall be ruled on by the Supreme Court, sitting as a panel of three judges, unless detention is ordered by a court of second instance (paragraph four of Article 394), or unless the detention was extended by the ruling of the Supreme Court's panel (paragraph two of Article 205). In such case, requests for protection of legality shall be decided by the Supreme Court, sitting as a panel of five judges.

(9) Sitting as a panel composed of three judges, the Supreme Court shall decide on appeals against a decision on punishment issued by a higher court, and on appeals against a decision on punishment issued by the President of the Supreme Court (paragraph five of Article 78).

2. Territorial jurisdiction

Article 26

(1) Territorial jurisdiction shall be as a rule vested in the court in whose territory a criminal offence was committed or attempted.

(2) A private action may also be brought before a court in whose territory the accused person has permanent or temporary residence.

(3) If a criminal offence was committed or attempted in the territories of various courts or on the border between these territories, or if it is uncertain in which territory the offence was committed or attempted, the competent court shall be the court which first instituted the proceedings upon request of the authorised prosecutor, or if the proceedings have not yet been instituted, the court that first requested to institute the proceedings.

Article 27

If a criminal offence was committed on board a domestic ship or domestic aircraft while the ship was in a domestic port or the aircraft at a

oziroma ko je bilo letalo na domačem letališču, je pristojno sodišče, na katerega območju je pristanišče oziroma letališče. V drugih primerih, ko je bilo kaznivo dejanje storjeno na domači ladji ali na domačem letalu, pa je pristojno sodišče, na katerega območju je domovno pristanišče ladje oziroma domovno letališče letala, ali sodišče, na katerega območju je domače pristanišče oziroma letališče, kjer se ladja oziroma letalo prvič ustavi.

domestic airport, the competent court shall be the court in whose territory the port or the airport is located. In other cases involving the commission of a criminal offence on board a domestic ship or domestic aircraft, the competent court shall be the court in whose territory the domicile port of the ship or the domicile airport of the aircraft is located, or the court in whose territory the domestic port or the airport where the ship or the aircraft first lands is located.

28. člen

(1) Če je bilo kaznivo dejanje storjeno s tiskom, je pristojno sodišče, na katerega območju je bil spis natisnjen. Če ta kraj ni znan ali če je bil spis natisnjen v tujini, je pristojno sodišče, na katerega območju se tiskani spis razširja.

(2) Če je po zakonu odgovoren pisec spisa, je pristojno tudi sodišče kraja, v katerem ima pisec stalno prebivališče, ali sodišče kraja, v katerem se je pripetil dogodek, na katerega se spis nanaša.

(3) Določbe prejšnjih dveh odstavkov se smiselno uporabljajo tudi v primeru, če sta bila spis ali izjava javno objavljena po radiu, televiziji ali z drugim sredstvom javnega obveščanja, na spletnih straneh ali na javnem shodu, na gramofonski plošči, zgoščenki, filmu, DVD-ju ali drugih videosredstvih, zvočnih ali podobnih sredstvih, ki so namenjena širšemu krogu ljudi.

Article 28

(1) If a criminal offence was committed by means of a printed medium, the competent court shall be the court in whose territory the text was printed. If this place is not known or if the text was printed abroad, the competent court shall be the court in whose territory the printed medium has been distributed.

(2) Where an Act provides that criminal liability lies with the author of the printed medium, the competent court shall be the court in whose territory the author has his or her permanent residence, or the court in whose territory the event that is the subject of the printed medium occurred.

(3) The provisions of the preceding two paragraphs shall apply *mutatis mutandis* in cases where the text or the statement has been made public by radio, television or other mass media, on a website or at a public meeting, on a vinyl record, CD, film, DVD or other video, audio or similar media intended for a wider audience.

29. člen

(1) Če kraj storitve kaznivega dejanja ni znan ali če je ta kraj zunaj ozemlja Republike Slovenije, je pristojno sodišče, na katerega območju ima obdolženec stalno ali začasno prebivališče.

(2) Če je sodišče, na katerega območju ima obdolženec stalno ali začasno prebivališče, že začelo postopek, ostane pristojno, čeprav se je zvedelo za kraj storitve kaznivega dejanja.

Article 29

(1) If the place where a criminal offence was committed is unknown or if that place is outside the territory of the Republic of Slovenia, the competent court shall be the court in whose territory the accused person has permanent or temporary residence.

(2) If the court in whose territory the accused person has permanent or temporary residence has already started proceedings, it shall remain competent even after the place of the commission of the

(3) Če ni znan kraj storitve kaznivega dejanja in tudi ne stalno ali začasno prebivališče obdolženca ali če sta oba zunaj ozemlja Republike Slovenije, je pristojno sodišče, na katerega območju je bil obdolženec prijet ali se je sam naznanil.

30. člen

Če je kdo storil kazniva dejanja v Republiki Sloveniji in v tujini, je pristojno sodišče, ki je pristojno za kaznivo dejanje, storjeno v Republiki Sloveniji.

31. člen

Če se po določbah tega zakona ne da dognati, katero sodišče je krajevno pristojno, določi vrhovno sodišče eno od stvarno pristojnih sodišč, pred katerim naj se izvede postopek.

3. Združitev in izločitev postopka

32. člen

(1) Če je ista oseba obdolžena več kaznivih dejanj in je za nekatera od njih pristojno okrajno sodišče, za druga pa okrožno sodišče, je pristojno okrožno sodišče; če so pristojna sodišča iste vrste, je pristojno tisto sodišče, ki je na zahtevo upravičenega tožilca prvo začelo postopek, če se postopek še ni začel, pa sodišče, pri katerem je bila najprej zahtevana uvedba postopka.

(2) Po prejšnjem odstavku se določi pristojnost tudi v primeru, če je obenem tudi oškodovanec storil kaznivo dejanje proti obdolžencu.

criminal offence becomes known.

(3) If neither the place where the criminal offence was committed nor the permanent or temporary residence of the accused person are known, or if both are located outside the Republic of Slovenia, the competent court shall be the court in whose territory the accused person was arrested or reported himself or herself.

Article 30

If a person has committed criminal offences in the Republic of Slovenia and abroad, the competent court shall be the court having jurisdiction over the criminal offence committed in the Republic of Slovenia.

Article 31

If it is impossible to determine under the provisions of this Act which court has territorial jurisdiction in a specific case, the Supreme Court shall designate one of the courts with subject-matter jurisdiction as the court competent to implement the proceedings.

3. Joinder and severance of proceedings

Article 32

(1) If the same person is accused of several criminal offences, some of which fall within the jurisdiction of a local court and others within the jurisdiction of a district court, the competent court shall be the district court. If competent courts are of the same type, the competent court shall be the court which, upon the request of the authorised prosecutor, first instituted proceedings, and if proceedings have not yet been initiated, the court at which the request for instituting proceedings was filed first.

(2) The provisions of the preceding paragraph shall also apply in cases where the injured party has also committed a criminal offence against the accused person.

(3) Za sostorilce je praviloma pristojno sodišče, ki je kot pristojno za enega od njih prvo začelo postopek.

(4) Sodišče, ki je pristojno za storilce kaznivega dejanja, je praviloma pristojno tudi za udeležence, prikrivalce, tiste, ki so pomagali storilcu po kaznivem dejanju in za tiste, ki niso naznanili, da se pripravlja kaznivo dejanje, oziroma niso naznanili kaznivega dejanja ali storilca.

(5) V primerih iz prvega do četrtega odstavka tega člena ali če pred istim sodiščem tečejo ločeno postopki zoper isto osebo za več kaznivih dejanj ali zoper več oseb za isto kaznivo dejanje, se izvede praviloma enoten postopek in se izda ena sama sodba. Izjemoma lahko na predlog strank, sodnika posameznika, preiskovalnega sodnika ali predsednika senata, predsednik sodišča, ki je pristojno za enoten postopek, odloči, da se ne izvede enoten postopek, če bi to oteževalo uspešno izvedbo kazenskega postopka, če bi bilo to nesmotrno ali v nasprotju z drugimi tehtnimi razlogi. Zoper sklep, s katerim je predsednik sodišča sprejel ali zavrnil predlog, da se ne izvede enoten postopek, ni pritožbe.

(6) Sodišče lahko odloči, naj se izvede enoten postopek in izda ena sama sodba tudi v primeru, če je več oseb obdolženih za več kaznivih dejanj, vendar samo tedaj, če je med storjenimi kaznivimi dejanji medsebojna zveza in če so podani isti dokazi. Če je za nekatera od teh kaznivih dejanj pristojno okrožno sodišče, za druga pa okrajno sodišče, se sme izvesti enoten postopek samo pred okrožnim sodiščem.

(7) O združitvi postopka v primeru iz prejšnjega odstavka tega člena odloča sodišče, ki je pristojno za enoten postopek. Zoper sklep, s katerim je sodišče odredilo združitev postopka, ali zavrnilo predlog za združitev postopka, ni pritožbe.

33. člen

(3) Accomplices shall as a rule be tried by the court which, having jurisdiction over one of them, first instituted proceedings.

(4) The court which has jurisdiction over the perpetrators of criminal offences shall as a rule also have jurisdiction over their accomplices, concealers, accessories after the fact and those who failed to report preparations for the commission of a criminal offence, and/or failed to report the criminal offence or its perpetrator.

(5) In the cases referred to in paragraphs one to four of this Article, or where separate proceedings are pending against the same person for more than one criminal offence or against more than one person for the same criminal offence before the same court, joint proceedings shall as a rule be carried out and a single judgment shall be rendered. Exceptionally, at the motion of the parties, the single judge, the investigating judge or the president of the panel, the president of the court having jurisdiction over the joint proceedings may decide not to conduct joint proceedings if this would hinder the successful implementation of criminal proceedings, or if this would be unreasonable or in conflict with other valid reasons. No appeal shall be allowed against the decision by which the president of the court grants or rejects a motion not to conduct joint proceedings.

(6) The court may also decide that joint proceedings shall be conducted and a single judgement issued where several persons are accused of several criminal offences, provided that the committed criminal offences are interconnected and that the same evidence is taken. If some of these offences fall within the competence of a district court and others within the competence of a local court, joint proceedings may only be conducted before the district court.

(7) The decision to join proceedings in the case referred to in the preceding paragraph of this Article shall be taken by the court competent for such joint proceedings. No appeal shall be allowed against the decision ordering the joinder of proceedings or rejecting the motion for the joinder of proceedings.

Article 33

(1) Sodišče, ki je pristojno po prejšnjem členu, lahko do konca glavne obravnave iz tehtnih razlogov ali zaradi smotrnosti odloči, da se postopek o posameznih kaznivih dejanjih ali zoper posamezne obdolžence izloči in dokonča posebej, ali pa odstopi drugemu pristojnemu sodišču.

(2) Zoper sklep, s katerim je sodišče odredilo izločitev postopka ali zavrnilo predlog za izločitev postopka, ni pritožbe.

3.a Prenos stvarne pristojnosti

33.a člen

(1) Specializirani oddelek okrožnega sodišča, ki opravlja preiskavo in sodi v zahtevnejših zadevah organiziranega in gospodarskega kriminala, terorizma, korupcijskih in drugih podobnih kaznivih dejanj, v katerih obtožni akt vloži državno tožilstvo, pristojno za pregon storilcev navedenih kaznivih dejanj (v nadaljnjem besedilu: specializirani oddelek), lahko predlaga vrhovnemu sodišču, da se posamezna zadeva prenese v obravnavo okrožnemu sodišču, če je to primerno ob upoštevanju stopnje zahtevnosti, zapletenosti in pomena zadeve, smotrnosti obravnavanja ter drugih podobnih tehtnih razlogov. Vrhovno sodišče lahko zadevo prenese v obravnavo kateremu koli izmed okrožnih sodišč. Določbe tega odstavka se smiselno uporabljajo tudi v primeru, če se posamezna zadeva prenese v obravnavno drugemu specializiranemu oddelku.

(2) Zoper sklep iz prejšnjega odstavka ni pritožbe.

4. Prenos krajevne pristojnosti

34. člen

(1) Če pristojno sodišče iz pravnih ali stvarnih razlogov ne more postopati, mora to sporočiti neposredno višjemu sodišču, ki določi drugo pristojno sodišče na svojem območju.

(1) Before the end of the main hearing, the court having jurisdiction as referred to in the preceding Article may decide, for good reasons or for reasons of efficiency, that proceedings involving several criminal offences or proceedings against several accused persons be severed and conducted separately, or referred to another competent court.

(2) No appeal shall be allowed against the decision of the court ordering the severance of proceedings or rejecting a motion for severance.

3.a Transfer of subject-matter jurisdiction

Article 33a

(1) The specialised section of a district court that conducts investigation and rules in more complex cases of organised and economic crime, terrorism, corruption and other similar criminal offences in which the indictment is filed by the state prosecutor's office competent to prosecute the perpetrators of the said crimes (hereinafter: the specialised section) may propose to the Supreme Court that a particular case be referred to the district court, if appropriate having regard to the degree of complexity and importance of the case, the expediency of its consideration and other similar valid reasons. The Supreme Court may refer the case to any of the district courts. The provisions of this paragraph shall apply *mutatis mutandis* in the event that a particular case is referred to another specialised section.

(2) No appeal shall be allowed against the decision referred to in the preceding paragraph.

4. Transfer of territorial jurisdiction

Article 34

(1) If the competent court is unable to proceed for legal or substantive reasons, it must report this to the next higher instance court which shall designate another competent court in its territory for the

(2) Zoper sklep iz prejšnjega odstavka ni pritožbe.

35. člen

(1) Skupno neposredno višje sodišče, lahko določi za postopek drugo stvarno pristojno sodišče na svojem območju, če je očitno, da se bo tako lažje izvedel postopek, ali če so za to drugi tehtni razlogi.

(2) Sklep po prejšnjem odstavku lahko izda sodišče na predlog preiskovalnega sodnika, sodnika posameznika ali predsednika senata ali pa na predlog obdolženca, oškodovanca, zasebnega tožilca ali državnega tožilca, ki je pristojen za postopek pred sodiščem, ki odloča o prenosu krajevne pristojnosti, če teče kazenski postopek na zahtevo državnega tožilca.

(3) Zoper sklep iz prvega odstavka tega člena ni pritožbe.

5. Posledice nepristojnosti in spor o pristojnosti

36. člen

(1) Sodišče mora paziti na svojo stvarno in krajevno pristojnost. Brž ko zapazi, da ni pristojno, se izreče za nepristojno in pošlje po pravnomočnosti sklepa zadevo pristojnemu sodišču.

(2) Če okrožno sodišče ugotovi med glavno obravnavo, da je za sojenje pristojno okrajno sodišče, ne pošlje zadeve temu sodišču, temveč izvede postopek samo in izda odločbo.

(3) Ko postane obtožnica pravnomočna, se sodišče ne

purpose.

(2) No appeal shall be allowed against the decision referred to in the preceding paragraph.

Article 35

(1) The joint court of the next higher instance may designate another court of subject-matter jurisdiction in its territory for the conduct of proceedings if it is evident that this will facilitate the proceedings or if there are other good reasons for doing so.

(2) The court may issue the decision referred to in the preceding paragraph on the motion of the investigating judge, a single judge or the president of a panel, or on the motion of the accused person, injured party, private prosecutor or the state prosecutor competent for conducting proceedings before the court that decides on the transfer of territorial jurisdiction, if criminal proceedings are conducted on the request of the state prosecutor.

(3) No appeal shall be allowed against the decision referred to in paragraph one of this Article.

5. Consequences of lack of jurisdiction and conflict of jurisdiction

Article 36

(1) Courts must adhere to their subject-matter and territorial jurisdictions. As soon as a court establishes that a specific case does not fall within its jurisdiction, it shall declare itself as having no jurisdiction and shall refer the case to the competent court when such ruling becomes final.

(2) If, during the main hearing, a district court establishes that the case considered falls within the jurisdiction of a local court, it shall not refer the case to this local court but shall continue the proceedings and issue the decision.

(3) Once the indictment has become final, the court may no

more več izreči za krajevno nepristojno in tudi stranke ne morejo več uveljavljati ugovora krajevne nepristojnosti.

(4) Nepristojno sodišče mora opraviti tista procesna dejanja, ki bi jih bilo nevarno odlašati.

37. člen

(1) Če sodišče, kateremu je bila zadeva odstopljena kot pristojnemu sodišču, misli, da je pristojno sodišče, ki mu je zadevo odstopilo, ali kakšno drugo sodišče, sproži postopek, da se odloči o sporu o pristojnosti.

(2) Če je na pritožbo zoper odločbo sodišča prve stopnje, s katero se je to izreklo za nepristojno, odločilo sodišče druge stopnje, je glede pristojnosti vezano na to odločbo tudi sodišče, ki mu je bila zadeva odstopljena, če je sodišče druge stopnje pristojno za odločanje o sporu o pristojnosti med temi sodišči.

38. člen

(1) O sporu o pristojnosti med sodišči odloča skupno neposredno višje sodišče.

(2) Pri odločanju o sporu o pristojnosti lahko sodišče hkrati po uradni dolžnosti odloči o prenosu krajevne pristojnosti, če so izpolnjeni pogoji iz prvega odstavka 35. člena tega zakona.

(3) Zoper sklep, s katerim sodišče odloči o sporu o pristojnosti ali o prenosu krajevne pristojnosti, ni pritožbe.

(4) Dokler se ne odloči o sporu o pristojnosti med sodišči, mora vsako od njih opravljati tista procesna dejanja, ki bi jih bilo nevarno odlašati.

III. poglavje
IZLOČITEV

longer declare itself as having no territorial jurisdiction, and the parties may no longer raise the objection of lack of territorial jurisdiction.

(4) A court which does not have jurisdiction must nevertheless perform procedural acts that would be dangerous to delay.

Article 37

(1) If the court to which a case has been referred as the competent court considers that the competent court is in fact the court which has referred the case, or some other court, it shall institute proceedings to settle the jurisdictional dispute.

(2) If an appeal against the decision by which a court of first instance declared itself as having no jurisdiction is determined by a court of second instance, this decision shall also be binding, in terms of jurisdiction, on the court to which the case was referred, if the court of second instance is competent to decide on the jurisdictional dispute between these courts.

Article 38

(1) Jurisdictional disputes between courts shall be decided by a joint court of the next higher instance.

(2) In adjudicating jurisdictional disputes, the court may at the same time decide *ex officio* on the transfer of territorial jurisdiction, provided that the conditions referred to in paragraph one of Article 35 of this Act are complied with.

(3) No appeal shall be allowed against decisions on jurisdictional disputes or on the transfer of territorial jurisdiction.

(4) Until the jurisdictional dispute between the courts is settled, each of them shall be bound to perform those procedural acts that would be dangerous to delay.

Chapter III
DISQUALIFICATION

39. člen

(1) Sodnik oziroma sodnik porotnik ne sme opravljati sodniške dolžnosti:

1. če je s kaznivim dejanjem oškodovan;
2. če je ali je bil z obdolžencem, njegovim zagovornikom, tožilcem ali oškodovancem, njegovim zakonitim zastopnikom ali pooblaščencem v zakonski zvezi ali zunajzakonski skupnosti ali v krvnem sorodstvu v ravni vrsti do kateregakoli kolena, v stranski vrsti do četrtega kolena ali v svaštvu do drugega kolena;
3. če je ali je bil z obdolžencem, njegovim zagovornikom, tožilcem ali oškodovancem v razmerju skrbnika, oskrbovanca, posvojitelja, posvojenca, rejnika ali rejenca;
4. če je v isti kazenski zadevi sodeloval kot tožilec, zagovornik, zakoniti zastopnik ali pooblaščenec oškodovanca oziroma tožilca, ali če bil zaslišan kot priča ali kot izvedenec;
5. če je v isti kazenski zadevi sodeloval pri izdaji odločbe nižjega sodišča ali je pri istem sodišču sodeloval pri izdaji odločbe, ki se izpodbija s pritožbo ali z zahtevo za varstvo zakonitosti;
6. če so podane okoliščine, ki vzbujajo dvom o njegovi nepristranskosti.

(2) Sodnik oziroma sodnik porotnik ne sme odločati o obtožbi oziroma o pritožbi ali izrednem pravnem sredstvu zoper odločbo s katero je bilo odločeno o obtožbi:

1. če je v isti kazenski zadevi opravljal preiskovalna dejanja, ali je sodeloval pri odločanju o ugovoru zoper obtožnico oziroma o zahtevi predsednika senata po 271. ali 284. členu tega zakona, ali če je kot sodnik za mladoletnike vodil pripravljalni postopek in je bil podan predlog za kaznovanje;
2. če se je v postopku pri odločanju o kateremkoli vprašanju seznanil z dokazom, ki se mora po določbah tega zakona izločiti iz spisov (83. člen) razen, če vsebina dokaza očitno ni takšna, da

Article 39

(1) A judge or a lay judge may not perform judicial duties in the following circumstances:

1. if he or she has suffered harm through the criminal offence concerned;
2. if she or he is or has been married to or lives or has lived in extra-marital cohabitation with the accused person, the accused person's defence counsel, the prosecutor or the injured party, his or her legal representative or counsel, or if he or she has a blood relationship with the aforementioned persons in direct line up to any degree, or is indirectly related to them up to the fourth degree, or is related to them through family affinity up to the second degree;
3. if his or her relationship with the accused person, the accused person's defence counsel, the prosecutor or the injured party is or has been that of a guardian or a ward, adoptive parent or adoptee, foster parent or foster child;
4. if he or she has participated in the same criminal case in the capacity of prosecutor, defence counsel, legal representative or counsel of the injured party or the prosecutor, or if he or she has been heard as a witness or expert witness;
5. if in the same criminal case he or she took part in the rendering of a lower court's decision or took part in the rendering of a decision by the same court that is challenged by an appeal or a request for protection of legality;
6. if circumstances exist that raise doubts about his or her impartiality.

(2) A judge or a lay judge may not decide on the charge and/or the appeal or an extraordinary legal remedy against the decision that determined the charge:

1. if he or she, in the same criminal case, has carried out investigative acts or taken part in determining an objection against the indictment and/or a request of the president of the panel referred to in Articles 271 and 284 of this Act, or if, as a judge for juvenile offenders, he or she has conducted preliminary proceedings and a motion for punishment has been submitted;
2. if, in the course of determining any question in the proceedings, he or she became acquainted with any evidence that must be excluded from the files under this Act (Article 83), unless the content of the evidence

bi lahko vplivala na njegovo odločitev;
3. če je izdal sklep, da se priznanje obdolženca zavrne (drugi odstavek 285.c člena) oziroma sklep, da se sporazum o priznanju krivde zavrne (450.č člen).

40. člen

(1) Brž ko sodnik ali sodnik porotnik ugotovi kakšen razlog za svojo izločitev iz 1. do 5. točke prvega odstavka ter 1. ali 3. točke drugega odstavka prejšnjega člena, ali če misli, da je podan razlog za njegovo izločitev iz 6. točke prvega odstavka ali iz 2. točke drugega odstavka prejšnjega člena, mora prenehati z vsakim delom v tej zadevi in to sporočiti predsedniku sodišča, ki odloči o izločitvi in, če sodnika izloči, odredi, da se zadeva po pravilih sodnega reda dodeli drugemu sodniku. Če gre za izločitev predsednika sodišča, v tej zadevi kot predsednik odloča podpredsednik sodišča, če pa mora biti izločen tudi ta, si predsednik sodišča določi namestnika izmed sodnikov tega sodišča, če to ni mogoče, pa zahteva od predsednika neposredno višjega sodišča, naj mu določi namestnika.

(2) Zoper sklep iz prejšnjega odstavka, s katerim se ugodi zahtevi za izločitev, ni pritožbe. Zoper sklep, s katerim se zavrne zahteva za izločitev, se sme sodnik ali sodnik porotnik pritožiti. O pritožbi zoper sklep predsednika okrajnega in okrožnega sodišča odloči senat (šesti odstavek 25. člena), o pritožbi zoper sklep predsednika višjega in vrhovnega sodišča pa senat treh sodnikov višjega oziroma vrhovnega sodišča.

(3) Če je treba v zadevi opraviti dejanja, ki bi jih bilo nevarno odlašati, predsednik sodišča odredi, da jih do odločitve o zahtevi za izločitev sodnika opravi po pravilih sodnega reda o dodeljevanju zadev drugi sodnik.

41. člen

is clearly not such as to be capable of influencing his or her decision;
3. if he or she has issued a decision rejecting the confession of the accused person (paragraph two of Article 285c), or a decision rejecting a guilty plea agreement (Article 450č).

Article 40

(1) As soon as a judge or a lay judge has identified any reason for his or her disqualification referred to in points 1 to 5 of paragraph one and points 1 and 3 of paragraph two of the preceding Article, or if he or she believes that the reasons for his or her disqualification referred to in point 6 of paragraph one or point 2 of paragraph two of the preceding Article exist, they must cease all work in the case concerned and notify the president of the court, who shall decide on the disqualification and, if the judge is disqualified, order that the case be assigned to another judge in accordance with the court rules. If the president of the court is to be disqualified, the vice-president of the court shall rule on this matter in the capacity of president of the court; if the vice-president is to be disqualified as well, the president of the court shall appoint his or her deputy from among the judges of that court; should this not be possible, he or she shall ask the president of the next higher instance court to appoint such a deputy.

(2) There shall be no appeal against the decision referred to in the preceding paragraph granting the request for disqualification. The judge or the lay judge may appeal against the decision rejecting a request for disqualification. A panel of judges (paragraph six of Article 25) shall decide on an appeal against the decision of the president of a local and a district court, whereas an appeal against the decision of the president of a higher court and the Supreme Court shall be decided by a panel of three higher court judges or Supreme Court judges respectively.

(3) If certain acts need to be performed in the case concerned that would be dangerous to delay, the president of the court shall order that such acts be performed by another judge in accordance with the court rules on assigning cases, pending the decision on the request for the disqualification of a judge.

Article 41

(poseg odločbe US o načinu izvrševanja tega člena)

(1) Izločitev lahko zahtevajo tudi stranke.

(2) Stranka mora zahtevati izločitev sodnika ali sodnika porotnika takoj, ko izve za razlog izločitve, vendar najpozneje do konca glavne obravnave. Med glavno obravnavo sme zahtevati izločitev sodnika ali sodnika porotnika zaradi razloga iz 6. točke prvega odstavka ali iz 2. točke drugega odstavka 39. člena tega zakona samo, če je razlog izločitve nastal po začetku glavne obravnave; če je bil podan že prej, pa le, če stranki ni bil in tudi ni mogel biti znan.

(3) Izločitev sodnika višjega sodišča lahko zahteva stranka le do začetka seje senata. Če se pred sodiščem druge stopnje opravi obravnava (380. člen), se glede zahteve stranke za izločitev sodnika smiselno uporabljajo določbe prejšnjega odstavka.

(4) Stranka more zahtevati izločitev le poimensko določenega sodnika ali sodnika porotnika, ki postopa v zadevi, oziroma sodnika višjega sodišča.

(5) Stranka mora v zahtevi navesti okoliščine, zaradi katerih misli, da je podana kakšna zakonska podlaga za izločitev. V zahtevi za izločitev ne more znova navajati razlogov, ki jih je uveljavljala že v prejšnji zahtevi, ki pa je bila zavrnjena, ali uveljavljati razlogov, ki jih je v isti zadevi že uveljavljal sodnik, sodnik porotnik ali druga stranka, in je bila zahteva iz teh razlogov zavrnjena.

42. člen

(1) O zahtevi za izločitev iz prejšnjega člena odloči predsednik sodišča.

(2) Če je zahtevana izločitev predsednika sodišča ali

(Intervention of the Constitutional Court decision regarding the manner of implementation of this Article)

(1) Disqualification of a judge may also be requested by the parties to proceedings.

(2) A party must request the disqualification of a judge or lay judge as soon as this party becomes aware of the reason for disqualification, but not later than before the end of the main hearing. During the main hearing, a party may request that a judge or lay judge be disqualified for the reason referred to in point 6 of paragraph one or point 2 of paragraph two of Article 39 of this Act only if such a reason for disqualification has arisen after the main hearing started; if it had arisen earlier, then only under the condition that the party was not aware of it, or could not have been aware of it.

(3) A party may only request the disqualification of a higher court judge before the beginning of the panel's session. If the hearing is held before a court of second instance (Article 380), the provisions of the preceding paragraph shall apply *mutatis mutandis* to the party’s request for the disqualification of a judge.

(4) A party may only request the disqualification of a judge or a lay judge, or a higher court judge hearing the case, by stating such judge's name.

(5) In the request for disqualification, a party must indicate the circumstances which in his or her opinion provide the legal basis for disqualification. In the request for disqualification, the party may not repeat the reasons for disqualification already invoked in a previous request which was rejected, or invoke the reasons already set forth by the judge, lay judge or another party in the same case that resulted in the rejection of the request.

Article 42

(1) The request for disqualification referred to in the preceding Article shall be decided by the president of the court.

(2) If the disqualification request refers to the president of the

predsednika sodišča in sodnika ali sodnika porotnika, odloči o izločitvi predsednik neposredno višjega sodišča; če pa je zahtevana izločitev predsednika vrhovnega sodišča, odloči o izločitvi občna seja tega sodišča.

(3) Preden se izda sklep o izločitvi, je treba dobiti izjavo sodnika, sodnika porotnika oziroma predsednika sodišča, po potrebi pa se opravijo tudi druge poizvedbe.

(4) Zoper sklep, s katerim se ugodi zahtevi za izločitev, ni pritožbe. Sklep, s katerim se zahteva za izločitev zavrne, se lahko izpodbija s posebno pritožbo; če je bil tak sklep izdan po vložitvi obtožbe, pa samo v pritožbi zoper sodbo.

(5) Če je stranka ravnala v nasprotju z določbami drugega do petega odstavka prejšnjega člena, ali če je iz vsebine zahteve razvidno, da gre za očitno neutemeljeno zahtevo, podano z namenom zavlačevanja postopka ali spodkopavanja avtoritete sodišča, se zahteva v celoti ali deloma zavrže. Sklep, s katerim se zahteva zavrže, izda preiskovalni sodnik oziroma sodnik ali senat, ki postopa v zadevi. Pri odločanju lahko sodeluje sodnik ali predsednik sodišča, katerega izločitev se zahteva. Zoper sklep, s katerim se zahteva zavrže, ni pritožbe.

43. člen

(1) Ko sodnik ali sodnik porotnik zve, da je zahtevana njegova izločitev, mora takoj prenehati z vsakim nadaljnjim delom v tisti zadevi, razen če gre za nedovoljeno ali očitno neutemeljeno zahtevo za izločitev, ki se jo zavrže (peti odstavek 42. člena). Če je treba opraviti kakšno dejanje, ki bi ga bilo nevarno odlašati, se uporabijo določbe tretjega odstavka 40. člena tega zakona.

(2) Če se zahtevi za izločitev sodnika ali sodnika porotnika ugodi, dejanja, ki jih je opravil odkar je zvedel, da je podan izločitveni razlog, niso procesno veljavna.

court, or to the president of the court and a judge or a lay judge, the ruling thereon shall be rendered by the president of the court of the next higher instance; if disqualification of the president of the Supreme Court is requested, the ruling thereon shall be rendered by the Supreme Court's plenary session.

(3) Before a ruling on disqualification is rendered, the judge, the lay judge and/or the president of the court shall be heard and, where appropriate, other inquiries shall be made as well.

(4) There shall be no appeal against a ruling granting disqualification. A ruling rejecting the request for disqualification may be challenged by a separate appeal; if the ruling was rendered after the charge was filed, such a ruling may only be challenged in an appeal against the judgment.

(5) If a party acted in contravention of the provisions of paragraphs two to five of the preceding Article, or if it is evident from the content of the request that it is manifestly unfounded and has been submitted for the purpose of delaying the proceedings or undermining the authority of the court, the request shall be dismissed in whole or in part. The decision dismissing the request shall be issued by the investigating judge or the judge or the panel hearing the case. The judge or the president of the court whose disqualification has been requested may take part in the decision-making. There shall be no appeal against the ruling dismissing the request.

Article 43

(1) As soon as a judge or a lay judge learns that their disqualification has been requested, he or she must immediately discontinue any further action in connection with the case, unless it is an unlawful or manifestly unfounded request for disqualification which is dismissed (paragraph five of Article 42). If any act that would be dangerous to delay should be carried out, the provisions of paragraph three of Article 40 of this Act shall apply.

(2) If the request for the disqualification of a judge or a lay judge is granted, the acts performed by the judge or lay judge since she or he has learned that a reason for his or her disqualification was given, shall be

44. člen

(1) Določbe o izločitvi sodnikov in sodnikov porotnikov se uporabljajo smiselno tudi za državne tožilce in osebe ki so po zakonu o državnem tožilstvu upravičene zastopati državnega tožilca v postopku, zapisnikarje, tolmače in strokovnjake in pa izvedence, če ni zanje določeno kaj drugega (251. člen). Izločitve državnega tožilca ni mogoče zahtevati iz razloga po 6. točki prvega odstavka ali 2. točki drugega odstavka 39. člena tega zakona.

(2) O izločitvi državnega tožilca odloči vodja državnega tožilstva. O izločitvi vodje državnega tožilstva odloči generalni državni tožilec. O izločitvi generalnega državnega tožilca odloči minister, pristojen za pravosodje.

(3) O izločitvi zapisnikarjev, tolmačev, strokovnjakov in izvedencev odloča senat, predsednik senata ali sodnik.

(4) Kadar opravljajo policisti preiskovalna dejanja na podlagi tega zakona, odloča o njihovi izločitvi preiskovalni sodnik. Če sodeluje pri njih zapisnikar, pa odloča o njegovi izločitvi uradna oseba, ki opravlja dejanja.

IV. poglavje
DRŽAVNI TOŽILEC

45. člen

(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:

devoid of procedural validity.

Article 44

(1) The provisions referring to the request for disqualification of judges and lay judges shall apply *mutatis mutandis* to state prosecutors and persons who under the State Prosecution Service Act are authorised to represent the state prosecutor in proceedings, as well as to court reporters, interpreters, experts and expert witnesses, unless otherwise specified (Article 251). The disqualification of a state prosecutor may not be requested for the reasons referred to in point 6 of paragraph one or point 2 of paragraph two of Article 39 of this Act.

(2) The head of the state prosecutor's office shall decide on the disqualification of a state prosecutor. The State Prosecutor General shall decide on the disqualification of the head of a state prosecutor's office. The minister responsible for justice shall decide on the disqualification of the State Prosecutor General.

(3) A panel of judges, the president of the panel or a single judge shall decide on the disqualification of court reporters, interpreters, experts and expert witnesses.

(4) The investigating judge shall decide on the disqualification of police officers who perform investigative acts pursuant to this Act. If a court reporter takes part in such acts, the official who performs the acts shall decide on his or her disqualification.

Chapter IV
STATE PROSECUTOR

Article 45

(1) The main right and the main duty of state prosecutors shall be the prosecution of perpetrators of criminal offences.

(2) With regard to criminal offences prosecutable *ex officio*, state prosecutors shall have the jurisdiction:

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.

46. člen

Državni tožilec je pristojen za postopek pred ustreznim sodiščem v skladu z zakonom o državnem tožilstvu.

47. člen

Krajevna pristojnost državnega tožilca se določa po določbah, ki veljajo za pristojnost sodišča tistega območja, za katero je tožilec postavljen.

48. člen

Če bi bilo nevarno odlašati, opravi procesna dejanja tudi nepristojen državni tožilec, mora pa to takoj sporočiti pristojnemu državnemu tožilcu.

49. člen

Državni tožilec opravlja vsa procesna dejanja, za katera je po zakonu upravičen, sam ali po osebah, ki so po zakonu o državnem

1) to take the necessary steps associated with the detection of criminal offences, the pursuit of perpetrators and the directing of pre-trial proceedings;
2) to request that an investigation be undertaken;
3) to file and represent an indictment or motion of indictment before the competent court;
4) to file appeals against court decisions that have not yet become final and apply extraordinary legal remedies against final court decisions.

(3) State prosecutors shall also perform other acts defined by this Act.

(4) A state prosecutor, as a party to criminal proceedings, shall have the same rights as the accused person, with the exception of those vested in them as a state authority.

Article 46

The state prosecutor shall be competent for proceedings before the relevant court in accordance with the State Prosecution Service Act.

Article 47

A state prosecutor's territorial jurisdiction shall be determined in accordance with the provisions applying to the jurisdiction of the court in the territory for which the prosecutor has been appointed.

Article 48

Where certain procedural acts would be dangerous to delay, such acts may also be performed by a state prosecutor not having jurisdiction, but he or she must immediately inform the competent state prosecutor thereof.

Article 49

The state prosecutor shall perform all procedural acts for which he or she is authorised by an Act either by himself or herself or through

tožilstvu upravičene, da ga zastopajo v kazenskem postopku.

50. člen

O sporih o pristojnosti med državnimi tožilci odloča skupni neposredno višji državni tožilec.

51. člen

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.

V. poglavje
OŠKODOVANEC IN ZASEBNI TOŽILEC

52. člen

(1) Za kaznivo dejanje, za katero se storilec preganja na predlog ali na zasebno tožbo, je treba predlog podati oziroma zasebno tožbo vložiti v šestih mesecih od dneva, ko je upravičenec zvedel za kaznivo dejanje in storilca.

(2) Če je tožilec vložil zasebno tožbo zaradi kaznivega dejanja razžalitve, sme obdolženec do konca glavne obravnave tudi po preteku roka iz prejšnjega odstavka vložiti tožbo zoper tožilca, ki je razžalitev vrnil (nasprotno tožbo). V takem primeru izda sodišče eno samo sodbo.

(3) Ob vložitvi zasebne tožbe mora biti plačana sodna taksa najkasneje v roku, ki ga določi sodišče v nalogu za plačilo sodne takse. V nalogu sodišče zasebnega tožilca opozori na posledice neplačila sodne takse iz četrtega odstavka tega člena.

persons who are authorised to represent the state prosecutor in criminal proceedings pursuant to the State Prosecution Service Act.

Article 50

Jurisdictional disputes between state prosecutors shall be adjudicated by the common state prosecutor of the next instance.

Article 51

A state prosecutor may decide to discontinue prosecution prior to the end of the main hearing held before a court of first instance, and in proceedings pending before a court of higher instance, in the cases defined by this Act.

Chapter V
INJURED PARTY AND PRIVATE PROSECUTOR

Article 52

(1) Where criminal offences are prosecuted upon a motion or under a private action, the deadline for filing the motion or private action shall be six months from the day when the person entitled to assume prosecution became aware of the criminal offence and its perpetrator.

(2) If the prosecutor has brought a private action for the offence of criminal defamation, the accused person may bring an action against the prosecutor who has returned the criminal defamation (counter-action) before the end of the main hearing even after the expiry of the deadline referred to in the preceding paragraph. In such case the court shall render a single judgement.

(3) Upon the bringing of a private action, the court fee must be paid within the time limit defined by the court in the court fee payment order. In such an order, the court shall inform the private prosecutor of the consequences of failure to pay the court fee referred to in paragraph four of this Article.

(4) Če v roku iz prejšnjega odstavka sodna taksa za zasebno tožbo ni plačana in niso izpolnjeni pogoji za oprostitev, odlog ali obročno plačilo sodne takse, sodišče zasebno tožbo zavrže.

53. člen

(1) Predlog se poda pri državnem organu, ki je upravičen sprejeti kazensko ovadbo (147. člen), zasebna tožba pa se vloži pri pristojnem sodišču.

(2) Če je oškodovanec sam podal kazensko ovadbo, ali predlog za uveljavitev premoženjskopravnega zahtevka v kazenskem postopku, se šteje, da je s tem podal tudi predlog za pregon.

(3) Če je oškodovanec podal kazensko ovadbo ali predlog za pregon, med postopkom pa se ugotovi, da gre za kaznivo dejanje, za katero se storilec preganja na zasebno tožbo, se šteje ovadba oziroma predlog za pravočasno zasebno tožbo, če je podana v roku, ki je predpisan za zasebno tožbo. Pravočasno vložena zasebna tožba pa se šteje za pravočasen predlog oškodovanca, če se med postopkom ugotovi, da gre za kaznivo dejanje, za katero se storilec preganja na predlog.

54. člen

(1) Za mladoletne osebe in osebe, ki niso poslovno sposobne, poda predlog oziroma vloži zasebno tožbo njihov zakoniti zastopnik.

(2) Mladoletna oseba, ki je dopolnila šestnajst let, lahko sama poda predlog ali vloži zasebno tožbo.

55. člen

Če oškodovanec ali zasebni tožilec umre medtem, ko teče rok za predlog ali zasebno tožbo, ali umre med postopkom, lahko

(4) If within the time limit referred to in the preceding paragraph, the court fee for a private action is not paid and the conditions for the exemption, deferral or instalment payment of the court fee are not fulfilled, the court shall dismiss the private action.

Article 53

(1) A motion shall be filed with the state body authorised to receive criminal complaints (Article 147), while a private action shall be brought before the competent court.

(2) If the injured party has filed a criminal complaint or a motion for a pecuniary claim by himself or herself in criminal proceedings, it shall be considered that he or she has also submitted a motion for prosecution.

(3) If the injured party has filed a criminal complaint or a motion for prosecution and it is established in the course of the proceedings that a criminal offence subject to prosecution under a private action is involved, the criminal complaint or the motion shall be considered a private action filed in time, provided it is filed within the time limit prescribed for submitting a private action. A private action filed in time shall be considered a motion by the injured party filed in time, provided it is established in the course of proceedings that a criminal offence subject to prosecution upon a motion is involved.

Article 54

(1) For minors and persons who have no legal capacity, the motion or private action shall be filed by their legal representative.

(2) A minor who has attained the age of sixteen years may file a motion or private action by himself or herself.

Article 55

Should the injured party or the private prosecutor die before the expiry of the period for filing the motion or bringing a private action, or

njegov zakonec, ali oseba, s katero je živel v zunajzakonski skupnosti, otroci, starši, posvojenci, posvojitelji, bratje in sestre, v treh mesecih po njegovi smrti podajo predlog, vložijo zasebno tožbo oziroma izjavijo, da nadaljujejo postopek.

should he or she die while the proceedings are pending, his or her spouse or the person with whom he or she has lived in extra-marital cohabitation, as well as his or her children, parents, adopted children, adoptive parents, and brothers and sisters, may file a motion or bring a private action, or declare that the proceedings should continue, within three months of the injured party's or the private prosecutor's death.

56. člen

Če je s kaznivim dejanjem oškodovanih več oseb, se pregon začne oziroma nadaljuje na predlog oziroma zasebno tožbo katerekoli od njih.

Article 56

If more than one person is injured by a criminal offence, the prosecution shall start or continue on the motion or under the private action of any of these persons.

57. člen

(1) Oškodovanec lahko z izjavo, ki jo poda sodišču, pred katerim teče postopek, pred tem pa pristojnemu državnemu tožilcu, umakne predlog za pregon do konca glavne obravnave. Če je izjava podana nepristojnemu organu, jo ta sprejme in takoj pošlje pristojnemu državnemu tožilcu ali sodišču.

(2) Zasebni tožilec lahko z izjavo, ki jo poda sodišču, pred katerim teče postopek, umakne zasebno tožbo do konca glavne obravnave.

(3) V primerih iz prejšnjih odstavkov oškodovanec in zasebni tožilec izgubita pravico, da vnovič podata predlog oziroma vložita tožbo.

Article 57

(1) The injured party may, before the end of the main hearing, withdraw the motion for prosecution by submitting a statement to the court before which the proceedings are pending, and before that, by submitting such a statement to the competent state prosecutor. If the statement is submitted to an authority without jurisdiction, such authority shall accept it and immediately send it to the competent state prosecutor or court.

(2) A private prosecutor may withdraw a private action before the end of the main hearing by submitting a statement to this effect to the court before which the proceedings are pending.

(3) In the cases referred to in the preceding paragraphs, the injured party and the private prosecutor shall lose the right to re-submit the motion or private action.

58. člen

(1) Če zasebni tožilec ne pride na glavno obravnavo, čeprav je bil v redu povabljen, ali mu vabila ni bilo mogoče vročiti, ker sodišču ni prijavil spremembe naslova ali prebivališča, se šteje, da je tožbo umaknil.

Article 58

(1) If, after being duly summoned, the private prosecutor fails to appear at the main hearing, or if the summons could not be served on him or her for failure on his or her part to inform the court of a change of address or residence, he or she shall be deemed to have withdrawn the action.

(2) Predsednik senata dovoli vrnitev v prejšnje stanje zasebnemu tožilcu, ki iz opravičenega vzroka ni mogel priti na glavno obravnavo ali pravočasno obvestiti sodišča o spremembi naslova ali prebivališča, če v osmih dneh po prenehanju ovire poda prošnjo za vrnitev v prejšnje stanje.

(3) Po preteku treh mesecev od dneva zamude se ne more več zahtevati vrnitev v prejšnje stanje.

(4) Zoper sklep, s katerim se dovoli vrnitev v prejšnje stanje, ni pritožbe.

(5) Sklep o ustavitvi kazenskega postopka, izdan na podlagi prvega odstavka tega člena, postane pravnomočen po preteku rokov iz drugega in tretjega odstavka tega člena.

59. člen

(1) Oškodovanec in zasebni tožilec imata pravico opozoriti med preiskavo na vsa dejstva in predlagati dokaze, ki so pomembni za to, da se ugotovi kaznivo dejanje, izsledi storilec kaznivega dejanja in ugotovijo njuni premoženjskopravni zahtevki.

(2) Na glavni obravnavi imata pravico predlagati dokaze, postavljati obdolžencu, pričam in izvedencem vprašanja, dajati pripombe in pojasnila glede njihovih izpovedb ter dajati druge izjave in postavljati druge predloge.

(3) Oškodovanec, oškodovanec kot tožilec in zasebni tožilec imajo pravico pregledati in prepisati spise in si ogledati dokazne predmete. Oškodovancu se sme ta pravica odreči, dokler ni zaslišan kot priča.

(4) Preiskovalni sodnik in predsednik senata morata seznaniti oškodovanca in zasebnega tožilca s pravicami, ki jih imata po prvem, drugem in tretjem odstavku tega člena.

(2) The president of the panel shall grant *restitutio ad integrum* to a private prosecutor who for justified reasons was not able to attend the main hearing or inform the court in time of a change of address or residence, provided that he or she submits a request for *restitutio ad integrum* within eight days of the removal of the obstacle.

(3) After a lapse of three months from the day of default, *restitutio ad integrum* may no longer be requested.

(4) No appeal shall be allowed against a ruling which grants *restitutio ad integrum*.

(5) A decision to discontinue criminal proceedings, issued pursuant to paragraph one of this Article, shall become final after the expiry of the time limits referred to in paragraphs two and three of this Article.

Article 59

(1) During an investigation, the injured party and the private prosecutor shall have the right to draw attention to all facts and present the evidence relevant for establishing that a criminal offence was committed, tracing its perpetrator and determining the pecuniary claims of the injured party and the prosecutor.

(2) At the main hearing, they shall be entitled to present evidence, pose questions to the accused person, witnesses and expert witnesses, and comment on and clarify their testimonies, as well as make other statements and motions.

(3) The injured party, the injured party as prosecutor and the private prosecutor shall be entitled to examine and copy case files and inspect the material evidence. This right may be withheld from the injured party until he or she has been examined as a witness.

(4) The investigating judge and the president of the panel must inform the injured party and the private prosecutor of the rights they have under paragraphs one, two and three of this Article.

60. člen

(1) Če državni tožilec spozna, da ni podlage za pregon za kaznivo dejanje, za katero se storilec preganja po uradni dolžnosti, ali če spozna, da ni podlage za pregon katerega izmed ovadenih udeležencev, mora to v osmih dneh sporočiti oškodovancu in ga poučiti, da lahko začne pregon sam. Tako ravna tudi sodišče, če je državni tožilec odstopil od pregona.

(2) Oškodovanec ima pravico začeti oziroma nadaljevati pregon v tridesetih dneh, odkar je prejel sporočilo iz prejšnjega odstavka.

(3) Če državni tožilec umakne obtožnico, sme oškodovanec, ki prevzame pregon, vztrajati pri vloženi obtožnici ali pa vložiti novo.

(4) Oškodovanec, ki ni bil obveščen o tem, da državni tožilec ni začel pregona, sme dati svojo izjavo za nadaljevanje postopka pred pristojnim sodiščem v tridesetih dneh od dneva, ko je izvedel, da je državni tožilec zavrgel ovadbo. Oškodovanec, ki ga sodišče ni obvestilo o tem, da je državni tožilec odstopil od pregona, sme dati svojo izjavo za nadaljevanje pregona pred pristojnim sodiščem v tridesetih dneh od dneva, ko je izvedel, da je državni tožilec odstopil od pregona, pri čemer se smiselno uporabljajo določbe drugega do četrtega odstavka 61. člena tega zakona.

(5) Ko državni tožilec oziroma sodišče sporoči oškodovancu, da lahko začne pregon, ga v sporočilu pouči tudi, kaj lahko ukrene za uresničenje te pravice.

(6) Če oškodovanec kot tožilec umre medtem, ko teče rok za začetek pregona, ali umre med postopkom, lahko njegov zakonec oziroma oseba s katero je živel v zunajzakonski skupnosti, otroci, starši, posvojenci, posvojitelji, bratje in sestre, v treh mesecih po njegovi smrti začnejo pregon oziroma izjavijo, da nadaljujejo

Article 60

(1) If the state prosecutor finds that there are no grounds for the prosecution of a criminal offence prosecutable *ex officio*, or for the prosecution of one or more of the accused participants, he or she must inform the injured party thereof within eight days and inform them that the injured party may start the prosecution by himself or herself. The same action shall be taken by the court if the state prosecutor discontinues prosecution.

(2) The injured party shall be entitled to start or continue prosecution within thirty days of receiving the information referred to in the preceding paragraph.

(3) If the state prosecutor withdraws the indictment, the injured party may assume the prosecution under the existing indictment or file a new one.

(4) An injured party who has not been informed that the state prosecutor did not initiate the prosecution may submit a statement before the competent court that the proceedings be continued within thirty days of the date when he or she became aware that the state prosecutor had dismissed the criminal complaint. An injured party who has not been informed by the court that the state prosecutor relinquished the prosecution may submit a statement before the competent court that the prosecution be continued within thirty days of the date when he or she became aware that the state prosecutor had relinquished the prosecution, whereby the provisions of paragraphs two to four of Article 61 of this Act shall apply *mutatis mutandis*.

(5) When the state prosecutor or the court informs the injured party that he or she may start prosecution, the state prosecutor shall also instruct the injured party of the steps to be taken to exercise this right.

(6) If the injured party as prosecutor dies before the deadline for starting prosecution has expired, or if he or she dies during the course of proceedings, their spouse or the person with whom they had lived in extra-marital cohabitation, as well as the children, parents, adopted children, adoptive parents, and brothers and sisters, may start prosecution or make

postopek.

61. člen

(1) Če državni tožilec umakne obtožnico na glavni obravnavi, mora oškodovanec takoj izjaviti, ali namerava nadaljevati pregon ali ne. Če oškodovanec ni navzoč na glavni obravnavi, čeprav je bil v redu povabljen, ali mu vabila ni bilo mogoče vročiti, ker sodišču ni prijavil spremembe naslova ali prebivališča, se šteje, da ne namerava nadaljevati pregona.

(2) Predsednik senata sodišča prve stopnje dovoli vrnitev v prejšnje stanje oškodovancu, ki ni bil v redu povabljen ali je bil v redu povabljen, vendar iz opravičenih razlogov ni mogel priti na glavno obravnavo, na kateri je bila zaradi umika obtožnice državnega tožilca izdana sodba, s katero je bila obtožba zavrnjena, če oškodovanec v osmih dneh po prejemu sodbe prosi za vrnitev v prejšnje stanje in če v tej prošnji izjavi da nadaljuje pregon. V tem primeru se razpiše nova glavna obravnava in s sodbo, izdano na podlagi nove glavne obravnave, razveljavi prejšnja sodba. Če v redu povabljeni oškodovanec ne pride na novo glavno obravnavo, ostane prejšnja sodba v veljavi.

(3) V primerih iz prejšnjega odstavka se uporabijo določbe tretjega in četrtega odstavka 58. člena tega zakona.

(4) Sodba, s katero je bila obtožba v primeru iz prvega odstavka tega člena zavrnjena, postane pravnomočna po preteku rokov za vložitev prošnje za vrnitev v prejšnje stanje.

61.a člen

(1) Če gre za kaznivo dejanje, ki se preganja na predlog oškodovanca, predsednik senata sodišča prve stopnje dovoli vrnitev v prejšnje stanje oškodovancu, ki je bil v redu povabljen kot priča ter iz opravičenih razlogov ni mogel priti na glavno obravnavo in tega

a statement that the prosecution be continued within three months of the injured party's death.

Article 61

(1) If the state prosecutor withdraws the indictment at the main hearing, the injured party must immediately state whether he or she intends to continue the prosecution or not. If the injured party, after being duly summoned, fails to appear at the main hearing, or if the summons could not be served on him or her because he or she had failed to report to the court a change of address or residence, it shall be deemed that the injured party does not intend to continue the prosecution.

(2) The president of the panel of the first instance court shall grant *restitutio ad integrum* to the injured party that was not duly summoned or, although duly summoned, was not able, for justified reasons, to appear at the main hearing at which, following the withdrawal of the indictment by the state prosecutor, a judgment rejecting the charge was rendered, provided that the injured party, within eight days of the receipt of the judgment, submits a request for *restitutio ad integrum* and states in the request that the prosecution be continued. In such case a new main hearing shall be scheduled and the previous judgment shall be set aside by a judgment issued on the basis of this new main hearing. If a duly summoned injured party fails to appear at the new main hearing, the previous judgment shall remain in force.

(3) In the case referred to in the preceding paragraph, the provisions of paragraphs three and four of Article 58 of this Act shall apply.

(4) The judgment rejecting the charge in the case referred to in paragraph one of this Article shall become final after the expiry of the time limit set for submitting a request for *restitutio ad integrum*.

Article 61a

(1) If the case concerns a criminal offence which is prosecuted upon a motion of the injured party, the president of the panel of the first instance court shall grant *restitutio ad integrum* to the injured party that was duly summoned as a witness but that for justified reasons could not

pravočasno sporočiti sodišču, zaradi česar se je skladno s tretjim odstavkom 306. člena tega zakona štelo, da je umaknil predlog za pregon in je bila po začetku glavne obravnave izdana sodba, s katero je bila obtožba zavrnjena, če oškodovanec prosi za vrnitev v prejšnje stanje v osmih dneh po prejemu sodbe. V tem primeru se razpiše nova glavna obravnava in s sodbo, izdano na podlagi nove glavne obravnave, razveljavi prejšnja sodba. Če na novo glavno obravnavo v redu povabljeni oškodovanec kot priča ne pride, ostane prejšnja sodba v veljavi.

(2) V primeru iz prejšnjega odstavka se uporabijo določbe tretjega in četrtega odstavka 58. člena tega zakona in četrtega odstavka prejšnjega člena.

(3) Če se v primeru iz prvega odstavka tega člena pred začetkom glavne obravnave izda sklep o ustavitvi postopka ali se tak sklep izda, ker oškodovanec v okoliščinah iz prvega odstavka tega člena ne pride na narok za zaslišanje in se skladno s prvim odstavkom 244. člena tega zakona šteje, da je umaknil predlog za pregon, se smiselno uporabijo določbe drugega do petega odstavka 58. člena tega zakona.

62. člen

(1) Če oškodovanec v zakonskem roku ne začne ali ne nadaljuje pregona ali če oškodovanec kot tožilec ne pride na glavno obravnavo, čeprav je bil v redu povabljen, ali mu vabila ni bilo mogoče vročiti, ker sodišču ni prijavil spremembe naslova ali prebivališča, se šteje, da je odstopil od pregona.

(2) Če oškodovanec kot tožilec ne pride na glavno obravnavo, čeprav je bil v redu povabljen, se uporabijo določbe drugega do četrtega odstavka 58. člena tega zakona.

appear at the main hearing and could not inform the court thereof in good time, in consequence of which it was deemed, in accordance with paragraph three of Article 306 of this Act, that the injured party had withdrawn the motion for prosecution, hence a judgment rejecting the charge was issued after the beginning of the main hearing, provided that the injured party requests *restitutio ad integrum* within eight days of the receipt of the judgment. In such case, a new main hearing shall be scheduled and the previous judgment shall be set aside by the judgment issued on the basis of this new main hearing. If the duly summoned injured party fails to appear as a witness at the new main hearing, the previous judgment shall remain in force.

(2) In the case referred to in the preceding paragraph, the provisions of paragraphs three and four of Article 58 of this Act and of paragraph four of the preceding Article shall apply.

(3) The provisions of paragraphs two to five of Article 58 of this Act shall apply *mutatis mutandis*, if in the case referred to in paragraph one of this Article, a ruling on discontinuing the proceedings is issued before the beginning of the main hearing, or if such ruling is issued because the injured party, in the circumstances referred to in paragraph one of this Article, has failed to appear at the hearing and is therefore deemed to have withdrawn his or her motion for prosecution in accordance with paragraph one of Article 244 of this Act.

Article 62

(1) If the injured party fails to start or to continue prosecution within the time limit prescribed by an Act, or if the injured party as prosecutor fails to appear at the main hearing although he or she was duly summoned, or if the summons could not be served on the injured party because he or she had failed to report to the court a change of address or residence, it shall be deemed that the injured party has discontinued prosecution.

(2) If the injured party as prosecutor fails to appear at the main hearing despite being duly summoned, the provisions of paragraphs two to four of Article 58 of this Act shall apply.

62.a člen

(1) Sodišče lahko opraviči izostanek oškodovancu, oškodovancu kot tožilcu ali zasebnemu tožilcu (drugi odstavek 58. člena, drugi odstavek 61. člena, prvi odstavek 61.a člena in drugi odstavek 62. člena), če so za to opravičljivi razlogi, ki onemogočajo njegov prihod na sodišče.

(2) Kadar se osebe iz prejšnjega odstavka sklicujejo na zdravstvene razloge, sodišče pri presoji upravičenosti razlogov uporablja peti in šesti odstavek 193. člena tega zakona.

63. člen

(1) Oškodovanec kot tožilec ima iste pravice kot državni tožilec, razen tistih, ki jih ima državni tožilec kot državni organ.

(2) V postopku, ki teče na zahtevo oškodovanca kot tožilca, ima državni tožilec pravico, da do konca glavne obravnave sam prevzame pregon in zastopanje obtožbe.

64. člen

(1) Če je oškodovanec mladoletna oseba ali oseba, ki ni poslovno sposobna, je njegov zakoniti zastopnik upravičen podajati vse izjave in opravljati vsa dejanja, ki jih je po tem zakonu upravičen podajati oziroma opravljati oškodovanec.

(2) Oškodovanec, ki je dopolnil šestnajst let, je upravičen sam podajati izjave in opravljati procesna dejanja.

(3) Če starost oškodovanca ni jasna in obstaja verjetnost, da gre za mladoletno osebo, se šteje, da je oškodovanec mladoletna oseba.

Article 62a

(1) The court may justify the absence of the injured party, the injured party as prosecutor or the private prosecutor (paragraph two of Article 58, paragraph two of Article 61, paragraph one of Article 61a and paragraph two of Article 62), if there are justifiable reasons preventing his or her appearance before the court.

(2) Where the persons referred to in the preceding paragraph refer to health reasons for their absence, the court shall apply paragraphs five and six of Article 193 of this Act in assessing whether the reasons for absence are justified.

Article 63

(1) The injured party as prosecutor shall have the same rights as the state prosecutor, with the exception of those vested in the state prosecutor as a state authority.

(2) In proceedings conducted at the request of the injured party as prosecutor, the state prosecutor shall have the right to assume the prosecution and representation of the charge pending the conclusion of the main hearing.

Article 64

(1) If the injured party is a minor or a person who has no legal capacity, his or her legal representative shall be entitled to submit all statements and perform all procedural acts which the injured party is entitled to submit or perform under this Act.

(2) An injured party who has attained the age of sixteen shall be entitled to submit statements and perform procedural acts by himself or herself.

(3) If the age of the injured person is not clear and it is probable that he or she is a minor, the injured party shall be considered to be a minor.

65. člen

(1) Zasebni tožilec, oškodovanec in oškodovanec kot tožilec ter njihovi zakoniti zastopniki smejo izvrševati svoje pravice v postopku tudi po pooblaščencu.

(2) **(prenehal veljati)**.

(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.

(4) V predkazenskem in kazenskem postopku je lahko ob mladoletnem oškodovancu, ob oškodovancu, ki je žrtev nasilja, ali ob drugem oškodovancu, če to terjajo narava in teža kaznivega dejanja, njegove osebne okoliščine ali stopnja njegove ogroženosti, oseba, ki si jo oškodovanec sam izbere, razen če bi bilo to v nasprotju z interesi uspešne izvedbe predkazenskega ali kazenskega postopka ali koristmi oškodovanca.

(5) Organ, ki vodi predkazenski in kazenski postopek, oškodovancu omogoči, da ne pride do neželenega stika z osumljencem ali obdolžencem, razen če je stik nujno potreben zaradi uspešne izvedbe predkazenskega ali kazenskega postopka.

65.a člen

Article 65

(1) A private prosecutor, an injured party and an injured party acting as prosecutor, as well as their legal representatives, may also exercise their rights in proceedings through a counsel.

(2) **(Ceased to be in force)**.

(3) In criminal proceedings conducted for crimes against sexual integrity under Chapter XIX, crimes against marriage, family and youth under Chapter XXI of the Criminal Code, the crimes of enslavement under Article 112 and the criminal offence of trafficking in human beings under Article 113 of the Criminal Code, an injured party who is a minor must have, throughout the criminal proceedings, a counsel to ensure his or her rights, particularly regarding the protection of his or her integrity during the hearing before the court and the enforcement of pecuniary claims. Minors as victims of criminal offences referred to in the preceding sentence must also have a counsel during the hearing in pre-trial proceedings. Minors as victims who do not have a counsel shall be assigned one by the court *ex officio* from among the attorneys.

(4) In pre-trial and criminal proceedings, a minor as victim, an injured party who is a victim of violence or another injured party, if so required by the nature and gravity of the crime, his or her personal circumstances or the degree of threat to his or her life and body, may be accompanied by a person of his or her choosing, unless this is contrary to the interests of the successful implementation of pre-trial or criminal proceedings or the benefit of the injured party.

(5) The authority conducting pre-trial and criminal proceedings shall ensure that the injured party does not come into unwanted contact with the suspect or the accused person, unless such contact is indispensable for the successful implementation of pre-trial or criminal proceedings.

Article 65a

(1) Oškodovanca pristojni organ v predkazenskem ali kazenskem postopku ob prvem stiku seznani z načinom obveščanja glede informacij o:
- brezplačni zdravstveni, psihološki in drugi pomoči in podpori;
- pomoči in ukrepih po zakonu, ki ureja preprečevanje nasilja v družini;
- zaščitnih in drugih ukrepih za zagotavljanje osebne varnosti po tem zakonu in zakonu, ki ureja zaščito prič;
- pravicah iz 65. člena tega zakona ter pravici do brezplačne pravne pomoči po zakonu, ki ureja brezplačno pravno pomoč;
- možnostih za povrnitev škode po tem zakonu in po zakonu, ki ureja odškodnino žrtvam kaznivih dejanj;
- plačilu in povrnitvi stroškov oškodovanca po 92. členu tega zakona;
- pravici do tolmačenja in prevajanja po tem zakonu;
- kontaktni osebi pristojnega organa, s katero lahko komunicira o svoji zadevi;
- morebitnih drugih pravicah ali ugodnostih, ki so lahko pomembne za oškodovanca.

(2) Obseg in vrsta informacij iz prejšnjega odstavka sta odvisna od osebnih značilnosti in ranljivosti oškodovanca, njegovih posebnih potreb po zaščiti, narave, teže in okoliščin kaznivega dejanja ter faze predkazenskega ali kazenskega postopka.

(3) Oškodovanec ima pravico do prejemanja informacij o stanju predkazenskega oziroma kazenskega postopka ter pravnomočnih sodb, če zanje zaprosi ali če tako določa zakon (šesti odstavek 363. člena). Pristojni organ v predkazenskem oziroma kazenskem postopku ga s pravico seznani in to ustrezno zabeleži na način, da se s tem lahko seznanijo policija, pristojni državni tožilec oziroma sodnik. Obveščanje o stanju predkazenskega oziroma kazenskega postopka se lahko izvaja prek spletnih strani.

(4) Oškodovanec zaradi zagotavljanja svoje osebne varnosti lahko zaprosi za obveščanje o izpustitvi oziroma pobegu osumljenca ali obdolženca iz hišnega pripora ali iz pripora. S pravico ga ob prvem stiku v predkazenskem ali kazenskem postopku seznani pristojni organ in seznanitev ustrezno zabeleži. Obveščanje se lahko

(1) During the first contact, the competent authority in pre-trial or criminal proceedings shall inform the injured party of the method of providing information on:
- free medical, psychological and other assistance and support;
- assistance and measures pursuant to the Act governing the prevention of domestic violence;
- protective and other measures for ensuring personal security under this Act and the Act governing the protection of witnesses;
- the rights referred to in Article 65 of this Act and the right to free legal aid under the Act governing free legal aid;
- the possibilities for compensation for damages under this Act and the Act governing compensation to victims of crime;
- payment and reimbursement of the costs incurred by the injured party under Article 92 of this Act;
- the right to interpretation and translation under this Act;
- the contact person of the competent authority with whom he or she can communicate about his or her case;
- any other rights or benefits that may be relevant to the injured party.

(2) The amount and type of information referred to in the preceding paragraph shall depend on the personal characteristics and vulnerability of the injured party, his or her specific needs for protection, the nature, gravity and circumstances of the crime and the stage of pre-trial or criminal proceedings.

(3) The injured party shall have the right to receive information on the state of pre-trial or criminal proceedings and final judgments if he or she makes such a request or if so provided by law (paragraph six of Article 363). The competent authority in pre-trial or criminal proceedings shall inform the injured party of this right and duly record it in such a way that the police, the competent state prosecutor or the judge can be apprised of it. Information on the state of pre-trial or criminal proceedings can be provided through websites.

(4) In order to ensure his or her personal security, the injured party may request to be informed of the release or escape of the suspect or accused person from pretrial house detention or from detention. He or she shall be informed of this right by the competent authority during the first contact in pre-trial or criminal proceedings, which shall be duly

zavrne, če bi bil osumljenec ali obdolženec zaradi tega lahko ogrožen. O pobegu osumljenca ali obdolženca iz hišnega pripora oškodovanca obvesti policija ali sodišče, o izpustitvi osumljenca ali obdolženca iz hišnega pripora pa oškodovanca obvesti sodišče. O izpustitvi oziroma pobegu osumljenca ali obdolženca iz pripora oškodovanca obvesti zavod iz 210. člena tega zakona. Pristojni organ, ki je zaprosilo oškodovanca prejel, obvesti policijo, sodišče ali zavod iz 210. člena tega zakona o zaprosilu in kontaktnih podatkih oškodovanca. Na zaprosilo oškodovanca se po tem odstavku obvešča tudi center za socialno delo.

(5) Od oškodovanca, ki ni podal ovadbe, se ob prvem stiku s pristojnim organom pridobi osebno ime, dan, mesec in leto rojstva, enotno matično številko (v nadaljnjem besedilu: EMŠO), naslov ali prebivališče ter morebitne druge kontaktne podatke. Hkrati se ga opozori na dolžnost obveščanja o vsaki spremembi naslova ali prebivališča (66. člen) in pravico do prevzema pregona (60., 62. in 433. člen), kar se ustrezno zaznamuje.

(6) Odločitev o prejemanju informacij iz tretjega in četrtega odstavka tega člena lahko oškodovanec kadarkoli med predkazenskim in kazenskim postopkom spremeni, kar pristojni organ ustrezno zabeleži na način, da se s tem lahko seznanijo drugi pristojni organi iz tretjega in četrtega odstavka tega člena.

(7) Osebam iz drugega stavka šeste alineje 144. člena tega zakona se omogoči dostop do pomoči iz prve in druge alineje prvega odstavka tega člena tudi, če se ne štejejo za oškodovanca po tem zakonu, kadar so izkazane posebne potrebe po zaščiti in je to utemeljeno z obsegom škode, povzročene oškodovancu; dostop do ukrepov iz tretje alineje prvega odstavka tega člena pa pod pogoji iz 141.a ali 240.a člena tega zakona.

66. člen

recorded. Such information may be refused if the suspect or accused person could be threatened as a result. The injured party shall be informed of the escape of the suspect or accused person from pretrial house detention by the police or the court, and of the release of the suspect or accused person from pretrial house detention by the court. The injured party shall be informed of the escape or the release of the suspect or accused person from detention by the prison referred to in Article 210 of this Act. The competent authority that received the request of the injured party shall inform the police, the court or the prison referred to in Article 210 of this Act of the request and provide the injured party's contact details. At the request of the injured party, the social work centre shall also be informed as indicated in this paragraph.

(5) During the first contact with the competent authority, the injured party who did not file a criminal complaint shall be requested to provide his or her personal name, day, month and year of birth, his or her personal registration number (hereinafter: EMŠO number), his or her address or residence and any other contact information. At the same time, the injured party shall be reminded of the duty to inform the competent authority of any change of address or residence (Article 66), and shall be informed of the right to assume prosecution (Articles 60, 62 and 433), which shall be duly recorded.

(6) The injured party may change the decision to receive the information referred to in paragraphs three and four of this Article at any time during the pre-trial and criminal proceedings, which shall be duly recorded by the competent authority in such a way that other competent authorities referred to in paragraphs three and four of this Article can be apprised of it.

(7) The persons referred to in the second sentence of indent six of Article 144 of this Act shall be granted access to the assistance referred to in indents one and two of paragraph one of this Article even if they are not considered to be injured parties under this Act, if special needs for protection are demonstrated and if this is justified by the extent of damage caused to the injured party; access to the measures referred to in indent three of paragraph one of this Article shall be granted under the conditions specified in Article 141a or Article 240a of this Act.

Article 66

Zasebni tožilec, oškodovanec kot tožilec in oškodovanec ter njihovi zakoniti zastopniki in pooblaščenci morajo sporočiti sodišču vsako spremembo naslova ali prebivališča, oškodovanec ter njegov zakoniti zastopnik in pooblaščenec pa morajo vsako spremembo naslova ali prebivališča sporočiti tudi državnemu tožilstvu (60. člen).

VI. poglavje
ZAGOVORNIK

67. člen

(1) Obdolženec sme imeti zagovornika ves čas, ko teče kazenski postopek.

(2) Obdolženca je treba pred prvim zaslišanjem poučiti, da ima pravico vzeti si zagovornika in da je zagovornik lahko navzoč pri njegovem zaslišanju.

(3) Zagovornika smejo najeti obdolžencu tudi njegov zakoniti zastopnik, zakonec oziroma oseba, s katero živi v zunajzakonski skupnosti, krvni sorodnik v ravni vrsti, posvojitelj, posvojenec, brat, sestra in rejnik.

(4) Za zagovornika se sme vzeti samo odvetnik, njega pa lahko nadomešča odvetniški kandidat. Pred vrhovnim sodiščem sme biti zagovornik samo odvetnik.

(5) Zagovornik mora predložiti organu, pred katerim teče postopek, pooblastilo. Obdolženec lahko da zagovorniku pooblastilo tudi ustno na zapisnik pri organu, pred katerim teče postopek.

68. člen

(1) V isti kazenski zadevi zagovornik ne more zagovarjati dveh ali več obdolžencev.

A private prosecutor, an injured party as prosecutor, an injured party and their legal representatives and counsels must report to the court any change of their addresses or residences, and the injured party and his or her legal representative and counsel must also report any change of address or residence to the state prosecutor's office (Article 60).

Chapter VI
DEFENCE COUNSEL

Article 67

(1) The accused person may have a defence counsel throughout the proceedings.

(2) Prior to the first interrogation, the accused person must be informed that he or she has the right to retain a defence counsel and that the defence counsel may be present during his or her interrogation.

(3) A defence counsel for the accused person may also be retained by the accused person's legal representative, his or her spouse or the person living with him or her in extra-marital cohabitation, blood relatives in the direct line, an adoptive parent, adopted child, and a brother, sister or foster parent.

(4) Only attorneys may be retained as defence counsels, but they may be substituted by candidate attorneys. Only an attorney may act as defence counsel before the Supreme Court.

(5) Defence counsels must submit the power of attorney to the authority that conducts the proceedings. The accused person may also give his or her defence counsel a power of attorney orally on the record before the authority conducting the proceedings.

Article 68

(1) A defence counsel may not defend two or more accused persons in the same criminal case.

(2) Posamezen obdolženec ima lahko več zagovornikov, šteje pa se, da je obramba zagotovljena, če v postopku sodeluje eden izmed zagovornikov.

69. člen

(1) Zagovornik ne sme biti oškodovanec, zakonec oškodovanca ali tožilca oziroma oseba, s katero oškodovanec ali tožilec živi v zunajzakonski skupnosti, in ne njihov krvni sorodnik v ravni vrsti do kateregakoli kolena, v stranski vrsti do četrtega kolena ali sorodnik po svaštvu do drugega kolena.

(2) Zagovornik tudi ne sme biti, kdor je povabljen kot priča, razen če je po tem zakonu oproščen dolžnosti pričevanja in če izjavi, da ne bo pričal, ali če se zagovornik zaslišuje kot priča v primeru iz 2. točke 235. člena tega zakona.

(3) Zagovornik tudi ne sme biti, kdor je bil v isti zadevi sodnik ali državni tožilec.

70. člen

(1) Če je obdolženec nem, gluh ali sicer nezmožen, da se sam uspešno brani, ali če teče zoper njega kazenski postopek zaradi kaznivega dejanja, za katero je v zakonu predpisana kazen tridesetih let zapora ali dosmrtnega zapora ali če je po 157. členu tega zakona priveden k preiskovalnemu sodniku, mora imeti zagovornika že pri prvem zaslišanju.

(2) Obdolženec mora imeti zagovornika pri postopku po 204.a členu tega zakona in ves čas, dokler traja zoper njega odrejeni pripor.

(3) Obdolženec mora imeti zagovornika ob vročitvi obtožnice, če gre za kaznivo dejanje, za katerega je v zakonu

(2) The accused person may have more than one defence counsel, but it shall be deemed that defence is provided if one of them participates in the proceedings.

Article 69

(1) A defence counsel may not be the injured party, the spouse of the injured party or of the prosecutor, or the person living with the injured party or the prosecutor in extra-marital cohabitation, nor his or her blood relative in the direct line up to any degree or in the collateral line up to the fourth degree, or his or her relative by marriage up to the second degree.

(2) A person summoned as a witness may not be a defence counsel, unless he or she is relieved of the duty to testify under this Act and unless he or she declares that he or she will not testify, or if the defence counsel is heard as a witness in the case referred to in point 2 of Article 235 of this Act.

(3) A person who was the judge or the state prosecutor in the same case may not act as defence counsel.

Article 70

(1) If the accused person is mute, deaf or otherwise incapable of defending himself or herself effectively, or if criminal proceedings are conducted against him or her for a criminal offence punishable by imprisonment of thirty years or life imprisonment prescribed by an Act, or if he or she is brought before an investigating judge pursuant to Article 157 of this Act, he or she must have a defence counsel from the very first interrogation.

(2) The accused person must have a defence counsel in the proceedings under Article 204a of this Act and for as long as he or she is subject to detention.

(3) The accused person must have a defence counsel when served with the indictment if a criminal offence is involved that is

predpisana kazen osmih let zapora ali hujša kazen in v drugih primerih, določenih v tem zakonu.

(4) Če si obdolženec v primerih obvezne obrambe iz prejšnjih odstavkov ne vzame zagovornika sam, mu ga predsednik sodišča postavi po uradni dolžnosti za nadaljnji potek kazenskega postopka do pravnomočnosti sodbe; če pa mu je bila izrečena kazen zapora tridesetih let ali dosmrtnega zapora ali če je nem, gluh ali sicer nezmožen, da se sam uspešno brani – tudi za postopek z izrednimi pravnimi sredstvi. Če se obdolžencu po uradni dolžnosti postavi zagovornik po vložitvi obtožnice, se mu to sporoči takrat, ko se mu vroči obtožnica. Če ostane obdolženec v primeru obvezne obrambe v postopku brez zagovornika, sam pa si ne vzame drugega zagovornika, mu ga predsednik sodišča, pred katerim teče postopek, postavi po uradni dolžnosti.

(5) Za zagovornika se lahko postavi samo odvetnik.

71. člen
(prenehal veljati)

72. člen

(1) V primerih, ko prenehajo razlogi obvezne obrambe iz 70. člena tega zakona, kot tudi če si obdolženec namesto postavljenega zagovornika vzame drugega zagovornika, se postavljeni zagovornik razreši.

(2) Postavljeni zagovornik sme samo iz opravičenih razlogov zahtevati razrešitev.

(3) O razrešitvi zagovornika v primerih iz prvega in drugega odstavka tega člena odloča pred glavno obravnavo preiskovalni sodnik oziroma predsednik senata, na glavni obravnavi senat, v pritožbenem postopku pa predsednik senata sodišča prve stopnje oziroma senat, pristojen za odločanje v postopku o pritožbi. Zoper ta

punishable by imprisonment of eight years or a more severe sentence prescribed by an Act, as well as in other cases laid down by this Act.

(4) If in the cases of mandatory defence referred to in the preceding paragraphs, the accused person fails to retain a defence counsel by himself or herself, the president of the court shall appoint one to him or her *ex officio* for the further conduct of criminal proceedings until the judgment becomes final; if, however, the accused person has been sentenced to thirty years of imprisonment or to life imprisonment, or if he or she is mute, deaf or otherwise incapable of defending himself or herself effectively, the president of the court shall retain one for him or her *ex officio* also for proceedings involving extraordinary judicial remedies. If a defence counsel is appointed *ex officio* after the indictment has been filed, the accused person shall be informed thereof when the indictment is served on him or her. If in the proceedings where defence is mandatory the accused person remains without a defence counsel and fails to retain one by himself or herself, the president of the court before which the proceedings are pending shall appoint one *ex officio*.

(5) Only an attorney may be appointed as defence counsel.

Article 71
(Ceased to be in force)

Article 72

(1) In cases where the reasons for mandatory defence referred to in Article 70 of this Act cease to exist, as well as if the accused person retains another defence counsel in place of the court-appointed one, the court-appointed defence counsel shall be dismissed.

(2) A court-appointed defence counsel shall only be allowed to request dismissal for justified reasons.

(3) In the cases referred to in paragraphs one and two of this Article, the dismissal of the defence counsel before the main hearing shall be decided by the investigating judge or the president of the panel, during the main hearing by the panel of judges, and during the appeal proceedings by the president of the panel of the first instance court or the

sklep ni pritožbe.

(4) Predsednik sodišča sme na zahtevo obdolženca ali z njegovo privolitvijo razrešiti postavljenega zagovornika, ki ne opravlja v redu svoje dolžnosti. Namesto razrešenega zagovornika mu postavi drugega. O razrešitvi zagovornika se obvesti odvetniška zbornica.

73. člen

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.

74. člen

(1) Če je obdolženec v priporu, si zagovornik lahko z njim prosto in brez nadzorstva dopisuje in govori.

(2) Na zahtevo priprtega obdolženca iz prvega odstavka 8. člena tega zakona ali njegovega zagovornika je sodišče dolžno zagotoviti tolmačenje za zaupni pogovor obdolženca z odvetnikom.

(3) Na zahtevo obdolženca iz prvega odstavka 8. člena tega zakona ali njegovega zagovornika sodišče lahko zagotovi tolmačenje za zaupni pogovor obdolženca z odvetnikom, če oceni, da spoštovanje jamstev ali pravic v predkazenskem ali kazenskem postopku glede na konkretne okoliščine primera zahteva tolmačenje tudi v drugih primerih, zlasti kadar se opravljajo zaslišanja, prepoznava, odloča o varščini ali vlagajo pravna sredstva.

(4) Za obdolženca iz drugega in tretjega odstavka tega

panel of judges competent to decide in appeal proceedings. There shall be no appeal against this decision.

(4) The president of the court may, at the request of the accused person or with his or her approval, dismiss an appointed defence counsel who does not perform his or her duties properly, and appoint a new one in their place. The dismissal of the defence counsel shall be reported to the Bar Association.

Article 73

After a motion for criminal prosecution has been filed by the authorised prosecutor, or after individual investigative acts have been performed by the investigating judge prior to issuing a decision on the investigation, the defence counsel shall be entitled to examine and copy the files and inspect the collected items of evidence.

Article 74

(1) If the accused person is in detention, the defence counsel may communicate with him or her in writing or orally freely and without supervision.

(2) Upon the request of the detained accused person referred to in paragraph one of Article 8 of this Act or the request of his or her defence counsel, the court shall be obliged to provide interpretation for a confidential conversation of the accused person with the attorney.

(3) Upon the request of the accused person referred to in paragraph one of Article 8 of this Act or a request of his or her counsel, the court may provide interpretation for a confidential conversation of the accused person with the attorney, should it establish that, given the specific circumstances of the case, the safeguarding of guarantees or rights in pre-trial or criminal proceedings calls for interpretation also in other instances of the case, in particular when interrogations and identifications are carried out or when decisions are made on bail or legal remedies are lodged.

(4) The provisions of paragraphs seven to nine of Article 8 of

člena smiselno veljajo določbe od sedmega do devetega odstavka 8. člena tega zakona.

75. člen

(1) Zagovornik je upravičen storiti v korist obdolženca vse, kar sme storiti obdolženec sam.

(2) Pravice in dolžnosti zagovornika prenehajo, če obdolženec prekliče pooblastilo.

VII. poglavje
VLOGE IN ZAPISNIKI

76. člen

(1) Zasebne tožbe, obtožnice in obtožni predlogi oškodovanca kot tožilca, predlogi, pravna sredstva ter druge izjave ter sporočila se vlagajo pisno (pisna vloga) ali dajejo ustno na zapisnik. Pisna vloga je vloga, ki je napisana ali natisnjena in lastnoročno podpisana (vloga v fizični obliki), ali vloga, ki je v elektronski obliki in je podpisana z elektronskim podpisom, ki je enakovreden lastnoročnemu podpisu. Pisna vloga v fizični obliki se vloži tako, da se pošlje po pošti ali izroči neposredno sodišču. Vloga v elektronski obliki se vloži tako, da se pošlje po elektronski poti informacijskemu sistemu e-sodstvo, ki samodejno potrdi njen prejem.

(2) Vloge iz prejšnjega odstavka morajo biti razumljive in obsegati vse, kar je treba da se dajo obravnavati, ter podpisane. Vloga, ki je v elektronski obliki, mora biti podpisana z elektronskim podpisom, ki je enakovreden lastnoročnemu podpisu.

(3) Če ni v tem zakonu drugače določeno, zahteva sodišče od vložnika vloge, ki je nerazumljiva ali ne obsega vsega, kar je treba,

this Act shall apply *mutatis mutandis* to the accused person referred to in paragraphs two and three of this Article.

Article 75

(1) The defence counsel shall be entitled to do everything in his or her power for the benefit of the accused person that the latter is entitled to do by himself or herself as well.

(2) The rights and duties of a defence counsel shall cease if the accused person withdraws the power of attorney.

Chapter VII
SUBMISSIONS AND RECORDS

Article 76

(1) Private actions, indictments and motions of indictment brought by the injured party as prosecutor, as well as motions, legal remedies and other statements and communications shall be filed in writing (written submissions) or given orally on the record. A written submission is deemed to be a submission that has been handwritten or printed and signed in the party's own hand (a submission in physical form), or a submission in electronic form which is signed with a secure electronic signature equivalent to a handwritten signature. A written submission in physical form shall be filed by sending it by post or by handing it over directly to the court. A submission in electronic form shall be filed by sending it electronically to the e-justice information system which automatically acknowledges its receipt.

(2) The submissions referred to in the preceding paragraph must be intelligible and shall include everything necessary for procedural action, and must be signed. Submissions in electronic form shall be signed with a secure electronic signature verified by means of a qualified certificate.

(3) Unless otherwise provided by this Act, the court shall request an applicant that submitted an unintelligible or incomplete

da bi se dala obravnavati, naj jo popravi oziroma dopolni; če tega v danem roku ne stori, sodišče vlogo zavrže. Če vloga v elektronski obliki ni primerna za obdelavo na sodišču, le-to v zahtevi vložniku sporoči tudi predpisano obliko zapisa te vloge.

(4) V zahtevi za popravek oziroma dopolnitev vloge opozori sodišče vložnika na posledice, če tega ne bi storil.

(5) Minister, pristojen za pravosodje, predpiše pogoje in način vložitve vlog v elektronski obliki po elektronski poti, obliko zapisa teh vlog ter organizacijo in delovanje informacijskega sistema e-sodstvo.

77. člen

(1) Vloge, ki se po tem zakonu vročajo nasprotni stranki, se morajo izročiti sodišču v toliko izvodih, kolikor jih je treba za sodišče in drugo stranko.

(2) Če take vloge niso izročene sodišču v zadostnem številu izvodov, zahteva sodišče od vložnika, naj v določenem roku izroči zadosti izvodov. Če vložnik ne ravna po naročilu sodišča, preskrbi sodišče potrebno število izvodov na vložnikove stroške.

(3) Ne glede na določbe prejšnjih odstavkov se vloge v elektronski obliki pošljejo sodišču v enem izvodu. Sodišče naredi toliko elektronskih kopij ali izpisov v fizični obliki, kolikor jih je potrebnih za nasprotno stranko.

78. člen

(1) Sodišče kaznuje z denarno kaznijo zagovornika, pooblaščenca, zakonitega zastopnika, oškodovanca, zasebnega tožilca ali oškodovanca kot tožilca, če v vlogi ali govoru žali sodišče ali koga, ki sodeluje v postopku. Denarna kazen znaša najmanj eno petino zadnje uradno objavljene povprečne mesečne neto plače v

submission to rectify or supplement it; should the applicant fail to do so within a set time limit, the court shall dismiss the submission. If the submission in electronic form is not suitable for processing at court, the court shall also inform the applicant in its request about the prescribed form of such submission.

(4) In its request for rectification or supplementing of the submission, the court shall inform the applicant of the consequences of failure to do so.

(5) The minister responsible for justice shall lay down the conditions and the method of filing submissions in electronic form by electronic means, the form of such submissions and the organisation and operation of the e-justice information system.

Article 77

(1) Submissions which under this Act must be served on the counterparty shall be delivered to the court in as many copies as are required by the court and the other party.

(2) If such submissions are not delivered to the court in a sufficient number of copies, the court shall request the applicant to deliver the required number of copies within the prescribed time limit. Should the applicant fail to observe the order, the court shall supply the required number of copies at the applicant's expense.

(3) Notwithstanding the provisions of the preceding paragraphs, submissions in electronic form shall be sent to the court in a single copy. The court shall produce as many electronic copies or printouts in physical form as are necessary for the opposing party.

Article 78

(1) The court shall impose a fine on a defence counsel, counsel, legal representative, injured party, private prosecutor or injured party acting as prosecutor, if in the submission or in speech he or she insults the court or any participant in the proceedings. The amount of the fine shall be at least one-fifth of the last officially published average monthly net wage

Republiki Sloveniji na zaposleno osebo, in največ trikratni znesek te plače.

(2) Sklep o izreku denarne kazni izda preiskovalni sodnik oziroma senat, pred katerim je bila dana žaljiva izjava, če je žalitev zapisana v vlogi, pa sodnik ali senat, ki naj o njej odloči, razen če naj o njej odloči vrhovno sodišče.

(3) Če se žaljiva izjava nanaša na sodnika ali senat, ki bi moral odločiti po prejšnjem odstavku in sodnik ali predsednik senata oceni, da so izpolnjeni pogoji za kaznovanje, poda predlog za kaznovanje, o katerem odloči izvenobravnavni sodnik. Če je žalitev zapisana v vlogi, o kateri odloča vrhovno sodišče, o njej odloči predsednik vrhovnega sodišča ali izvenobravnavni sodnik v primeru, če se žaljiva izjava nanaša na predsednika vrhovnega sodišča.

(4) Če se ustna žaljiva izjava nanaša na sodnika ali senat, pred katerim je bila podana, je treba osebi, ki jo je podala, omogočiti, da se opredeli do predloga za kaznovanje, ki ga sodnik ali predsednik senata posreduje izvenobravnavnemu sodniku.

(5) Zoper sklep o izreku denarne kazni je dovoljena pritožba. O pritožbi zoper sklep o izreku denarne kazni, ki ga je izdalo višje sodišče, odloči vrhovno sodišče. O pritožbi zoper sklep o izreku denarne kazni, ki ga je izdal predsednik vrhovnega sodišča, odloči vrhovno sodišče.

(6) Če državni tožilec koga žali, se o tem obvesti Vrhovno državno tožilstvo. O kaznovanju odvetnika oziroma odvetniškega kandidata se obvesti odvetniška zbornica.

(7) Kaznovanje po prvem odstavku tega člena ne vpliva na pregon in izrek kazni za kaznivo dejanje, ki je bilo storjeno z žalitvijo.

79. člen

per employee in the Republic of Slovenia, and a maximum of three times the amount of that salary.

(2) The ruling imposing a fine shall be issued by the investigating judge or the panel before which the offensive statement was made, or, if the insult is contained in a submission, by the judge or the panel which is to decide thereon, unless it is to be decided by the Supreme Court.

(3) If the offensive statement refers to the judge or the panel that is to decide as referred to in the preceding paragraph, and the judge or the president of the panel assesses that the conditions for punishment have been met, he or she shall submit a motion for punishment which shall be decided by the pre-trial judge. If the insult is contained in the submission to be decided by the Supreme Court, it shall be decided by the President of the Supreme Court or the pre-trial judge, provided that the offensive statement refers to the President of the Supreme Court.

(4) If an oral offensive statement refers to the judge or the panel before which it was made, the person who made it should be given an opportunity to state his or her view on the motion for punishment submitted by the judge or the president of the panel to the pre-trial judge.

(5) An appeal shall be allowed against the ruling imposing a fine. The Supreme Court shall decide on the appeal against the ruling imposing the fine issued by the higher court. The Supreme Court shall decide on the appeal against the ruling imposing the fine issued by the President of the Supreme Court.

(6) If a state prosecutor makes offensive statements, the Office of the State Prosecutor General shall be informed thereof. The Bar Association of Slovenia shall be notified of the punishment of an attorney or candidate attorney.

(7) The punishment referred to in paragraph one of this Article shall have no effect on the prosecution and the imposition of a sentence for a criminal offence committed by way of an insult.

Article 79

(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.

80. člen

(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.

(1) Each act performed in the course of criminal proceedings shall be entered in the record on an ongoing basis at the time when the act is performed, and if this is not possible, immediately afterwards.

(2) The record shall be drawn up by a court reporter. Only where a search of premises or a personal search is carried out, or an act outside the official premises of the body is carried out and it is not possible to secure a court reporter, may the record also be drawn up by the person who performs the act.

(3) The record shall be drawn up by the court reporter in such a way that the person who performs the act dictates out loud to the court reporter what to write in the record. The record may also be kept in a different manner if so provided by this Act.

(4) The person that is being interrogated shall be allowed to dictate answers on the record by himself or herself. However, he or she may be denied this right if he or she abuses it.

Article 80

(1) Information entered in the record shall include: the name of the state authority before which the procedural act is carried out, the place where the act is carried out, the date and time of the beginning and conclusion of the act, the names and surnames of persons present with an indication of their role in the act, and the criminal case in which the procedural act is being performed.

(2) The record shall include the essential data on the course and contents of the performed act. Only the essential content of depositions and statements made shall be recorded, and it shall be recorded in the form of a narrative. Questions shall be recorded only if they are necessary in order to understand the answer or if so requested by the person who asks a question. The identity of the person who asked the question must be clear from the record. If necessary, the question asked and the answer thereto shall be recorded verbatim. If in the course of performing the act, objects or files are seized, this should be noted in the record and the objects seized shall be enclosed with the record, or the name of the person with whom they are placed for safekeeping shall be

(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.

81. člen

(1) Zapisnik se mora pisati v redu; v njem se ne sme nič izbrisati, dodati ali spreminjati. Prečrtana mesta morajo ostati čitljiva.

(2) Vse spremembe, popravki in dodatki se vpišejo na koncu zapisnika in jih morajo potrditi tisti, ki zapisnik podpišejo.

82. člen

(1) Zaslišanec in tisti, ki morajo biti navzoči pri procesnih dejanjih, ter stranke, zagovornik in oškodovanec, če so navzoči, imajo pravico prebrati zapisnik ali zahtevati, da se jim prebere. Na to jih mora opozoriti tisti, ki opravlja dejanje, v zapisniku pa se pripomni, ali so bili opozorjeni in ali je bil zapisnik prebran. Zapisnik se prebere vselej, če ni bilo zapisnikarja; to se pripomni v zapisniku.

(2) Zapisnik podpiše zaslišanec. Če obsega zapisnik več strani, podpiše zaslišanec vsako stran.

(3) Na koncu zapisnika se podpišejo morebitni tolmač in priče, katerih navzočnost je obvezna pri preiskovalnih dejanjih, pri

indicated.

(3) Where acts such as inspection of the crime scene, search of premises or personal search or recognition of a person or objects are involved (Article 242), the record shall also contain the data relevant to the nature of such act or to the identification of individual objects (description, measurements and size of objects or traces, marks on objects and other data); if sketches, drawings, plans, audio or video recordings and similar have been made, this shall be noted in the record and such objects shall be enclosed with the record.

Article 81

(1) A record shall be written neatly, and nothing in it may be erased, added or amended. Parts that are crossed out must remain legible.

(2) Any amendments, corrections and additions shall be noted down at the end of the record and must be certified by those signing the record.

Article 82

(1) The interrogated person and those whose presence during the performance of procedural acts is required, as well as the parties, the defence counsel and the injured party, if present, shall have the right to read the record through or to demand that it should be read to them. They shall be informed of that right by the person carrying out the procedural act, and it shall be noted in the record whether they were given such information and whether the record was read to them. The record shall always be read if it has not been written down by a court reporter, which shall be duly noted in the record.

(2) The record shall be signed by the interrogated person. If the record contains several pages, each page shall be signed by the interrogated person.

(3) The interpreter, if any, the witnesses whose presence during the investigative acts is mandatory and, in the case of a personal search

osebni ali hišni preiskavi pa tudi tisti, ki je bil preiskan oziroma čigar stanovanje je bilo preiskano. Če zapisnika ne piše zapisnikar (drugi odstavek 79. člena), podpišejo zapisnik tisti, ki so bili pri dejanju navzoči. Če takih ni ali če ne morejo razumeti vsebine zapisnika, pa ga podpišeta dve priči, razen če ni mogoče zagotoviti, da bi bili navzoči.

(4) Nepismeni odtisne na mestu podpisa kazalec desne roke, zapisnikar pa zapiše pod odtisom njegovo ime in priimek. Če se zaradi tega, ker ni mogoče odtisniti desnega kazalca, odtisne kakšen drug prst ali prst z leve roke, se v zapisniku pripomni, s katerega prsta in s katere roke je bil vzet odtis.

(5) Če je zaslišanec brez obeh rok, prebere zapisnik, če je nepismen, pa se mu prebere zapisnik in se to vanj vpiše. Če zaslišanec noče podpisati zapisnika ali dati prstnega odtisa, se to zapiše v zapisnik in navede razlog odklonitve.

(6) Če se dejanje ni moglo opraviti zdržema, se v zapisnik zapišeta dan in ura, kdaj je bilo prekinjeno, ter dan in ura, kdaj se je nadaljevalo.

(7) Če kdo ugovarja vsebini zapisnika, se zapišejo v zapisnik tudi ti ugovori.

(8) Zapisnik podpišeta na koncu tisti, ki je opravil dejanje in zapisnikar.

83. člen

(1) Preden državni tožilec poda preiskovalnemu sodniku zahtevo za preiskavo (prvi odstavek 168. člena), predlog za soglasje naj se ne opravi preiskava (prvi odstavek 170. člena), ali vloži obtožnico brez preiskave (šesti odstavek 170. člena) oziroma obtožni predlog na podlagi kazenske ovadbe (drugi odstavek 430. člena), ali poda sodniku posamezniku predlog za opravo posameznih

or a search of premises, also the person who was searched or whose premises were searched, shall put their signatures at the end of the record. If the record is not made by a court reporter (paragraph two of Article 79), it shall be signed by those present during the performance of the act. If there are no such persons, or if such persons cannot understand the content of the record, the record shall be signed by two witnesses, unless it is impossible to secure their presence.

(4) An illiterate person shall leave the print of his or her right-hand index finger in the place provided for signature, and the court reporter shall write his or her name and surname under the fingerprint. Where it is impossible to obtain the print of the right-hand index finger, some other fingerprint or a left-hand fingerprint shall be taken instead; the finger and the hand from which the print was obtained shall be noted in the record.

(5) If the interrogated person is without hands, he or she shall read the record by himself or herself; if he or she is illiterate, the record shall be read to him or her, which shall be noted in the record. If the interrogated person refuses to sign the record or to leave a fingerprint, this shall be noted in the record together with the reason for refusal.

(6) If a procedural act could not be performed without interruption, the date and hour of the interruption and the date and hour of the resumption shall be noted in the record.

(7) Any objection to the content of the record shall be entered therein.

(8) The person who performed the procedural act and the court reporter shall put their signatures at the end of the record.

Article 83

(1) Before the state prosecutor submits an investigation request (paragraph one of Article 168) or a motion for consent not to conduct an investigation (paragraph one of Article 170) to the investigating judge, or files an indictment without conducting an investigation (paragraph six of Article 170), or a motion of indictment on the basis of a criminal complaint (paragraph two of Article 430), or files a motion for the performance of

preiskovalnih dejanj (prvi odstavek 431. člena) ali predlog za izdajo kaznovalnega naloga (prvi odstavek 445.a člena), izloči iz spisov, ki jih pošlje sodišču, obvestila, ki jih je policija zbrala od osumljenca, preden je bil poučen po četrtem odstavku 148. člena tega zakona. O opravljeni izločitvi sestavi uradni zaznamek in ga priloži spisom, ki jih pošlje sodišču, izločena obvestila pa shrani v svojem spisu. Če je h kazenski ovadbi priložen zapisnik o zaslišanju osumljenca (drugi odstavek 148.a člena), zapisniki o opravljenih preiskovalnih dejanjih (164. do 166. člen) ali drugi dokazi, za katere državni tožilec misli, da se na njih ne sme opirati odločba sodišča, pošlje spise, v katerih so taki dokazi preiskovalnemu sodniku oziroma sodniku posamezniku, ta pa ravna po določbah drugega in tretjega odstavka tega člena.

individual investigative acts (paragraph one of Article 431), or a motion for the issue of a punitive order (paragraph one of Article 445a) with a single judge, he or she shall exclude from the documents to be sent to the court the information collected by the police from the suspect before the latter was instructed as provided in paragraph four of Article 148 of this Act. The state prosecutor shall make an official note on the exclusion, enclose it with the documents to be sent to the court and keep the excluded information in his or her file. If the record of the suspect's interrogation (paragraph two of Article 148a), the records of the performed investigative acts (Articles 164 to 166) or other evidence which, in the state prosecutor's opinion, may not serve as the basis for the decision of the court, are enclosed with the criminal complaint, the state prosecutor shall send the documents containing such evidence to the investigating judge or a single judge, who shall deal with them in accordance with the provisions of paragraphs two and three of this Article.

(2) Če je v tem zakonu določeno, da se sodna odločba ne sme opirati na izpovedbo osumljenca oziroma obdolženca, priče ali izvedenca, ali na zapisnike, predmete, posnetke, sporočila ali dokazila, izda preiskovalni sodnik oziroma sodnik, ki opravlja posamezna preiskovalna dejanja, po uradni dolžnosti ali na predlog stranke sklep, s katerim izloči navedene dokaze iz spisov takoj, ko ugotovi, da gre za take izpovedbe oziroma dokaze. Tako ravna tudi glede obvestil iz prejšnjega odstavka, če jih ni že prej izločil državni tožilec, kot tudi glede obvestil, ki so jih dale policiji osebe, ki ne smejo biti zaslišane kot priče (235. člen), ali ki so se v skladu s tem zakonom odrekle pričevanju (236. člen), ali ki po tem zakonu ne bi smele biti postavljene za izvedenca (251. člen). Stranke smejo zahtevati izločitev zapisnikov in drugih dokazov do konca predobravnavnega naroka, če tega naroka ni bilo, pa do začetka glavne obravnave, kasneje pa samo pod pogojem iz 4. točke tretjega odstavka 285.a člena tega zakona.

(2) Where this Act provides that a court decision may not be based on a deposition made by the suspect or accused person, a witness or expert witness, or on the records, objects, recordings, reports or pieces of evidence, the investigating judge or the judge who carries out individual investigative acts shall issue *ex officio*, or at the motion of a party, a decision excluding the aforementioned evidence from the files as soon as he or she establishes that such depositions or evidence are involved. He or she shall act in the same manner with regard to the information referred to in the preceding paragraph unless it has been already excluded by the state prosecutor, as well as with regard to the information disclosed to the police by persons who may not be heard as witnesses (Article 235), or who have renounced testimony in accordance with this Act (Article 236), or who may not be appointed as expert witnesses under this Act (Article 251). The parties may request the exclusion of records and other evidence before the end of the pre-trial hearing, and, if there was no such hearing, before the opening of the main hearing, and subsequently only under the condition referred to in point 4 of paragraph three of Article 285a of this Act.

(3) Zoper sklep preiskovalnega sodnika oziroma sodnika posameznika iz prejšnjega odstavka o izločitvi ali zavrnitvi predloga stranke za izločitev je dovoljena posebna pritožba. Po pravnomočnosti sklepa se izločeni zapisniki in drugi izločeni dokazi zaprejo v poseben ovitek in shranijo ločeno od drugih spisov in jih ni mogoče pregledovati in ne uporabiti v kazenskem postopku, razen v

(3) The decision issued by an investigating judge or a single judge on the exclusion or rejection of a party's motion for exclusion referred to in the preceding paragraph may be challenged by a special appeal. Once the decision becomes final, the excluded records and other excluded evidence shall be sealed in a separate cover and kept separate from other files and may not be subject to inspection or used in criminal

primerih iz četrtega odstavka tega člena. O pritožbi odloča sodišče druge stopnje.

(4) Ne glede na določbo prejšnjega odstavka sme predsednik sodišča, ki odloča o zahtevi za izločitev sodnika iz razloga po 2. točki drugega odstavka 39. člena tega zakona, ter senat, ki odloča o pravnem sredstvu zoper odločbo o glavni stvari, pregledati in uporabiti zapisnike in druge dokaze, ki so bili s pravnomočnim sklepom izločeni iz spisov, če je to nujno zaradi ugotovitve ali je podan razlog za izločitev sodnika. Po pregledu in uporabi se mora izločene zapisnike in druge dokaze spet zapreti v poseben ovitek in na njem naznačiti, kdo in kdaj jih je pregledal.

(5) Določbe prejšnjega odstavka se smiselno uporabljajo tudi, ko sodišče druge stopnje odloča o pritožbi zoper sodbo, s katero se izpodbija tudi sklep o izločitvi dokazov (četrti odstavek 340. člena).

(6) Če se vodi spis v elektronski obliki, se izločena obvestila, zapisniki in drugi izločeni dokazi izločijo v informacijskem sistemu e-sodstvo iz njega in se v informacijskem sistemu e-sodstvo vodijo v posebni mapi tako, da so dostopni v povezavi z obravnavano zadevo. Če predsednik sodišča ali sodišče druge stopnje v primeru iz četrtega ali petega odstavka tega člena pregleda in uporabi te izločene dokaze, jih mora po tem spet shraniti v posebno mapo v informacijskem sistemu e-sodstvo in na njej označiti, da jih je pregledalo. Te določbe se smiselno uporabljajo tudi pri drugih določbah tega zakona, ki urejajo izločanje dokazov.

84. člen

(1) Preiskovalni sodnik lahko odredi, da se preiskovalno dejanje posname z ustreznimi tehničnimi sredstvi za zvočno ali zvočno-slikovno snemanje, vselej pa se posname zaslišanje priče, mlajše od 15 let, ki je bila oškodovanec kaznivega dejanja iz tretjega odstavka 65. člena tega zakona. O tem mora poprej obvestiti zaslišanca.

proceedings, except in the instances referred to in paragraph four of this Article. The appeal shall be decided by the court of second instance.

(4) Notwithstanding the provision of the preceding paragraph, the president of the court who decides on a request for the disqualification of a judge for the reasons set out in point 2 of paragraph two of Article 39 of this Act, as well as the panel that decides on a legal remedy against the decision in the main cause, shall be allowed to inspect and use the records and other evidence that were excluded from the files under a final decision if this is necessary to determine whether the reasons for the disqualification of a judge exist. After being inspected and used, the excluded records and other evidence shall again be sealed in a separate cover and a note shall be made on it who inspected them and when they were inspected.

(5) The provisions of the preceding paragraph shall apply *mutatis mutandis* if the court of second instance rules on an appeal against a judgment, with the appeal also challenging the decision on the exclusion of evidence (paragraph four of Article 340).

(6) Where the case file is kept in electronic form, the excluded information, records and other excluded evidence shall be removed from the case file in the e-justice information system and shall be kept in a separate folder in the e-justice information system in order to be accessible in connection with the case concerned. If the president of the court or the court of second instance, in the cases referred to in paragraph four or five of this Article, examines and uses such excluded evidence, they must store it again in the separate folder in the e-justice information system and make a note thereon that they were examined. These provisions shall apply *mutatis mutandis* to other provisions of this Act that regulate the exclusion of evidence.

Article 84

(1) The investigating judge may order that an investigative act be recorded with appropriate technical audio or audiovisual recording equipment, while the testimony of a witness under the age of 15 who was the victim of the crime referred to in paragraph three of Article 65 of this Act shall always be recorded. The investigating judge shall inform the person to be heard of this in advance.

(2) Posnetek mora vsebovati podatke iz prvega odstavka 80. člena tega zakona, podatke, potrebne za identifikacijo tistega, čigar izjava se snema, in podatek, v kakšni lastnosti daje ta izjavo. Če se snemajo izjave več oseb, mora biti poskrbljeno, da se da iz posnetka jasno razpoznati, kdo je dal izjavo.

(3) Če se snemanje preiskovalnega dejanja prekine, se mora to skupaj s časom prekinitve na posnetku ustrezno označiti. Enako velja za nadaljevanje in konec snemanja. Če se spremenijo osebe, ki so navzoče pri preiskovalnem dejanju, se mora to skupaj s časom spremembe na posnetku ustrezno označiti.

(4) Na zahtevo zaslišanega se posnetek takoj, ko je to tehnično izvedljivo, predvaja. Na naroku ima zaslišani pravico, da poda pojasnila in pripombe, ki se prav tako posnamejo.

(5) V zapisniku o preiskovalnem dejanju je treba navesti tudi kontrolno vrednost in metodo njenega izračuna oziroma na drug ustrezen način zagotoviti možnost naknadnega preverjanja istovetnosti in integritete posnetih podatkov ter zapisati, da je bilo dejanje posneto z ustreznim tehničnim sredstvom za zvočno ali zvočno-slikovno snemanje in kdo je to napravil, da je bil zaslišanec vnaprej obveščen o snemanju, da je bil posnetek reproduciran in kje je shranjen posnetek, če ni priložen spisom ali samodejno zabeležen v informacijskem sistemu e-sodstvo.

(6) Preiskovalni sodnik lahko odredi, naj se zvočni posnetek v celoti ali deloma prepiše. Prepis mora preiskovalni sodnik pregledati, potrditi in priključiti zapisniku o opravljenem dejanju.

(7) Zvočne in slikovne posnetke hrani sodišče, dokler se hrani kazenski spis.

(8) Določbe prvega do sedmega odstavka tega člena se smiselno uporabljajo tudi, če je kakšno drugo preiskovalno dejanje,

(2) The recording must contain the information referred to in paragraph one of Article 80 of this Act, information necessary to determine the identity of the person whose statement is being recorded, and information regarding the procedural role of that person. If the statements made by more than one person are recorded, the recording must clearly show which persons made which statements.

(3) If the recording of an investigative act is interrupted, this interruption shall be appropriately noted on the recording together with the time of the interruption. The same shall apply to the time when the recording was resumed and when it ended. If the persons present during the investigative act change, this must be appropriately recorded along with the time of the change in the audio or video record.

(4) Upon the request of the interrogated person, the recording shall be reproduced as soon as technically possible. At the hearing, the interrogated person shall have the right to provide explanations and comments which shall also be recorded.

(5) The record of the investigative act shall also indicate the control value and the method of its calculation, or in some other appropriate manner ensure the possibility of subsequent verification of the identity and integrity of the recorded data, and shall indicate that the act was recorded with the appropriate technical equipment for audio or audio-visual recording and the person who made the recording, that the interrogated person was informed of the recording in advance, that the recording was reproduced and where the recording is kept, provided it is not enclosed with the files or automatically recorded in the e-justice information system.

(6) The investigating judge may order that the audio recording be fully or partly transcribed. The investigating judge must inspect and certify the transcription and attach it to the record on the performed investigative act.

(7) Audio and video recordings shall be kept by the court as long as the criminal file is kept.

(8) The provisions of paragraphs one to seven of this Article shall apply *mutatis mutandis* if some other investigative act apart from

razen zaslišanja, snemano z ustreznim tehničnim sredstvom za zvočno ali zvočno-slikovno snemanje, ali če preiskovalno dejanje opravlja policija.

85. člen

Za zapisnik o glavni obravnavi veljajo tudi določbe členov 314 do 317 tega zakona.

86. člen

(1) O posvetovanju in glasovanju se sestavi poseben zapisnik.

(2) Zapisnik o posvetovanju in glasovanju obsega potek glasovanja in sprejeto odločbo.

(3) Ta zapisnik podpišejo vsi člani senata in zapisnikar. Posebna mnenja se priložijo zapisniku o posvetovanju in glasovanju, če niso vpisana v sam zapisnik.

(4) Zapisnik o posvetovanju in glasovanju se zapre v poseben ovitek. Ta zapisnik sme pregledati samo višje sodišče, ko odloča o pravnem sredstvu. V tem primeru mora višje sodišče zapisnik spet zapreti v poseben ovitek in na ovitku naznačiti, da je zapisnik pregledalo.

(5) Zapisnik o posvetovanju in glasovanju, ki se izda v elektronski obliki, podpišejo vsi člani senata in zapisnikar s svojimi elektronskimi podpisi, ki so enakovredni lastnoročnim podpisom. Zapisnik o posvetovanju in glasovanju, ki se izda v elektronski obliki, se v informacijskem sistemu e-sodstvo vodi v posebni mapi tako, da je dostopen v povezavi z obravnavano zadevo. Ko višje sodišče pri odločanju o pravnem sredstvu pregleda tak zapisnik, ga mora spet shraniti v posebno mapo v informacijskem sistemu e-sodstvo in na njej označiti, da ga je pregledalo.

(6) Minister, pristojen za pravosodje, predpiše način

interrogation is recorded by the appropriate audio or audiovisual technical equipment, or if the investigative act is carried out by the police.

Article 85

The provisions of Articles 314 to 317 of this Act shall also apply to the records of the main hearing.

Article 86

(1) A separate record shall be made on deliberation and voting.

(2) The record on deliberation and voting shall include the course of the voting and the decision rendered.

(3) This record shall be signed by all members of the panel and by the court reporter. Concurring and dissenting opinions shall be enclosed with the record on deliberation and voting if not already contained therein.

(4) The record on deliberation and voting shall be sealed in a separate cover. This record may only be inspected by a higher court when deciding on a legal remedy. In such case, the higher court is bound to reseal the record in a separate cover and make a note on the cover that it has inspected the record.

(5) The record on deliberation and voting issued in electronic form shall be signed by all members of the panel and the court reporter with their secure electronic signatures equivalent to their handwritten signatures. The record on deliberation and voting issued in electronic form shall be kept in a special folder in the e-justice information system, where it is accessible in connection with the case under consideration. After the higher court has inspected such record when deciding on a legal remedy, it shall store it again in the special folder in the e-justice information system and make a note thereon that it has inspected the record.

(6) The minister responsible for justice shall prescribe the

hrambe in sledljivost zapisnika o posvetovanju in glasovanju, ki se izda v elektronski obliki, iz prejšnjega odstavka ter izločenih dokazov v elektronski obliki iz šestega odstavka 83. člena tega zakona.

VIII. poglavje
ROKI

87. člen

(1) Roki, ki so določeni v tem zakonu, se ne smejo podaljšati, razen če to zakon izrecno dovoljuje. Če gre za rok, ki je s tem zakonom določen zaradi varstva pravic obrambe in drugih obdolženčevih procesnih pravic, se ta lahko skrajša, če obdolženec to zahteva pisno ali pred sodiščem ustno na zapisnik.

(2) Če je izjava vezana na rok, velja za pravočasno, če se tistemu, ki jo je upravičen sprejeti, izroči še pred pretekom roka.

(3) Če se izjava pošlje po pošti priporočeno, velja dan oddaje na pošto za dan izročitve tistemu, kateremu je poslana. Če se pošlje vloga v elektronski obliki po elektronski poti, se šteje čas, ko jo je sprejel informacijski sistem naslovnika, za trenutek izročitve tistemu, kateremu je poslana.

(4) Obdolženec, ki je v priporu, lahko poda izjavo, vezano na rok, tudi na zapisnik pri sodišču, ki vodi postopek, ali jo izroči upravi zaporov; tisti ki prestaja kazen ali je v kakšnem zavodu, ker mu je bil izrečen varnostni ali vzgojni ukrep, pa lahko izroči tako izjavo upravi zavoda, v katerem je. Dan, ko se sestavi tak zapisnik oziroma ko se izjava izroči upravi zavoda, velja za dan izročitve organu, ki je pristojen da jo sprejme.

(5) Če je vloga, ki je vezana na rok, zaradi nevednosti ali

method of storage and traceability of the records on deliberation and voting issued in electronic form referred to in the preceding paragraph, as well as of the excluded evidence kept in electronic form referred to in paragraph six of Article 83 of this Act.

Chapter VIII
TIME LIMITS

Article 87

(1) The time limits prescribed by this Act may not be extended unless expressly provided for by an Act. If the purpose of a time limit prescribed by this Act is to protect the right to defence and other procedural rights of an accused person, such time limit may be shortened if so requested by the accused person in writing or orally on the record before the court.

(2) Where a statement must be given within a prescribed time limit, it shall be deemed to have been made in due time if delivered to the authorised recipient before the expiry of the time limit.

(3) If a statement is sent by registered mail, the date of its delivery to the post office shall be considered to be the date of delivery to the recipient. If a submission is filed electronically in electronic form, the time of receipt by the recipient's information system shall be considered to be the time of delivery to the recipient.

(4) An accused person who is in detention may also make a statement that must be given within a prescribed time limit orally on the record before the court conducting the proceedings, or may deliver it to the prison administration; a person serving a sentence or a person placed in a facility on whom a precautionary or corrective measure was imposed may deliver such statement to the administration of the prison or facility where he or she is placed. The date when such record is made or the statement is delivered to the administration of the prison or the facility shall be deemed to be the date of delivery to the body authorised to accept such statement.

(5) If, due to ignorance or an obvious mistake on the part of the

očitne pomote vložnika izročena ali poslana nepristojnemu sodišču pred pretekom roka, k pristojnemu sodišču pa prispe po preteku roka, se šteje, da je pravočasna.

sender, a submission which must be submitted within a prescribed time limit is sent or delivered to a court lacking jurisdiction before the expiry of the prescribed time limit, and if it reaches the court having jurisdiction after the expiry of such time limit, it shall be deemed to have been submitted in due time.

88. člen

(1) Roki se računajo na ure, dneve, mesece in leta.

(2) Ura ali dan, ko je bila opravljena vročitev ali naznanitev oziroma ko se je pripetil dogodek, od katerega je treba računati rok, se ne šteje v rok, temveč se za začetek roka vzame prva naslednja ura oziroma prvi naslednji dan. Za en dan se šteje štiriindvajset ur, mesec in leto pa se računata po koledarju.

(3) Roki, ki so določeni po mesecih oziroma letih, se iztečejo s pretekom tistega dne v zadnjem mesecu oziroma letu, ki se po svoji številki ujema z dnem, ko je rok začel teči po drugem odstavku tega člena. Če tega dneva v zadnjem mesecu ni, se izteče rok zadnji dan v tem mesecu.

(4) Če je zadnji dan roka državni praznik, sobota ali nedelja ali kakšen drug dan, ko se pri državnem organu ne dela, se izteče rok s pretekom prvega prihodnjega delavnika.

Article 88

(1) Time limits shall be counted in hours, days, months and years.

(2) The hour or day when the delivery or release is effected, or of the occurrence of the event from which the duration of the time limit is measured, shall not be counted in the time limit, but the next following hour or day shall mark the beginning of the time limit. One day shall be counted as twenty-four hours, and a month and year shall be counted according to calendar time.

(3) The time limits prescribed in months or years shall expire upon the lapse of the day of the last month or year which by its number corresponds to the day when the time limit began to run according to paragraph two of this Article. If such day does not exist in the last month, the time limit shall expire upon the lapse of the last day of that month.

(4) If the last day of the time limit falls on a public holiday or on a Saturday or Sunday, or some other day when the state authority does not work, the time limit shall expire upon the lapse of the next working day.

89. člen

(1) Obdolžencu, ki iz opravičenih razlogov zamudi rok za napoved pritožbe ali rok za pritožbo zoper sodbo ali zoper sklep o varnostnem ali vzgojnem ukrepu ali o odvzemu premoženjske koristi, dovoli sodišče vrnitev v prejšnje stanje, da napove pritožbo oziroma da vloži pritožbo, če v osmih dneh po prenehanju vzroka, zaradi katerega je zamudil rok, vloži prošnjo za vrnitev v prejšnje stanje in obenem z njo tudi napove pritožbo oziroma odda tudi pritožbo.

Article 89

(1) The court shall grant *restitutio ad integrum* for the purpose of announcing or filing an appeal to an accused person who for justified reasons fails to announce or file, within the prescribed time limit, an appeal against the judgment or ruling on a precautionary or correctional measure or on the confiscation of proceeds, provided that the accused person submits the request for *restitutio ad integrum* within eight days of the removal of the cause for his or her failure to act within the prescribed time limit, and that simultaneously with the request, he or she also announces or files the appeal.

(2) Po treh mesecih od dneva zamude se ne more več zahtevati vrnitev v prejšnje stanje.

90. člen

(1) O vrnitvi v prejšnje stanje odloči predsednik senata, ki je razglasil sodbo, zoper katero se napoveduje pritožba oziroma izdal sodbo ali sklep, ki se s pritožbo izpodbija.

(2) Zoper sklep, s katerim se dovoli vrnitev v prejšnje stanje, ni pritožbe.

(3) Če se obdolženec pritoži zoper sklep, s katerim mu ni bila dovoljena vrnitev v prejšnje stanje, mora sodišče to pritožbo skupaj z napovedjo pritožbe zoper sodbo oziroma s pritožbo zoper sodbo ali zoper sklep o varnostnem ali vzgojnem ukrepu ali o odvzemu premoženjske koristi ter z odgovorom na pritožbo in vsemi spisi poslati v odločitev višjemu sodišču.

91. člen

Prošnja za vrnitev v prejšnje stanje praviloma ne zadrži izvršitve sodbe oziroma sklepa o varnostnem ali vzgojnem ukrepu ali o odvzemu premoženjske koristi, vendar pa sme sodišče, ki je pristojno za rešitev prošnje, odločiti da se počaka z izvršitvijo, dokler se ne odloči o prošnji.

IX. poglavje
STROŠKI KAZENSKEGA POSTOPKA

92. člen

(1) Stroški kazenskega postopka so izdatki, ki nastanejo v kazenskem postopku ali zaradi njega.

(2) Stroški kazenskega postopka so:
1) stroški za priče in za ogled ter nagrada in stroški za izvedence,

(2) After a lapse of three months from the day of failure, a request for *restitutio ad integrum* may no longer be submitted.

Article 90

(1) The president of the panel that pronounced the judgment against which an appeal is announced, or that issued the judgment or the ruling challenged by an appeal, shall decide on *restitutio ad integrum*.

(2) No appeal shall be allowed against a ruling granting *restitutio ad integrum*.

(3) If the accused person files an appeal against a ruling denying *restitutio ad integrum*, the court shall refer this appeal, together with the announcement of the appeal against the judgment or the appeal against the judgment or the ruling on a precautionary or correctional measure or on the confiscation of proceeds, as well as the response to the appeal and the entire case file, to a higher court for decision.

Article 91

The request for *restitutio ad integrum* shall not, as a rule, stay the enforcement of a judgment or ruling on a precautionary or correctional measure or on the confiscation of proceeds, but the court having jurisdiction to decide on the request may decide to stay the enforcement until a decision on the request is taken.

Chapter IX
COSTS OF CRIMINAL PROCEEDINGS

Article 92

(1) Costs of criminal proceedings are the expenses incurred in the course of criminal proceedings or by reason of criminal proceedings.

(2) Costs of criminal proceedings shall comprise:
1) costs and expenses related to witnesses and inspection of the crime

tolmače in strokovnjake, stroški za vročanje pisanj po detektivu ali izvršitelju, ki opravlja vročanje v kazenskem postopku, stroški zasega, odvzema, hrambe, prodaje in uničenja zaseženih oziroma odvzetih predmetov, ki za potrebe kazenskega postopka nastanejo pred njegovo uvedbo, med njegovim potekom ali po njegovem koncu;

2) vozni stroški za obdolženca;
3) izdatki za privedbo ali za spremljanje oseb tistega, ki mu je bila vzeta prostost;
4) vozni in potni stroški uradnih oseb;
5) stroški za zdravljenje obdolženca, dokler je v priporu, stroški poroda in stroški zdravljenja otroka, ki biva z mamo v priporu, razen če se ti stroški plačajo iz sredstev zdravstvenega zavarovanja;
6) sodna taksa;
7) nagrada in potrebni izdatki zagovornika, potrebni izdatki zasebnega tožilca in oškodovanca kot tožilca ter njunih zastopnikov in pa nagrada in potrebni izdatki njihovih pooblaščencev;
8) potrebni izdatki oškodovanca in njegovega zakonskega zastopnika ter nagrada in potrebni izdatki njegovega pooblaščenca.

(3) Stroški iz 1., 2., 4. in 5. točke drugega odstavka tega člena ter potrebni izdatki in nagrada postavljenega zagovornika in postavljenega pooblaščenca oškodovanca ter oškodovanca kot tožilca se v postopku zaradi kaznivih dejanj, za katera se storilec preganja po uradni dolžnosti, izplačajo naprej iz sredstev organa, ki vodi kazenski postopek, oziroma, če gre za stroške zasega, odvzema, hrambe, prodaje in uničenja zaseženih oziroma odvzetih predmetov, v skladu s predpisi, ki urejajo hrambo teh predmetov, postopek upravljanja oziroma način ravnanja z njimi. V zvezi s stroški iz 3. točke drugega odstavka tega člena pa mora organ, ki je izvršil privedbo, spremljanje ali vročanje, sodišču predložiti obračun stroškov. Pozneje se vsi navedeni stroški izterjajo od tistih, ki so jih po določbah tega zakona dolžni poravnati. Organ, ki vodi kazenski postopek, mora vse stroške, ki so bili naprej izplačani oziroma za katere je bil sodišču predložen obračun stroškov, vpisati v seznam in seznam priložiti spisom.

scene and the fees and costs of expert witnesses, interpreters and experts, the costs of the service of documents by a detective or an enforcement officer who pursues the activity of serving documents in criminal proceedings, the costs of seizure, confiscation, storage, sale and destruction of seized or confiscated objects incurred for the purpose of criminal proceedings before the institution, during the course or after the conclusion of criminal proceedings;
2) costs of transportation of the accused person;
3) costs of bringing the person deprived of liberty forcibly before the court or the costs of the persons escorting such person;
4) transportation and travelling expenses of officials;
5) expenses of medical treatment provided to the accused person while in detention, the costs of child delivery and of the treatment of a child staying with his or her mother in detention, unless such expenses are paid from health insurance;
6) court fees;
7) fees and necessary expenses of the defence counsel, necessary expenses of the private prosecutor and the injured party acting as prosecutor and their representatives, and the fees and necessary expenses of their counsels;
8) necessary expenses of the injured party and his or her legal representative, and the fees and necessary expenses of his or her counsel.

(3) The costs and expenses referred to in points 1, 2, 4 and 5 of paragraph two of this Article, and the necessary expenses and fees of the appointed defence counsel and counsel of the injured party and the injured party acting as prosecutor in criminal proceedings instituted for offences prosecutable *ex officio* shall be advanced from the funds of the authority conducting the criminal proceedings, and the costs of seizure, confiscation, storage, sale and destruction of seized and/or confiscated objects shall be paid in accordance with the regulations governing the storage of such objects, the procedure of their management and the method of their handling. Regarding the costs referred to in point 3 of paragraph two of this Article, the body that carried out the bringing of the person deprived of liberty before the court forcibly, escorting or delivery, must submit a bill of expenses to the court. Subsequently, all these costs shall be collected from the persons that are required to pay them in accordance with the provisions of this Act. The authority conducting the criminal proceedings shall make a list of all advanced expenses and/or of those specified in the bill of expenses submitted to the court, and enclose

(4) Stroški za prevajanje v slovenski, italijanski ali madžarski jezik, ki nastanejo z uporabo določb ustave in tega zakona o pravici pripadnikov italijanske in madžarske narodne skupnosti do uporabe svojega jezika, se ne zaračunajo tistim, ki so po določbah tega zakona dolžni povrniti stroške kazenskega postopka.

(5) Stroški za prevajanje se ne zaračunajo obdolžencu, če ne razume ali ne govori jezika, v katerem teče kazenski postopek.

93. člen

(1) V vsaki sodbi in v vsakem sklepu, s katerim se ustavi kazenski postopek, ali zavrže obtožnica, je treba odločiti, kdo plača stroške postopka in kolikšni so.

(2) Če o višini stroškov ni podatkov, izda preiskovalni sodnik, sodnik posameznik ali predsednik senata poseben sklep o višini stroškov takrat, ko se ti podatki zberejo. Zahtevek s podatki o višini stroškov se lahko poda najpozneje v treh mesecih od dneva, ko je bila pravnomočna sodba ali sklep vročen tistemu, ki ima pravico podati takšen zahtevek.

(3) Kadar se o stroških kazenskega postopka odloči s posebnim sklepom, odloča o pritožbi zoper tak sklep senat (šesti odstavek 25. člena).

94. člen

(1) Obdolženec, oškodovanec, oškodovanec kot tožilec, zasebni tožilec, zagovornik, zakoniti zastopnik, pooblaščenec, priča, izvedenec, tolmač in strokovnjak (178. člen) plačajo ne glede na izid kazenskega postopka stroške, nastale s svojo privedbo, preložitvijo preiskovalnega dejanja ali glavne obravnave ali nevložitvijo napovedane pritožbe in druge stroške postopka, ki so jih povzročili po

it with the case file.

(4) The costs of translation into the Slovenian, Italian or Hungarian language arising from application of the provisions of the Constitution and this Act on the right of members of the Italian and Hungarian national communities to use their own language, shall not be charged to those who under the provisions of this Act are required to refund the costs of criminal proceedings.

(5) The costs of translation shall not be charged to an accused person who does not understand or speak the language in which criminal proceedings are conducted.

Article 93

(1) Every judgment and every ruling on the discontinuance of criminal proceedings or dismissal of an indictment shall contain a decision on who shall bear the costs of proceedings and on the amount of these costs.

(2) If data on the amount of costs are lacking, the investigating judge, single judge or the president of the panel shall render a separate ruling on the amount of costs when such data are collected. A request for data on the amount of costs may be submitted not later than within three months of the day when the final judgment or ruling is served on whoever is entitled to submit such a request.

(3) When a decision on the costs of criminal proceedings is rendered by a separate ruling, the panel shall decide on an appeal against such ruling (paragraph six of Article 25).

Article 94

(1) The accused person, injured party, injured party as prosecutor, private prosecutor, defence counsel, legal representative, counsel, witness, expert witness, interpreter or expert (Article 178) shall, regardless of the outcome of criminal proceedings, bear the expenses incurred by having to be brought forcibly before the court, deferring an investigative act or the main hearing, or failing to file an announced

svoji krivdi, kot tudi ustrezno sodno takso.

(2) O stroških iz prejšnjega odstavka izda sodišče poseben sklep, razen če odloči o stroških, ki jih morata povrniti zasebni tožilec in obdolženec, v odločbi o glavni stvari.

95. člen

(1) Če sodišče spozna obdolženca za krivega, izreče v sodbi, da je dolžan povrniti stroške kazenskega postopka. Če se izda sodba o kaznovalnem nalogu, obdolženec ne plača sodne takse.

(2) Kdor je obdolžen več kaznivih dejanj, se ne obsodi na povrnitev stroškov za dejanja, glede katerih je oproščen obtožbe, če se dajo ti stroški izločiti iz skupnih stroškov.

(3) Če je z isto sodbo spoznanih za krive več obdolžencev, določi sodišče, kolikšen del stroškov plača vsak posamezen izmed njih; če tega ni mogoče določiti, obsodi vse obdolžence na nerazdelno plačilo stroškov. Plačilo sodne takse določi za vsakega obdolženca posebej.

(4) Sodišče sme v odločbi, s katero odloči o stroških, oprostiti obdolženca povrnitve vseh stroškov ali dela stroškov kazenskega postopka iz 1. do 6. točke drugega odstavka 92. člena tega zakona, če bi bilo zaradi njihovega plačila ogroženo vzdrževanje obdolženca ali oseb, ki jih je obdolženec dolžan vzdrževati. Če se te okoliščine ugotovijo po izdaji odločbe o stroških, sme predsednik senata na predlog obdolženca s posebnim sklepom oprostiti obdolženca povrnitve stroškov kazenskega postopka, odložiti plačilo stroškov kazenskega postopka, ali pa mu dovoliti, da jih povrne v obrokih. Predlog lahko obdolženec poda najpozneje do izteka roka za plačilo, ki ga določi sodišče.

(5) Določbe o oprostitvi, odlogu in obročnem plačilu

appeal, as well as other expenses incurred through his or her fault, including the corresponding court fee.

(2) The court shall determine the costs referred to in the preceding paragraph in a separate ruling, except where a decision on the expenses to be refunded by the private prosecutor and the accused person is included in the decision in the main cause of the case.

Article 95

(1) If the court finds the accused person guilty, it shall state in the judgment that he or she shall bear the costs of criminal proceedings. Where a judgment on a punitive order is rendered, the accused person shall not pay the court fee.

(2) A person charged with more than one criminal offence shall not be ordered to refund the expenses regarding the offences for which he or she has been acquitted of the charge, provided that such expenses can be separated from the overall costs.

(3) If more than one accused person is found guilty in the same judgment, the court shall determine the proportion of the costs to be borne by each of them; if this is not possible, the court shall pronounce them jointly liable for the costs. The court shall determine the payment of the court fee separately for each accused person.

(4) The court may, in its decision on the costs of proceedings, exempt the accused person from the duty to refund all the costs or part of the costs of criminal proceedings referred to in points 1 to 6 of paragraph two of Article 92 of this Act, if the payment of these costs would threaten the maintenance of the accused person or the persons he or she is obliged to maintain. If such circumstances are established after the decision on the costs of proceedings is rendered, the president of the panel may, by a separate ruling, exempt the accused person upon his or her motion from the duty to refund the costs of criminal proceedings, defer the payment of such costs, or allow the accused person to pay them in instalments. The accused person may submit the motion not later than before the expiry of the deadline for payment set by the court.

(5) The provisions on exemption from payment, deferment of

stroškov iz prejšnjega odstavka se lahko smiselno uporabijo tudi za druge udeležence kazenskega postopka, ki se jim smejo naložiti v plačilo stroški kazenskega postopka.

(6) Določbe o oprostitvi, odlogu in obročnem plačilu stroškov iz četrtega in petega odstavka tega člena ne veljajo v primerih iz 94. člena tega zakona.

96. člen

(1) Če se kazenski postopek ustavi ali če se izda sodba, s katero se obdolženec oprosti obtožbe ali se z njo obtožba zavrne, ali če se izda sklep s katerim se obtožnica zavrže, izreče sodišče v sklepu oziroma sodbi, da obremenjujejo stroški kazenskega postopka iz 1. do 5. točke drugega odstavka 92. člena tega zakona ter potrebni izdatki obdolženca in potrebni izdatki in nagrada zagovornika proračun, razen v primerih, ki so navedeni v naslednjih odstavkih.

(2) Zasebni tožilec in oškodovanec kot tožilec morata povrniti stroške kazenskega postopka iz 1. do 6. točke drugega odstavka 92. člena tega zakona, če se postopek konča s sodbo, s katero se obdolženec oprosti obtožbe ali s sodbo, s katero se obtožba zavrne oziroma iz 1. do 5. točke drugega odstavka 92. člena tega zakona, če se postopek konča s sklepom, s katerim se postopek ustavi ali obtožnica zavrže, in potrebne izdatke obdolženca ter potrebne izdatke in nagrado za njegovega zagovornika, razen če se postopek ustavi oziroma če se obtožba s sodbo zavrne zaradi obdolženčeve smrti, ali pa zaradi tega, ker je kazenski pregon zastaral zaradi zavlačevanja postopka, ki ga ni mogoče pripisati v krivdo zasebnemu tožilcu ali oškodovancu kot tožilcu, kot tudi v primeru iz drugega odstavka 63. člena tega zakona. V slednjem primeru obremenjujejo stroški zasebnega tožilca, oškodovanca kot tožilca in njunih pooblaščencev proračun. Če se postopek ustavi zaradi umika obtožbe, se obdolženec in zasebni tožilec ali oškodovanec kot tožilec lahko poravnata o svojih medsebojnih stroških. Če je več zasebnih tožilcev oziroma oškodovancev kot tožilcev, plačajo stroške vsi nerazdelno.

payment or payment in instalments of the costs referred to in the preceding paragraph may be applied *mutatis mutandis* to other participants in criminal proceedings who can be ordered to pay the costs of criminal proceedings.

(6) The provisions on exemption from payment, deferment of payment or payment in instalments of the costs referred to in paragraphs four and five of this Article shall not apply to the cases referred to in Article 94.

Article 96

(1) If criminal proceedings are discontinued or a judgment of acquittal or a judgment rejecting the charge is rendered, or a ruling dismissing the indictment is rendered, the court shall state in its ruling or judgment that the costs of criminal proceedings referred to in points 1 to 5 of paragraph two of Article 92 of this Act, as well as the necessary expenses of the accused person and the necessary expenses and fees of the defence counsel, shall be paid from budget funds, except in the cases referred to in the paragraphs below.

(2) A private prosecutor and injured party as prosecutor shall refund the costs of criminal proceedings referred to in points 1 to 6 of paragraph two of Article 92 of this Act if the proceedings are terminated by a judgment of acquittal or a judgment rejecting the charge; they shall refund the costs of criminal proceedings referred to in points 1 to 5 of paragraph two of Article 92 of this Act if the proceedings are terminated by a ruling discontinuing the proceedings or dismissing the indictment, as well as the necessary expenses of the accused person and the necessary expenses and fees of his or her defence counsel, except if the proceedings are discontinued or if a judgment rejecting the charge is rendered because of the death of the accused person or because the criminal prosecution has become statute-barred due to the delay of proceedings through no fault of the private prosecutor or the injured party as prosecutor, as well as in the case referred to in paragraph two of Article 63 of this Act. In this case, the expenses of the private prosecutor, the injured party as prosecutor and their counsels shall be paid from the budget. If the proceedings are discontinued because of withdrawal of the charge, the accused person and the private prosecutor or the injured party as prosecutor may conclude a settlement on their mutual expenses. If

(3) Oškodovancu kot tožilcu se smejo naložiti v plačilo samo tisti stroški, ki so nastali po tem, ko je prevzel pregon od državnega tožilca, do tedaj nastali stroški pa obremenijo proračun.

(4) Oškodovanec, ki je po začetku glavne obravnave umaknil predlog za pregon, plača stroške kazenskega postopka, razen če obdolženec izjavi, da jih bo plačal sam.

(5) Če sodišče zavrže obtožnico zaradi nepristojnosti, izda odločbo o stroških pristojno sodišče.

97. člen

(1) Nagrado in potrebne izdatke zagovornika in pooblaščenca zasebnega tožilca ali oškodovanca mora plačati zastopani, ne glede na to, kdo je po odločbi sodišča dolžan plačati stroške kazenskega postopka, razen v primerih, ko obremenjujejo po določbah tega zakona nagrada in potrebni izdatki zagovornika proračun. Če je bil obdolžencu zagovornik postavljen, pa bi bilo ogroženo njegovo vzdrževanje ali vzdrževanje oseb, ki jih je obdolženec dolžan vzdrževati, če bi moral plačati zagovorniku nagrado in potrebne izdatke, se ti izplačajo iz proračunskih sredstev. Tako se ravna tudi, če je bil oškodovancu kot tožilcu postavljen pooblaščenec.

(2) Pooblaščenec zasebnega tožilca in oškodovanca, ki ni odvetnik, oziroma odvetniški kandidat, nima pravice do nagrade, temveč samo pravico do povrnitve potrebnih izdatkov.

(3) Če plačilo stroškov kazenskega postopka ni naloženo obdolžencu, bremenijo stroški postavljenega pooblaščenca oškodovanca iz tretjega odstavka 65. člena tega zakona proračun.

there is more than one private prosecutor or injured party acting as prosecutor, they shall be held jointly liable for the costs.

(3) The injured party as prosecutor may only be ordered to pay the costs that arose after he or she took over the prosecution from the state prosecutor, while the costs incurred before that shall be paid from the budget.

(4) An injured party who withdraws the motion for prosecution after the beginning of the main hearing shall pay the costs of criminal proceedings, unless the accused person declares that he or she will pay them.

(5) If the court rejects an indictment due to lack of jurisdiction, the decision on the costs of proceedings shall be rendered by the court having jurisdiction.

Article 97

(1) The fees and necessary expenses of the defence counsel and counsel of the private prosecutor or the injured party shall be paid by the person whom he or she represents, regardless of who is bound to bear the costs of criminal proceedings under the court decision, except where, according to the provisions of this Act, the fees and necessary expenses of the defence counsel shall be paid from budget funds. If the court appoints a defence counsel to the accused person and if the payment of the fees and necessary expenses of the defence counsel would threaten the maintenance of the accused person or persons whom he or she is obliged to maintain, they shall be paid from the budget The same shall apply if the court appoints a counsel to the injured party acting as prosecutor.

(2) The counsel of a private prosecutor and an injured party who is not an attorney or a candidate attorney shall not be entitled to a fee but only to a refund of the necessary expenses.

(3) If payment of the costs of criminal proceedings is not imposed on the accused person, the costs of the counsel appointed to the injured party referred to in paragraph three of Article 65 of this Act shall be paid from the budget.

98. člen

(1) O dolžnosti plačila stroškov, ki nastanejo pri višjem sodišču, odloča dokončno to sodišče v skladu z določbami členov 92 do 97 tega zakona.

(2) Sodna taksa se ne določi, če je bilo z odločbo višjega sodišča odločeno v celoti ali deloma v obdolženčevo korist.

98.a člen

Glede plačila stroškov, ki nastanejo v postopku z izrednimi pravnimi sredstvi, se smiselno uporabljajo določbe členov 92 do 98 tega zakona.

99. člen

Povrnitev stroškov kazenskega postopka podrobneje predpiše minister, pristojen za pravosodje.

X. poglavje
PREMOŽENJSKOPRAVNI ZAHTEVKI

100. člen

(1) Premoženjskopravni zahtevek, ki je nastal zaradi kaznivega dejanja, se na predlog upravičencev obravnava v kazenskem postopku, če se s tem ne bi preveč zavlekel ta postopek.

(2) Premoženjskopravni zahtevek se lahko tiče povrnitve škode, vrnitve stvari ali razveljavitve določenega pravnega posla.

101. člen

Article 98

(1) The decision as to who shall bear the costs incurred before a higher court shall be rendered by a final decision of that court in accordance with the provisions of Articles 92 to 97 of this Act.

(2) The court fee shall not be imposed if the decision rendered by the higher court is entirely or partly to the benefit of the accused person.

Article 98.a

The provisions of Articles 92 to 98 of this Act shall apply *mutatis mutandis* to the payment of the costs incurred in proceedings involving extraordinary legal remedies.

Article 99

The refund of the costs of criminal proceedings shall be determined in detail by the minister responsible for justice.

Chapter X
PECUNIARY CLAIMS

Article 100

(1) Pecuniary claims arising out of the commission of a criminal offence shall be considered in criminal proceedings upon the motion of the persons entitled to do so, provided that this does not significantly delay the proceedings.

(2) A pecuniary claim may refer to compensation for the damage, recovery of an object or the annulment of a legal transaction.

Article 101

Predlog za uveljavitev premoženjskopravnega zahtevka v kazenskem postopku lahko poda tisti, ki je upravičen uveljavljati tak zahtevek v pravdi.

102. člen

(1) Predlog za uveljavitev premoženjskopravnega zahtevka v kazenskem postopku se poda pri organu, pri katerem se vloži kazenska ovadba, ali pri sodišču, pred katerim teče postopek.

(2) Predlog se lahko poda najdalj do konca glavne obravnave pred sodiščem prve stopnje.

(3) Tisti, ki je upravičen podati predlog, mora določno označiti svoj zahtevek in predložiti dokaze.

(4) Če upravičenec ne poda predloga za uveljavitev premoženjskopravnega zahtevka v kazenskem postopku do vložitve obtožbe, se obvesti, da ga lahko poda do konca glavne obravnave.

103. člen

(1) Upravičenci (101. člen) smejo do konca glavne obravnave umakniti predlog za uveljavitev premoženjskopravnega zahtevka v kazenskem postopku in ga uveljavljati v pravdi. Če umaknejo predlog, ga ne morejo več ponoviti, razen če ta zakon določa drugače.

(2) Če preide premoženjskopravni zahtevek potem, ko je podan predlog, toda pred koncem glavne obravnave, po pravilih premoženjskega prava na koga drugega, se ta povabi, da izjavi, ali vztraja pri predlogu ali ne. Če se ne odzove vabilu, čeprav je bil v redu povabljen, se šteje, da je umaknil podani predlog.

104. člen

A motion to enforce a pecuniary claim in criminal proceedings may be made by a person entitled to enforce such a claim in a civil action.

Article 102

(1) A motion to enforce a pecuniary claim in criminal proceedings shall be submitted to the body where criminal charges are filed, or to the court conducting the criminal proceedings.

(2) Such a motion may be submitted not later than before the conclusion of the main hearing to a first instance court.

(3) The person entitled to make the motion must specify his or her claim in detail and provide evidence for it.

(4) If the person entitled fails to make a motion for the enforcement of a pecuniary claim in criminal proceedings before the charge is brought, he or she shall be informed that it may be submitted before the conclusion of the main hearing.

Article 103

(1) Persons entitled to submit a pecuniary claim (Article 101) may, before the conclusion of the main hearing, withdraw their motion to enforce such a claim in criminal proceedings and seek satisfaction in a civil action. If they withdraw the motion, they may not submit it again, unless otherwise provided by this Act.

(2) If a pecuniary claim, after the motion to enforce such a claim has been submitted but before the conclusion of the main hearing, is transferred to another person in accordance with the rules of property law, the transferee shall be summoned to declare whether he or she is willing to continue the pursuit of the claim or not. If upon being duly summoned the transferee fails to appear, it shall be deemed that he or she has withdrawn the motion.

Article 104

(1) Sodišče, pred katerim teče postopek, zasliši obdolženca o dejstvih, navedenih v predlogu in razišče okoliščine, ki so pomembne za ugotovitev premoženjskopravnega zahtevka.

(2) Če bi se s poizvedovanjem o premoženjskopravnem zahtevku preveč zavlekel kazenski postopek, se omeji sodišče na zbiranje tistih podatkov, ki bi jih bilo pozneje nemogoče ali zelo težko ugotoviti.

105. člen

(1) O premoženjskopravnih zahtevkih odloča sodišče.

(2) Sodišče lahko prisodi v sodbi, s katero spozna obdolženca za krivega, oškodovancu premoženjskopravni zahtevek v celoti; lahko mu ga prisodi deloma in ga s presežkom napoti na pravdo. Če pa podatki kazenskega postopka ne dajejo zanesljive podlage niti za popolno niti za delno razsojo, napoti sodišče oškodovanca na pravdo s celotnim premoženjskopravnim zahtevkom.

(3) Če izda sodišče sodbo, s katero se obdolženec oprosti obtožbe ali se z njo obtožba zavrne, ali če s sklepom ustavi kazenski postopek ali zavrže obtožnico, napoti oškodovanca, da lahko svoj premoženjskopravni zahtevek uveljavlja v pravdi. Če se sodišče izreče za nepristojno za kazenski postopek, napoti oškodovanca, da lahko priglasi svoj premoženjskopravni zahtevek v kazenskem postopku, ki ga bo začelo ali nadaljevalo pristojno sodišče.

106. člen

Če gre pri premoženjskopravnem zahtevku za vrnitev stvari, pa sodišče ugotovi, da pripada stvar oškodovancu in da je pri obdolžencu ali pri katerem od udeležencev kaznivega dejanja ali pri nekom, kateremu so jo ti dali v hrambo, odloči v sodbi, da se stvar izroči oškodovancu.

(1) The court conducting the proceedings shall hear the accused person about the facts alleged in the motion and examine the circumstances which are of importance for the adjudication of the pecuniary claim.

(2) If the inquiry into the pecuniary claim would considerably delay the criminal proceedings, the court shall confine itself to collecting that information which would be impossible or very difficult to determine at a later stage.

Article 105

(1) Pecuniary claims shall be decided by the court.

(2) In a judgment of conviction, the court may grant the pecuniary claim of the injured party in full, or it may grant the claim in part and direct the injured party to enforce the rest of the claim in a civil action. If the data collected in criminal proceedings do not provide a reliable basis for either full or partial adjudication, the court shall direct the injured party to seek full satisfaction of their claim in a civil action.

(3) If the court renders a judgment of acquittal or a judgment rejecting the charge, or a ruling discontinuing criminal proceedings or dismissing the indictment, the court shall direct the injured party to enforce his or her pecuniary claim in a civil action. If the court declares itself as not having jurisdiction to conduct criminal proceedings, it shall direct the injured party to enforce his or her pecuniary claim in the criminal proceedings instituted or continued by a court having jurisdiction.

Article 106

When a pecuniary claim involves the recovery of an object and the court establishes that the object belongs to the injured party and that it is in the possession of the accused person or his or her accomplice or a person with whom it has been placed for safekeeping, the court shall order in its judgment that the object be delivered to the injured party.

107. člen

Če se premoženjskopravni zahtevek tiče razveljavitve določenega pravnega posla in sodišče spozna, da je utemeljen, izreče v sodbi, da se ta pravni posel popolno ali deloma razveljavi s posledicami, ki iz tega izvirajo, ne da bi s tem posegalo v pravice drugih.

108. člen

(1) Pravnomočno sodbo, s katero je odločeno o premoženjskopravnem zahtevku, sme sodišče spremeniti v kazenskem postopku le tedaj, če se kazenski postopek obnovi ali če se vloži zahteva za varstvo zakonitosti.

(2) Razen v primerih iz prejšnjega odstavka smejo obsojenec oziroma njegovi dediči zahtevati samo v pravdi, da se spremeni pravnomočna sodba kazenskega sodišča, s katero je bilo odločeno o premoženjskopravnem zahtevku; to pa le tedaj, če so podani pogoji za obnovo po določbah, ki veljajo za pravdni postopek.

109. člen

(1) Če se v predkazenskem ali kazenskem postopku uveljavlja premoženjskopravni zahtevek, sme sodišče na predlog upravičenca (101. člen) odrediti začasno zavarovanje tega zahtevka.

(2) Glede pogojev ter postopka odreditve, trajanja in prenehanja začasnega zavarovanja premoženjskopravnega zahtevka se smiselno uporabljajo določbe tega zakona, ki veljajo za začasno zavarovanje zahtevka za odvzem premoženjske koristi, nastale s kaznivim dejanjem ali zaradi njega (502. do 502.d člen).

110. člen

(1) Če gre za stvari, ki nedvomno pripadajo oškodovancu in niso potrebne kot dokaz v kazenskem postopku, se izročijo

Article 107

When a pecuniary claim involves the annulment of a particular legal transaction and the court finds that the claim is justified, it shall adjudicate the full or partial annulment of that legal transaction with all the consequences deriving therefrom and without prejudice to the rights of third parties.

Article 108

(1) The court may only change the final judgment on a pecuniary claim in criminal proceedings if the criminal proceedings have been reopened or if a request for the protection of legality has been filed.

(2) Except for the cases referred to in the preceding paragraph, the final judgment of the criminal court determining the pecuniary claim may only be changed in a civil action on the request of the convicted person or his or her heirs, provided that grounds exist for the reopening of proceedings under the provisions applying to civil proceedings.

Article 109

(1) If a pecuniary claim is filed in pre-trial or criminal proceedings, the court may order a temporary measure securing the claim upon the motion of the person entitled to make such a claim (Article 101).

(2) Regarding the conditions and procedure for the ordering, duration and termination of the temporary measure securing a pecuniary claim, the provisions of this Act referring to temporary measures securing a claim for the confiscation of proceeds gained through or resulting from a criminal offence (Articles 502 to 502.d) shall apply *mutatis mutandis*.

Article 110

(1) If the objects involved undoubtedly belong to the injured party and if they do not serve as evidence in criminal proceedings, they

oškodovancu še pred koncem postopka.

(2) Če se več oškodovancev prepira o lastnini stvari, se napotijo na pravdo, sodišče pa odredi v kazenskem postopku le hrambo stvari kot začasno zavarovanje.

(3) Stvari, ki so potrebne kot dokaz, se zasežejo in po končanem postopku vrnejo lastniku. Če je taka stvar lastniku neogibno potrebna, se mu sme vrniti tudi pred koncem postopka proti zavezi, da jo na zahtevo prinese.

111. člen

(1) Če ima oškodovanec zahtevek proti kakšni drugi osebi zaradi tega, ker so pri njej stvari, ki so bile pridobljene s kaznivim dejanjem, ali zaradi tega, ker je ta zaradi kaznivega dejanja prišla do premoženjske koristi, sme sodišče na predlog upravičencev (101. člen) odrediti v kazenskem postopku začasno zavarovanje tudi zoper to osebo. Določbe drugega odstavka 109. člena tega zakona veljajo tudi v tem primeru.

(2) Sodišče odpravi v sodbi, s katero spozna obdolženca za krivega, zavarovanje iz prejšnjega odstavka, če ni bilo odpravljeno že prej, ali pa napoti oškodovanca na pravdo z opozorilom, da bo zavarovanje odpravljeno, če pravda ne bo uvedena v roku, ki mu ga za to določi.

XI. poglavje
IZDAJA IN NAZNANITEV ODLOČB

112. člen

(1) V kazenskem postopku se izdajajo odločbe v obliki sodb, sklepov in odredb.

shall be handed over to the injured party even before the end of the proceedings.

(2) If more than one injured party claims ownership of an object, they shall be directed to a civil action and the criminal court shall only order that the object be placed under custody as a temporary measure securing the claim.

(3) Objects serving as evidence shall be seized and returned to the owner after the termination of proceedings. If such an object is indispensable to the owner, it may be returned to him or her even before the conclusion of proceedings, but the owner shall be obliged to produce it upon request.

Article 111

(1) If the injured party holds a claim against a third party because he or she is in possession of objects obtained by the commission of a criminal offence, or because a third party gained proceeds resulting from a criminal offence, the criminal court may, on the motion of the persons entitled to make such a claim (Article 101), order a temporary measure securing the claim also against such third party. The provisions of paragraph two of Article 109 of this Act shall also apply in this case.

(2) In a judgment of conviction, the court shall either terminate the temporary measure securing the claim referred to in the preceding paragraph, if not already terminated before, or direct the injured party to initiate civil proceedings, with a warning that this temporary measure will be terminated if the civil action is not brought within the time limit set by the court.

Chapter XI
ISSUING AND PRONOUNCING DECISIONS

Article 112

(1) Decisions in criminal proceedings shall be issued in the form of judgments, rulings and orders.

(2) Sodbe izdaja le sodišče, sklepe in odredbe pa izdajajo tudi drugi organi, ki sodelujejo v kazenskem postopku.

(2) Judgments may only be issued by courts, while rulings and orders may also be issued by other authorities taking part in criminal proceedings.

113. člen

(1) Senat izdaja odločbe po ustnem posvetovanju in glasovanju. Odločba je sprejeta, če je zanjo glasovala večina članov senata.

(2) Predsednik senata vodi posvetovanje in glasovanje in glasuje zadnji. Njegova dolžnost je poskrbeti, da se vsa vprašanja vsestransko in popolnoma pretresejo.

(3) Če so glasovi glede posameznih vprašanj, o katerih se glasuje, porazdeljeni na več različnih mnenj, tako da nobeno od njih nima večine, se vprašanja ločijo in glasovanje ponavlja, dokler se ne doseže večina. Če se na ta način ne dobi večina, se odločitev doseže tako, da se glasovi, ki so za obdolženca najneugodnejši, prištejejo glasovom, ki so od teh manj neugodni, dokler se ne doseže potrebna večina.

(4) Člani senata ne smejo odkloniti glasovanja o vprašanjih, ki jih postavi predsednik senata: vendar pa član senata, ki je glasoval za oprostitev obdolženca ali za razveljavitev sodbe in ostal v manjšini, ni dolžan glasovati o sankciji. Če ne glasuje, se šteje, da se strinja z glasom, ki je za obdolženca najugodnejši.

Article 113

(1) A panel of judges shall render decisions after oral deliberation and voting. A decision shall be considered adopted if rendered by a majority vote of the panel members.

(2) The president of the panel shall chair the deliberation and voting and shall cast his or her vote last. His or her duty shall be to ensure that all issues are thoroughly and fully considered.

(3) If the votes on individual issues are divided so that none has the necessary majority, the issues shall be separated and the voting repeated until a majority is reached. If a majority is not reached in such a manner, the decision shall be rendered by adding the votes most unfavourable for the accused person to the votes that are less unfavourable than those, until the required majority is reached.

(4) Members of the panel may not abstain from voting on the issues presented by the president of the panel; however, a panel member who voted for the acquittal of the accused person or for the setting aside of the judgment and was outvoted by other members shall not be required to vote on the issue of the criminal sanction. If such member does not vote, it shall be deemed that he or she agrees with the vote most favourable for the accused person.

114. člen

(1) Pri odločanju se najprej glasuje, ali je sodišče pristojno, ali je treba postopek dopolniti ter o drugih predhodnih vprašanjih. Ko se odloči o predhodnih vprašanjih, se preide na odločanje o glavni stvari.

(2) Pri odločanju o glavni stvari se najprej glasuje ali je

Article 114

(1) In adjudicating, the panel shall first vote on the issue of the court's jurisdiction, on whether the proceedings should be supplemented and on other preliminary issues. After deciding on preliminary issues, the panel shall proceed to decide in the main cause of the case.

(2) In deciding in the main cause of the case, the panel shall

obdolženec storil kaznivo dejanje in ali je kazensko odgovoren; nato pa se glasuje o kazni, drugih kazenskih sankcijah, stroških kazenskega postopka, premoženjskopravnih zahtevkih in o drugih vprašanjih, o katerih je treba odločiti.

(3) Če je ista oseba obtožena več kaznivih dejanj, se glasuje o kazenski odgovornosti in o kazni za vsako od teh dejanj posebej, nato pa o enotni kazni za vsa dejanja.

115. člen

(1) Posvetovanje in glasovanje je tajno.

(2) V prostoru, v katerem je posvetovanje in glasovanje, smejo biti le člani senata in zapisnikar.

116. člen

(1) Če ni v tem zakonu drugače določeno, se naznanjajo odločbe navzočim prizadetim osebam ustno, nenavzočim pa se vročajo v overjenem prepisu.

(2) Če je bila odločba naznanjena ustno, se to zaznamuje v zapisniku ali na spisu; tisti, ki mu je bila naznanjena, pa to potrdi s svojim podpisom. Če prizadeta oseba izjavi, da se ne bo pritožila, se ji ne vroči overjenega prepisa ustno naznanjene odločbe, razen če ni v tem zakonu drugače določeno.

(3) Prepisi odločb, zoper katere je dovoljena pritožba, se vročajo s poukom o pravici do pritožbe.

XII. poglavje
VROČANJE PISANJ IN PREGLEDOVANJE SPISOV

first vote to determine whether the accused person has committed the criminal offence and whether he or she is to be held criminally liable, and then it shall proceed to vote on the punishment, on other criminal sanctions, the costs of criminal proceedings, pecuniary claims and other issues on which a decision must be rendered.

(3) If the same person is charged with the commission of more than one offence, the vote shall first be taken on his or her criminal liability and on the punishment for each offence separately, and thereafter on the aggregate punishment for all the offences.

Article 115

(1) Deliberation and voting shall take place in a closed session.

(2) Only members of the panel and the court reporter may be present in the room where deliberation and voting take place.

Article 116

(1) Unless otherwise provided by this Act, decisions shall be conveyed to the persons concerned by oral pronouncement if these persons are present, and by the service of a certified copy if they are not present.

(2) If a decision is pronounced orally, a note to that effect shall be entered in the record or in the case file, and certified by the signature of the addressee of the pronouncement. If the person concerned declares that he or she does not intend to appeal against the decision, a certified copy of the orally pronounced decision shall not be served on him or her, unless otherwise provided by this Act.

(3) Copies of the decision against which an appeal is allowed shall be served together with the instruction on the right to appeal.

Chapter XII
SERVICE OF DOCUMENTS AND INSPECTION OF FILES

117. člen

(1) Pisanja se vročajo praviloma po pošti, po varni elektronski poti ali po detektivu in izvršitelju. Vročajo se lahko tudi po sodnem osebju po pooblastilu predsednika sodišča ali po uradni osebi organa, ki je odredil vročanje, neposredno pri tem organu.

(2) Obdolženec, priča, zasebni tožilec, oškodovanec kot tožilec in oškodovanec lahko sodišču sporoči, da želi vročitev pisanj po varni elektronski poti v varen elektronski predal ali na naslov za vročanje po varni elektronski poti, registriran v informacijskem sistemu e-sodstvo, katerega naslov navede v vlogi ali na naroku in je enakovreden naslovu prebivališča. Če navedene osebe pošljejo vlogo v elektronski obliki po varni elektronski poti, se šteje, da želijo vročanje po varni elektronski poti, dokler ne sporočijo drugače. Če sodišče ugotovi, da vročitev v varen elektronski predal ni mogoča, vroči pisanje na drug način v skladu s prejšnjim odstavkom in navede razlog za tako vročitev.

(3) Državnemu tožilcu in drugim državnim organom, odvetnikom, sodnim izvedencem, sodnim cenilcem, sodnim tolmačem in drugim osebam oziroma organom, pri katerih se zaradi njihove narave dela lahko domneva večja zanesljivost, se pisanja vročajo po elektronski poti v varen elektronski predal, če je tako vročanje mogoče in če drug način vročanja iz prvega odstavka tega člena ni primernejši. V prejšnjem stavku navedeni organi in osebe morajo v informacijskem sistemu sodstva registrirati svoj varni elektronski predal ali naslov za vročanje po varni elektronski poti.

(4) Minister, pristojen za pravosodje, določi pravila postopanja detektivov in izvršiteljev, kadar opravljajo vročanje v kazenskem postopku, njihovo nagrado ter vsebino sporočil pri vročanju in vročilnic.

(5) Minister, pristojen za pravosodje, določi, kaj je varna elektronska pot, katere pisanja se pošiljajo in vročajo po varni

Article 117

(1) Documents shall, as a rule, be served by mail, by secure electronic means or by a detective or an enforcement officer. Service may also be effected by court staff under the authorisation of the president of a court or by an official of the authority ordering the service, directly at the premises of such authority.

(2) The accused person, a witness, private prosecutor, the injured party as prosecutor and the injured party may inform the court that they want documents to be served on them electronically to a secure electronic mailbox or to a secure electronic mailbox registered in the e-justice information system with the address indicated in the submission or at the hearing and equivalent to their residence address. If these persons send their submissions electronically by secure electronic means, it shall be deemed that they want the documents to be served on them by secure electronic means unless notified otherwise. If the court finds that service to a secure electronic mailbox is not possible, it shall serve the documents by another method in accordance with the preceding paragraph and state the reasons for this.

(3) State prosecutors and other state authorities, attorneys, expert witnesses, certified appraisers, court interpreters and other persons and/or bodies that may be assumed to possess superior reliability due to the nature of their work shall be served documents electronically to a secure electronic mailbox, where such service is possible and where another method of service referred to in paragraph one of this Article is not considered more appropriate. The authorities and persons referred to in the preceding sentence must register their secure electronic mailbox or mail address for electronic service in the e-justice information system.

(4) The minister responsible for justice shall lay down the rules for the operations of detectives and enforcement officers pursuing the activity of serving documents in criminal proceedings, their remuneration and the content of notifications in the service process and of the proof of service.

(5) The minister responsible for justice shall determine what secure electronic means are, which documents are to be sent and served

elektronski poti, način identifikacije, pogoje, obliko in način vročanja po varni elektronski poti ter določi nadomestilo za posredovanje pri vročanju pisanj v varni elektronski predal.

(6) Vabilo na glavno obravnavo in druga vabila sodišče ustno naznani osebi, kadar je ta pred njim, in jo pri tem pouči o posledicah, če ne bi prišla. Na ta način opravljeno vabilo se zaznamuje v zapisniku, ki ga povabljeni podpiše, razen če je to že zapisano v zapisniku o glavni obravnavi. Šteje se, da je vabilo s tem veljavno vročeno.

117.a člen

(1) Vročitev pisanja, izdelanega v elektronski obliki, se lahko opravi z vročitvijo pisanja v fizični obliki ali po varni elektronski poti.

(2) V fizični obliki se vročitev overjenega prepisa pisanja opravi v skladu z določbami tega zakona, ki urejajo vročanje pisanj v fizični obliki.

(3) Pristojni organ za sodišča vzpostavi in vzdržuje informacijski sistem e-sodstvo. Po varni elektronski poti se vročitev pisanja opravi prek informacijskega sistema e-sodstvo neposredno na naslov za vročanje, ki je registriran v informacijskem sistemu e-sodstvo, ali v varni elektronski predal s posredovanjem pravne ali fizične osebe, ki opravlja vročanje pisanj po varni elektronski poti kot registrirano dejavnost in pridobi dovoljenje ministra, pristojnega za pravosodje, če izpolnjuje tehnične pogoje, ki jih določi minister, pristojen za pravosodje.

(4) Informacijski sistem e-sodstvo samodejno pošlje naslovniku v njegov varni elektronski predal pisanje in hkrati tudi informativno sporočilo, v katerem ga opozori, da je v informacijskem sistemu e-sodstvo pisanje in da ga mora prevzeti v 15 dneh od dne, ko mu je bilo poslano v varni elektronski predal, sicer bo pisanje izbrisano iz informacijskega sistema e-sodstvo, naslovniku pa se bo pisanje vročalo po določbah tega zakona, ki urejajo vročanje pisanj v

via secure electronic means, the method of identification, the conditions, form and method of service by secure electronic means, and shall determine the remuneration for the service of documents to a secure electronic mailbox.

(6) The court shall deliver the summons for the main hearing and other summonses orally to the person when present before the court, along with the instructions about the consequences of a failure to appear. A summons delivered in such manner shall be noted in the record, which shall be signed by the person summoned, unless this summons is already noted in the record of the main hearing. It shall be deemed that by such acts the summons has been duly served.

Article 117a

(1) Service of documents produced in electronic form may be effected by the service of such documents in hard copy or by secure electronic means.

(2) In physical form, service of a certified copy of the document shall be effected in accordance with the provisions of this Act governing the service of documents in physical form.

(3) The competent authority shall set up and maintain the e-justice information system for courts. The service of documents using secure electronic means shall be effected via the e-justice information system directly to the service address registered in the e-justice information system or to a secure electronic mailbox through the services of legal or natural persons serving documents via secure electronic transmission as a registered activity, provided they meet the technical conditions prescribed by the minister responsible for justice.

(4) The e-justice information system shall automatically send the document to the addressee's secure electronic mailbox, including an information message notifying the addressee of the arrival of a document in the e-justice information system which must be collected within 15 days of its dispatch to the secure electronic mailbox, otherwise the document will be deleted from the e-justice information system and the document will be served on the addressee in accordance with the provisions of this Act

fizični obliki.

(5) Naslovnik se z vsebino pisanja, poslanega po varni elektronski poti, seznani in ga prevzame tako, da se pred prevzemom na predpisan način identificira, elektronsko podpiše vročilnico in jo tako podpisano vrne pošiljatelju po varni elektronski poti.

(6) Vročitev po tretjem odstavku tega člena velja za opravljeno z dnem, ko naslovnik prevzame pisanje. Če ga ne prevzame v 15 dneh, informacijski sistem e-sodstvo pisanje izbriše ter pošlje naslovniku in sodišču elektronsko sporočilo, da je pisanje izbrisano iz informacijskega sistema e-sodstvo in da se bo naslovniku vročalo po določbah tega zakona, ki urejajo vročanje pisanj v fizični obliki.

(7) Informacijski sistem e-sodstvo obvesti o vročitvi sodišče, ki je vročitev odredilo, z vročilnico v elektronski obliki.

(8) Na način, določen v tem členu, se po varni elektronski poti lahko vročajo tudi tista pisanja, ki imajo izvirnike v fizični obliki, če je elektronski (digitaliziran) prepis, ki je izdelan na podlagi izvirnika v fizični obliki, opremljen z elektronskim žigom informacijskega sistema e-sodstvo.

(9) Če je treba naslovniku poslati cel spis in se ta vodi v elektronski obliki, se to opravi po varni elektronski poti, če je tak način mogoč.

118. člen

(1) Pisanje, za katero je v tem zakonu določeno, da ga je treba osebno vročiti, se izroči neposredno naslovniku. Če tistega, kateremu mora biti pisanje osebno vročeno, ni tam, kjer naj se vročitev opravi, poizve vročevalec, kdaj in kje bi ga mogel najti, ter mu pusti pri katerih od oseb, omenjenih v 119. členu tega zakona ali v hišnem predalčniku, pismeno sporočilo, naj bo določenega dne ob določeni uri v svojem stanovanju ali na svojem delovnem mestu, da sprejme pisanje. Če vročevalec tudi potem ne najde tistega, ki bi mu

governing the service of documents in physical form.

(5) The addressee shall be acquainted with the content of the document sent by secure electronic means and shall accept it by identifying himself or herself before acceptance in the prescribed manner, electronically sign the proof of service and return it to the sender via secure electronic means.

(6) The service referred to in paragraph three of this Article shall be deemed to have been effected on the day the addressee collects the document. If the document is not collected within 15 days, the e-justice information system shall delete the document and send an electronic message to the addressee and the court notifying them that the document was deleted from the e-justice information system and that it will be served on the addressee in accordance with the provisions of this Act governing the service of documents in physical form.

(7) The e-justice information system shall notify the court that ordered the service of the effected service by electronic proof of service.

(8) In the manner set out in this Article, documents whose originals are in physical form may also be served by secure electronic means, provided that the electronic (digitised) copy made on the basis of an original in physical form is furnished with an electronic stamp of the e-justice information system.

(9) If a complete file needs to be sent to the addressee and it is kept in electronic form, it shall be delivered by secure electronic means where possible.

Article 118

(1) Documents which under this Act must be served in person shall be delivered directly to the addressee. If the person on whom the document is to be served in person cannot be found at the place where the service is to be effected, the process server shall inquire as to when and where that person can be reached, and shall leave a written notice with one of the persons indicated in Article 119 of this Act or in the house letter box, instructing the addressee to be in their residence or place of work on a specified day and hour for the purpose of receiving the

moral vročiti pisanje, ravna po prvem odstavku 119. člena tega zakona; s tem se šteje, da je vročitev opravljena.

(2) Za osebno vročitev se šteje tudi vročitev po varni elektronski poti v skladu z določbami 117. in 117.a člena tega zakona.

119. člen

(1) Pisanja, za katera v tem zakonu ni določeno, da morajo biti osebno vročena, se prav tako vročajo osebno. Vendar pa se v primeru, če naslovnika ni v stanovanju ali na delovnem mestu, lahko izročijo kateremu od njegovih odraslih družinskih članov, ki je pisanje dolžan sprejeti. Če niti teh ni v stanovanju, se pisanje izroči hišniku ali sosedu, če v to privolita. Če pa se vroča pisanje na delovnem mestu tistega, kateremu naj bo vročeno, in tega ni tam, se lahko izroči osebi, pooblaščeni za sprejemanje pošte, ki je pisanje dolžna sprejeti, ali komu, ki dela na istem mestu, če v to privoli.

(2) Če vročitev pisanja po prejšnjem odstavku ni možna, vročevalec pisanje izroči sodišču, ki je vročitev odredilo, če gre za vročitev po pošti, pa pošti naslovnikovega prebivališča. Naslovniku se pusti sporočilo o prispeli pošiljki z obvestilom na katerem sodišču oziroma pošti in v kakšnem roku lahko prevzame pisanje. Pisanje, ki v določenem roku na pošti ni prevzeto, se vrne.

(3) Če se ugotovi, da je tisti, kateremu bi bilo treba vročiti pisanje, odsoten in da mu zaradi tega osebe iz prvega odstavka tega člena pisanja ne bi mogle pravočasno izročiti, se pisanje vrne z navedbo, kje je odsotni.

119.a člen

document. If even after this the person on whom the document is to be served cannot be reached, the process server shall act in accordance with paragraph one of Article 119 of this Act, and it shall be deemed that by such acts the service of documents has been duly effected.

(2) Service of documents by secure electronic means in accordance with the provisions of Articles 117 and 117a shall also be deemed service in person.

Article 119

(1) Documents which under this Act do not have to be served in person shall also be served in person. If, however, the addressee is not reached at his or her abode or place of work, such documents may be delivered to any of the adult members of the addressee's family, who shall be obliged to accept them. If the said family members are not found in the abode either, the document shall be delivered to the janitor or a neighbour if he or she is willing to receive it. If the service of documents is attempted at the addressee's place of work and if he or she cannot be reached there, the documents may be delivered to the person authorised to receive mail, who shall be obliged to receive them, or to an addressee's co-employee if he or she is willing to accept them.

(2) If a document cannot be served in the manner referred to in the preceding paragraph, the process server shall return it to the court that ordered the service, and if the service was made by mail, to the post office of the addressee's place of residence. A notice of delivery shall be left for the addressee, stating at which court or post office and within what period the document can be collected. Documents not collected at the post office within the specified time period shall be returned.

(3) If it is established that the person on whom the document is to be served is absent and that for this reason the persons referred to in paragraph one of this Article would not be able to deliver the document to him or her in due time, the document shall be returned with an indication of the addressee's whereabouts.

Article 119a

Če vročitev na navedenem naslovnikovem naslovu ni mogoča zato, ker se je naslovnik odselil, in vročevalec izve za njegov novi naslov, prepošlje pisanje na ta naslov in o tem obvesti sodišče.

If service to the addressee's stated address is not possible because he or she has moved away, and the process server learns of the addressee's new address, he or she shall resend the document to the new address and inform the court thereof.

120. člen

(1) Obdolžencu je treba osebno vročiti vabilo na prvo zaslišanje v predhodnem postopku in vabilo na glavno obravnavo.

(2) Obdolžencu, ki nima zagovornika, je treba osebno vročiti obtožni akt, sodbo in vse odločbe, pri katerih teče od vročitve rok za pritožbo, kot tudi pritožbo nasprotne stranke, ki se vroča na odgovor. Na zahtevo obdolženca vroči sodišče sodbo in druge odločbe osebi, ki jo on določi.

(3) Če je treba obdolžencu, ki nima zagovornika, vročiti sodbo, s katero mu je izrečena kazen zapora, pa mu sodbe ni mogoče vročiti na njegov dotedanji naslov, mu sodišče postavi po uradni dolžnosti zagovornika, ki opravlja to dolžnost, dokler se ne zve za njegov novi naslov. Postavljenemu zagovorniku določi sodišče potreben rok, da se seznani s spisi, nato pa mu vroči sodbo in postopek nadaljuje. Če gre za drugo odločbo, pri kateri teče od vročitve rok za pritožbo, ali za pritožbo nasprotne stranke, ki se vroča na odgovor, pritrdi sodišče odločbo oziroma pritožbo na sodno desko in se po preteku osmih dni šteje, da je bila opravljena veljavna vročitev. Sodbe o kaznovalnem nalogu ni dovoljeno vročiti s pritrditvijo na sodno desko.

(4) Če ima obdolženec zagovornika, vroči sodišče pisanja iz drugega odstavka tega člena zagovorniku in obdolžencu po določbah 119. člena tega zakona. V takem primeru teče rok za vložitev pravnega sredstva oziroma odgovora na pritožbo od zadnje vročitve. Če obdolžencu ni mogoče vročiti odločbe oziroma pritožbe, ker ni sporočil spremembe naslova ali prebivališča, se odločba

Article 120

(1) The summons for the first interrogation in pre-trial proceedings and the summons to the main hearing shall be served on the accused person in person.

(2) An accused person who does not have a defence counsel shall be served in person with a motion of indictment, judgment and all decisions where the time limit for appeal begins to run as of the date of service, including an appeal of the opposing party which is served for response. At the request of the accused person, the court shall serve the judgment and other decisions on the person designated by him or her.

(3) If an accused person who does not have a defence counsel is to be served with a judgment imposing a sentence of imprisonment and the judgment cannot be served at his or her former address, the court shall appoint *ex officio* to the accused person a defence counsel who shall perform this duty until the accused person's new address is determined. The court shall grant the appointed defence counsel an appropriate time limit to study the case files, after which the judgment shall be served on him or her and the proceedings shall be resumed. If a document to be served is a decision where the time limit for appeal begins to run as of the date of service, or an appeal of the opposing party which is served for response, the court shall post the decision or the appeal on the court notice board, and after a lapse of eight days it shall be deemed that the service has been duly effected. Rulings on the issue of a punitive order may not be served by posting on the court notice board.

(4) If the accused person has a defence counsel, the court shall serve the documents referred to in paragraph two of this Article both on the defence counsel and on the accused person according to the provisions of Article 119 of this Act. In such case, the time limit for lodging a legal remedy or a response to an appeal shall begin to run as of the date of the latest service. If the decision or the appeal cannot be served on the

oziroma pritožba pritrdi na sodno desko in se po preteku osmih dni šteje, da je bila opravljena veljavna vročitev.

(5) Če je treba vročiti pisanje zagovorniku obdolženca, ta pa ima več zagovornikov, zadošča, da se vroči enemu od njih.

121. člen

(1) Vabilo za vložitev zasebne tožbe ali obtožnice ter vabilo na glavno obravnavo vroči sodišče zasebnemu tožilcu in oškodovancu kot tožilcu oziroma njunemu zakonitemu zastopniku osebno (118. člen), njihovim pooblaščencem pa po 119. členu tega zakona. Enako jim vroča tudi odločbe, pri katerih teče od dneva vročitve rok za pritožbo, in pritožbo nasprotne stranke, ki jo vroča na odgovor.

(2) Če osebam iz prejšnjega odstavka ali oškodovancu ni mogoče vročiti vabila oziroma odločbe ali pritožbe na dotedanji naslov, pritrdi sodišče vabilo, odločbo oziroma pritožbo na sodno desko in se po preteku osmih dni šteje, da je bila opravljena veljavna vročitev.

(3) Če ima oškodovanec, oškodovanec kot tožilec ali zasebni tožilec zakonitega zastopnika ali pooblaščenca, vroči sodišče pisanje temu, če jih ima več, pa le enemu od njih.

122. člen

(1) Potrdilo o vročitvi (vročilnico) podpišeta prejemnik in vročevalec. Prejemnik zapiše sam z besedo na vročilnici datum prejema.

accused person because he or she failed to report a change of address or residence, the decision or the appeal shall be posted on the court notice board, and after a lapse of eight days it shall be deemed that the service has been duly effected.

(5) If a document has to be served on a defence counsel of the accused person and the accused person has retained more than one defence counsel, it shall be sufficient to serve the document on one of them.

Article 121

(1) A summons to bring a private action or submit an indictment and a summons to the main hearing shall be served by the court on the private prosecutor and the injured party as prosecutor and/or on their legal representative in person (Article 118), and on their counsels as provided in Article 119 of this Act. In the same manner, the court shall serve on these persons the decisions where the time limit for appeal begins to run as of the date of service, and the appeal of the opposing party which is served for response.

(2) If a summons or decision or an appeal cannot be served on the persons referred to in the preceding paragraph or the injured party at the former address, the court shall post the summons, decision or appeal on the court notice board and after a lapse of eight days it shall be deemed that the service has been duly effected.

(3) If the injured party, the injured party as prosecutor or the private prosecutor has a legal representative or counsel, the court shall serve the documents on the legal representative or counsel, and if he or she has retained more than one, the service shall be effected on just one of them.

Article 122

(1) The recipient and the process server shall acknowledge the service of a document by signing the proof of service. The recipient shall write the date of receipt in words on the proof of service.

(2) Če je prejemnik nepismen ali če se ne more podpisati, ga podpiše vročevalec in navede datum prejema s pripombo, zakaj je podpisal prejemnika.

(3) Če prejemnik noče podpisati vročilnice, zapiše vročevalec to na vročilnici in navede datum vročitve; s tem je vročitev opravljena.

123. člen

Če naslovnik ali njegov odrasli družinski član pisanja noče sprejeti, zapiše vročevalec na vročilnici datum, uro in razlog odklonitve sprejema, pisanje pa pusti v naslovnikovem stanovanju ali v prostoru, kjer ta dela; s tem je vročitev opravljena.

124. člen

(1) Vojaškim osebam, osebam v policiji, pripadnikom straže v zavodih, v katerih so osebe, ki jim je vzeta prostost in osebam, zaposlenim v kopenskem, morskem in zračnem prometu, se vročajo vabila prek njihovega poveljstva oziroma neposrednega predstojnika; po potrebi pa se jim lahko vročajo na ta način tudi druga pisanja.

(2) Osebam, ki jim je vzeta prostost, se opravi vročitev na sodišču ali po upravi zavoda, v katerem so.

(3) Osebam, ki uživajo v Republiki Sloveniji imunitetno pravico po mednarodnem pravu, se vročitev opravi po ministrstvu za zunanje zadeve, če mednarodne pogodbe ne določajo kaj drugega.

(4) Državljanom Republike Slovenije v tujini se opravi vročitev, če ne gre za postopek iz 515. in 516. člena tega zakona, s

(2) If the recipient is illiterate or otherwise unable to sign the proof of service, the process server shall sign the recipient's name, indicate the date of receipt and note the reasons why he or she has signed the proof of service in place of the recipient.

(3) If the recipient refuses to sign the proof of service, the process server shall make a note thereof on the proof of service and indicate the date of service; it shall be deemed that by such acts the service of documents has been duly effected.

Article 123

If the addressee or an adult member of his or her family refuses to receive the document, the process server shall note on the proof of service the date, hour and the reason for the refusal of receipt, and shall leave the document in the addressee's dwelling or place of work; it shall be deemed that by such acts the service of documents has been duly effected.

Article 124

(1) The service of summonses on military personnel, members of the police and judicial police officers in facilities where persons deprived of liberty are placed, and on persons employed in land, maritime and air transport, shall be effected through their command or their immediate superiors; if necessary, other documents may also be served on them in such manner.

(2) Service of documents on persons deprived of liberty shall be made in the court or through the administration of the facility where they are placed.

(3) Service on persons enjoying immunity under international law in the Republic of Slovenia shall be effected through the Ministry of Foreign Affairs, unless provided otherwise by international treaties.

(4) Service on citizens of the Republic of Slovenia abroad, if the procedures referred to in Articles 515 and 516 of this Act are not

posredovanjem diplomatskega ali konzularnega predstavništva Republike Slovenije v tuji državi; pogoj pa je, da tuja država ne nasprotuje takemu načinu vročitve in da tisti, ki naj se mu pisanje vroči, prostovoljno privoli, da ga sprejme. Pooblaščena oseba diplomatskega ali konzularnega predstavništva podpiše vročilnico kot vročevalec, če je pisanje vročeno v samem predstavništvu; če pa je poslano po pošti, potrdi to na vročilnici.

applicable, shall be effected through a diplomatic or consular mission of the Republic of Slovenia in a foreign country, provided that the foreign country does not object to such method of service and that the addressee consents voluntarily to receive the document to be served. The authorised person of the diplomatic or consular mission shall sign the proof of service as the process server if the document is served on the premises of the mission, and if the document is sent by mail, the authorised person shall confirm this on the proof of service.

125. člen

(1) Državnemu tožilcu se vročajo odločbe in druga pisanja tako, da se izročijo pisarni državnega tožilstva.

(2) Kadar se vročajo odločbe in druga pisanja, pri katerih teče od dneva vročitve rok, se šteje za dan vročitve dan, ko se izročijo pisarni državnega tožilstva.

(3) Sodišče pošlje državnemu tožilcu na njegovo zahtevo kazenski spis v pregled. Če teče rok za redno pravno sredstvo ali če je to sicer v korist postopka, sme sodišče določiti rok, v katerem mora državni tožilec spis vrniti.

Article 125

(1) Decisions and other documents shall be served on a state prosecutor by delivery to the state prosecutor's office.

(2) Decisions and other documents where the time limit begins to run as of the date of service, shall be deemed to have been served on the day of delivery to the state prosecutor's office.

(3) The court shall deliver the criminal file to the state prosecutor for inspection on his or her request. If the time limit for filing an ordinary legal remedy is running or if this is in the interest of the proceedings, the court may determine a time limit by which the state prosecutor must return the file.

126. člen

(1) V primerih, ki jih ni v tem zakonu, se vročitev opravi po določbah, ki veljajo za pravdni postopek.

(2) Kadar se o stroških kazenskega postopka odloči s posebnim sklepom, se vročitev sklepa opravi po določbah zakona, ki ureja upravni postopek.

(3) Če naslovnik določi naslov za vročanje v skladu z določbami zakona, ki ureja prijavo prebivališča, se šteje, da je s tem sporočil sodišču spremembo naslova ali prebivališča.

Article 126

(1) In cases not covered by the provisions of this Act, service of documents shall be carried out according to the civil procedure provisions.

(2) Where the costs of criminal proceedings are determined by a special ruling, the service of the ruling shall be effected according to the provisions of the Act regulating administrative procedure.

(3) If the addressee states an address for service in accordance with the provisions of the Act governing registration of residence, it shall be deemed that he or she has thereby notified the court of the change of address or residence.

127. člen

(1) Vabila in odločbe, ki se izdajajo do konca glavne obravnave za osebe, ki sodelujejo v postopku, razen za obdolženca, se smejo izročiti udeležencu v postopku, ki je pripravljen vročiti jih tistemu, kateremu so namenjene, če organ meni, da jih bo na ta način zanesljivo dobil.

(2) Vabilo na glavno obravnavo ali kakšno drugo vabilo ter odločba o preložitvi glavne obravnave ali drugih napovedanih dejanj se lahko sporoči osebam iz prejšnjega odstavka tudi s sredstvi elektronskih komunikacij, če se da po okoliščinah sklepati, da bo na ta način opravljeno sporočilo dobil tisti, kateremu je namenjeno.

(3) O tem, da je bilo vabilo sporočeno oziroma odločba izročena na način iz prejšnjih odstavkov, se napravi na spisu uradni zaznamek.

(4) Proti tistemu, ki je bil obveščen oziroma ki mu je bila odločba poslana po prvem ali drugem odstavku tega člena, nastopijo škodljive posledice, ki so predpisane za zamudo, samo, če se ugotovi, da je pravočasno dobil vabilo oziroma odločbo in da je bil poučen o posledicah zamude.

128. člen

(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

Article 127

(1) Summonses and decisions issued before the conclusion of the main hearing to persons participating in the proceedings, except to the accused person, may be delivered to a participant in the proceedings who consents to serve them on the addressee if the authority conducting the proceedings holds that in this way their service is guaranteed.

(2) The summons to the main hearing or another summons, as well as a decision on the postponement of the main hearing or other scheduled actions, may also be notified to the persons referred to in the preceding paragraph using electronic communication means, if under the circumstances it can be assumed that the person to whom the information is addressed will in such manner receive it.

(3) An official note shall be made in the file about the notification of the summons and/or the service of the decision carried out in the manner described in the preceding paragraphs.

(4) Detrimental consequences prescribed for delay shall take effect against a person who was duly notified and/or to whom a decision was sent according to paragraph one or two of this Article only if it is established that he or she received the summons or the decision in due time and was informed of the consequences of the delay.

Article 128

(1) Anyone with a legitimate interest may be allowed to inspect and copy individual criminal files.

(2) While proceedings are pending, permission to inspect and copy the files shall be granted by the authority conducting the proceedings; when the proceedings are terminated, permission shall be granted by the president of the court or an official designated by him or her. If the files are kept with the state prosecutor, permission to inspect and copy shall be granted by him or her.

(3) Inspection and copying of individual criminal files may be

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) 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.

(5) Obdolženec ima pravico pregledati in prepisati spise in si ogledati dokazne predmete.

(6) 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.

(7) 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.

(8) 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).

(9) 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

refused if so required by reasons of defence or state security, or if the public was excluded from the main hearing. An appeal shall be allowed against such a ruling, but it shall not stay its execution.

(4) The provisions of Article 59 and/or Article 73 of this Act shall apply to the inspection and copying of files to be granted to a private prosecutor, the injured party as prosecutor, the injured party and defence counsel.

(5) The accused person shall have the right to inspect and copy the files and to inspect the items of evidence.

(6) If documents containing classified information were used in the proceedings and were used as the basis for a decision, the parties and the defence counsel shall have the right to inspect them. The judge may decide that, given the level of classified information protection and the difficulty of providing adequate security conditions, he or she will allow access to the files containing classified information in the premises of a court that do not meet the security conditions laid down by the Act governing classified information, provided additional security measures are put in place. The transcription or copying of documents and other parts of a file containing classified information shall be prohibited, except under the conditions laid down by the Act governing classified information.

(7) The inspection of documents and parts of a file containing classified information may also be permitted for expert witnesses, appraisers and interpreters in accordance with the conditions referred to in the preceding paragraphs, provided that the knowledge of such content is necessary for the performance of their work, and provided that the court has informed them that they must protect the information in accordance with the provisions of the Act governing classified information and has warned them of the consequences and their liability in the event of disclosure of such information.

(8) The accused person and the defence counsel shall have the right to inspect the official notes on the information which the state prosecutor excluded from the files (paragraph one of Article 83).

(9) The persons entitled to inspect a file according to this Act shall also have the right to inspect and transcribe the file in electronic form in the e-justice information system, after having duly proved their identity.

istovetnost.

(10) Upravičenci do pregleda spisa po določbah tega zakona imajo pravico v informacijskem sistemu e-sodstvo spremljati potek postopka.

XIII. poglavje
IZVRŠITEV ODLOČB

129. člen

(1) Sodba postane pravnomočna, če se ne more izpodbijati s pritožbo. Če je bila zoper sodbo vložena pritožba, nastopi pravnomočnost z dnem, ko sodišče prve stopnje prejme spise z overjenimi prepisi sodbe sodišča druge stopnje. Če je sodišče druge stopnje odločitev o pritožbi, sprejeto po opravljeni obravnavi ali seji senata, o kateri so bili v redu obveščeni tožilec, obdolženec in zagovornik, razglasilo, nastopi pravnomočnost z dnem razglasitve sodbe.

(2) Pravnomočna sodba se izvrši, ko je vročena in ko za njeno izvršitev ni zakonskih ovir. Če ni vložena pritožba ali so se stranke pritožbi odpovedale ali jo umaknile, je sodba izvršljiva, ko poteče rok za pritožbo, oziroma od dneva, ko so se stranke odpovedale pritožbi ali vloženo pritožbo umaknile.

(3) Če sodišče, ki je izdalo sodbo na prvi stopnji, ni pristojno za njeno izvršitev, pošlje overjen prepis sodbe s potrdilom o izvršljivosti organu, ki je pristojen za izvršitev.

(4) Če je vojaška oseba ali vojaški obveznik obsojen na kazen zapora, pa še ni odslužil vojaškega roka, pošlje sodišče overjen prepis pravnomočne sodbe upravnemu organu, pristojnemu za obrambne zadeve.

(5) Če zaradi pravnomočne sodbe nastanejo z zakonom

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

Chapter XIII
ENFORCEMENT OF DECISIONS

Article 129

(1) A judgment shall become final after it can no longer be challenged by an appeal. A judgment against which an appeal has been lodged shall become final on the day when the court of first instance receives the files with certified copies of the judgment rendered by the court of second instance. If the court of second instance has pronounced its decision on the appeal adopted after a hearing or a panel session is held, concerning which the prosecutor, the accused person and the defence counsel have been duly notified, the judgment shall become final on the day the decision is pronounced.

(2) The final judgment shall be enforced after it has been served and there are no legal obstacles to its enforcement. If no appeal has been lodged or the parties have waived their right to an appeal or have withdrawn the appeal, the judgment shall be enforceable after the expiry of the time limit for an appeal, or from the date when the parties waived their right to appeal or withdrew the appeal.

(3) If the court which rendered the judgment at first instance is not competent for its enforcement, it shall deliver a certified copy of the judgment with a certificate of its enforceability to the authority competent for enforcement.

(4) If a sentence of imprisonment is imposed on a military person or a military conscript who has not yet finished his or her military service, the court shall send a certified copy of the final judgment to the administrative body responsible for defence affairs.

(5) If the statutory legal consequences of a final judgment

določene pravne posledice obsodbe, ki se nanašajo na prenehanje ali izgubo posameznih pravic (prvi odstavek 79. člena Kazenskega zakonika in 21. člen Zakona o odgovornosti pravnih oseb za kazniva dejanja), sodišče, ki je izdalo sodbo na prvi stopnji, pošlje obvestilo o pravnomočni sodbi s podatki o opravilni številki sodbe, imenu in priimku obsojenca, EMŠO obsojenca, opredelitev kaznivega dejanja z navedbo člena iz Kazenskega zakonika in izrečeno sankcijo pristojnemu organu, delodajalcu ali drugi pravni osebi oziroma instituciji, ki glede na zakon, s katerim so določene pravne posledice obsodbe, zagotovi njihovo spoštovanje.

involve the termination or loss of certain rights (paragraph one of Article 79 of the Criminal Code and Article 21 of the Liability of Legal Persons for Criminal Offences Act), the court that delivered the judgment at first instance shall send a notice of the final judgment including information on the reference number of the judgment, the name and surname of the convicted person, the EMŠO number of the convicted person, the definition of the criminal offence with an indication of the relevant Article in the Criminal Code and the sanction imposed to the competent authority, the employer or other legal person or institution that shall ensure their observance according to the act determining the legal consequences of a conviction.

129.a člen
(poseg odločbe US o načinu izvrševanja tega člena)

(1) O predlogu za izvršitev kazni zapora tako, da obsojenec med prestajanjem kazni v določenih dnevih prebiva doma, nadomestitvi kazni zapora s hišnim zaporom, nadomestitvi kazni zapora ali denarne kazni z delom v splošno korist in o izvršitvi denarne kazni s plačilom v obrokih, odloči s sklepom predsednik senata oziroma sodnik posameznik sodišča, ki je izdalo sodbo na prvi stopnji.

(2) Predlog iz prejšnjega odstavka lahko v petnajstih dneh po pravnomočnosti sodbe vloži obsojenec, njegov zagovornik ali oseba iz drugega odstavka 367. člena tega zakona (predlagatelj). Če je obsojencu oziroma zagovorniku prepis sodbe vročen po pravnomočnosti, začne ta rok teči od zadnje vročitve.

(3) Sodnik zavrže predlog, če je prepozen, nedovoljen ali če so v predlogu navedeni razlogi očitno neutemeljeni, sicer pa odredi, da se raziščejo dejstva in preskrbijo dokazi, na katere se sklicuje predlog, po potrebi pa sme razpisati narok. Če obsojenec na narok ne pride se šteje, da je predlog umaknil.

(4) Zoper sklep o predlogu iz prvega odstavka tega člena

Article 129a
(Intervention of the Constitutional Court decision regarding the manner of implementation of this Article)

(1) The president of the panel or a single judge of the court that delivered the judgment at first instance shall decide by a ruling on the motion to enforce a sentence of imprisonment such that during the period of serving his or her sentence, the convicted person may reside at home on certain days, that the sentence of imprisonment is substituted by house arrest, that the sentence of imprisonment or a fine is substituted by community service, or that the fine is paid in instalments.

(2) The motion referred to in the preceding paragraph may be lodged by the convicted person, his or her defence counsel or the person referred to in paragraph two of Article 367 of this Act (the petitioner) within fifteen days of the judgment becoming final. If a copy of the judgment is served on the convicted person or his or her defence counsel after it has become final, this period shall begin to run as of the date of the latest service.

(3) The judge shall dismiss any motions that are lodged too late, are inadmissible or contain manifestly unfounded reasons; in other cases, the judge shall order the examination of the facts and the submission of the evidence referred to in the motion; where appropriate, the judge may also schedule a hearing. If the convicted person fails to appear at the hearing, it shall be deemed that he or she has withdrawn the motion.

(4) An appeal against the decision on the motion referred to in

se lahko pritoži predlagatelj in državni tožilec.

(5) Določbe prejšnjih odstavkov tega člena se smiselno uporabljajo tudi za odločanje o izvršitvi kazni zaradi kršitve pravil hišnega zapora ali zaradi kršitve obveznosti iz dela v splošno korist in za odločanje o načinu izvrševanja hišnega zapora in dela v splošno korist.

(6) O odreditvi takojšnjega plačila denarne kazni zaradi zamude s plačilom posameznega obroka odloči s sklepom, o spremembi denarne kazni, ki se ne da niti prisilno izterjati v kazen zapora, pa odloči s sodbo predsednik senata oziroma sodnik posameznik sodišča, ki je na prvi stopnji izreklo denarno kazen.

130. člen
(delno razveljavljen)

Če se denarna kazen, ki je predpisana v tem zakonu, ne da niti prisilno izterjati, jo sodišče izvrši tako, da se za vsakih začetih 42 eurov določi en dan zapora, vendar ne več kot deset dni zapora. Denarno kazen, ki je predpisana v tem zakonu, prisilno izterja pristojni davčni organ po določbah zakona, ki ureja prisilno izterjavo davkov, na predlog sodišča, ki je to denarno kazen izreklo.

131. člen

(1) Glede stroškov kazenskega postopka, ki jih je treba prisilno izterjati v dobro proračuna, in glede odvzema premoženjske koristi izvrši sodbo pristojni davčni organ po določbah zakona, ki ureja prisilno izterjavo davkov, in to na predlog sodišča, ki je izdalo sodbo. Glede drugih stroškov kazenskega postopka in glede premoženjskopravnih zahtevkov pa izvrši sodbo pristojno sodišče po določbah, ki veljajo za izvršilni postopek.

(2) Če je izrečen v sodbi odvzem predmetov, odloči sodišče, ki je izreklo sodbo na prvi stopnji, ali naj se predmeti prodajo

paragraph one of this Article may be lodged by the petitioner and by the state prosecutor.

(5) The provisions referred to in the preceding paragraphs of this Article shall apply *mutatis mutandis* to decisions on the enforcement of a sentence due to a breach of house arrest rules or a breach of community service obligations, and to decisions on the method of implementation of house arrest or community service.

(6) The president of the panel or a single judge of the court that imposed a fine at first instance shall order, by a ruling, an immediate payment of the fine due to late payment of a particular instalment, and shall decide, by a judgment, on the conversion of the fine which cannot be collected through forced collection, into a sentence of imprisonment.

Article 130
(Abrogated in part)

If the fine prescribed by this Act cannot be collected through forced collection, the court shall enforce it by determining one day of imprisonment for each started EUR 42, but not exceeding ten days of imprisonment. The fine laid down by this Act shall be collected forcibly by the competent tax authority in accordance with the provisions of the Act governing forced collection of taxes, upon a motion of the court which imposed such a fine.

Article 131

(1) A judgment on the costs of criminal proceedings that must be collected forcibly as credit for the budget, and a judgment on the confiscation of proceeds shall be enforced by the competent tax authority in accordance with the provisions of the Act regulating the forced collection of taxes, upon a motion of the court that rendered the judgment. A judgment on other costs of criminal proceedings and pecuniary claims shall be enforced by the competent court in accordance with the provisions regulating enforcement proceedings.

(2) If the confiscation of objects is ordered in the judgment, the court which rendered the judgment at first instance shall decide whether

po določbah, ki veljajo za izvršilni postopek, ali naj se izročijo kriminalističnemu muzeju ali kakšnemu drugemu zavodu ali pa naj se uničijo. Denar, ki se dobi s prodajo predmetov, gre v proračun.

(3) Prejšnji odstavek se smiselno uporabi tudi tedaj, če se izda odločba o odvzemu predmetov po 498. členu tega zakona.

(4) Pravnomočna odločba o odvzemu predmetov se sme izven primerov obnove kazenskega postopka in zahteve za varstvo zakonitosti, spremeniti v pravdi, če nastane spor o lastnini odvzetih predmetov.

132. člen

(1) Če ni v tem zakonu drugače določeno, se sklepi izvršijo, ko postanejo pravnomočni. Odredbe se izvršijo takoj, razen če organ, ki je odredbo izdal, ne odredi drugače.

(2) Sklep postane pravnomočen, če se ne more več izpodbijati s pritožbo ali če zoper njega ni pritožbe.

(3) Sklepe in odredbe izvršujejo organi, ki so jih izdali, razen če je določeno drugače. Če je sodišče s sklepom odločilo o stroških kazenskega postopka, veljajo za izterjavo teh stroškov določbe prvega odstavka prejšnjega člena.

133. člen

(1) Če nastane dvom o dovoljenosti izvršitve sodne odločbe ali o računanju kazni ali če v pravnomočni sodbi ni odločeno o vštetju pripora ali prej prestane kazni ali če jih sodišče ni vštelo pravilno, odloči o tem predsednik senata sodišča, ki je sodilo na prvi stopnji, s posebnim sklepom. Pritožba ne zadrži izvršitve sklepa, razen če sodišče določi drugače.

(2) Če nastane dvom o razlagi sodne odločbe, odloči o tem sodišče, ki je izdalo pravnomočno odločbo.

the objects should be sold in accordance with the provisions on enforcement procedure, or should be delivered to a museum of criminology or some other institution, or should be destroyed. The proceeds of sale of such objects shall be transferred to the budget.

(3) The preceding paragraph shall apply *mutatis mutandis* to the decisions issued on confiscation of objects under Article 498 of this Act.

(4) A final decision on the confiscation of objects may, except in cases involving the reopening of criminal proceedings and requests for the protection of legality, be changed through a civil action if there is a dispute regarding the ownership of the confiscated objects.

Article 132

(1) Unless otherwise provided by this Act, rulings shall be enforced when they become final. Orders shall be enforced immediately, except where decided otherwise by the authority which issued them.

(2) A ruling shall become final when it can no longer be challenged by an appeal or when no appeal is allowed against it.

(3) Unless otherwise provided, rulings and orders shall be enforced by the authorities that have issued them. If a court decides on the costs of criminal proceedings by a ruling, the provisions of paragraph one of the preceding Article shall apply to the collection of these costs.

Article 133

(1) If doubts arise as to the admissibility of enforcement of a court's decision or to the calculation of a punishment, or if a final judgment fails to determine credit for time spent in detention or imprisonment under a previous sentence, or if such calculation is erroneous, the president of the panel of the first instance court shall decide on these issues in a separate ruling. An appeal shall not stay the execution of the ruling, unless otherwise determined by the court.

(2) If doubts arise as to the interpretation of a court's decision, such issue shall be decided by the court which rendered the final decision.

134. člen

Ko postane odločba, s katero je odločeno o premoženjskopravnem zahtevku, pravnomočna, sme oškodovanec zahtevati od sodišča, ki je odločilo na prvi stopnji, naj mu izda overjen prepis odločbe z oznako, da je odločba izvršljiva.

135. člen

(1) Kazensko evidenco in evidenco izrečenih vzgojnih ukrepov vodi ministrstvo, pristojno za pravosodje.

(2) Minister, pristojen za pravosodje, predpiše način vodenja evidenc iz prejšnjega odstavka.

XIV. poglavje
POMEN IZRAZOV V ZAKONU IN DRUGE DOLOČBE

136. člen

Če je v zakonu določeno, da je za pregon posameznih kaznivih dejanj potreben predlog oškodovanca oziroma da je potrebno poprejšnje dovoljenje pristojnega državnega organa, ne more državni tožilec zahtevati preiskave in ne neposredno vložiti obtožnice oziroma obtožnega predloga, če ne predloži dokaza, da je tak predlog podan oziroma, da je dovoljenje dano.

137. člen

(1) Če teče kazenski postopek zaradi kaznivega dejanja zoper varnost javnega prometa, sme sodišče na obrazloženi predlog upravičenega tožilca odrediti, da se obdolžencu odvzame vozniško dovoljenje za čas, dokler traja postopek. Pred uvedbo kazenskega postopka zaradi kaznivega dejanja zoper varnost javnega prometa

Article 134

When a decision on a pecuniary claim becomes final, the injured party may request the court that adjudicated at first instance to provide him or her with a certified copy of the decision with a note that the decision is enforceable.

Article 135

(1) Criminal records and the records of issued corrective measures shall be kept by the ministry responsible for justice.

(2) The method of keeping the records referred to in the preceding paragraph shall be prescribed by the minister responsible for justice.

Chapter XIV
THE MEANING OF LEGAL TERMS USED IN THIS ACT AND OTHER PROVISIONS

Article 136

If an Act provides that the prosecution of particular criminal offences is subject to a motion for prosecution submitted by the injured party or to the prior approval of a competent state authority, the state prosecutor may not request the opening of an investigation nor directly file an indictment or a motion of indictment, unless proof is submitted that such motion has been made or that such approval has been granted.

Article 137

(1) If criminal proceedings for a criminal offence against the safety of public transport are pending, the court may, upon a reasoned motion of the authorised prosecutor, order that the driving licence of the accused person be revoked for the period of the proceedings. Prior to instituting criminal proceedings for a criminal offence against the safety of

sme policija, ki opravlja ogled, vzeti vozniško dovoljenje tistemu, za katerega je podan utemeljen sum, da je storil to kaznivo dejanje in o tem izdati potrdilo, vendar mora vozniško dovoljenje skupaj z ovadbo v petih dneh poslati državnemu tožilcu. Ta pa ga mora v desetih dneh od prejema vrniti tistemu, ki mu je bilo odvzeto, ali ga poslati sodišču ter hkrati predlagati uvedbo kazenskega postopka in začasni odvzem vozniškega dovoljenja.

(2) O predlogu iz prejšnjega odstavka odloči sodišče s sklepom. Zoper sklep o odvzemu vozniškega dovoljenja lahko obdolženec v treh dneh od prejema sklepa vloži ugovor, ki ne zadrži izvršitve sklepa. Sodišče, ki je sklep izdalo, odloči o ugovoru na podlagi predloženega gradiva, lahko pa pred odločitvijo opravi poseben narok s strankama.

(3) Zoper sklep, s katerim je bilo odločeno o ugovoru, imata stranki pravico do pritožbe. Pritožba obdolženca zoper sklep, s katerim je bil ugovor zavrnjen, ne zadrži izvršitve sklepa o odvzemu vozniškega dovoljenja.

(4) Še pred koncem kazenskega postopka sodišče na predlog strank ali po uradni dolžnosti začasno odvzeto vozniško dovoljenje obdolžencu vrne, če ugotovi, da ni več pogojev za odvzem.

(5) Glede izvršitve ukrepa iz tega člena se smiselno uporabljajo določbe zakona, ki ureja izvrševanje kazenskih sankcij, o prepovedi vožnje motornega vozila in določbe zakona, ki ureja prekrške, o obveščanju organa, ki vodi evidenco izdanih vozniških dovoljenj.

(6) Čas, za katerega je bilo vzeto vozniško dovoljenje, se obdolžencu, ki je na prostosti, všteje v izrečeno kazen prepovedi vožnje motornega vozila oziroma izrečeni varnostni ukrep odvzema vozniškega dovoljenja.

138. člen

public transport, the police that inspect the scene of the crime may take the driving licence from the person reasonably suspected of having committed such criminal offence, and shall issue a receipt thereon, but they must send the driving licence, together with the criminal complaint, to the state prosecutor within five days. The state prosecutor shall, within ten days of receipt, return the driving licence to the person from whom it was taken, or send it to the court and at the same time submit a motion to institute criminal proceedings and temporarily revoke the driving licence.

(2) The court shall decide on the motion referred to in the preceding paragraph by a ruling. The accused person may lodge an objection against the ruling revoking the driving licence within three days of receipt of the ruling, but this shall not stay its execution. The court that rendered the ruling shall decide on the objection on the basis of the submitted material, or it may hold a special hearing with the parties before making a decision.

(3) The parties shall have the right to appeal against the ruling on the objection. An appeal of the accused person against the ruling rejecting the objection shall not stay the execution of the ruling revoking the driving licence.

(4) Before the conclusion of criminal proceedings, the court may, upon a motion of the parties or *ex officio*, return the temporarily revoked driving licence to the accused person should it find that the conditions for revocation no longer exist.

(5) The provisions of the Act governing the enforcement of criminal sanctions regarding the measure of disqualification from driving motor vehicles, and the provisions of the Act governing minor offences regarding the notification of the authority that keeps the register of the issued driving licences, shall apply *mutatis mutandis* to the enforcement of the measure referred to in this Article.

(6) The period of revocation of a driving licence shall be credited towards a sentence of disqualification from driving a motor vehicle or the precautionary measure of revocation of a driving licence imposed on an accused person who is at liberty.

Article 138

Če zakon ne določa drugače, obvesti sodišče o priporu ter o pravnomočni obsodilni sodbi na kazen zapora v treh dneh obdolženčevega delodajalca.

Unless otherwise provided by an Act, the court shall, within three days, inform the accused person's employer of his or her detention and of the final judgment of conviction and sentence of imprisonment.

139. člen

Če se med kazenskim postopkom ugotovi, da je obdolženec umrl, se kazenski postopek s sklepom ustavi.

Article 139

If it is established in the course of criminal proceedings that the accused person has died, the proceedings shall be discontinued by a ruling.

140. člen

(1) Sodišče sme med postopkom kaznovati z denarno kaznijo določeno v prvem odstavku 78. člena tega zakona, zagovornika, pooblaščenca ali zakonitega zastopnika, oškodovanca, oškodovanca kot tožilca ali zasebnega tožilca, če njegovo ravnanje očitno meri na zavlačevanje kazenskega postopka.

Article 140

(1) In the course of proceedings, the court may impose the fine referred to in paragraph one of Article 78 of this Act on the defence counsel, counsel or legal representative, the injured party, the injured party as prosecutor or private prosecutor, if his or her actions are clearly aimed at delaying the criminal proceedings.

(2) O kaznovanju odvetnika oziroma odvetniškega kandidata obvesti sodišče odvetniško zbornico.

(2) The court shall notify the Bar Association of the punishment of an attorney or a candidate attorney.

(3) Če državni tožilec ne daje sodišču pravočasno predlogov ali opravlja druga procesna dejanja z veliko zamudo in s tem povzroči zavlačevanje postopka, obvesti sodišče o tem Vrhovno državno tožilstvo.

(3) If the state prosecutor does not file motions with the court in due time or if he or she undertakes other procedural acts with major delay, thus causing the delay of proceedings, the court shall notify the Office of the State Prosecutor General of the Republic of Slovenia thereof.

141. člen

(1) Glede izključitve kazenskega pregona za osebe, ki uživajo v Republiki Sloveniji imunitetno pravico po mednarodnem pravu, veljajo določbe ratificiranih in objavljenih mednarodnih pogodb.

Article 141

(1) Exemptions from the criminal prosecution of persons enjoying immunity in the Republic of Slovenia under international law shall be governed by the provisions of ratified and published international agreements.

(2) Če nastane dvom, ali gre za tako osebo, se sodišče obrne za pojasnilo na ministrstvo, pristojno za zunanje zadeve.

(2) In the case of doubt as to whether such an exemption should apply to a particular person, the court shall consult the ministry responsible for foreign affairs.

141.a člen

(1) Obdolžencem, ki se jim sme v določenih primerih kazen omiliti (tretji odstavek 294. člena Kazenskega zakonika) ter pričam iz 240.a člena tega zakona, glede katerih obstaja resna nevarnost za njihovo življenje ali telo, se mora v največji možni meri zagotoviti osebna varnost v predkazenskem postopku, med in po končanem kazenskem postopku.

(2) Po določbah zakona iz tretjega odstavka tega člena se osebna varnost na predlog obdolžencev oziroma prič iz prejšnjega odstavka zagotavlja tudi njihovim bližnjim sorodnikom (1. do 3. točka prvega odstavka 236. člena) in drugim ogroženim osebam.

(3) Zakon določa postopek in pogoje za vključitev v program zaščite ter za prenehanje programa zaščite, organe, pristojne za predlaganje in odrejanje zaščite, nujne zaščitne ukrepe, ukrepe v programu zaščite, evidence in zaščito podatkov ter financiranje in nadzor nad izvajanjem programov zaščite.

142. člen

Vsi državni organi morajo sodiščem in drugim organom, ki sodelujejo v kazenskem postopku, dajati potrebno pomoč, zlasti če gre za odkrivanje kaznivih dejanj ali za izsledite storilcev.

143. člen

(1) Upravljavec osebnih podatkov mora sodišču na zahtevo brezplačno posredovati podatke iz zbirke osebnih podatkov tudi brez osebne privolitve posameznika, na katerega se podatki nanašajo, če sodišče navede, da podatke potrebuje za izvedbo kazenskega postopka.

(2) Podatke iz prejšnjega odstavka mora sodišče varovati

Article 141a

(1) Accused persons whose sentence may be reduced in certain circumstances (paragraph three of Article 294 of the Criminal Code) and the witnesses referred to in Article 240a of this Act whose life or body is under serious threat, shall be provided with maximum personal security in the pre-trial procedure, as well as during and after the concluded criminal proceedings.

(2) Pursuant to the provisions under paragraph three of this Article, on a motion of the accused person and/or witnesses referred to in the preceding paragraph, personal security shall also be provided to their close relatives (points 1 to 3 of paragraph one of Article 236) and other persons under threat.

(3) An act shall lay down the procedure and conditions for entering and leaving a protection programme, the authorities responsible for requesting and ordering protection, urgent protection measures, measures under the protection programme, records and data protection, and the financing and supervision of the implementation of protection programmes.

Article 142

All state authorities shall provide the necessary assistance to the courts and other bodies involved in criminal proceedings, especially in the detection of criminal offences or the tracing of perpetrators.

Article 143

(1) A personal data controller must submit to the court on its request and free of charge data from personal databases even without the consent of the data subject, if the court states that such data are required for the conduct of criminal proceedings.

(2) The court shall keep the data referred to in the preceding

kot tajne, če je tako določeno v zakonu.

(3) Sodišče obdeluje podatke iz prvega odstavka tega člena za namene izvajanja določb tega zakona. Podatki so javnosti dostopni v skladu z določbami tega zakona.

paragraph confidential, if so provided by an Act.

(3) The court shall process the data referred to in paragraph one of this Article for the purposes of implementing the provisions of this Act. The data shall be available to the public in accordance with the provisions of this Act.

143.a člen

(1) Posameznik ali pravna oseba, ki zaradi obveznosti ali pravice, določene z zakonom, ali če je to nujno potrebno zaradi zaposlitve, potrebuje dokazilo, da ni v kazenskem postopku za kazniva dejanja, za katera se storilec preganja po uradni dolžnosti, ima pravico brezplačno pridobiti ustrezno potrdilo. Delodajalci in druge osebe lahko pridobijo potrdilo, ali je zoper njihovega delavca ali drugo osebo, s katero so ali bodo v pravnem razmerju, uveden kazenski postopek, le, če imajo za to izrecno pisno privolitev posameznika oziroma pravne osebe, na katero se ti podatki nanašajo, ali če je tako izrecno določeno v zakonu.

(2) Potrdilo iz prejšnjega odstavka ne glede na določbe tega zakona o krajevni pristojnosti izda vsako sodišče prve stopnje s splošno pristojnostjo v Republiki Sloveniji. V potrdilu se navede le, da posameznik ali pravna oseba je ali ni v kazenskem postopku za kaznivo dejanje, za katero se storilec preganja po uradni dolžnosti. V potrdilu, da je posameznik ali pravna oseba v kazenskem postopku, se navede določeno kaznivo dejanje le, če njegovo navedbo ali navedbo vrste kaznivega dejanja zahteva drug zakon.

(3) Prošnja za izdajo potrdila za posameznika vsebuje ime in priimek, datum in kraj rojstva, naslov stalnega ali začasnega bivališča, državljanstvo, namen izdaje potrdila, navedbo, ali bo posameznik potrdilo prevzel osebno ali pa naj se mu vroči ali pošlje po pošti, in podpis. Državljani Republike Slovenije in drugi posamezniki, ki so vpisani v centralnem registru prebivalstva, v prošnji namesto datuma in kraja rojstva navedejo EMŠO. Prošnja za izdajo potrdila za pravno osebo vsebuje firmo oziroma ime pravne osebe in podatke o poslovnem naslovu, namen izdaje potrdila,

Article 143a

(1) Natural or legal persons that, in order to meet obligations or exercise rights provided by law, or if urgently required for the purpose of employment, need proof that they are not subject to criminal proceedings for any criminal offence prosecutable *ex officio*, shall have the right to obtain the relevant certificate free of charge. Employers and other persons may obtain a certificate as to whether criminal proceedings have been instituted against their employee or another person with whom they are or will be in a legal relationship only if they obtain express written approval from the individual or legal person to whom the information relates, or if expressly so prescribed by an Act.

(2) Notwithstanding the provisions of this Act on territorial jurisdiction, any court of first instance having general jurisdiction in the Republic of Slovenia shall be bound to issue the certificate referred to in the preceding paragraph. The certificate shall only state whether the natural or legal person concerned is subject or is not subject to criminal proceedings for any criminal offence prosecutable *ex officio*. A certificate attesting that a natural or legal person is subject to criminal proceedings shall indicate the specific criminal offence only in the event that such indication, or the indication of the type of criminal offence, is required by another Act.

(3) A request for a certificate for a natural person shall include the name and surname, the date and place of birth, permanent or temporary residence, nationality, the purpose of the certificate, an indication of whether the person will collect the certificate in person or whether it should be served or mailed, and the signature. Citizens of the Republic of Slovenia and other persons entered in the Central Population Register shall indicate in the request their EMŠO number instead of the date and place of birth. The request for a certificate for a legal person shall include the company name or the legal person's name and the business

navedbo, ali bo zakoniti zastopnik potrdilo prevzel osebno ali pa naj se pravni osebi vroči ali pošlje po pošti, ime in priimek zakonitega zastopnika in njegov podpis. Pravne osebe, ki so vpisane v poslovnem registru, v prošnji navedejo matično številko, druge pravne osebe pa davčno številko.

(4) Prošnja za izdajo potrdila se lahko vloži osebno na sodišču ali po pošti. Posamezniki in pravne osebe lahko potrdilo prevzamejo osebno na sodišču ali po pošti. Če ga prevzamejo po pošti, se jim vroči osebno, v skladu z zakonom, ki ureja splošni upravni postopek, če je posameznik ali pravna oseba v kazenskem postopku za kaznivo dejanje, za katero se storilec preganja po uradni dolžnosti, sicer pa se jim lahko pošlje z navadno pošto.

(5) Posameznik se pri osebni vložitvi prošnje ali osebnem prevzemu potrdila izkaže s svojim veljavnim osebnim dokumentom, iz katerega je mogoče nedvoumno ugotoviti njegovo istovetnost, za pravno osebo pa lahko osebno vloži prošnjo ali osebno prevzame potrdilo njen zakoniti zastopnik, ki se izkaže z ustrezno listino o zakonitem zastopanju in z veljavnim osebnim dokumentom, iz katerega je mogoče nedvoumno ugotoviti njegovo istovetnost.

(6) Prošnja za izdajo potrdila se lahko vloži tudi v elektronski obliki, podpisana z elektronskim podpisom, ki je enakovreden lastnoročnemu podpisu. Sodišče lahko potrdilo vroči v varni elektronski predal, ki ga posameznik ali pravna oseba navede v svoji vlogi.

(7) Sodišče mora ob vsaki izdaji potrdila zabeležiti pravno podlago, po kateri ga je izdalo, pisno izjavo posameznika ali zakonitega zastopnika, da potrebuje potrdilo in za kateri namen v skladu s prvim odstavkom tega člena, ter preveriti v vlogi navedeno vrsto, številko in datum izdaje veljavnega osebnega dokumenta iz prejšnjega odstavka.

(8) Izjemoma, če je to nujno zaradi učinkovitega ali takojšnjega zavarovanja pravic ali uveljavljanja obveznosti posameznikov ali pravnih oseb, ki prebivajo ali imajo sedež v drugih državah ali nameravajo delati ali delovati ali delajo ali delujejo v drugi državi ali za mednarodno organizacijo ali za posameznike zaradi

address, the purpose of the certificate, an indication of whether the legal representative will collect the certificate in person or whether it should be served or mailed to the legal person, the name and surname of the legal representative and his or her signature. In their request, legal persons entered in the business register shall state the registration number, and other legal persons shall state the tax number.

(4) A request for a certificate may be submitted at the court in person or sent by mail. Natural and legal persons may receive the certificate in person or by mail. If the certificate is received by mail, service shall be effected on them personally, in accordance with the Act governing the general administrative procedure, provided that the natural or legal person is subject to criminal proceedings for a criminal offence prosecutable *ex officio*; otherwise, it may be sent by regular mail.

(5) In submitting a request or collecting the certificate in person, a natural person shall prove his or her identity with his or her valid personal identity document that unambiguously establishes his or her identity; for a legal person, the legal representative, who shall demonstrate his or her authorisation with a valid document on legal representation and a valid personal identity document that unambiguously establishes his or her identity, may file a request or collect the certificate in person.

(6) A request for a certificate may also be submitted in electronic form signed with an electronic signature that is equivalent to a handwritten signature. The court may serve the certificate to a secure electronic mailbox indicated by the natural or legal person in his or her request.

(7) For each certificate issued, the court shall note the legal basis for its issue, a written statement from the individual or his or her legal representative that a certificate is needed and for what purpose in accordance with paragraph one of this Article, and shall verify the type, number and date of issue of the valid personal identification document referred to in the preceding paragraph, as indicated in the petition.

(8) Exceptionally, where this is necessary for the effective or prompt securing of rights, or the enforcement of obligations of natural or legal persons residing or having headquarters in other countries, or intending to work or operate, or working or operating in another country or for an international organisation, or for natural persons for the purpose of

prehajanja državnih meja, lahko diplomatsko-konzularna predstavništva Republike Slovenije ali diplomatsko-konzularna predstavništva, ki zastopajo Republiko Slovenijo, pridobijo potrdilo s smiselno uporabo določb prejšnjih odstavkov tega člena. Če je glede na okoliščine zadeve nujno, se v potrdilu navede tudi določeno kaznivo dejanje.

crossing state borders, the diplomatic and consular missions of the Republic of Slovenia, or the diplomatic and consular missions representing the Republic of Slovenia, may obtain such certificate by *mutatis mutandis* application of the provisions of the preceding paragraphs of this Article. Should the circumstances so require, the certificate shall also indicate the specific criminal offence.

143.b člen

(1) Kadar je v skladu s tem zakonom dopustno vabljenje ali obveščanje s sredstvi elektronskih komunikacij, lahko sodišče zaprosi osebe, ki jih namerava vabiti ali obveščati, za kontaktne telefonske in telefaks številke ter naslove elektronske pošte, pri čemer jih opozori, da teh podatkov niso dolžne posredovati. Pozove jih tudi, naj čimprej posredujejo morebitne prihodnje spremembe navedenih podatkov.

(2) Sodišče lahko za potrebe preverjanja istovetnosti oseb, ki sodelujejo pri posameznem preiskovalnem ali procesnem dejanju oziroma v kazenskem postopku, vpogleda in v zapisnik vpiše vrsto in številko osebnega dokumenta, na podlagi katerega je ugotovilo njihovo istovetnost.

Article 143b

(1) Where, in accordance with this Act, a summons or notification may be submitted electronically, the court may invite the persons whom it intends to summon or notify to provide their contact phone and fax numbers and e-mail addresses, informing them, however, that they are not obliged to provide such data. The court shall also invite them to report any subsequent changes to the data provided as promptly as possible.

(2) For the purpose of verifying the identity of persons participating in a particular investigative act or procedural action and/or in criminal proceedings, the court may inspect and enter in the record the type and number of personal identification document which served to establish their identity.

143.c člen

V primerih kaznivih dejanj zoper gospodarstvo smejo preiskovalna dejanja, glavna obravnava in odločanje o rednih in izrednih pravnih sredstvih po tem zakonu trajati najkrajši potrebni čas. Dolžnost vseh organov, ki sodelujejo v kazenskem postopku, in organov, ki jim dajejo pravno pomoč, je, da postopajo posebno hitro.

Article 143c

In cases of criminal offences committed against the economy, the investigative acts, the main hearing and the ruling on the ordinary and extraordinary legal remedies under this Act may only take the shortest time necessary. All bodies participating in criminal proceedings and the bodies that provide them with legal assistance shall ensure especially expedited procedures.

143.č člen

(1) Pristojni organ v predkazenskem oziroma kazenskem postopku zaradi ugotovitve obstoja posebnih potreb po zaščiti že ob prvem stiku z oškodovancem, če je to mogoče, oceni stopnjo oškodovančeve izpostavljenosti sekundarni in ponovni viktimizaciji,

Article 143č

(1) The competent authority in pre-trial or criminal proceedings shall, if possible, assess the degree of the injured person's exposure to secondary and repeated victimisation, intimidation and retaliation (individual assessment) in order to establish the existence of special

ustrahovanju in maščevanju (individualna ocena).

(2) Pri individualni oceni se preučijo predvsem osebne značilnosti oškodovanca, narava, teža in okoliščine kaznivega dejanja, ravnanje obdolženca in oškodovanca v predkazenskem oziroma kazenskem postopku in izven njega, upošteva se mnenje oškodovanca, zlasti če oškodovanec izrecno vnaprej zavrne možnost posebne zaščite. Posebej se upoštevajo starost in morebitna invalidnost oškodovanca ter okoliščine kaznivih dejanj, izvršenih zaradi predsodkov, diskriminacije, izkoriščanja ali iz sovraštva, kaznivih dejanj s prvinami nasilja ali zoper spolno nedotakljivost ter kaznivih dejanj s prvinami terorizma, trgovine z ljudmi in kaznivih dejanj, izvršenih v hudodelski združbi.

(3) Obseg individualne ocene se lahko prilagodi glede na težo kaznivega dejanja in stopnjo očitne škode, ki jo je utrpel oškodovanec. Za oškodovanca, ki je mladoletna oseba, se vedno šteje, da ima posebne potrebe po zaščiti.

(4) Individualna ocena oškodovanca se upošteva pri odločitvi, ali in v kolikšni meri bi oškodovancu koristili ukrepi iz prvega odstavka 84. člena tega zakona, 148.b člena tega zakona, petega in šestega odstavka 240. člena tega zakona, prvega in četrtega odstavka 240.a člena tega zakona, prvega odstavka 244.a člena tega zakona in 295. člena tega zakona, in sicer zaradi njegove izpostavljenosti sekundarni oziroma ponovni viktimizaciji, ustrahovanju oziroma maščevanju. Če iz individualne ocene izhaja, da ima oškodovanec posebne potrebe po zaščiti oziroma da bi mu koristili navedeni ukrepi, se ti lahko uveljavijo ob izpolnitvi drugih zakonskih pogojev.

(5) Individualna ocena se posodablja, če se bistveno spremenijo njeni elementi. Policija pripravi in posodobi individualno oceno do vložitve kazenske ovadbe ali dokler ne pošlje poročila po desetem odstavku 148. člena tega zakona, državno tožilstvo pa v nadaljevanju predkazenskega in kazenskega postopka oziroma v primeru, če je oškodovanec vložil ovadbo na državno tožilstvo. Zaradi izdelave individualne ocene lahko policija oziroma državno tožilstvo oškodovanca vabita na policijsko postajo oziroma na državno

needs for protection during the very first contact with the injured person.

(2) The individual assessment shall examine in particular the personal characteristics of the injured person, the nature, gravity and circumstances of the crime, the conduct of the accused person and the injured person in pre-trial or criminal proceedings and outside them, and shall take into account the opinion of the injured person, in particular if the injured person expressly refuses in advance the possibility of special protection. Particular consideration shall be given to the age and potential disability of the injured person and to the circumstances of the criminal offences committed as a result of prejudice, discrimination, exploitation or hatred, criminal offences involving the elements of violence or criminal offences against sexual integrity, and criminal offences involving the elements of terrorism, trafficking in human beings and crimes committed within the context of a criminal association.

(3) The extent of an individual assessment can be adjusted according to the gravity of the crime and the degree of obvious damage suffered by the injured person. A minor as injured party shall always be considered to have a special need for protection.

(4) The individual assessment of the injured party shall be taken into account in deciding whether and to what extent the injured party would benefit from the measures referred to in paragraph one of Article 84 of this Act, Article 148b of this Act, paragraphs five and six of Article 240 of this Act, paragraphs one and four of Article 240a of this Act, paragraph one of Article 244a of this Act and Article 295 of this Act, due to his or her exposure to secondary or repeated victimisation, intimidation or retaliation. If the individual assessment shows that the injured party has a special need for protection or that he or she would benefit from the aforementioned measures, such measures may be implemented provided other legal conditions are met.

(5) The individual assessment shall be updated if its elements are significantly altered. The police shall prepare and update the individual assessment before the criminal complaint is filed or before a report is submitted pursuant to paragraph 10 of Article 148 of this Act, and the state prosecutor's office shall prepare and update the individual assessment during the course of pre-trial and criminal proceedings, or if the injured party has filed a criminal complaint with the state prosecutor's office. For the purpose of preparing such an individual assessment, the police or the

tožilstvo. Pri izdelavi ali posodobitvi ocene se lahko pridobi in preuči tudi mnenje pristojnega centra za socialno delo.

(6) Kot individualna ocena po tem zakonu se šteje ocena, ki jo na podlagi drugega predpisa za določeno vrsto kaznivih dejanj ali za določena kazniva dejanja izdela in posodablja drug organ, če se pri njeni izdelavi smiselno uporabljajo določbe tega člena.

(7) Določbe prejšnjih odstavkov se ne uporabljajo za oškodovanca, ki je pravna oseba.

144. člen

Posamezni izrazi, ki so uporabljeni v tem zakonu, imajo tale pomen:

- osumljenec, ki označuje osumljenko in osumljenca, je oseba, zoper katero je pred uvedbo kazenskega postopka pristojni državni organ opravil določeno dejanje ali ukrep zaradi obstoja razlogov za sum, da je storila ali sodelovala pri storitvi kaznivega dejanja;
- obdolženec je tisti, zoper katerega teče preiskava ali zoper katerega je vložena obtožnica, obtožni predlog ali zasebna tožba;
- obtoženec je tisti, zoper katerega je obtožnica postala pravnomočna;
- obsojenec je tisti, za katerega je s pravnomočno sodbo ugotovljeno, da je kazensko odgovoren za določeno kaznivo dejanje;
- izraz obdolženec, kot enotno poimenovanje za obdolženko in obdolženca, se uporablja v tem zakonu tudi kot splošen izraz za obdolženca, obtoženca in obsojenca;
- oškodovanec, ki označuje oškodovanko in oškodovanca, je tisti, kateremu je kakršnakoli njegova osebna ali premoženjska pravica s kaznivim dejanjem prekršena ali ogrožena. Kadar je neposredna posledica kaznivega dejanja smrt osebe, se za oškodovanca po tem zakonu štejejo tudi njen zakonec oziroma oseba, s katero je živela v zunajzakonski skupnosti, njeni krvni

state prosecutor's office may invite the injured party to the police station or to the state prosecutor's office. The opinion of the competent social work centre may also be sought and taken into consideration in preparing or updating the assessment.

(6) An individual assessment under this Act shall be considered an assessment prepared and updated by another body pursuant to another regulation for a certain type of criminal offence or for certain criminal offences, provided that the provisions of this Article are applied *mutatis mutandis* in its preparation.

(7) The provisions of the preceding paragraphs shall not apply to an injured party that is a legal person.

Article 144

For the purposes of this Act, the following definitions shall apply:

- the suspect, denoting either a male or female, shall mean the person against whom the competent state authority has undertaken, before the institution of criminal proceedings, a specific act or measure due to the existence of grounds for suspicion that he or she has committed, or participated in the commission of, a criminal offence;
- the accused person shall mean the person against whom the investigation is pending, or against whom an indictment, a motion of indictment or a private action has been filed;
- the defendant shall mean the person against whom the indictment has become final;
- the convicted person shall mean the person whose criminal liability for a specific criminal offence has been determined by a final judgment;
- the term 'accused person', denoting either a male or female, shall also be used in this Act as a generic term for the accused person, the defendant and the convicted person;
- the injured party, denoting either a male or female, shall mean the person whose personal or property rights have been violated or threatened by a criminal offence. Where a direct consequence of the crime is the death of a person, the spouse or the person with whom he or she lived in extra-marital cohabitation, blood relatives in direct line, his or her adopted child or adoptive parent, his or her brothers or

sorodniki v ravni vrsti, njen posvojenec ali posvojitelj, njeni bratje in sestre ter osebe, ki jih je preživljala oziroma jih je bila dolžna preživljati;

- oškodovanec s posebnimi potrebami po zaščiti, ki označuje oškodovanko s posebnimi potrebami po zaščiti in oškodovanca s posebnimi potrebami po zaščiti, je oškodovanec, čigar osebna ali premoženjska pravica je s kaznivim dejanjem znatno prekršena, pa zaradi njegovih osebnih značilnosti ali ranljivosti, zaradi narave, teže ali okoliščin kaznivega dejanja ali zaradi ravnanja obdolženca ali oškodovanca v predkazenskem oziroma kazenskem postopku in izven njega obstaja posebna potreba po varstvu oškodovančeve osebnostne celovitosti pri posameznih dejanjih v predkazenskem in kazenskem postopku;
- tožilec, ki označuje tožilca in tožilko, je državni tožilec, zasebni tožilec in oškodovanec kot tožilec;

- stranka je tožilec in obdolženec;
- zunajzakonska skupnost je skupnost, kot jo določa zakon, ki ureja družinska razmerja;
- policija lahko smiselno pomeni policijsko postajo, drugo enoto policije ali drugega državnega organa, katerega uslužbenci imajo pooblastila policije v predkazenskem postopku v skladu s tem zakonom.

DRUGI DEL
POTEK POSTOPKA

A. PREDHODNI POSTOPEK

XV. poglavje
PREDKAZENSKI POSTOPEK

145. člen

(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

sisters and the persons that he or she supported or was obliged to support shall also be considered injured persons pursuant to this Act;

- a person with a special need for protection, which means an injured person with special needs for protection, shall mean the injured person whose personal or property right has been significantly violated by the criminal offence, but who, owing to his or her personal characteristics or vulnerability, is in need of special protection due to the nature, gravity or circumstances of the crime or the conduct of the accused person or the injured party in pre-trial or criminal proceedings and outside them, in order to protect his or her personal integrity during individual acts in pre-criminal and criminal proceedings;

- the prosecutor, denoting either a male or female, shall mean a state prosecutor, private prosecutor and an injured party acting as prosecutor;
- party shall mean the prosecutor and the accused person;
- extra-marital cohabitation shall be a community as defined by the Act governing family relations;
- the police may by analogy mean a police station, another police unit or another state authority whose officials have police powers in pre-trial proceedings in accordance with this Act.

SECTION TWO
THE COURSE OF PROCEEDINGS

A. PRELIMINARY PROCEEDINGS

Chapter XV
PRE-TRIAL PROCEEDINGS

Article 145

(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

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.

146. člen

(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.

147. člen

(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.

their notice in some other way.

(2) In submitting criminal complaints, authorities and organisations referred to in the preceding paragraph must indicate the evidence known to them and undertake measures to preserve the traces of the criminal offence and the objects on which or by means of which the criminal offence was committed, as well as other evidence.

Article 146

(1) Any person may report a criminal offence which is prosecutable *ex officio*.

(2) The person who files a criminal complaint shall, together with the criminal complaint, state the evidence that he or she is aware of. Notwithstanding the provisions of the acts governing various forms of secrecy or confidentiality, legal entities governed by private or public law, sole traders and branches of foreign companies in Slovenia shall, when reporting a criminal offence, also provide any related information that is generated or obtained in the course of or in connection with their activity, but which is to be protected by law or by the ruling of such legal entity's competent body as confidential and/or not to be disclosed to others.

(3) The cases where a failure to report a criminal offence is itself considered a criminal offence shall be defined by an Act.

Article 147

(1) Criminal complaints shall be filed with the competent state prosecutor in writing or orally.

(2) If a criminal complaint is filed orally, the person who filed it shall be warned of the consequences of a false complaint. Oral complaints shall be entered in the record, and if the complaint was conveyed by telephone, an official note shall be made.

(3) If a criminal complaint is filed with the court, the police or a state prosecutor lacking jurisdiction, it shall be duly received and immediately forwarded to the state prosecutor having jurisdiction.

(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. Če v tem času ne more zbrati vseh potrebnih podatkov, pošlje državnemu tožilcu ovadbo z navedbo predvidenega roka za predložitev poročila v dopolnitev ovadbe.

(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.

147.a člen

(1) Pristojno državno tožilstvo oškodovanca, ki je podal ovadbo, pouči o pravici do izdaje pisnega potrdila o izdaji ovadbe in mu, če želi, izda potrdilo, ki vsebuje številko zadeve, čas in kraj podaje ovadbe, osebno ime, dan, mesec in leto rojstva, EMŠO , naslov ali prebivališče ovaditelja, morebitne druge kontaktne podatke, navedbo kaznivega dejanja ter, če so znani, še podatke o času in kraju storitve kaznivega dejanja in kakršni koli škodi, ki naj bi jo povzročilo kaznivo dejanje in navedbo, da je ovaditelj oškodovanec. Oškodovanca se v potrdilu opozori tudi na dolžnost obveščanja o vsaki spremembi naslova ali prebivališča (66. člen) in pravico do prevzema pregona (60., 62. in 433. člen).

(4) If the case referred to in the preceding paragraph involves a criminal offence which is not subject to obligatory notification of the state prosecutor prior to the submission of a criminal complaint, the police shall send the criminal complaint to the state prosecutor only after collecting the information and taking other measures necessary for the decision of the state prosecutor, but not later than within 30 days of filing the criminal complaint. If during this time the police are unable to collect all the necessary information, they shall send the criminal complaint to the state prosecutor, including the planned deadline for the submission of the report as a supplement to the criminal complaint.

(5) If the injured party submits to the police a criminal complaint for a criminal offence prosecuted upon a motion, stating that he or she does not wish to prosecute, the police shall inform him or her that in this case, the rights referred to in paragraphs two and four of Article 60 of this Act shall not apply to him or her. The police shall write down this legal caution, which shall also be signed by the injured party, in the received complaint. The complaint shall be transmitted immediately to the state prosecutor and a copy thereof shall be issued to the injured party. If the state prosecutor dismisses the criminal complaint (paragraph one of Article 161), he or she shall record such decision in the form of an official note and shall not inform the injured party of the dismissal.

Article 147a

(1) The competent state prosecutor's office shall inform the injured party that filed the criminal complaint about the right to be issued a written certificate on the filing of the complaint, and, if he or she so wishes, issue a certificate containing the case number, time and place of filing the criminal complaint, personal name, the day, month and year of birth, EMŠO number, the address or residence of the person who filed the criminal complaint, any other contact information, an indication of the criminal offence and, if known, information concerning the time and place of the committed crime and any damage allegedly caused by the crime, as well as an indication that the person who filed the criminal complaint is the injured party. The injured party shall also be reminded in the certificate of the duty to communicate any change of address or residence (Article 66) and the right to assume the prosecution (Articles 60, 62 and 433).

(2) Sprejem ovadbe se lahko potrdi tudi na kopiji sprejete pisne ovadbe ali na drugem dokumentu v primeru ustne ovadbe, če vsebuje podatke iz prejšnjega odstavka. Če oškodovanec ne želi potrdila, se izjava oškodovanca in opozorilo iz prejšnjega odstavka ustrezno zaznamujeta.

(3) Če je ovadba podana v elektronski obliki, preko telefona ali telefaksa, se oškodovanca pouči o pravicah in dolžnostih iz prvega odstavka ob prvem stiku s pristojnim državnim tožilstvom v predkazenskem ali kazenskem postopku.

(4) Oškodovancu, ki ne govori oziroma ne razume jezika v uradni rabi, se zagotovi potrebna jezikovna pomoč osebe, ki poleg jezika v uradni rabi razume oziroma govori jezik, ki ga razume oziroma govori oškodovanec, in ki je pripravljena spoštovati zaupnost podatkov, za katere izve pri nudenju jezikovne pomoči, če oseba, ki sprejme ovadbo, sama ne govori oziroma ne razume jezika, ki ga razume oziroma govori oškodovanec. Jezikovne pomoči ne more nuditi oseba, ki bi bila lahko priča v kazenskem postopku ali ki zaradi svoje povezanosti z osumljencem ali zaradi drugih utemeljenih razlogov za to ne bi bila primerna.

(5) Oškodovancu je treba na njegovo zahtevo zagotoviti prevod pisnega potrdila o podani ovadbi v jezik, ki ga razume.

(6) Po določbah prejšnjih odstavkov ravnajo tudi sodišče, policija in nepristojni državni tožilec, če sprejmejo ovadbo, ki jo je podal oškodovanec (tretji odstavek 147. člena). Stroški nudenja jezikovne pomoči po četrtem odstavku tega člena in stroški prevajanja po petem odstavku tega člena gredo v breme organa, pred katerim teče postopek oziroma ki nudi jezikovno pomoč in zagotavlja prevajanje.

148. člen

(2) The receipt of the criminal complaint may also be confirmed on a copy of the received written complaint or on another document if the complaint was submitted orally, provided it contains the information referred to in the preceding paragraph. If the injured party does not want to receive the certificate, the injured party's statement and the reminder referred to in the preceding paragraph shall be duly marked.

(3) If the criminal complaint is submitted electronically, or by telephone or fax, the injured party shall be informed of the rights and duties referred to in paragraph one during the first contact with the competent state prosecutor's office in pre-trial or criminal proceedings.

(4) An injured party that does not speak or understand the official language shall be provided with the necessary language assistance of a person who, in addition to the official language, also understands and speaks the language understood and spoken by the injured party, and who is willing to respect the confidentiality of the information that he or she learns in providing language assistance, if the person receiving the criminal complaint does not speak and understand the language understood or spoken by the injured party. Language assistance may not be provided by a person who could be a witness in criminal proceedings or who is not appropriate for such a task due to his or her connection with the suspect or for other justified reasons.

(5) At the request of the injured person, he or she must be provided with a translation of the written certificate on filing the criminal complaint in a language he or she understands.

(6) The provisions of the preceding paragraphs shall also be observed by the court, the police and the state prosecutor without jurisdiction when receiving the criminal complaint submitted by the injured party (paragraph three of Article 147). The costs of providing language assistance referred to in paragraph four of this Article and the costs of translation referred to in paragraph five of this Article shall be borne by the authority before which the procedure is pending or which provides the language assistance and translation.

Article 148

(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

(1) If grounds exist for the suspicion that a criminal offence prosecutable *ex officio* has been committed, the police shall take the necessary steps to trace the perpetrator of the criminal offence, to prevent the perpetrator or participant in the criminal offence going into hiding or fleeing, to detect and secure the traces of the criminal offence and objects which may be of value as evidence, and to collect all information that might be useful for the successful conduct of criminal proceedings.

(2) In order to carry out the tasks referred to in the preceding paragraph, the police may seek the necessary information from persons, inspect the means of transport, passengers and luggage, restrict movement within a specific area for the essentially required period of time, take the necessary steps to establish the identify of persons and objects, send out a wanted circular for persons and objects; in the presence of the responsible person, conduct a search of certain facilities and premises of companies and other legal persons and inspect their documentation, and undertake any other necessary measures. The facts and circumstances established during individual actions which might be important for criminal proceedings, as well as the objects found or seized, shall be indicated in the record or in an official note made thereon.

(3) The police may summon persons to the police station and collect notifications and information from them or interrogate them. They may be summoned in writing, directly orally, by telephone or electronically. The summons must explain to the person summoned why and in what role he or she has been summoned. If a person is summoned for the purpose of collecting information, he or she may be brought in forcibly by the police if the person was summoned in writing and if the written summons contained the instruction that he or she may be brought in forcibly upon failing to appear. If the summons is not made in writing, an official note shall be made thereof. Where acting in accordance with the provisions of this Article, the police may not interrogate persons as accused persons, witnesses or expert witnesses, except for the suspect in the case referred to in Article 148a of this Act.

(4) Where in the course of collecting information the police establish that there are grounds to suspect that a particular person has committed or participated in the commission of a criminal offence (the suspect), they shall inform this person, before starting to gather information from him or her, what criminal offence he or she is suspected

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.

of and of the grounds for the suspicion against him or her, and shall instruct him or her that he or she is under no obligation to make any statements or answer any questions and that, if she or he intends to plead his or her case, he or she is under no obligation to incriminate himself or herself or his or her close relatives, or to confess guilt, and that he or she is entitled to a defence counsel of his or her own choice who can be present at his or her interrogation, and that any statement he or she makes may be used against him or her at the trial. The suspect must also be informed by the police about his or her right to use his or her own language and about the rights referred to in Article 8 of this Act, while the suspect deprived of liberty must also be informed of the right referred to in paragraphs four and five of Article 4 of this Act.

(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.

(5) If the suspect declares that he or she will retain a defence counsel, the interrogation shall be postponed until the arrival of the defence counsel or until the time limit defined by the police, which may not be less than two hours. Other investigative acts, with the exception of those that would be dangerous to delay, shall also be delayed until the arrival of the defence counsel. The interrogation of the suspect shall be carried out according to the provisions of Article 148a of this Act.

(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.

(6) If the suspect states that he or she does not want to retain a defence counsel or if the chosen defence counsel does not arrive within the time limit defined by the police, an official note shall be made of the suspect's statement. The note shall include the legal caution given and the suspect's statement; if the suspect wishes to make a statement regarding the offence, the main content of his or her deposition and the comments on the written content shall also be included in the official note. The official note shall be read to the suspect and a copy thereof shall be delivered to him or her; the suspect shall acknowledge the receipt of the copy by his or her signature. The suspect's deposition may be recorded by an audio and video recording device after prior notification of the suspect.

(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 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.

(7) A person against whom one of the acts or measures referred to in paragraph two or three of this Article has been applied shall have the right to complain to the competent state prosecutor within three days. The competent state prosecutor shall, not later than within eight days of the lodging of the complaint, inform the complainant orally or in writing of the steps he or she has taken. No appeal or administrative dispute shall be allowed against the notice referred to in the preceding sentence.

(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.

(8) Upon a written motion and with the approval of the investigating judge or the president of the panel, the police may also collect information from persons who are in detention, if this is necessary to uncover other criminal offences committed by the same person and their participants, or criminal offences committed by other perpetrators. Such information shall be collected during the time and in the presence of the person designated by the investigating judge or the president of the panel.

(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.

(9) Based on the collected information and evidence, the police shall draw up a criminal complaint or supplement the criminal complaint received (paragraph four of Article 147) and shall send it to the competent state prosecutor in writing by post or by electronic communication. The criminal complaint or the report supplementing it shall describe the established facts and indicate and present the collected evidence and material that is necessary for the decision of the state prosecutor or may be useful for the successful implementation of the proceedings, without including in the criminal complaint or the report supplementing it the content of the statements provided by individuals when collecting the information. Should the police subsequently find out about new facts or evidence, they must collect the necessary information and send to the state prosecutor a report supplementing the criminal complaint.

(10) Policija pošlje poročilo državnemu tožilcu tudi v primeru, če na podlagi zbranih obvestil in dokazov ugotovi, da ni podlage za kazensko ovadbo.

(10) The police shall send the report to the state prosecutor even if, pursuant to the information and evidence gathered, they find that there are no grounds for a criminal complaint.

148.a člen

Article 148a

(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.

(1) The interrogation of the suspect may only be conducted in the presence of the defence counsel. The interrogation may also be attended by the state prosecutor, who shall be informed of this by the police in an appropriate manner.

(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

(2) The interrogation of the suspect shall be carried out by the police according to the provisions of this Act which apply to the interrogation of the accused person (Articles 227 to 233). The record of the interrogation shall be made in accordance with the provisions of Articles 79 to 82 of this Act. This record may be used as evidence in criminal

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.

148.b člen

Obvestila od oškodovanca kaznivega dejanja zoper spolno nedotakljivost, kaznivega dejanja nasilja v družini iz 191. člena Kazenskega zakonika, drugega kaznivega dejanja s prvinami nasilja, storjenega proti bližnjemu, ali kaznivega dejanja, ki je bilo proti oškodovancu storjeno zaradi njegovega spola, zbira ista oseba, če oškodovanec to želi, pa obvestila od njega zbira oseba istega spola. Določbe tega člena se ne uporabljajo, če z zbiranjem obvestil ni mogoče odlašati ali če to preprečujejo začasni razlogi organizacijske narave.

149. člen

(1) Policisti imajo pravico napotiti osebe, ki jih najdejo na kraju storitve kaznivega dejanja ali osebe, ki imajo bivališče v tujini, k preiskovalnemu sodniku ali jih zadržati do njegovega prihoda, če bi mogle dati za kazenski postopek važne podatke in če je verjetno, da jih pozneje ne bi bilo mogoče zaslišati ali da bi bilo to zvezano s precejšnjim zavlačevanjem ali z drugimi težavami. Zadržanje takih oseb na kraju storitve kaznivega dejanja ne sme trajati več kot šest 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

proceedings. The interrogation of the suspect may be recorded by an audio and video recording device after prior notification of the suspect.

(3) If the suspect has not been informed of his or her rights referred to in paragraph four of the preceding Article, or if the caution given and the suspect's statement regarding his or her right to a defence counsel have not been noted in the record, or if the suspect was interrogated without their defence counsel being present, or if the actions taken were in contravention of the provisions of paragraph eight of Article 227 of this Act, the court may not rest its decision on the suspect's deposition.

Article 148b

Information provided by the victim of a criminal offence against sexual integrity, the criminal offence of domestic violence referred to in Article 191 of the Criminal Code, other criminal acts with elements of violence committed against a fellow human being, or a crime committed against the victim because of his or her gender, shall be collected by the same person, and if the victim so wishes, the information from him or her shall be collected by a person of the same gender. The provisions of this Article shall not apply where the collection of information cannot be delayed or if such collection is prevented by temporary reasons of an organisational nature.

Article 149

(1) Police officers shall have the right to refer persons found at a crime scene or persons who reside abroad to the investigating judge, or to hold them until his or her arrival, if such persons might supply information important for criminal proceedings and if they are not likely to be available for interrogation at a later date, or if such interrogation would result in significant delay or other difficulties. These persons may not be held at the crime scene for more than six hours.

(2) If grounds for suspicion exist, the police may take photographs of the person suspected of having committed a criminal offence, and take his or her fingerprints. They may also publish his or her photograph if this is necessary for establishing his or her identity or in

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.

149.a člen

(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 video-snemanjem, in je osredotočeno na spremljanje položaja, gibanja ter aktivnosti osebe iz prejšnjih odstavkov. Tajno opazovanje se sme izvajati na javnih ter

other cases where this is important for the successful conduct of criminal proceedings. The police may take an oral mucous membrane swab from the person if grounds for suspicion exist that he or she committed a criminal offence prosecutable *ex officio*, if this is indispensable for attaining the purposes stated in paragraph one of Article 148 of this Act.

(3) Where the identity of the owner of fingerprints or biological traces on particular objects needs to be established, the police shall be entitled to take fingerprints and oral mucous membrane swabs of the persons likely to have come into contact with such objects.

Article 149a

(1) If reasonable grounds exist for the suspicion that a particular person has committed, is committing, is preparing to commit and/or is organising the commission of any of the criminal offences specified in paragraph four of this Article, and if it may be reasonably concluded that police officers would be unable to detect, prevent or prove this offence by using other measures, or if such other measures would entail disproportionate difficulties, covert surveillance of such person may be ordered.

(2) Exceptionally, covert surveillance may also be ordered against a person who is not a suspect if it may be reasonably concluded that the surveillance of this person would lead to the identification of the suspect referred to in the preceding paragraph whose personal data are not known, to the place of residence or the location of the suspect referred to in the preceding paragraph, and/or to the place of residence or the location of the person against whom detention or pretrial house detention has been ordered, or a wanted notice or an arrest warrant has been issued, but who has fled or has been hiding, and if police officers are unable to obtain such information through other measures or if this would entail disproportionate difficulties.

(3) Covert surveillance shall be carried out through continuous or recurrent surveillance or tracking using technical equipment for determining the position and movement and technical equipment for audio transmission and recording, for photography and video recording, and shall focus on monitoring the position, movement and activities of the person referred to in the preceding paragraphs. Covert surveillance may

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.

be carried out in public and publicly accessible outdoor and indoor premises, as well as in places and premises that are visible from publicly accessible places and/or premises. Under the conditions laid down in this Article, covert surveillance may also be carried out in private premises subject to the approval of their owner.

(4) Criminal offences in respect of which covert surveillance may be ordered shall include:

1) criminal offences punishable by a sentence of imprisonment of five or more years prescribed by an Act;
2) the criminal offences referred to in point 2 of paragraph two of Article 150 of this Act and the criminal offences of unlawful deprivation of liberty under Article 133, stalking under Article 134a, threats under Article 135, misuse of personal data under paragraphs three, four, five and six of Article 143, undeclared employment under paragraphs two and three of Article 199, fraud under paragraphs one, three and four of Article 211, concealment under paragraphs one, two and three of Article 217, fraud to the detriment of the European Union under Article 229, attack on information systems under paragraphs two, three and four of Article 221, forgery or destruction of business documents under Article 235, disclosure and unauthorised acquisition of trade secrets under paragraphs one, two and three of Article 236, abuse of information system under Article 237, abuse of position or trust in business activity under Article 240, forging of documents under Article 251, special case of forging of documents under Article 252, abuse of office or official rights under Article 257, disclosure of classified information under Article 260, public incitement to hatred, violence and intolerance under Article 297, illegal crossing of state border or territory under Article 308, pollution of drinking water under paragraphs one, three, four and six of Article 336, tainting of foodstuffs or fodder under paragraphs one, three, four and six of Article 337, and the torture of animals under paragraphs two, three and four of Article 341 of the Criminal Code;
3) the criminal offence of assisting the perpetrator after committing a criminal offence under Article 282 of the Criminal Code, including against persons referred to in paragraph four of Article 282 of the Criminal Code - for offences not referred to in this paragraph.

(5) The measure of covert surveillance shall be authorised by the state prosecutor by a written order on a written motion of the police, except in the cases referred to in paragraph six of this Article where an

(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;
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.

order issued by the investigating judge is required.

(6) The measure of covert surveillance shall be ordered in writing by the investigating judge on a written motion of the state prosecutor in the following cases:

1) if the use of technical equipment for audio transmission and recording is planned in the implementation of the measure, where this measure may only be ordered for criminal offences referred to in paragraph two of Article 150 of this Act;
2) if the implementation of the measure entails the installation of technical equipment for determining the position and movement of the suspect by secretly entering a vehicle or another protected and/or closed premises or object;
3) for application of the measure in private premises subject to the approval of their owner;
4) for the application of a measure against a person who is not a suspect (paragraph two of this Article).

(7) A motion and an order which shall form an integral part of the criminal case file must contain:

1) information enabling identification of the person against whom the measure is requested or ordered;
2) reasoning and/or the establishing of reasonable grounds for suspicion;
3) in the case referred to in paragraph two of this Article, information enabling identification of the suspect referred to in paragraph one of this Article, and the reasoning of the probability that the application of the measure will lead to the identification of the suspect, his or her location and/or place of residence;
4) if the measure is implemented in private premises subject to the approval of the owner of these premises, his or her written approval;
5) the method of implementation, the extent and duration of the measure, and other important circumstances that warrant the application of the measure;
6) reasoning and/or identification of the urgent need to apply the measure as opposed to another method of collecting evidence.

(8) Exceptionally, where a written order cannot be obtained in due time and there is a risk of delay, the state prosecutor may, in the case referred to in paragraph five of this Article, on an oral motion of the police, allow the measure to commence by an oral order; in the case referred to in paragraph six of this Article, the investigating judge may, on an oral motion

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

of the state prosecutor, allow the measure to commence by an oral order. The body that issued the oral order shall make an official note of the oral motion. The written order, which must contain the reasoning of the grounds for the early implementation of the measure, must be issued within twelve hours of the issuing of the oral order. Reasonable grounds must exist for the early implementation of the measure; if this is not the case, the court shall always act in accordance with paragraph four of Article 154 of this Act, regardless of whether the application of measures is otherwise justified.

(9) If the person against whom a measure is applied comes into contact with another unidentified person regarding whom reasonable grounds exist for the suspicion that such person is involved in a criminal activity associated with the criminal offences giving rise to the measure applied, the police may also place this person under covert surveillance without the need to obtain the order referred to in paragraphs five and six of this Article, if this is urgently required in order to establish the identity of this person or obtain other information important for criminal proceedings. The police must obtain prior oral authorisation from the state prosecutor for such surveillance, unless this cannot be obtained in due time and if there is a risk of delay. In such case the police shall, as soon as this is possible and within six hours of the implementation of the measure, inform the state prosecutor thereof; the state prosecutor may prohibit further implementation of the measure if he or she considers that there are no reasonable grounds for it. The duration of such measure may not exceed twelve hours from the contact with the person against whom the measure is applied. In applying the measure referred to in this paragraph, the police may not use technical equipment and means referred to in points 1 and 2 of paragraph six of this Article, nor may they implement the measure in private premises. The police shall make an official note thereof immediately after the termination of such surveillance and shall send it without delay to the state prosecutor that granted the authorisation referred to in this paragraph, and to the body that issued the original covert surveillance order. The official note shall become an integral part of the criminal case file.

(10) The implementation of the measure may not exceed two months, but for valid reasons its duration may be extended each time by two months by a written order. In total, the measure may last:
1) up to six months in the case referred to in paragraph six of this Article;
2) up to 24 months in the cases referred to in paragraph five of this

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.

149.b člen

(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,

Article if criminal offences referred to in paragraph four of this Article are involved, and up to 36 months if criminal offences referred to in paragraph two of Article 151 of this Act are involved.

(11) The police shall terminate implementation of the measure as soon as the reasons for which it was ordered cease to exist. The police shall give written notification of the termination to the body that ordered the measure without delay. The police shall send to the body that ordered the measure monthly reports on the progress of the measure and on the information obtained. The body that ordered the measure may, on the basis of this report or *ex officio*, order at any time in writing that application of the measure be terminated, should it assess that the reasons for the measure ceased to exist or that the measure is being implemented in contravention of its order.

(12) If a measure is applied against the same person for more than six months, the panel (paragraph six of Article 25) shall review the legality of and the grounds for the application of the measure upon the first extension beyond six months, and subsequently every six months. The body that issued the extension order shall send all the material to the panel, which shall take a decision within three days. If the panel assesses that there are no grounds for implementing the measure or that not all the statutory conditions are fulfilled, it shall issue a decision ordering the termination of the measure. There shall be no appeal against this decision.

(13) The police must carry out covert surveillance in such a manner as to minimise interference with the rights of persons who are not suspects.

Article 149b

(1) If there are grounds for the suspicion that a criminal offence referred to in paragraph four of the preceding Article has been committed, is being committed or is being prepared or organised, and it is necessary to obtain data concerning the communication traffic of the suspect, injured party or the persons referred to in paragraph two of the preceding Article for the purpose of uncovering, preventing or proving this criminal offence or uncovering the perpetrator, the investigating judge may, on a reasoned motion of the state prosecutor, order the IT operator or information service provider to transmit to the competent authority the relevant information

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.

149.c člen

(1) Če so podani razlogi za sum, da je bilo izvršeno, da se

regarding the said communication available at the time of issuing the order. In the order, the investigating judge shall define the categories of information required. The order shall be served on the IT operator or information service provider in the relevant part that refers to it.

(2) The motion and the order must be provided in writing and must contain information that enables a unique identification of the communication medium or user, the justification of reasons, the relevant period of time for which the information is requested, other relevant circumstances dictating the application of the measure, and an appropriate time limit for implementation. The identification of the communication medium must be sufficiently detailed to limit the request to a pre-limited and identifiable list of persons.

(3) Exceptionally, if a written order cannot be obtained in due time and if a delay would endanger human life or health, the investigating judge may, on the oral motion of the state prosecutor, order the implementation of the measure referred to in paragraph one of this Article by an oral order imposed directly on the IT operator or information service provider. The investigating judge shall make an official note of the state prosecutor's oral motion. The written order must be issued within 12 hours of the issuing of the oral order. If during the preparation of the written order it turns out that the imposed measure was not justified, the steps referred to in paragraph four of Article 154 of this Act shall be taken.

(4) The IT operator or information service provider shall not disclose to its user, subscriber or third parties that it has or will transmit certain information in accordance with this Article. Such information may not be disclosed for 24 months after the end of the month in which the implementation of the order was completed. By an order, the investigating judge may set a different time limit, extend it by a maximum of 12 months, but not more than twice, shorten the time limit or remove the prohibition on disclosure.

(5) Under this Article, it is not possible to request or obtain data relating to the content of the communication.

Article 149c

(1) If there are grounds for the suspicion that a criminal offence

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 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

prosecutable *ex officio* and punishable by one or more years of imprisonment has been committed, is being committed or is being prepared or organised, and if, for the purpose of uncovering, preventing or proving this criminal offence or uncovering the perpetrator, it is necessary to obtain data concerning the communication traffic of the suspect, injured party or the persons referred to in paragraph two of Article 149a of this Act, or if the legal user of the communication medium agrees, the investigating judge may, upon a reasoned motion of the state prosecutor, order the IT operator or information service provider to start securing the necessary communication traffic data and transmitting them to the competent authority. In the order, the investigating judge must define in detail the categories of information required and the period for which the measure is ordered, which may not exceed three months. The investigating judge may by a new order order the extension of the imposed measure for three months. If the measure referred to in Article 150 of this Act is also ordered against the communication medium, the judge may order the measures under this Article for the entire period of the implementation of the measures referred to in Article 150 of this Act against that communication medium. The order shall be served on the IT operator or information service provider in the relevant part that refers to it.

(2) The motion and the order must be provided in writing and must contain information that enables a unique identification of the communication medium or user, the justification of reasons, the relevant period of time for which the measure is ordered, the frequency of data transmission to the competent authority, and other relevant circumstances dictating the application of the measure, including the substantiation of proportionality. The identification of the communication medium must be sufficiently detailed to limit the request to a pre-limited and identifiable list of persons.

(3) By an order, it shall not be possible to require the transmission of information relating to the location of the communication medium or the user, except for the criminal offences referred to in paragraph four of Article 149a of this Act or with the consent of the communication medium's legal user.

(4) The IT operator or information service provider shall not disclose to its user, subscriber or third parties that it has or will transmit certain information in accordance with this Article. Such information may not be disclosed for 24 months after the end of the month in which the

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.

149.č člen

(1) 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 odkritje, preprečitev ali dokazovanje tega kaznivega dejanja ali odkritje storilca treba pridobiti naročniške podatke o lastniku ali uporabniku določenega komunikacijskega sredstva ali storitve informacijske družbe ali obstoju in vsebini njegovega pogodbenega razmerja z operaterjem oziroma ponudnikom storitev informacijske družbe v zvezi z opravljanjem komunikacijske dejavnosti ali storitev informacijske družbe, lahko sodišče, državni tožilec oziroma policija od operaterja oziroma ponudnika storitev informacijske družbe v pisni obliki zahteva, da tudi brez privolitve posameznika, na katerega se ti podatki nanašajo, sporoči te podatke. Pisna zahteva mora vsebovati pravni pouk iz drugega odstavka tega člena in navedbo pristojnega sodišča. Državni tožilec oziroma policija morata v pisni zahtevi natančno opredeliti kategorije naročniških podatkov, ki jih zahtevata.

(2) Operater oziroma ponudnik storitev informacijske družbe lahko iz obrazloženih razlogov in na svoje stroške zahtevane podatke skupaj s kopijo zahteve namesto policiji ali državnemu tožilcu pisno posreduje pristojnemu sodišču. Sodišče po prejemu preveri zakonitost kategorij podatkov, ki so navedeni v zahtevi. V primeru, da zahteva vsebuje tudi podatke, ki niso naročniški podatki po prvem odstavku tega člena ali podatke, ki se jih v skladu s četrtim odstavkom tega člena ne sme posredovati, prejete podatke uniči, sicer pa jih posreduje državnemu tožilcu ali policiji. V primeru uničenja

implementation of the order was completed. By an order, the investigating judge may set a different time limit, extend it by a maximum of 12 months, but not more than twice, shorten the time limit or remove the prohibition on disclosure. Notwithstanding the provisions of this paragraph, where the information is transmitted with the consent of the legal user, the IT operator or information service provider shall, within eight days of data transmission, notify the legal user of the implemented order.

(5) Under this Article, it shall not be possible to request or obtain data relating to the content of communication.

Article 149č

(1) If there are grounds for the suspicion that a criminal offence prosecutable *ex officio* has been committed or is being prepared for which the perpetrator is prosecutable *ex officio* and if, for the purpose of detecting, preventing or proving this criminal offence or detecting the perpetrator, it is necessary to obtain the subscriber data on the owner or the user of a particular communication medium or information service, or on the existence and content of its contractual relationship with the IT operator or information service provider regarding the performance of communication activities or information services, the court, state prosecutor or the police may request in writing that the IT operator or information service provider transmit such information even without the consent of the data subject. The written request must include the legal instruction referred to in paragraph two of this Article and an indication of the competent court. In the written request, the state prosecutor or the police must specify in detail the categories of requested subscriber data.

(2) The IT operator or information service provider may, for substantiated reasons and at its own expense, submit the requested information together with a copy of the written request to the competent court instead of to the police or the state prosecutor. Upon receipt, the court shall verify the legality of the categories of information stated in the request. If the request also contains information other than subscriber data referred to in paragraph one of this Article or information that may not be transmitted pursuant to paragraph four of this Article, the received information shall be destroyed; otherwise, it shall be forwarded to the state

preiskovalni sodnik o tem napravi uradni zaznamek, ki ga posreduje operaterju oziroma ponudniku storitev informacijske družbe, vodji pristojnega okrožnega državnega tožilstva ali državnemu tožilcu, ministrstvu, ki je pristojno za nadzor nad delom policije, in policiji.

(3) 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 so bili posredovani podatki. V primeru, da operater oziroma ponudnik storitev informacijske družbe v tem roku prejme sodno odredbo, ki se sklicuje na podatke, pridobljene z zahtevo po tem členu, se rok prepovedi razkritja te zahteve podaljša do izteka morebitnega roka iz prejete odredbe. Preiskovalni sodnik oziroma sodišče lahko z odredbo določi drugačen rok, rok podaljša za največ 12 mesecev, vendar ne več kot dvakrat, rok skrajša ali prepoved seznanitve odpravi.

(4) Na podlagi tega člena ni mogoče zahtevati ali pridobiti prometnih podatkov, ki se nanašajo na katero koli določljivo komunikacijo, ali podatkov, za pridobitev katerih je potrebna obdelava podatkov, ki se lahko pridobijo samo na podlagi 149.b in 149.c člena tega zakona. Na podlagi tega člena prav tako ni mogoče zahtevati ali pridobiti podatkov, ki se nanašajo na vsebino komunikacije.

149.d člen

Ob vložitvi zasebne tožbe se lahko ne glede na določbe 434. člena tega zakona namesto imena in priimka obdolženca navedejo podatki, na podlagi katerih bi bil obdolženec določljiv ob smiselni uporabi prejšnjega člena. Če sodišče po prejšnjem členu pridobi podatke, se šteje, da je zasebna tožba že ob vložitvi vsebovala ime in priimek obdolženca.

149.e člen

(1) Če so podani razlogi za sum, da je bilo izvršeno, da se

prosecutor or the police. In the event of destruction, the investigating judge shall make an official note thereof which shall be sent to the IT operator or information service provider, the head of the competent district state prosecutor's office or the state prosecutor, the ministry responsible for supervising police work and the police.

(3) The IT operator or information service provider may not disclose to its user, subscriber or third parties that it has or will transmit certain information in accordance with this Article. Such information may not be disclosed for 24 months after the end of the month in which the data were transmitted. In the event that the IT operator or information service provider receives a court order within this period that refers to the information obtained upon the request referred to in this Article, the period of the prohibited disclosure of that request shall be extended until the expiry of the time limit that might be set in the order received. By an order, the investigating judge or court may set a different time limit, extend it by a maximum of 12 months, but not more than twice, shorten the time limit or remove the prohibition on disclosure.

(4) Under this Article, it shall not be possible to request or obtain traffic data related to any identifiable communication, or data that must be obtained by processing data that can only be obtained pursuant to Articles 149b and 149c of this Act. Under this Article, it shall also not be possible to request or obtain data relating to the content of communication.

Article 149d

When filing a private lawsuit, information on the basis of which the accused person would be identifiable by *mutatis mutandis* application of the previous Article may be stated instead of the name and surname of the accused person, notwithstanding the provisions of Article 434 of this Act. If the court obtains data according to the preceding Article, it shall be considered that the private lawsuit already contained the name and surname of the accused person at the time of filing.

Article 149e

(1) If there are grounds for suspicion that a criminal offence

izvršuje ali da se pripravlja oziroma organizira kaznivo dejanje, ki se preganja po uradni dolžnosti, in je za odkritje, preprečitev ali dokazovanje tega kaznivega dejanja ali za odkritje storilca potrebno pridobiti podatke, ki se hranijo v elektronski obliki, in za pridobitev katerih je v skladu s tem ali drugim zakonom potrebna odredba sodišča, pa je verjetno, da bi lahko bili ti podatki do izročitve odredbe že izbrisani ali spremenjeni, lahko državni tožilec oziroma policija od imetnika, uporabnika ali operaterja oziroma ponudnika storitev informacijske družbe zahteva, da brez nepotrebnega odlašanja ohrani podatke do prejema odredbe sodišča, vendar ne dlje kot trideset dni od izročitve zahteve dalje. Državni tožilec oziroma policija lahko rok z dodatno zahtevo podaljšata še za največ trideset dni. Če imetniku, uporabniku ali operaterju oziroma ponudniku storitev informacijske družbe v roku za ohranitev ni vročena sodna odredba, se ohranitev podatkov odpravi.

(2) Ohranitev podatkov o prometu oziroma podatkov o vsebini komunikacij pri operaterju oziroma ponudniku storitev informacijske družbe, je mogoče zahtevati le zaradi odkritja, preprečitve ali dokazovanja kaznivega dejanja iz četrtega odstavka 149.a člena ali iz drugega odstavka 150. člena tega zakona oziroma zaradi odkritja storilca takšnega kaznivega dejanja.

(3) Zahteva iz prvega odstavka mora biti pisna in mora vsebovati:

1) podatke, ki omogočajo identifikacijo podatkov, za katere se zahteva ohranitev: navedba uporabnika ali komunikacijskega sredstva za elektronski komunikacijski promet, na katerega se podatki v elektronski obliki nanašajo. Identifikacija mora biti dovolj natančna, da zahtevo omejuje na vnaprej omejen in določljiv seznam oseb;
2) kategorije podatkov, za katere se zahteva ohranitev, ter časovno obdobje, na katerega se podatki nanašajo;
3) navedbo kaznivega dejanja, zaradi katerega se zahteva ohranitev;
4) ustrezen rok za izvršitev.

(4) Izjemoma, če pisne zahteve ni mogoče pravočasno izdati in obstaja nevarnost, da bi že v času do njene izdaje podatki lahko bili uničeni, lahko državni tožilec oziroma policija ohranitev odredi z ustno zahtevo. O podaji ustne zahteve napravi uradni

prosecutable *ex officio* has been committed, is being committed, is being prepared or organised, and if, for the purpose of detecting, preventing or proving this criminal offence or detecting the perpetrator, it is necessary to obtain data stored in electronic form that must be obtained under a court order in accordance with this or some other Act, but such data are likely to be deleted or altered by the time the order is delivered, the state prosecutor or the police may request that the holder, user or IT operator or the information service provider save the information without undue delay until the court order is received, but for not more than thirty days after the delivery of the request. The state prosecutor or the police may extend the time limit by a maximum of thirty days by an additional request. If a court order is not served on the holder, user, IT operator or information service provider within the period set for saving the data, such saving of data shall be cancelled.

(2) The saving of traffic data or information on the content of communication by the IT operator or information service provider may be requested only for the purpose of uncovering, preventing or proving the criminal offence referred to in paragraph four of Article 149a or paragraph two of Article 150 of this Act, or for the purpose of uncovering the perpetrator of such criminal offence.

(3) The request referred to in paragraph one must be made in writing and must contain:

1) information enabling the identification of data that need to be saved: an indication of the user or communication medium for electronic communications traffic that is the subject of electronic data. The identification must be sufficiently detailed to limit the request to a pre-limited and identifiable list of persons;
2) the categories of data subject to the request for saving and the time period to which the data refer;
3) an indication of the criminal offence which is the reason for such request for saving;
4) an appropriate time limit for implementation.

(4) Exceptionally, if a written request cannot be issued in due time and there is a risk that the data may be destroyed by the time of its issuing, the state prosecutor or the police may order their saving by an oral request. The state prosecutor or the police shall make an official note of

zaznamek. Pisna zahteva mora biti izdana najkasneje v 12 urah po vročitvi ustne zahteve. Če pisna zahteva ni pravočasno izdana, se ohranitev podatkov odpravi.

(5) Kopija zahteve se priloži predlogu preiskovalnemu sodniku za izdajo odredbe za pridobitev ohranjenih podatkov v skladu z določbami tega zakona.

(6) Imetnik, uporabnik ali operater oziroma ponudnik storitev informacijske družbe posamezniku oziroma drugi osebi, na katerega se nanašajo podatki, katerih ohranitev se je zahtevalo, ne sme razkriti, da je v skladu s tem členom prejel zahtevo za ohranitev oziroma da je izvedel ohranitev njegovih podatkov. Tega ne sme razkriti 12 mesecev od prejema zahteve za ohranitev. V primeru, da imetnik, uporabnik ali operater oziroma ponudnik storitev informacijske družbe v tem roku prejme sodno odredbo, ki se sklicuje na podatke, katerih ohranitev se je zahtevalo, se rok prepovedi razkritja te zahteve oziroma ohranitve podatkov podaljša do izteka morebitnega roka iz prejete odredbe.

150. člen

(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

the oral request. The written request must be issued within 12 hours of the delivery of the oral request. If the written request is not issued in due time, the saving of data shall be cancelled.

(5) A copy of the request shall be enclosed with the motion submitted to the investigating judge to issue an order to obtain the saved data in accordance with the provisions of this Act.

(6) The holder, user or IT operator or information service provider may not disclose to an individual or other person being the subject of the data whose saving was requested that in accordance with this Article, a request for saving was received and that the data concerned were saved. Such information may not be disclosed for 12 months after the receipt of the request for saving. In the event that the holder, user or IT operator or information service provider receives a court order within this time limit referring to the data whose saving was requested, the time limit for the prohibition of disclosure of that request or the saving of data shall be extended until the expiry of the deadline that might be set in the order received.

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 being 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 of 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

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.

150.a člen

(1) S posebnimi tehničnimi sredstvi za nadzor signala mobilne telefonije sme policija ugotavljati:
1) podatke, potrebne za razpoznavo številke komunikacijskega sredstva in številk za elektronsko komuniciranje za namen priprave ukrepa iz prvega odstavka 149.b člena tega zakona, prvega odstavka 149.c člena tega zakona ali ukrepa iz 1. točke

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) the 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 intermediary activities under Article 263, giving of gifts for unlawful intermediary activities 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 150a

(1) The police may use special technical means for monitoring mobile telephony signals to determine:
1) information required for the identification of the communication medium number and electronic communication numbers, in order to prepare the measure referred to in paragraph one of Article 149b of this Act, paragraph one of Article 149c of this Act or the measure

prvega odstavka prejšnjega člena;
2) lokacijo komunikacijskega sredstva.

(2) Ukrep iz 1. točke prejšnjega odstavka se lahko odredi, če obstajajo utemeljeni razlogi za sum, da je določena oseba izvršila, izvršuje ali pripravlja izvršitev katerega izmed kaznivih dejanj iz drugega odstavka prejšnjega člena, in če obstajajo utemeljeni razlogi za sum, da se za komunikacijo v zvezi s tem kaznivim dejanjem uporablja komunikacijsko sredstvo ali bo tako sredstvo uporabljeno, pri tem pa je mogoče utemeljeno sklepati, da izvajanje ukrepa iz prvega odstavka 149.b člena tega zakona, prvega odstavka 149.c člena tega zakona oziroma ukrepa iz 1. točke prvega odstavka prejšnjega člena brez ugotavljanja podatkov, potrebnih za razpoznavo številke komunikacijskega sredstva in številk za elektronsko komuniciranje, ne bi bilo možno ali bi bilo povezano z nesorazmernimi težavami.

(3) Ukrep iz 2. točke prvega odstavka tega člena se lahko odredi le, če obstajajo utemeljeni razlogi za sum, da je določena oseba izvršila, izvršuje ali pripravlja izvršitev katerega izmed kaznivih dejanj iz drugega odstavka prejšnjega člena ali kaznivega dejanja protipravnega odvzema prostosti po 133. členu Kazenskega zakonika, in če obstaja utemeljen sum, da se za komunikacijo v zvezi s tem kaznivim dejanjem uporablja določeno komunikacijsko sredstvo ali da bo tako sredstvo uporabljeno, pri tem pa je mogoče utemeljeno sklepati, da odkrivanje lokacije storilca z drugimi ukrepi ne bi bilo možno ali bi bilo povezano z nesorazmernimi težavami.

(4) O izvedbi ukrepov in pregledu tehnične naprave iz prvega odstavka tega člena ter ugotovitvah se sestavi zapisnik, ki obsega:
- navedbo prepoznanih številk komunikacijskih sredstev, številk za elektronsko komuniciranje oziroma lokacij komunikacijskih sredstev;
- datum ter uro začetka in konca uporabe ukrepov iz prvega odstavka tega člena;
- podatke, ki omogočajo identifikacijo izvajalcev ukrepov;
- številko odredbe in sodišče, ki jo je izdalo;
- način izvedbe ukrepa;
- ugotovitve na podlagi izvajanja ukrepa in druge pomembne

referred to in point 1 of paragraph one of the preceding Article;
2) the location of the communication medium.

(2) The measure referred to in point 1 of the preceding paragraph may be imposed if there are reasonable grounds for suspicion that a certain person has committed, is committing or is preparing to commit any of the criminal offences referred to in paragraph two of the preceding Article, and if there are reasonable grounds for suspicion that the communication medium is used or will be used for communication related to this criminal offence, whereby it can be reasonably concluded that implementation of the measure referred to in paragraph one of Article 149b of this Act, paragraph one of Article 149c of this Act or the measure referred to in point 1 of paragraph one of the preceding Article would not be possible or would be associated with disproportionate difficulties, without determining the information required to identify the communication medium number and the electronic communication numbers.

(3) The measure referred to in point 2 of paragraph one of this Article may only be imposed if there are reasonable grounds for suspicion that a certain person has committed, is committing or is preparing to commit any of the criminal offences referred to in paragraph two of the preceding Article or the criminal offence of unlawful deprivation of liberty pursuant to Article 133 of the Criminal Code, and if there is a reasonable suspicion that a specific communication medium is being used or will be used for communication related to this criminal offence, whereby it can be reasonably concluded that the uncovering of the perpetrator's location through the application of other measures would not be possible or would be associated with disproportionate difficulties.

(4) A record shall be made of the implementation of the measures and the inspection of the technical device referred to in paragraph one of this Article and the resulting findings, which shall include:
- an indication of the identified numbers of communication media, numbers for electronic communication or locations of communication media;
- the date and hour of the beginning and end of application of the measures referred to in paragraph one of this Article;
- information enabling the identification of the providers of measures;
- the number of the order and the court which issued it;
- the method of implementing the measure;
- the findings based on the implementation of the measure and other

okoliščine.

(5) Osebni podatki oseb, ki niso osumljenci ali obdolženci, pridobljeni z ukrepi iz prvega odstavka tega člena, se smejo obdelovati le, če je to iz tehničnih razlogov neizogibno potrebno za dosego cilja iz tega člena, in na način, da se najmanj posega v pravice teh oseb. Ti podatki se, razen za primerjavo podatkov pri ugotavljanju identitete številke za razpoznavo komunikacijskega sredstva, ne smejo uporabljati in jih je treba po prenehanju izvajanja ukrepa nemudoma izbrisati. O izbrisu se sestavi zapisnik, ki mora vsebovati tudi število izbrisanih podatkov.

(6) Ne smejo se uporabljati tehnična sredstva iz prvega odstavka tega člena, ki omogočajo ali bi lahko omogočala prisluškovanje in snemanje elektronskih komunikacij, prav tako se z njimi ne sme ugotavljati lokacija komunikacijskih sredstev oseb, ki niso osumljenci oziroma obdolženci.

(7) Če so bili ukrepi iz prvega odstavka tega člena izvršeni v nasprotju s prejšnjim odstavkom, sodišče ne sme opreti svoje odločbe na tako pridobljene podatke.

150.b člen

(1) Ukrep iz 2. točke prvega odstavka prejšnjega člena se lahko odredi tudi takrat, ko je odkrivanje lokacije komunikacijskega sredstva, za katerega je verjetno, da ga uporablja obdolženec, nujno potrebno za izvedbo privedbe, hišnega pripora, pripora ali tiralice v postopku zaradi kaznivih dejanj iz drugega odstavka 150. člena tega zakona ali kaznivega dejanja protipravnega odvzema prostosti po 133. členu Kazenskega zakonika in je mogoče utemeljeno sklepati, da lokacije obdolženca ne bo mogoče odkriti z drugimi ukrepi.

(2) Pri izvedbi ukrepa iz prejšnjega odstavka se smiselno uporabljajo četrti do sedmi odstavek prejšnjega člena.

relevant circumstances.

(5) The personal data of persons other than suspects or accused persons obtained through the measures referred to in paragraph one of this Article may only be processed if this is indispensable for technical reasons in order to achieve the objective set out in this Article and in such a manner as to minimise interference with the rights of such persons. This information, except for the purpose of data comparison to establish the communication medium identification number for its identification, may not be used and should be deleted immediately after termination of the measure. A record shall be made of the deletion, which must also include the number of data deleted.

(6) The technical means referred to in paragraph one of this Article that facilitate or could facilitate the interception and recording of electronic communications may not be used against, nor may they be used to determine the location of communication media used by, persons other than suspects or accused persons.

(7) If the measures referred to in paragraph one of this Article were carried out in contravention of the preceding paragraph, the court may not rest its decision on the information thus obtained.

Article 150b

(1) The measure referred to in point 2 of paragraph one of the preceding Article may also be imposed when detecting the location of the communication medium which is probably used by the accused person is essential for bringing in such person forcibly, for pretrial house detention, detention or executing an arrest warrant in proceedings instituted for the prosecution of the criminal offences referred to in paragraph two of Article 150 of this Act, or the criminal offence of unlawful deprivation of liberty under Article 133 of the Criminal Code, and it can be reasonably concluded that the location of the accused person cannot be detected by the application of other measures.

(2) In implementing the measure referred to in the preceding paragraph, paragraphs four to seven of the preceding Article shall apply *mutatis mutandis*.

151. člen

(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, pri tem pa je mogoče utemeljeno sklepati, da se bo lahko v točno določenem prostoru pridobilo dokaze, katerih se z milejšimi ukrepi, vključno z ukrepi iz 149.a, 149.b in 150. člena tega zakona ne bi dalo zbrati oziroma bi njihovo zbiranje lahko ogrozilo življenje ljudi, se lahko zoper to osebo izjemoma odredi prisluškovanje in opazovanje v tujem stanovanju ali drugih tujih prostorih, z uporabo tehničnih sredstev za dokumentiranje in po potrebi s tajnim vstopom v navedene prostore.

(2) Ukrep iz prejšnjega odstavka se lahko odredi v zvezi z vsemi kaznivimi dejanji iz 1. točke drugega odstavka prejšnjega člena, kaznivimi dejanji iz 2. točke istega odstavka, razen za kazniva dejanja ugrabitve po 134. členu, omogočanja uživanja prepovedanih drog ali nedovoljenih snovi v športu po 187. členu, izsiljevanja po 213. členu, pranja denarja po prvem, drugem, tretjem in petem odstavku 245. člena in tihotapstva po 250. členu kazenskega zakonika, v zvezi z drugimi kaznivimi dejanji iz 3. točke istega odstavka, za katera je v zakonu predpisana kazen zapora osmih ali več let pa le, če obenem obstaja resna nevarnost za življenje ljudi.

Article 151

(1) If reasonable grounds exist for the suspicion that a particular person has committed, is committing, or is preparing and/or organising the commission of any of the criminal offences referred to in paragraph two of this Article, whereby it may be reasonably concluded that evidence can be collected in a precisely defined place which could not be obtained through less severe measures, including the measures referred to in Articles 149a, 149b and 150 of this Act, or the gathering of which could endanger human lives, then interception and surveillance in another person's home or premises with the use of technical equipment for recording and, where necessary, by secretly entering the aforementioned home or premises, may exceptionally be ordered against such person.

(2) The measures referred to in the preceding paragraph may be ordered in connection with all criminal offences referred to in point 1 of paragraph two of the preceding Article, criminal offences referred to in point 2 of the same paragraph, with the exception of the criminal offence of abduction under Article 134, facilitating the consumption of narcotic drugs or Illicit substances in sport under Article 187, extortion and blackmail under Article 213, money laundering under paragraphs one, two, three and five of Article 245 and smuggling under Article 250 of the Criminal Code, and in connection with other criminal offences referred to in point 3 of the same paragraph punishable by a sentence of imprisonment of eight years or more prescribed by an Act, but only if there also exists a serious threat to human life.

152. člen

(1) Ukrepe iz 150., 150.a, 150.b in 151. člena tega zakona s pisno odredbo odredi preiskovalni sodnik na pisni predlog državnega tožilca. Predlog in odredba morata vsebovati:

1) podatke, ki omogočajo določljivost osebe, zoper katero se predlaga oziroma odreja ukrep;
2) utemeljitev oziroma ugotovitev razlogov za sum, da gre za izvrševanje, pripravo ali organizacijo v 150., 150.a, 150.b oziroma 151. členu tega zakona določenih kaznivih dejanj, pri ukrepu iz

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 suspicion that the criminal offences referred to in Articles 150, 150a, 150b and 151 of this Act are being committed, prepared or organised,

150.b člena tega zakona pa se tudi navede, da je bila odrejena privedba, hišni pripor, pripor ali tiralica;

3) kateri ukrep se predlaga oziroma odreja, način izvajanja ukrepa, njegov obseg in trajanje, točno določitev prostora ali kraja, v katerem se ukrep izvaja, elektronsko- komunikacijsko sredstvo in ostale pomembne okoliščine, ki narekujejo uporabo posameznega ukrepa;
4) utemeljitev oziroma ugotovitev neogibne potrebnosti uporabe posameznega ukrepa v razmerju do zbiranja dokazov na drug način in uporabe ostalih milejših ukrepov;
5) utemeljitev razloga za predčasno izvrševanje odredbe v primeru iz drugega odstavka tega člena.

(2) Izjemoma, če pisne odredbe ni mogoče pravočasno pridobiti in če obstaja nevarnost odlašanja, lahko na ustni predlog državnega tožilca preiskovalni sodnik odredi izvrševanje ukrepov iz 150., 150.a, 150.b in 151 člena tega zakona z ustno odredbo. O ustnem predlogu državnega tožilca preiskovalni sodnik napravi uradni zaznamek. Pisna odredba 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.

(3) Če pri izvrševanju ukrepa iz 2. točke prvega odstavka 150. člena tega zakona policija oceni, da je vsebina pisma ali druge pošiljke takšna, da bi utegnila biti dokaz v kazenskem postopku, mora s tem nemudoma seznaniti preiskovalnega sodnika, ki odloči, kako se bo s pošiljko ravnalo. O tem preiskovalni sodnik sestavi poseben zapisnik.

(4) Izvajanje ukrepov iz 150.člena tega zakona, 1. točke prvega odstavka 150.a člena tega zakona in prejšnjega člena lahko traja največ en mesec, iz tehtnih razlogov pa se lahko njihovo trajanje podaljša vsakič za en mesec, vendar za ukrepe iz 150. člena tega zakona in 1. točke prvega odstavka 150.a člena tega zakona skupno največ šest mesecev, za ukrep iz prejšnjega člena pa skupno največ tri mesece. Izvajanje ukrepov iz 2. točke prvega odstavka 150.a člena tega zakona in 150.b člena tega zakona lahko traja največ en mesec.

and in imposing the measure referred to in Article 150b of this Act, it shall also be stated that bringing in forcibly, pretrial house detention, 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 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 if 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 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

(5) Odredbo iz prvega odstavka tega člena izvrši policija. Operaterji elektronskih komunikacijskih omrežij so policiji dolžni omogočiti izvršitev odredbe.

(6) Policija preneha z izvajanjem ukrepov iz 150., 150.a in 150.b in 151. člena tega zakona takoj, ko prenehajo razlogi, zaradi katerih so bili odrejeni. O prenehanju brez odlašanja pisno obvesti preiskovalnega sodnika. Preiskovalni sodnik lahko v vsakem trenutku po uradni dolžnosti, če oceni, da ni več razlogov za izvajanje ukrepov, ali da se ti izvajajo v nasprotju z njegovo odredbo, s pisno odredbo odredi, da se izvajanje ukrepov ustavi.

(7) Ukrepe iz 150., 150.a in 150.b in 151. člena tega zakona mora policija izvrševati na način, na katerega se v najmanjši možni meri posega v pravice oseb, ki niso osumljenci.

153. člen

(1) Po prenehanju uporabe ukrepov iz 149.a, 149.b, 149.c, 150., 150.a, 150.b, 151., 155. in 155.a člena tega zakona mora policija vse izvode posnetkov, sporočil in vse predmete, pridobljene z uporabo teh ukrepov, skupaj s poročilom, ki obsega povzetek zbranih dokazov, predati državnemu tožilcu. V primeru uporabe ukrepov iz 150.a in 150.b člena tega zakona policija priloži tudi zapisnike po četrtem in petem odstavku 150.a člena tega zakona.

(2) Državni tožilec celotno gradivo, zbrano z ukrepi, ki jih je odredil preiskovalni sodnik, preda preiskovalnemu sodniku; ta pa preizkusi, ali so se ukrepi izvajali na način, kot so bili odobreni.

(3) Organ, ki je odredil ukrep, lahko odredi, da se posnetki telefonskih pogovorov in drugih oblik komuniciranja v celoti ali deloma prepišejo. Glede prepisa teh posnetkov se uporabljajo določbe

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 shall be bound to enable the police to enforce the order.

(6) The police shall cease implementing 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 in writing *ex officio* 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 have ceased to exist or if the measures are being 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 interference with the rights of persons who are not suspects.

Article 153

(1) After the application of the measures referred to in Articles 149a, 149b, 149c, 150, 150a, 150b 151, 155 and 155a of this Act is terminated, the police must turn over all copies of recordings, messages and all objects obtained through the use of such measures, including a report summarizing the evidence gathered, to the state prosecutor. In the case of applying the measures referred to in Articles 150a and 150b of this Act, the police shall also enclose the records referred to in paragraphs four and five of Article 150a of this Act.

(2) The state prosecutor shall hand over all the material collected through the application of the measures ordered by the investigating judge to the investigating judge, and the investigating judge shall examine whether the measures were implemented in the approved manner.

(3) The body that ordered the measure may order full or partial transcription of the recorded telephone conversations and other forms of communication. The provisions of paragraph six of Article 84 of this Act

šestega odstavka 84. člena tega zakona.

(4) Če državni tožilec izjavi, da ne bo začel kazenskega pregona zoper osumljenca ali če v roku dveh let po koncu izvajanja zadnjega od ukrepov, ki jih odreja državni tožilec, ne vloži obtožnega akta niti ne predlaga, odredi ali izvede nobene aktivnosti, ukrepa oziroma preiskovalnega dejanja, usmerjenega v pregon zoper osumljenca, preiskovalnemu sodniku preda tudi celotno gradivo, zbrano s temi ukrepi.

154. člen

(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

shall apply to the transcription of these recordings.

(4) If the state prosecutor declares that he or she will not initiate criminal prosecution against the suspect or if, within two years of the completed implementation of the last of the measures ordered by the state prosecutor, the state prosecutor does not file an indictment or request, order or carry out any activity, measure or investigative act aimed at prosecuting the suspect, he or she shall also hand over to the investigating judge all the material collected through these measures.

Article 154

(1) Information, messages, recordings or evidence obtained through the use of the measures referred to in Article 149a, 149b, 149c, 150, 150a, 150b, 151, 155 and 155a of this Act shall be kept by the court for the purpose of successful implementation of criminal proceedings and protection of the right of the suspect or accused person to defence for as long as the criminal file is kept or for as long as the criminal case file concerned is kept, or until its destruction pursuant to paragraph two of this Article.

(2) If the state prosecutor declares that he or she will not initiate criminal prosecution against the suspect or if, within two years of the completed implementation of the last of the measures referred to in Article 149a, paragraph one of Article 149b, Articles 149c, 150, 150a, 150b, 151, 155 and 155a of this Act, he or she does not file an indictment or request, order or carry out any activity, measure or investigative act aimed at prosecuting the suspect, the material referred to in the preceding paragraph shall be destroyed under the supervision of the investigating judge. If within two years, the state prosecutor performs any of the acts referred to in the preceding sentence aimed at prosecuting the suspect, the material collected shall not be destroyed and the time limit shall cease to run. The investigating judge shall make an official note of the destruction. Before destruction, the investigating judge shall give notice of these measures to the suspect, or in the cases referred to in paragraphs two or nine of Article 149a of this Act, to the person against whom the measures were applied, who shall have the right to be apprised of the material obtained and, in cases where such material is extensive, to be apprised of the report referred to in paragraph one of Article 153 of this Act. In cases where the measures referred to in paragraphs two or nine of

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.

(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

Article 149a of this Act were applied and the state prosecutor undertook criminal prosecution against the suspect, the investigating judge shall inform the person against whom the measures were applied and who shall have the right to be apprised of the material obtained, of the use of such measures not later than by the time the indictment is submitted and/or immediately after the person against whom the measures were applied is arrested. If it may be reasonably concluded that the disclosure of the material will create a risk to human life and health or due to other compelling reasons, the investigating judge may, on the motion of the state prosecutor or *ex officio*, decide not to disclose part or all of the material obtained to the suspect, or in the cases referred to in paragraphs two or nine of Article 149a of this Act, to the person against whom the measure was applied. In the case referred to in paragraph five of this Article, the suspect shall be informed of the record or the official note on data destruction.

(3) Information, messages, recordings or other evidence may not be used as evidence if they were obtained through the use any of the measures referred to in Articles 149a, 149b, 149c, 150, 150a, 150b, 151, 155, 155a and 156 of this Act and if they do not relate to any of the criminal offences for which a particular measure may be ordered.

(4) If the measures referred to in Articles 149a, 149b, 149c, 150, 150a, 150b, 151, 155, 155a and 156 of this Act were implemented without an order from the state prosecutor (paragraphs five and nine of Article 149a, paragraph one of Article 155, paragraph three of Article 155a), or without an order from the investigating judge (paragraph six of Article 149a, paragraph one and three of Article 149b, paragraph one of Article 149c, Articles 150a, 150b and 153, paragraph four of Article 155a, paragraph one of Article 156), the panel (paragraph two of Article 156a) or in contravention of such an order, or if the extended application of the measures was not reviewed by the panel (paragraph twelve of Article 149a), the court may not rest its decision on the information, messages, recordings or evidence obtained in this manner.

(5) The provisions of Article 237 of this Act shall apply *mutatis mutandis* to the information, recordings, messages and evidence obtained through the use of the measures referred to in Articles 150, 151 and 155a of this Act. If the police, in carrying out the measures referred to in Articles 150, 151 and 155a of this Act, find out that the data, recordings, messages or evidence obtained contain information referred to in paragraph one of

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)**

155. člen

(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.

Article 222a of this Act, they shall inform the state prosecutor and the trial judge thereof without undue delay. The trial judge may, after hearing the state prosecutor and by *mutatis mutandis* application of the provisions of paragraphs three and four of Article 222a of this Act, decide to destroy such data and all their transcripts, if this is necessary in order to ensure the secrecy or confidentiality of the information obtained. The trial judge shall draw up a separate record of the hearing. The data shall be destroyed under the supervision of the trial judge, who shall make an official note thereof.

(6) If the measures referred to in Articles 149a, 150, 140a, 150b, 151, 155 and 155a of this Act are applied in a case which is the subject of an investigation, criminal prosecution or court proceedings in one or more countries, they must be implemented in accordance with existing bilateral or multilateral agreements or treaties, or with the agreement referred to in Article 160b of this Act, or in the absence thereof, agreements shall be concluded on a case by case basis, in full respect of the sovereignty and domestic law of the contracting party in whose territory such investigation is to take place. **(Ceased to apply in part)**

Article 155

(1) If it may be reasonably concluded that a particular person is involved in criminal activities associated with the criminal offences referred to in paragraph two of Article 150 of this Act, the state prosecutor may, upon a reasoned motion of the police, authorise by a written order the measures of feigned purchase, feigned acceptance and/or giving of gifts or feigned acceptance or giving of bribes. The motion and the order shall become an integral part of the criminal case file.

(2) The state prosecutor's order may only refer to a one-off measure. A motion for each further measure against the same person must state the reasons justifying its use.

(3) In implementing the measures referred to in paragraph one of this Article, the police and their associates may not incite criminal activities. In determining whether a criminal activity was incited, it should be considered first and foremost whether the measure as implemented would induce the commission of a criminal offence by a person who would otherwise not be willing to commit such a criminal offence.

(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.

155.a člen

(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.

(4) If the criminal activity was incited, this shall be considered a circumstance which precludes criminal prosecution for a criminal offence committed in connection with the measures referred to in paragraph one of this Article.

(5) The provisions of Articles 110, 131, 498 and 498a of this Act shall apply in connection with objects obtained through the measures referred to in paragraph one of this Article.

Article 155a

(1) If there are reasonable grounds for suspicion that a particular person has committed any of the criminal offences referred to in paragraph four of Article 149a of this Act, and/or if it may be reasonably concluded that a particular person is involved in a criminal activity associated with the criminal offences referred to in paragraph four of Article 149a of this Act, and it may be reasonably concluded that through the use of other measures it would not be possible to gather evidence and/or that it would give rise to disproportionate difficulties, undercover operations may be used against such a person.

(2) Undercover operations shall be carried out by undercover agents and shall involve the continuous or repeated collection of information on a person and his or her criminal activities. Undercover operations shall be carried out by one or more undercover agents under the direction and supervision of the police, using false information about the agents, false information in databases and false documents in order to prevent such gathering of information or engagement of the agents being disclosed. For these purposes, a false identity may be prepared in accordance with the conditions laid down by the Act regulating the police even before the issue of the order referred to in paragraphs three or four of this Article. An undercover agent may be a police officer, a police employee of a foreign country or, exceptionally, if undercover operations cannot be carried out in any other way, some other person. An undercover agent may, under the conditions laid down in this Article, be involved in legal transactions using false documents, and may, in gathering information, also use technical devices for sound transmission and recording, photography and video recording, in accordance with the conditions laid down in this Article.

(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

(3) An undercover operation shall be authorised by the state prosecutor by means of a written order on a written motion of the police, except in the cases referred to in paragraph four of this Article, where the order must be issued by the investigating judge. The order may also include an authorisation for the production, acquisition and use of false information and documents.

(4) An undercover operation where the undercover police employee will use technical devices for sound transmission and recording, photography and video recording, may only be ordered in connection with the criminal offences referred to in paragraph two of Article 150 of this Act. The measure shall be ordered by the investigating judge in writing upon a written motion of the state prosecutor.

(5) The motion and order that form an integral part of criminal case files must contain:

1) information enabling the identification of the person against whom the measure is requested or ordered;
2) reasoning and/or establishing reasonable grounds for suspicion;
3) the method of implementation, the scope and duration of the measure, and other important circumstances that call for the use of the measure;
4) the type, purpose and scope of use of particular false information and documents;
5) if the undercover agent will also be involved in legal transactions, the authorised extent of such involvement;
6) if the undercover agent is not a police officer or police employee of a foreign country but some other person, a justification as to why such person should to be used;
7) in the case referred to in the preceding paragraph, the definition of the type and method of use of technical devices for sound transmission and recording, photography and video recording;
8) justification or determination of the unavoidable need to use a particular measure compared to another method of gathering evidence.

(6) The implementation of the measure may not exceed two months, but for valid reasons its duration may be extended each time for two months by a written order; however, the total length of the measure may not exceed 24 months, and in the case of using a measure for the

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.

(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.

156. člen

(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,

criminal offences referred to in paragraph two of Article 151 of this Act, it may not exceed 36 months.

(7) The provisions of paragraphs eleven and twelve of Article 149a of this Act shall apply *mutatis mutandis* to the termination of undercover operations, monthly reports by the police and the review of an extended measure by the panel (paragraph six of Article 25).

(8) The measures referred to in this Article must be implemented in such a way as to minimise interference with the rights of persons that are not suspects.

(9) In carrying out a measure, an undercover police officer may not incite criminal activities. The provisions of paragraphs three and four of Article 155 of this Act shall apply *mutatis mutandis* to the incitement of criminal activities.

Article 156

(1) The investigating judge may, upon a duly reasoned motion of the state prosecutor, order a bank, savings bank, payment institution, an electronic money company or a branch or agent providing payment services or distributing electronic money for them, or a company authorised for issuing, managing or operating a virtual currency, to transmit confidential information to him or her or to the competent authority, and to send documentation on the balance of deposits, and on the balance of accounts and account transactions or other transactions of the suspect, the accused person and other persons that may be reasonably presumed to be implicated in financial or other transactions of the suspected or accused person, if such data might serve as evidence in criminal proceedings or if they are necessary for the seizure of objects or the securing of a claim for the confiscation of proceeds or property equalling the value of the proceeds.

(2) A bank, savings bank, payment institution, an electronic money company or a branch or agent providing payment services or distributing electronic money for them, or a company authorised for issuing, managing or operating a virtual currency, must transmit without delay the requested information and documentation referred to in the preceding paragraph to the investigating judge and the competent

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

authority specified in the order.

(3) Subject to the conditions referred to in paragraph one of this Article, the investigating judge, upon a duly reasoned motion of the state prosecutor, may order a bank, savings bank, payment institution, an electronic money company or a branch or agent providing payment services or distributing electronic money for them, or a company authorised for issuing, managing or operating a virtual currency, to monitor on an ongoing basis the financial transactions of the suspect, the accused person and other persons that may be reasonably presumed to be implicated in financial or other transactions of the suspected or accused person, and to disclose to the investigating judge on an ongoing basis confidential information on the financial or other transactions carried out, or intended to be carried out, by the said persons at these banks or institutions. In the order, the investigating judge shall set the time limit within which the bank, savings bank, payment institution or electronic money company, or the branch or agent providing payment services or distributing electronic money for them, or a company authorised for issuing, managing or operating a virtual currency must transmit the information to him or her.

(4) The measure referred to in the preceding paragraph may be applied for a maximum period of three months, but upon a motion of the state prosecutor, this term may be extended for valid reasons to a maximum period of six months.

(5) If there are reasons to suspect that a criminal offence prosecutable *ex officio* has been committed or is being prepared and if for the purpose of preventing or detecting the criminal offence or its perpetrator, it is necessary to obtain information on the holder or authorised person of a specific or identifiable payment account, savings deposit, wallet for the safekeeping of virtual currency or cash deposit, on the renter or assignee of a safe deposit box and the time during which it was or is in use, or information on the existence of a contractual or business relationship with the suspect that does not include data on the financial status of the suspect or the balance of deposits and account balance and transactions or virtual currency wallets, the state prosecutor or the police may request in writing that the bank, savings bank, payment institution, electronic money company or branch or agent providing payment services or distributing electronic money for them, or a company authorised for issuing, managing or operating a virtual currency, transmit

poslovanje z virtualno valuto, pisno zahteva, da tudi brez privolitve osebe, na katero se ti podatki nanašajo, brez odlašanja sporoči te podatke 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.

156.a člen

(1) Organ, ki je pristojen za izdajo pisne odredbe, s katero se odredi ali dovoli izvajanje ukrepov iz 149.a, 149.b, 149.c, 150., 150.a, 150.b, 151., 155., 155.a in 156. člena tega zakona, odloči najpozneje v 72 urah od prejetja pisnega predloga in svojo odločitev brez odlašanja sporočiti organu, ki je podal predlog.

(2) Če je za izdajo pisne odredbe iz prejšnjega odstavka pristojen preiskovalni sodnik, ki se ne strinja s pisnim predlogom državnega 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 državnemu tožilcu.

157. člen

(1) Policisti smejo nekomu vzeti prostost, če je podan katerikoli od razlogov za pripor iz prvega odstavka 201. člena ali

such information or provide documentation containing this information without delay and even without the consent of the data subject, provided it does not also contain data on the financial status of the suspect or the balance of deposits and account balance and transactions.

(6) A bank, savings bank, payment institution, electronic money company or a branch or agent providing payment services or distributing electronic money for them, or a company authorised for issuing, managing or operating a virtual currency may not disclose to its customer or a third party that it has, or will, transmit information and documentation to the investigating judge, state prosecutor or the police (preceding paragraph). This may not be disclosed for 24 months after the completed implementation of the order issued by the investigating judge or the transmission of information to the state prosecutor or the police. By an order, the investigating judge may set a different time limit, extend it by a maximum of 12 months, but not more than twice, shorten the time limit or remove the prohibition on disclosure.

Article 156a

(1) The body competent to issue a written order ordering or permitting the implementation of the measures referred to in Articles 149a, 149b, 149c, 150, 150a, 150b,151, 155, 155a and 156 of this Act shall decide within 72 hours of receipt of the written motion and must send its decision to the body that submitted the motion without delay.

(2) If the investigating judge competent for the issuing of the written order referred to in the preceding paragraph disagrees with the written motion of the state prosecutor, he or she shall, by a reasoned opinion, request that the decision be made by the panel (paragraph six of Article 25), which must decide within 72 hours of the receipt of the written request and the reasoned opinion, and communicate its decision to the state prosecutor without delay.

Article 157

(1) Police officers may deprive a person of liberty provided that any of the reasons for detention referred to in paragraph one of Article 201

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

or paragraph one of Article 432 of this Act exists, but must bring such person before the investigating judge without delay. Upon bringing the person before the investigating judge, the police officer shall inform the investigating judge why and when that person was deprived of liberty. At that point, the investigating judge shall also be given a copy of the criminal complaint including the record of interrogation of the suspect and other enclosures, except for the official notes on the information collected by the police from the suspect before he or she was provided with instructions as defined in paragraph four of Article 148 of this Act. The police shall send these official notes together with the criminal complaint to the state prosecutor.

(2) Police officers may exceptionally deprive a person of liberty and detain such person if reasonable grounds exist for the suspicion that a criminal offence prosecutable *ex officio* has been committed, provided that police detention is necessary in order to establish identity, verify an alibi, collect information and objects of evidence associated with the criminal offence, and provided that reasons for detention referred to in points 1 and 3 of paragraph one of Article 201 of this Act, and points 1 and 2 of paragraph one of Article 432 of this Act exist, whereas in the case referred to in point 2 of paragraph one of Article 201 of this Act, detention shall only be allowed if the fear that the person might destroy traces of the crime is justified.

(3) A person deprived of liberty without a court decision must be immediately informed as a suspect in accordance with the provisions of paragraph one of Article 4 and paragraph four of Article 148 of this Act. If the person who has been deprived of liberty is a foreign citizen, he or she shall be informed that, at his or her request, the competent body is bound to notify the consulate of the country concerned about the person’s deprivation of liberty.

(4) If the suspect declares that he or she will retain a defence counsel, the police shall postpone the interrogation and also other investigative acts, with the exception of those that would be dangerous to delay, until the arrival of the defence counsel, but for not more than two hours after the suspect was granted the opportunity to inform the defence counsel. Upon the request of the suspect, the police must help him or her retain a defence counsel. The interrogation of the suspect shall be conducted in the presence of the defence counsel in accordance with the provisions of Article 148a of this Act. If the suspect states that he or she

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.

will not retain a defence counsel or if the chosen defence counsel fails to arrive within two hours, the police shall act in accordance with paragraph six of Article 148 of this Act.

(5) The police detention referred to in paragraph two of this Article may last for a maximum of forty-eight hours. After the expiry of this period, police officers shall be bound to release the detained person or act as provided in paragraph one of this Article. If a detained person who is on a mission abroad may not be brought without delay before the investigating judge competent under paragraph one of Article 29 of this Act for reasons of distance or other extraordinary objective reasons, the person deprived of liberty and the state prosecutor shall be informed immediately, and when the person is brought before the investigating judge, the delay shall be justified in writing.

(6) If the police detention referred to in paragraph two of this Article lasts more than six hours, the police officer must immediately inform the detained person by a written decision of the reasons for the deprivation of liberty and inform him or her of his or her right to inspect the case file associated with detention for the purpose of preparing an appeal. The inspection of certain documents may be denied by a decision on detention if this could pose a serious threat to the life or rights of another person, or if such inspection would affect the course of the pre-trial proceedings and/or investigation, or if this is warranted by specific reasons of the defence or security of the State.

(7) The person deprived of liberty shall, pending detention and for three days after the lifting of police detention, have the right to appeal against the decision referred to in the preceding paragraph of this Article. The appeal shall not stay the execution of the measure of police detention. The appeal must be decided on by a panel of judges of the competent court within forty-eight hours (paragraph six of Article 25).

(8) If police detention referred to in paragraph two of this Article lasts less than six hours, the police officer shall deliver to the person deprived of liberty, not later than upon the termination of police detention, an official note referring to that person, the reason for police detention, the rights of the detained person, the exact time of the commencement of police detention and, if possible, also the exact time of the termination of police detention. The time of delivery of the official note shall be confirmed by the detained person's signature. If the detained person refuses to sign

(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.

158. člen

(1) Kadar so podani razlogi za sum, da je kaznivo dejanje v Slovenski vojski ali v ministrstvu, pristojnem za obrambo, storila vojaška ali civilna oseba, zaposlena v Slovenski vojski oziroma drug delavec, zaposlen na obrambnem področju oziroma oseba, napotena na misijo v tujini, ima z zakonom določen pristojni organ v ministrstvu, pristojnem za obrambo, pooblastila policije v predkazenskem postopku, ki jih določa ta zakon.

(2) Z zakonom določen pristojni organ v ministrstvu, pristojnem za obrambo, sme vzeti prostost osebi, če jo zasači v vojaškem objektu pri kaznivem dejanju, za katero se storilec preganja po uradni dolžnosti. Osebo, ki ji je vzeta prostost, je treba takoj izročiti preiskovalnemu sodniku ali policiji, če to ni mogoče, pa je treba takoj obvestiti nekoga od teh organov.

(3) Z zakonom določen pristojni organ v ministrstvu, pristojnem za obrambo, sme vzeti prostost vojaški osebi zaradi privedbe ali izročitve preiskovalnemu sodniku oziroma policiji, če so podani razlogi za sum, da je storila kaznivo dejanje iz sedemindvajsetega poglavja kazenskega zakonika.

(4) Policija v primerih iz drugega in tretjega odstavka tega člena ravna po določbi prejšnjega člena.

158.a člen

(1) Če so podani razlogi za sum, da je kaznivo dejanje, ki se preganja po uradni dolžnosti, storila uradna oseba zaposlena v

the official note, the police officer shall indicate this thereon.

(9) The police shall immediately inform the state prosecutor of any deprivation of liberty and the state prosecutor may give them instructions as to further measures to be taken (Article 160a). The police shall be bound to act according to these instructions.

Article 158

(1) If there are grounds for suspicion that a criminal offence in the Slovenian Armed Forces or in the ministry responsible for defence was committed by a military or civilian person employed with the Slovenian Armed Forces or another employee in the defence field, or a person seconded to a mission abroad, the competent body within the ministry responsible for defence designated by an Act shall be vested with police powers in pre-trial proceedings as defined by this Act.

(2) The competent body of the ministry responsible for defence designated by an Act may deprive of liberty a person caught in a military facility while committing a criminal offence prosecutable *ex officio*. The person deprived of liberty shall be delivered immediately to the investigating judge or the police, and if this is not impossible, one of these two authorities shall immediately be informed thereof.

(3) The competent body of the ministry responsible for defence designated by an Act may deprive of liberty a military person for the purpose of his or her forced appearance or delivery to the investigating judge or the police, if there are grounds for suspicion that he or she has committed a criminal offence referred to in Chapter Twenty-Seven of the Criminal Code.

(4) In the cases referred to in paragraphs two or three of this Article, the police shall act according to the provisions of the preceding Article.

Article 158a

(1) If grounds for suspicion exist that a criminal offence prosecutable *ex officio* has been committed by an official employed with

policiji, v z zakonom določenem pristojnem organu v ministrstvu, pristojnem za obrambo, ki ima pooblastila policije v predkazenskem postopku, ali uradna oseba, ki ima pooblastila policije v predkazenskem postopku in je napotena na misijo v tujini, ali uradna oseba Slovenske obveščevalno-varnostne agencije ali Obveščevalno varnostne službe ministrstva, pristojnega za obrambo, imajo policisti v Oddelku za preiskovanje in pregon uradnih oseb s posebnimi pooblastili (v nadaljnjem besedilu: Posebni oddelek) pooblastila policije v predkazenskem postopku, ki jih določa ta zakon in vsa pooblastila, ki jih lahko izvršujejo uradne osebe iz prvega odstavka 158. člena tega zakona. Policisti Posebnega oddelka izvršujejo ta pooblastila tudi glede oseb, ki so imele v času storitve kaznivega dejanja status uradne osebe, pa jim je ta status kasneje prenehal.

(2) Policisti Posebnega oddelka in policija o razlogih za sum, da je bilo storjeno kaznivo dejanje iz prejšnjega odstavka tega člena, nemudoma obvestijo pristojnega državnega tožilca iz Posebnega oddelka in mu redno poročajo o načrtovanju in poteku predkazenskega postopka.

(3) Državni tožilec iz prejšnjega odstavka usmerja in nadzoruje predkazenski postopek iz prejšnjih odstavkov ter odloča o njegovem poteku in končanju. Pravico ima vpogledati spise, sodelovati pri zbiranju dokazov in neposredno opravljati posamezna dejanja v postopku. Policisti Posebnega oddelka in policije delujejo po usmeritvah državnega tožilca.

(4) Posebni oddelek je v skladu z zakonom, ki ureja državno tožilstvo, pristojen tudi za obravnavo zadev, ki jih obravnava drugo okrožno državno tožilstvo, če so te zadeve vsebinsko povezane z zadevo, ki jo po določbah prvega odstavka tega člena obravnava Posebni oddelek.

(5) Posebni oddelek obvesti predstojnika organa, v katerem je zaposlena uradna oseba iz prvega odstavka tega člena, o zaključenem predkazenskem postopku. Če je treba uradni osebi iz prvega odstavka tega člena odvzeti pooblastila, pa predstojnika organa obvesti tudi že pred zaključkom predkazenskega postopka,

the police, in the competent authority designated by an act within the ministry competent for defence and vested with police powers in pre-trial proceedings, or by an official vested with police powers in pre-trial proceedings and seconded to a mission abroad, or an official of the Slovenian Intelligence and Security Agency or the Intelligence and Security Service of the ministry competent for defence, police officers of the Section for the Investigation and Prosecution of Official Persons Having Special Authority (hereinafter: Special Section) shall be vested with police powers in pre-trial proceedings provided by this Act, and all the powers that may be exercised by the officials referred to in paragraph one of Article 158 of this Act. The police officers of the Special Section shall also exercise these powers in respect of persons who, at the time they committed a specific criminal offence, had the status of an official, but whose status was subsequently terminated.

(2) The police officers of the Special Section and the police shall immediately inform the competent state prosecutor from the Special Section of the grounds for suspicion that the criminal offence referred to in the preceding paragraph has been committed, and shall regularly inform him or her of the planning and course of pre-trial proceedings.

(3) The state prosecutor referred to in the preceding paragraph shall direct and supervise the pre-trial proceedings referred to in preceding paragraphs and decide on their course and conclusion. He or she shall have the right to inspect the files, participate in the collection of evidence and directly perform particular acts in the proceedings. The police officers of the Special Section and the police shall act according to the directions of the state prosecutor.

(4) In accordance with the Act governing the state prosecution service, the Special Section shall also have jurisdiction to handle cases dealt with by another district state prosecutor's office, provided that such cases are in substance related to the matters falling under the competence of the Special Section pursuant to the provisions of paragraph one of this Article.

(5) The Special Section shall inform the head of the body at which the official referred to in paragraph one of this Article is employed of the completed pre-trial procedure. If the official referred to in paragraph one of this Article is to be deprived of his or her authority, the head of the body shall be informed accordingly before the conclusion of the pre-trial

kolikor to ne vpliva na uspešno izvedbo predkazenskega ali kazenskega postopka.

159. člen

Zaradi razkritja obsežne kriminalne dejavnosti se lahko začasno odloži odvzem prostosti osumljene osebe ali izvršitev drugih ukrepov iz tega zakona, vendar le, če oziroma dokler ni podana nevarnost za življenje in zdravje tretjih oseb. Dovoljenje za odložitev teh ukrepov da na obrazložen predlog policije pristojni državni tožilec.

160. člen

Tistemu, ki je zasačen pri kaznivem dejanju, za katero se storilec preganja po uradni dolžnosti, sme vsakdo vzeti prostost. Nato ga mora takoj izročiti preiskovalnemu sodniku ali policiji, če tega ne more storiti, pa takoj obvestiti nekoga od teh organov. Policija ravna po določbah 157. člena tega zakona.

160.a člen

(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

procedure, provided it does not affect the successful implementation of the pre-trial or criminal proceedings.

Article 159

The deprivation of liberty of a suspect or the implementation of other measures referred to in this Act may be postponed temporarily in order to uncover a large-scale criminal activity, but only if, and as long as, the lives and health of third parties are not thereby put at risk. The authorisation to postpone these measures shall be granted by the competent state prosecutor upon a properly reasoned motion of the police.

Article 160

Anyone may deprive of liberty a person caught committing a criminal offence prosecutable *ex officio*. The person effecting deprivation of liberty must immediately deliver the perpetrator to an investigating judge or the police, or, if this is not possible, he or she must immediately notify one of these two bodies. The police shall proceed according to the provisions of Article 157 of this Act.

Article 160a

(1) In exercising his or her powers under this Act, the state prosecutor may direct the work of the police and of the competent body within the ministry responsible for defence designated by an Act (Article 158), the work of a joint investigation team (Article 160b) and the work of other competent state authorities and institutions in the field of taxes, customs, financial operations, securities, protection of competition, prevention of money laundering, prevention of corruption, illicit drugs and inspection services, by providing mandatory instructions, expert opinions and motions for the collection of information and the implementation of other measures within their competence for the purpose of detecting a criminal offence and its perpetrator or collecting information necessary to decide on criminal prosecution..

(2) In cases involving complex criminal offences, especially in the field of the economy, corruption and organised crime which are the

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 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.

160.b člen
(delno se preneha uporabljati)

(1) V zadevi, ki je predmet predkazenskega postopka, preiskave ali sodnega postopka v eni ali več državah, lahko policija pri izvajanju nalog in ukrepov v predkazenskem postopku in postopku preiskave, za katerih izvedbo je pristojna v skladu z določbami tega zakona, sodeluje s policijskimi delavci druge države na ozemlju ali izven ozemlja Republike Slovenije.

(2) Pri izvajanju nalog in ukrepov iz prejšnjega odstavka

subject of pre-trial proceedings and which require the long-term targeted operation of a number of bodies and institutions referred to in the preceding paragraph, the head of the competent state prosecutor's office may, *ex officio* or upon a written motion of the police, establish a specialised investigation team together with the heads of particular bodies and institutions referred to in the preceding paragraph.

(3) The specialised investigation team shall be headed and directed by the competent state prosecutor and its members shall be appointed by the heads of the bodies and institutions referred to in the preceding paragraph. Upon an order or the prior approval of the state prosecutor, a member of the specialised investigation team may be present or may advise the state prosecutor in the carrying out of particular investigative acts.

(4) The head of the competent state prosecutor's office shall decide on the establishment of a specialised investigation team, its composition, and the tasks and method of its operation, by a written order upon prior approval of the heads of the bodies and institutions referred to in paragraph two of this Article. The order shall also specify the operative head and his or her tasks of operative management. The head of the competent state prosecutor's office shall immediately submit a copy of the order to the State Prosecutor General.

(5) The procedure, cases, time limits and the method of directing and informing referred to in paragraph one of this Article shall be prescribed by the Government of the Republic of Slovenia.

Article 160b
(Ceased to apply in part)

(1) In a specific case which is the subject of pre-trial proceedings, an investigation or court proceedings in one or more countries, the police may cooperate with the police staff of the other country in the territory or outside the territory of the Republic of Slovenia in carrying out tasks and measures in pre-trial proceedings and investigation proceedings for which they are responsible in accordance with the provisions of this Act.

(2) In carrying out the tasks and measures referred to in the

usmerja policijo državni tožilec v skladu s 160.a členom tega zakona in lahko pri tem ter pri izvrševanju drugih pooblastil v skladu z določbami tega zakona sodeluje z državnimi tožilci druge države na ozemlju ali izven ozemlja Republike Slovenije (skupna preiskovalna skupina).

(3) Naloge, ukrepi, usmerjanje in druga pooblastila iz prejšnjih odstavkov tega člena morajo biti izvedeni v skladu s sporazumom o ustanovitvi in delovanju skupne preiskovalne skupine na ozemlju Republike Slovenije ali druge države, ki ga na podlagi Okvirnega sklepa Sveta, z dne 13. 6. 2002, o skupnih preiskovalnih skupinah (Uradni list EU, št. L 162/1 z dne 20. 6. 2002) ali obstoječe mednarodne pogodbe z državo, ki ni članica Evropske unije, po pridobitvi mnenja generalnega direktorja policije za vsak primer posebej sklene generalni državni tožilec ali po njegovem pooblastilu njegov namestnik z državnim tožilstvom, sodiščem, policijo ali drugim pristojnim organom druge države. Sporazum se sklene na pobudo generalnega državnega tožilca, vodje okrožnega državnega tožilstva ali vodje skupine državnih tožilcev za posebne zadeve ali na pobudo pristojnega organa druge države.

(4) V sporazumu iz prejšnjega odstavka se določi, kateri organi sklepajo sporazum, v kateri zadevi bo delovala skupna preiskovalna skupina, namen delovanja skupine, državni tožilec iz Republike Slovenije, ki je njen vodja na ozemlju Republike Slovenije, ostali člani skupine ter trajanje delovanja skupine. O sklenjenem sporazumu mora generalni državni tožilec pisno obvestiti ministrstvo, pristojno za pravosodje.

(5) Policijski delavci, državni tožilci ali drugi pristojni organi druge države izvršujejo naloge, ukrepe, usmerjanje oziroma druga pooblastila iz prvega in drugega odstavka tega člena na ozemlju Republike Slovenije samo v okviru skupne preiskovalne skupine v skladu z določbami sporazuma o ustanovitvi in delovanju skupne preiskovalne skupine iz tretjega odstavka tega člena.

(6) Če tako določa sporazum o ustanovitvi in delovanju skupne preiskovalne skupine iz tretjega odstavka tega člena, v skupni

preceding paragraph, the police shall be directed by the state prosecutor pursuant to Article 160a of this Act, and in doing so, as well as in exercising other powers in accordance with the provisions of this Act, the state prosecutor may cooperate with the state prosecutors of the other country in the territory or outside the territory of the Republic of Slovenia (joint investigation team).

(3) The tasks, measures, directing and other powers referred to in the preceding paragraphs of this Article must be carried out in accordance with the agreement on the establishment and operation of the joint investigation team in the territory of the Republic of Slovenia or the other country, which shall be concluded on a case by case basis by the State Prosecutor General or his or her authorised deputy, with the state prosecutor's office, the court, the police or other competent bodies of the other country, pursuant to the Council Framework Decision of 13 June 2002 on joint investigation teams (OJ L 162/1, 20.6.2002) or the existing international treaty concluded with a country other than a European Union Member State, after obtaining the opinion of the Director General of the Police. The agreement shall be concluded on the proposal of the State Prosecutor General, the head of a district state prosecutor's office or the head of the Group of State Prosecutors for Special Affairs, or on the proposal of the competent body of the other country.

(4) The agreement referred to in the preceding paragraph shall define the bodies concluding such an agreement, the case in which the joint investigation team act, the purpose of the team's operation, the state prosecutor from the Republic of Slovenia who shall head the team in the territory of the Republic of Slovenia, other team members and the period of the team's operation. The State Prosecutor General must notify in writing the ministry responsible for justice of any agreement concluded.

(5) The police staff, state prosecutors or other competent bodies of the other country shall carry out the tasks, measures, directing or other powers referred to in paragraphs one and two of this Article in the territory of the Republic of Slovenia only within the framework of the joint investigation team in accordance with the provisions of the agreement on the establishment and operation of the joint investigation team referred to in paragraph three of this Article.

(6) If so provided by the agreement on the establishment and operation of the joint investigation team referred to in paragraph three of

preiskovalni skupini lahko sodelujejo tudi predstavniki pristojnih organov Evropske unije, kot na primer EUROPOL, EUROJUST in OLAF. Predstavniki pristojnih organov Evropske unije izvršujejo svoja pooblastila na ozemlju Republike Slovenije samo v okviru skupne preiskovalne skupine v skladu z določbami sporazuma iz tretjega odstavka tega člena.

(7) Organizacijske enote policije in državna tožilstva v Republiki Sloveniji so dolžni nuditi skupni preiskovalni skupini vso potrebno pomoč.

(8) Ob zaključku dela skupne preiskovalne skupine njen vodja pisno poroča vsem njenim članom in generalnemu državnemu tožilcu.

161. člen

(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

this Article, representatives of the competent bodies of the European Union, such as EUROPOL, EUROJUST and OLAF, may also participate in the joint investigation team. The representatives of the competent bodies of the European Union shall only exercise their powers in the territory of the Republic of Slovenia within the framework of the joint investigation team in accordance with the provisions of the agreement referred to in paragraph three of this Article.

(7) The police organisational units and the state prosecutor's offices of the Republic of Slovenia shall be obliged to provide all the necessary assistance to the joint investigation team.

(8) Upon the completion of work by the joint investigation team, its head shall report in writing to all its members and the State Prosecutor General.

Article 161

(1) The state prosecutor shall dismiss a criminal complaint if it is evident from the criminal complaint itself that the act reported is not a criminal offence prosecutable *ex officio*, if the prosecution has become statute-barred or if amnesty or pardon has been granted for the offence, or if other circumstances exist that preclude prosecution, or if no reasonable suspicion exists that the suspect has committed the reported criminal offence, or if there is disproportionality between the minor significance of the criminal offence (its risks are insignificant because of the nature or gravity of the offence, or because the harmful consequences are insignificant or did not occur, or because of other circumstances in which the criminal offence was committed and the low degree of the perpetrator’s culpability, or because of the perpetrator's personal circumstances) and the consequences to be caused by criminal prosecution. The state prosecutor shall inform the injured party of the dismissal of the criminal complaint and of the reasons thereof (Article 60) within eight days, and if the criminal complaint was submitted by a state authority, the state prosecutor shall notify this authority as well.

(2) If the state prosecutor is unable to assess from the criminal complaint whether the allegations contained therein are plausible or not, or if the information stated therein does not provide sufficient grounds for him or her to decide whether to request an investigation or not, or if he or she

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.

has only heard rumours about a criminal offence, and, in particular, if the perpetrator is unknown, he or she may request the police, if he or she is unable to do so by himself or herself or through other bodies, to collect, within the time limit set by him or her, the necessary information and take other measures required for uncovering the criminal offence and its perpetrator (Articles 148 and 149). The state prosecutor may at any time request notification from the police about what steps have been undertaken, and the police shall be obliged to provide a reply without delay.

(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.

(3) The state prosecutor may request the necessary information from state bodies, companies and other legal entities, and may for the same purpose also summon the person who submitted the criminal complaint.

(4) Preden državni tožilec zavrže ovadbo za kaznivo dejanje, za katero je v zakonu predpisana kazen zapora več kot osem let, mora oškodovanca pisno seznaniti o nameri, da bo zavrgel ovadbo, ter mu navesti bistvene razloge za to odločitev in mu omogočiti, da se v roku 15 dni do njih pisno opredeli ter da posreduje morebitne dodatne podatke in dokaze glede utemeljenosti suma, da je osumljenec storil kaznivo dejanje. Oškodovanec svoje mnenje, podatke in dokaze posreduje državnemu tožilcu in vodji pristojnega okrožnega državnega tožilstva. Če oškodovancu pisnega pojasnila ni bilo mogoče vročiti, ker državnemu tožilstvu ni pravočasno posredoval spremembe naslova ali prebivališča (66. člen), lahko državni tožilec zavrže ovadbo brez njegove opredelitve. Ta odstavek se ne uporablja za oškodovanca, ki je pravna oseba.

(4) Before the state prosecutor dismisses a criminal complaint for a criminal offence punishable by a sentence of more than eight years of imprisonment prescribed by an Act, he or she must inform the injured party in writing of the intention to dismiss the complaint and state the main reasons for such a decision, and provide the injured party with an opportunity to comment on the aforementioned reasons in writing within 15 days and to submit any additional information and evidence regarding the grounds for suspecting that the criminal offence has been committed by the suspect. The injured party shall submit his or her opinion, data and evidence to the state prosecutor and the head of the competent district state prosecutor's office. If the injured party could not be served with a written explanation because he or she had failed to inform the state prosecutor's office of a change of address or place of residence (Article 66) in a timely manner, the state prosecutor may dismiss the criminal complaint without providing the reasoning. This paragraph shall not apply to an injured party that is a legal person.

(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 oškodovanca.

(5) The state prosecutor shall dismiss a criminal complaint if, even after the acts referred to in paragraphs two to four of this Article have been undertaken, any of the circumstances referred to in paragraph one of this Article exists. In the case referred to in the preceding paragraph, the state prosecutor must also express his or her view on the injured party's opinion in the ruling dismissing the criminal complaint.

(6) Državni tožilec in drugi državni organi, podjetja in druge pravne osebe, morajo pri zbiranju obvestil oziroma dajanju podatkov

(6) The state prosecutor and other state bodies, companies and other legal entities must act scrupulously in collecting or disclosing

ravnati obzirno in paziti, da ne škodujejo časti in dobremu imenu tistega, na katerega se podatki nanašajo.

information and take care not to harm the reputation and good name of the person to whom such information refers.

161.a člen

(1) Državni tožilec sme ovadbo ali obtožni predlog za kaznivo dejanje, za katero je predpisana denarna kazen ali zapor do treh let in za kazniva dejanja iz drugega odstavka tega člena, odstopiti v postopek poravnavanja. Pri tem upošteva vrsto in naravo dejanja, okoliščine, v katerih je bilo storjeno, osebnost storilca, njegovo predkaznovanost za istovrstna ali druga kazniva dejanja, kot tudi stopnjo njegove kazenske odgovornosti.

Article 161a

(1) The state prosecutor may refer a criminal complaint or a motion of indictment involving a criminal offence punishable by a fine or a sentence of imprisonment of up to three years, and involving the criminal offences referred to in paragraph two of this Article, to a settlement procedure. In doing so, the state prosecutor shall take into account the type and nature of the offence, the circumstances in which it was committed, the personality of the perpetrator and his or her prior convictions for the same type of criminal offences or for other criminal offences, as well as his or her degree of criminal liability.

(2) Zaradi posebnih okoliščin je dopustno poravnavanje tudi za kazniva dejanja hude telesne poškodbe po prvem odstavku 123. člena, posebno hude telesne poškodbe po četrtem odstavku 124. člena, velike tatvine po 1. točki prvega odstavka 205. člena, zatajitve po četrtem odstavku 208. člena in poškodovanja tuje stvari po drugem odstavku 220. člena Kazenskega zakonika; če je ovadba podana zoper mladoletnika, pa tudi za druga kazniva dejanja, za katera je v Kazenskem zakoniku predpisana kazen zapora do petih let.

(2) If special circumstances exist, settlement shall also be admissible for the criminal offences of aggravated bodily harm pursuant to paragraph one of Article 123, grievous bodily harm pursuant to paragraph four of Article 124, grand larceny pursuant to point 1 of paragraph one of Article 205, misappropriation pursuant to paragraph four of Article 208 and damaging another's object pursuant to paragraph two of Article 220 of the Criminal Code, and if the criminal complaint is submitted against a minor, this may also apply to other criminal offences punishable by a sentence of imprisonment of up to five years pursuant to the Criminal Code.

(3) Poravnavanje vodi poravnalec, ki je zadevo dolžan prevzeti v postopek. Poravnavanje se sme izvajati le s pristankom osumljenca in oškodovanca. Poravnalec je pri svojem delu neodvisen. Poravnalec si mora prizadevati, da je vsebina sporazuma v sorazmerju s težo in posledicami dejanj.

(3) The settlement procedure shall be conducted by a mediator who shall be obliged to take over the case. The settlement procedure may only be carried out with the consent of the suspect and the injured party. The mediator shall be independent in his or her work. The mediator must strive to ensure that the content of the settlement agreement is proportionate to the gravity and consequences of the offence.

(4) Če se vsebina sporazuma nanaša na opravljanje dela v splošno korist, izvajanje sporazuma pripravi in vodi organ, ki je pristojen za probacijo, ali center za socialno delo, ob sodelovanju poravnalca, ki je vodil poravnavanje, in državnega tožilca.

(4)) If the content of the agreement refers to the performance of community service, the implementation of the agreement shall be organised and managed by the body responsible for probation or a social work centre, in cooperation with the mediator who conducted the settlement procedure and the state prosecutor.

(5) Ko prejme obvestilo o izpolnitvi sporazuma, državni tožilec ovadbo zavrže. Poravnalec je državnega tožilca dolžan

(5) On receiving notification of the fulfilment of the settlement agreement, the state prosecutor shall dismiss the criminal complaint. The

obvestiti tudi o neuspelem poravnavanju ter razlogih za to. Rok za izpolnitev sporazuma ne sme biti daljši od šestih mesecev.

(6) V primeru zavrženja ovadbe iz prejšnjega odstavka oškodovancu ne gredo pravice iz drugega in četrtega odstavka 60. člena tega zakona, o čemer ga mora poravnavalec poučiti pred podpisom sporazuma.

(7) Pravila o poravnavanju določi minister, pristojen za pravosodje, v soglasju z ministrom, pristojnim za delo, družino in socialne zadeve.

162. člen

(1) Državni tožilec sme s soglasjem oškodovanca odložiti kazenski pregon za kaznivo dejanje, za katero je predpisana denarna kazen ali zapor do treh let in za kazniva dejanja iz drugega odstavka tega člena, če je osumljenec pripravljen ravnati po navodilih državnega tožilca in izpolniti določene naloge, s katerimi se zmanjšajo ali odpravijo škodljive posledice kaznivega dejanja. Te naloge so lahko:

1) odprava ali poravnava škode;
2) plačilo določenega prispevka v korist javne ustanove ali na namensko proračunsko postavko za pomoč žrtvam in povračilo škode žrtvam kaznivih dejanj ali v korist nevladne organizacije v javnem interesu, kot jo določa zakon, ki ureja nevladne organizacije;
3) oprava kakšnega dela v splošno korist;
4) poravnava preživninske obveznosti;
5) zdravljenje v ustreznem zdravstvenem zavodu;
6) obiskovanje ustrezne psihološke ali druge posvetovalnice;
7) upoštevanje izrečene prepovedi približevanja oškodovancu ali kakšni drugi osebi, kar obsega tudi prepoved navezovanja stikov z njo na kakršen koli način, vključno z uporabo elektronskih komunikacijskih sredstev, oziroma upoštevanje prepovedi dostopa na posamezne kraje.

(2) Zaradi posebnih okoliščin je dopustno odložiti kazenski pregon tudi za kazniva dejanja omogočanja uživanja prepovedanih

mediator shall also be obliged to inform the state prosecutor of any failure of settlement and the reasons for such failure. The time limit for the fulfilment of the settlement agreement may not exceed six months.

(6) In the event of dismissal of the criminal complaint referred to in the preceding paragraph, the injured party shall not have the rights referred to in paragraphs two and four of Article 60 of this Act, which the injured party must be informed of before the agreement is signed.

(7) The rules on settlement shall be laid down by the minister responsible for justice, in agreement with the minister responsible for labour, family and social affairs.

Article 162

(1) The state prosecutor may, with the consent of the injured party, defer the criminal prosecution of a criminal offence punishable by a fine or a sentence of imprisonment of up to three years, and of criminal offences referred to in paragraph two of this Article, if the suspect is willing to act in accordance with the state prosecutor's instructions and perform certain tasks to reduce or remove the harmful consequences of the criminal offence. These tasks may include:

1) the elimination of or compensation for damage;
2) the payment of a specific contribution to the benefit of a public institution or a dedicated budget item for assistance and compensation of damages to victims of crime, or to the benefit of a non-governmental organisation in the public interest as provided by the Act governing non-governmental organisations;
3) the performance of community service;
4) the settlement of a maintenance obligation,
5) medical treatment in an appropriate health institution;
6) attending an appropriate psychological or other form of counselling;
7) compliance with imposed restraining orders prohibiting the perpetrator from approaching the victim or some other person, including a prohibition on contacting him or her in any way, including through the use of electronic communication means, or compliance with a prohibition on access to specific places.

(2) If special circumstances exist, criminal prosecution may also be deferred for the criminal offences of facilitating the consumption of

drog ali nedovoljenih snovi v športu po prvem odstavku 187. člena, nasilja v družini po prvem in drugem odstavku 191. člena, zanemarjanja mladoletne osebe in surovega ravnanja po drugem odstavku 192. člena, velike tatvine po 1. točki prvega odstavka 205. člena, zatajitve po četrtem odstavku 208. člena, izsiljevanja po prvem in drugem odstavku 213. člena, poslovne goljufije po prvem odstavku 228. člena, poškodovanja tuje stvari po drugem odstavku 220. člena in zlorabe negotovinskega plačilnega sredstva po drugem odstavku 246. člena Kazenskega zakonika; če je ovadba podana zoper mladoletnika pa tudi za druga kazniva dejanja, za katera je v Kazenskem zakoniku predpisana kazen zapora do petih let.

narcotic drugs or illicit substances in sport pursuant to paragraph one of Article 187, domestic violence pursuant to paragraphs one and two of Article 191, neglect and maltreatment of minors pursuant to Article 192, grand larceny pursuant to point 1 of paragraph one of Article 205, misappropriation pursuant to paragraph four of Article 208, extortion and blackmail pursuant to paragraphs one and two of Article 213, commercial fraud pursuant to paragraph one of Article 228, damaging another's object pursuant to paragraph two of Article 220, and abuse of non-cash means of payment pursuant to paragraph two of Article 246 of the Criminal Code; if a criminal complaint is submitted against a minor, this may also apply to other criminal offences punishable by a sentence of imprisonment of up to five years pursuant to the Criminal Code.

(3) Če državni tožilec določi nalogo odprave škode iz 1. točke ali nalogo iz 3. točke prvega odstavka tega člena, izvajanje dela pripravi in vodi organ, ki je pristojen za probacijo, ali center za socialno delo ob sodelovanju državnega tožilca. Za izvedbo naloge iz 3. točke prvega odstavka tega člena se smiselno uporabljajo določbe zakona, ki ureja izvrševanje kazenskih sankcij, o opravljanju dela v splošno korist, če ni s tem zakonom ali splošnimi navodili iz šestega odstavka tega člena določeno drugače.

(3) If the state prosecutor imposes the task of elimination of damage referred to in point 1 or the task referred to in point 3 of paragraph one of this Article, the implementation of the work shall be organised and managed by the body responsible for probation or a social work centre, in cooperation with the state prosecutor. For the purpose of performing the task referred to in point 3 of paragraph one of this Article, the provisions on community work of the Act governing the enforcement of criminal sanctions shall be applied *mutatis mutandis*, unless otherwise provided by this Act or the general instructions referred to in paragraph six of this Article.

(4) Če osumljenec v roku, ki ga določi državni tožilec, izpolni nalogo in povrne stroške v skladu s sedmim odstavkom tega člena, se ovadba zavrže.

(4) If the suspect, within the time limit defined by the state prosecutor, carries out the task imposed and reimburses the costs in accordance with paragraph seven of this Article, the criminal complaint shall be dismissed.

(5) V primeru zavrženja ovadbe iz prejšnjega odstavka, oškodovancu ne gredo pravice iz drugega in četrtega odstavka 60. člena tega zakona. O izgubi teh pravic mora državni tožilec poučiti oškodovanca, preden da ta soglasje po prvem odstavku tega člena.

(5) In the event of dismissal of the criminal complaint referred to in the preceding paragraph, the injured party shall not have the rights referred to in paragraphs two and four of Article 60 of this Act. The state prosecutor must inform the injured party of the loss of these rights before the injured party gives consent pursuant to paragraph one of this Article.

(6) S splošnimi navodili, ki jih izda generalni državni tožilec, se določijo način in roki izvršitve nalog iz prvega odstavka tega člena, nadzor nad izvajanjem ter podrobneje opredelijo posebne okoliščine iz drugega odstavka tega člena, ki vplivajo na odločitev državnega tožilca o odložitvi kazenskega pregona.

(6) The general instructions issued by the State Prosecutor General shall define the method of and the time limits for the implementation of the tasks referred to in paragraph one of this Article and supervision over their implementation, and shall specify the special circumstances referred to in paragraph two of this Article which influence the decision of the state prosecutor to defer criminal prosecution.

(7) Osumljenec in oškodovanec nosita vsak svoje stroške postopka odloženega pregona, razen, če se dogovorita, da bo osumljenec oškodovancu povrnil njegove stroške. Stroški izvrševanja nalog iz prvega odstavka tega člena niso stroški kazenskega postopka.

163. člen

Državni tožilec ni dolžan začeti kazenskega pregona oziroma sme odstopiti od pregona:

1) če je v kazenskem zakonu določeno, da sme oziroma mora sodišče storilcu kaznivega dejanja odpustiti kazen, državni tožilec pa glede na konkretne okoliščine primera oceni, da sama obsodba, brez kazenske sankcije, ni potrebna;

2) če je v kazenskem zakonu za kaznivo dejanje predpisana denarna kazen ali kazen zapora do enega leta, osumljenec oziroma obdolženec pa je zaradi dejanskega kesanja preprečil škodljive posledice ali poravnal vso škodo in državni tožilec, glede na konkretne okoliščine primera, oceni, da kazenska sankcija ne bi bila upravičena.

163.a člen

(1) Pri postopku po 162. členu tega zakona povabi državni tožilec osumljenca in oškodovanca na državno tožilstvo. V vabilu se navede razlog vabljenja. Če se vabilu odzoveta, seznani državni tožilec osumljenca s kazensko ovadbo in o tem, da bo ovadbo zavrgel, če se bo ravnal po njegovih navodilih in pravočasno izpolnil določene naloge, oškodovanca pa seznani s pomenom in posledicami odloženega pregona ter z njegovimi pravicami.

(2) Če je potrebno, da si državni tožilec pridobi neposredno od osumljenca ali oškodovanca kakšne podatke, da bi se lahko odločil ali naj odstopi zadevo v poravnavanje (161.a člen) ali naj

(7) The suspect and the injured party shall each bear their own costs of a deferred prosecution procedure, unless they agree that the suspect will also bear the costs of the injured party. The costs of implementing the tasks referred to in paragraph one of this Article shall not be deemed costs of criminal proceedings.

Article 163

The state prosecutor shall not be obliged to initiate criminal prosecution or may relinquish criminal prosecution:

1) if the criminal law lays down that the court may or must grant remission of penalty to the perpetrator of the criminal offence, and if the state prosecutor has assessed that, in view of the actual circumstances of the case, a conviction alone without a criminal sanction is not necessary;
2) if a criminal offence is punishable by a fine or a sentence of imprisonment of up to one year pursuant to the criminal law, and if the suspect or accused person, having genuinely repented of the offence, has prevented harmful consequences or compensated for all the damage, and the state prosecutor has assessed that, in view of the actual circumstances of the case, a criminal sanction would not be justified.

Article 163a

(1) In the procedure referred to in Article 162 of this Act, the state prosecutor shall summon the suspect and the injured party to the state prosecutor's office. The reasons for the summoning shall be stated in the summons. If they respond to the summons, the state prosecutor shall inform the suspect of the criminal complaint and explain that the criminal complaint will be dismissed if the suspect acts according to the state prosecutor's instructions and carries out certain tasks in due time, and shall inform the injured party of the meaning and consequences of deferred prosecution and of his or her rights.

(2) If the state prosecutor needs to obtain certain information directly from the suspect or the injured party in order to be able to decide whether to refer the case to a settlement procedure (Article 161a), or

sklene sporazum o priznanju krivde ali ne začne kazenskega pregona (163. člen) ali vloži predlog za izdajo kaznovalnega naloga (445.a člen), sme osumljenca in oškodovanca, ali samo enega izmed njiju, povabiti na državno tožilstvo. Povabljenega osumljenca seznani s kazensko ovadbo ter o odločitvah, ki jih lahko sprejme v postopku z ovadbo, oškodovanca pa s pomenom in posledicami možnih odločitev iz prejšnjega stavka ter z njegovimi pravicami.

(3) V primerih iz prejšnjih odstavkov sestavi državni tožilec uradni zaznamek, v katerega vpiše izjavo osumljenca ter oškodovanca. Uradnega zaznamka ne pošlje sodišču, če začne kazenski pregon zoper osumljenca.

(4) Če se osumljenec ali oškodovanec brez upravičenega razloga ne odzoveta vabilu, ju ni dopustno ponovno vabiti.

164. člen

(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.

165. člen

(1) Če je storilec kaznivega dejanja neznan, lahko

conclude a guilty plea agreement or not initiate criminal prosecution (Article 163), or file a motion for the issue of a punitive order (Article 445a), he or she may summon the suspect and the injured party, or only one of them, to the state prosecutor's office. The state prosecutor shall inform the summoned suspect of the criminal complaint and of the decisions that he or she may take in the criminal complaint procedure, and shall inform the injured party of the meaning and consequences of the potential decisions referred to in the preceding sentence and of his or her rights.

(3) In the instances referred to in the preceding paragraphs, the state prosecutor shall draw up an official note in which he or she shall record the statements of the suspect and the injured party. The official note shall not be sent to the court if criminal prosecution against the suspect is undertaken.

(4) A suspect or injured party that fails to respond to a summons without a justified reason may not be summoned again.

Article 164

(1) The police may, even before the opening of an investigation, seize the objects referred to in Article 220 of this Act if there is a danger in delaying, and may, under the conditions referred to in Article 218 of this Act, conduct a search of premises and a personal search.

(2) If the investigating judge does not immediately arrive at the location concerned, the police may inspect the location on their own and order the necessary expert examination, with the exception of autopsy and exhumation. If the investigating judge arrives at the location while these acts are in progress, he or she may take over and perform such acts by himself or herself.

(3) The police and/or the investigating judge must notify the state prosecutor of the acts referred to in the preceding paragraphs without delay.

Article 165

(1) If the perpetrator of a criminal offence is unknown, the

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.

165.a člen

(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 zasliševanju 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.

166. člen

(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.

authorised state prosecutor may propose that the investigating judge perform particular investigative acts which, in view of the circumstances of the case, it would be expedient to perform before opening the investigation. If the investigating judge disagrees with the proposal, the state prosecutor shall request that the decision be taken by the panel (paragraph six of Article 25).

(2) The records of the performed investigative acts shall be submitted to the state prosecutor.

Article 165a

(1) Before filing a request for investigation or indictment without investigation, the state prosecutor may propose that the investigating judge carry out one or more individual investigative acts, if this is necessary for his or decision about whether to dismiss the criminal complaint or initiate a criminal prosecution.

(2) The state prosecutor, the injured party, the suspect and the defence counsel may be present during the performance of the investigative act, of which they shall be notified by the investigating judge in an appropriate manner. If the proposed investigative act involves the interrogation of the suspect, the provisions of this Act on the summoning and interrogation of a suspect shall apply.

(3) If the investigating judge disagrees with the state prosecutor's proposal for the performance of the investigative act, he or she shall notify the state prosecutor of the reasons for such decision and the state prosecutor may proceed to request the performance of such act in his or her request for the opening of an investigation or in the indictment.

Article 166

(1) The investigating judge of the competent court may, before a ruling on investigation is rendered, perform particular investigative acts if there is a danger in delaying, but shall be bound to notify the competent state prosecutor thereof.

(2) Glede vabljenja in zasliševanja osumljenca se uporabljajo določbe o vabljenju in zasliševanju obdolženca.

XVI. poglavje
PREISKAVA

167. člen

(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.

168. člen

(1) Preiskava se opravi na zahtevo državnega tožilca.

(2) Zahtevo za preiskavo poda državni tožilec preiskovalnemu sodniku pristojnega sodišča.

(3) V zahtevi za preiskavo je treba navesti: osebo, zoper katero se zahteva preiskava, opis dejanja, iz katerega izhajajo zakonski znaki kaznivega dejanja, zakonsko označbo kaznivega dejanja, okoliščine, iz katerih izhaja utemeljenost suma, in že zbrane dokaze. V zahtevi državni tožilec predlaga, katere posamezne okoliščine naj se v preiskavi raziščejo in katera posamezna preiskovalna dejanja naj se opravijo, lahko pa predlaga tudi pripor tistega, zoper katerega je zahtevana preiskava.

(2) The summoning and interrogation of a suspect shall be governed by the provisions on the summoning and interrogation of the accused person.

Chapter XVI
INVESTIGATION

Article 167

(1) An investigation shall be opened against a particular person if reasonable suspicion exists that he or she has committed a criminal offence.

(2) In the course of investigation, evidence and information necessary to render a decision about whether to file an indictment or discontinue the proceedings shall be collected, as well as evidence which it would not be possible to repeat at the main hearing or its taking may involve difficulties, and also other evidence that may be useful for the proceedings and whose taking would be expedient in view of the circumstances of the case.

Article 168

(1) An investigation shall be conducted upon the request of the state prosecutor.

(2) The state prosecutor shall submit the request for investigation to the investigating judge of the competent court.

(3) The request for investigation shall specify the name of the person against whom the investigation is requested, the description of those factual aspects of the act that constitute statutory characteristics of a criminal offence, the statutory designation of the criminal offence, the circumstances on which the reasonable suspicion is founded, and the evidence already collected. The state prosecutor shall indicate in the request which particular circumstances should be examined in the investigation and which particular investigative acts should be performed,

(4) Državni tožilec pošlje preiskovalnemu sodniku kazensko ovadbo in vse spise ter zapisnike o opravljenih dejanjih. Hkrati mu pošlje predmete, ki utegnejo biti dokaz, ali navede, kje so.

(5) Če državni tožilec umakne zahtevo za preiskavo, preden je izdan sklep o preiskavi, preiskovalni sodnik s sklepom zavrže zahtevo in sporoči oškodovancu, da lahko začne pregon sam (60. in 62. člen).

169. člen

(1) Ko preiskovalni sodnik prejme zahtevo za preiskavo, pregleda spise; če se z zahtevo strinja, izda sklep o preiskavi, v katerem morajo biti podatki iz tretjega odstavka prejšnjega člena. Sklep pošlje državnemu tožilcu in obdolžencu.

(2) Preden izda sklep, zasliši preiskovalni sodnik tistega, zoper katerega je zahtevana preiskava, razen če bi bilo nevarno odlašati ali, če preiskovalni sodnik glede na že opravljeno zaslišanje po 148.a členu tega zakona in podano zahtevo za preiskavo oceni, da ponovno zaslišanje ni potrebno.

(3) Preden odloči o zahtevi državnega tožilca, lahko preiskovalni sodnik povabi državnega tožilca in tistega, zoper katerega je tožilec zahteval preiskavo, naj določenega dne prideta k sodišču, če je treba, da se izjavita o okoliščinah, ki utegnejo biti pomembne za odločitev o zahtevi, ali če misli, da bi bila iz drugih razlogov smotrna njuna ustna izjava. Ob tej priložnosti lahko dajeta stranki ustno svoje predloge, državni tožilec pa lahko spremeni ali dopolni svojo zahtevo za preiskavo, lahko pa predlaga tudi, naj se postopek izvede neposredno po obtožnici (170. člen).

and may also propose that the person against whom the investigation is requested be placed in detention.

(4) The state prosecutor shall deliver to the investigating judge the criminal complaint and all the documents and records on the acts undertaken. At the same time, he or she shall submit to the investigating judge the objects that might serve as evidence or indicate their whereabouts.

(5) If the state prosecutor withdraws the request for investigation before the ruling on investigation is rendered, the investigating judge shall dismiss the request by a ruling and inform the injured party that he or she may initiate the prosecution on his or her own (Articles 60 and 62).

Article 169

(1) Upon receiving a request for investigation, the investigating judge shall examine the documents and if he or she agrees with the request, he or she shall render a ruling on the opening of an investigation, which must contain the information referred to in paragraph three of the preceding Article. The investigating judge shall send the ruling to the state prosecutor and the accused person.

(2) Before rendering the ruling, the investigating judge shall interrogate the person against whom investigation is requested, except if there is danger in delaying, or if in view of the interrogation already carried out pursuant to Article 148a of this Act and the submitted request for investigation, he or she assesses that another interrogation is not necessary.

(3) Before deciding on the state prosecutor's request, the investigating judge may summon the state prosecutor and the person against whom investigation is requested to appear before the court on a specific day, if their statements regarding the circumstances that might be relevant for the decision on the request for investigation are necessary, or if the investigating judge believes that their oral statements might be useful for some other reason. At that juncture the parties may give proposals orally, and the state prosecutor may change or supplement his or her request for investigation and may also suggest that the investigation be undertaken immediately after the indictment has been filed (Article 170).

(4) Glede vabljenja in zasliševanja tistega, zoper katerega je zahtevana preiskava, se uporabljajo določbe tega zakona o vabljenju in zasliševanju obdolženca. Vabilu se priloži drugopis zahteve za preiskavo. Osebo, ki jo povabi po prejšnjem odstavku, pouči preiskovalni sodnik v smislu 5. člena tega zakona.

(5) Zoper sklep preiskovalnega sodnika o preiskavi se obdolženec lahko pritoži. Če mu je sklep ustno sporočen, lahko poda pritožbo pri tej priložnosti na zapisnik.

(6) Preiskovalni sodnik mora pritožbo takoj predložiti senatu (šesti odstavek 25. člena). Pritožba ne zadrži izvršitve sklepa.

(7) Če se preiskovalni sodnik ne strinja z zahtevo državnega tožilca za preiskavo, zahteva, naj o tem odloči senat (šesti odstavek 25. člena). Zoper sklep senata imajo obdolženec, državni tožilec in oškodovanec pravico do pritožbe, ki ne zadrži njegove izvršitve.

(8) Če se je zoper sklep senata pritožil samo oškodovanec in se pritožbi ugodi, se šteje da je oškodovanec s pritožbo prevzel pregon.

(9) V primerih iz šestega in sedmega odstavka tega člena mora senat odločiti v oseminštiridesetih urah.

(10) Pri odločanju o zahtevi za preiskavo senat ni vezan na pravno presojo dejanja, ki jo je navedel državni tožilec.

170. člen

(1) Preiskovalni sodnik lahko da soglasje k predlogu državnega tožilca, naj se ne opravi preiskava, če dajejo zbrani podatki, ki se nanašajo na kaznivo dejanje in storilca, dovolj podlage

(4) The summoning and interrogation of the person against whom an investigation has been requested shall be governed by the provisions of this Act on the summoning and interrogation of the accused person. A duplicate of the request for investigation shall be enclosed with the summons. The investigating judge shall instruct the person summoned in accordance with the preceding paragraph of this Article as provided by Article 5 of this Act.

(5) The accused person may appeal against the ruling of the investigating judge regarding an investigation. If the ruling is conveyed to the accused person orally, he or she may lodge the appeal orally on the record.

(6) The investigating judge shall be bound to immediately submit such appeal to the panel (paragraph six of Article 25). The appeal shall not stay the execution of the ruling.

(7) If the investigating judge disagrees with the investigation request of the state prosecutor, he or she shall demand that it should be decided by the panel (paragraph six of Article 25). The accused person, the state prosecutor and the injured party shall be entitled to lodge an appeal against the ruling of the panel, but it shall not stay its execution.

(8) If only the injured party has lodged an appeal against the ruling of the panel and if it is granted, it shall be deemed that the injured party has thereby assumed the prosecution.

(9) In the cases referred to in paragraphs six and seven of this Article, the panel shall be bound to decide within forty-eight hours.

(10) In deciding on the request for investigation, the panel shall not be bound by the legal assessment of the act stated by the state prosecutor.

Article 170

(1) The investigating judge may give consent to the state prosecutor's motion not to conduct an investigation if information obtained that refers to the criminal offence and the perpetrator provide sufficient

za vložitev obtožnice.

(2) Soglasje iz prejšnjega odstavka sme preiskovalni sodnik dati samo, če je pred tem zaslišal tistega, zoper katerega naj bo vložena obtožnica. Glede vabljenja in zaslišanja te osebe se uporabljajo določbe o vabljenju in zaslišanju obdolženca. Sporočilo o tem, da se strinja s predlogom, pošlje preiskovalni sodnik državnemu tožilcu in tistemu, zoper katerega naj bo vložena obtožnica.

(3) Rok za vložitev obtožnice je osem dni, vendar pa ga lahko senat (šesti odstavek 25. člena) na zahtevo državnega tožilca podaljša.

(4) Predlog iz prvega odstavka tega člena lahko poda državni tožilec tudi po vložitvi zahteve za preiskavo, dokler sklep o njej ni izdan.

(5) Če je preiskovalni sodnik mnenja, da ni pogojev za vložitev obtožnice brez preiskave, ravna, kot da bi bila zahtevana preiskava.

(6) Če je državni tožilec z obdolžencem sklenil sporazum o priznanju krivde ali če je za kaznivo dejanje v zakonu predpisana kazen zapora do osem let, sme državni tožilec mimo pogojev, ki so določeni v prejšnjih odstavkih, vložiti obtožnico tudi brez preiskave, če dajejo zbrani podatki, ki se nanašajo na kaznivo dejanje in storilca, dovolj podlage za obtožbo.

(7) Določbe prejšnjih odstavkov se uporabljajo tudi, kadar gre za kazenski pregon na zahtevo oškodovanca kot tožilca ali zasebnega tožilca; vendar pa v tem primeru roka iz tretjega odstavka tega člena ni mogoče podaljšati. Določbe prejšnjega odstavka pa se uporabljajo tudi za vložitev zasebne tožbe za kaznivo dejanje zoper čast in dobro ime, storjeno s tiskom, po radiu, televiziji ali z drugim sredstvom javnega obveščanja.

(8) Predlogu iz prvega odstavka tega člena in obtožnici, ki jo vloži po šestem odstavku tega člena, priloži državni tožilec

ground to file an indictment.

(2) The investigating judge may give consent referred to in the preceding paragraph only if he or she has previously interrogated the person against whom the indictment is to be filed. As regards the summoning and interrogation of that person, the provisions on the summoning and interrogation of the accused person shall apply. The investigating judge shall send notice of his or her consent to the motion to the state prosecutor and to the person against whom the indictment is to be lodged.

(3) The time limit for lodging the indictment shall be eight days, but it may be extended by the panel (paragraph six of Article 25) upon the request of the state prosecutor.

(4) The state prosecutor may file the motion referred to in paragraph one of this Article even after the request for investigation has been filed, but only until the ruling on the investigation request is rendered.

(5) If the investigating judge considers that the requirements for filing an indictment without investigation are not fulfilled, he or she shall proceed as if the investigation has been requested.

(6) If the state prosecutor concluded a guilty plea agreement with the accused person, or if a criminal offence punishable by a sentence of imprisonment of up to eight years prescribed by an Act is involved, he or she may, irrespective of the conditions defined in the provisions of the preceding paragraphs, also file an indictment without investigation if the collected information relating to the criminal offence and the perpetrator provides sufficient grounds for a charge.

(7) The provisions of the preceding paragraphs shall also apply if criminal prosecution is undertaken upon the request of the injured party acting as prosecutor or private prosecutor, but in this case, the time limit referred to in paragraph three of this Article may not be extended. The provisions of the preceding paragraph shall also apply to the filing of a private action for a criminal offence against honour and reputation committed through the press, radio, television or other mass media.

(8) The state prosecutor shall enclose with the motion referred to in paragraph one of this Article, and with the indictment filed in

kazensko ovadbo ter vse spise in zapisnike o opravljenih dejanjih kot tudi predmete, ki utegnejo biti dokaz, ali pa v predlogu navede, kje so.

accordance with paragraph six of this Article, the criminal complaint and all documents and records of the performed acts, as well as the objects that might serve as evidence, or shall indicate their whereabouts.

171. člen

(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.

Article 171

(1) The investigation shall be conducted by the investigating judge of the competent court.

(2) The investigating judge shall, as a rule, perform investigative acts only within the jurisdictional territory of his or her court. If this is in the interests of the investigation, he or she may also perform particular investigative acts outside the territory of his or her court, but in such case he or she shall be bound to notify thereof the court in whose jurisdictional territory such investigative acts are performed.

172. člen

(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.

Article 172

(1) In the course of investigation, the investigating judge may entrust the performance of particular investigative acts to the investigating judge of the court in whose jurisdictional territory these acts need to be carried out.

(2) The state prosecutor with jurisdiction for prosecution before the court to which the performance of a particular investigative act is entrusted may be present during the performance of such an investigative act, unless the competent state prosecutor states that he or she will be present.

(3) The investigating judge may entrust the enforcement of an order on the search of premises or personal search or the seizure of objects to the police in the manner provided by this Act.

(4) At the request or authorisation of the investigating judge, the police may photograph the accused person or take his or her fingerprints if this is necessary for the criminal procedure.

173. člen

Article 173

Pri preiskovalnih dejanjih ravna policija po ustreznih določbah tega zakona o preiskovalnih dejanjih.

In performing investigative acts, the police shall proceed according to the respective provisions of this Act on investigative acts.

174. člen

(1) Preiskovalni sodnik oziroma policija, ki so ji bila prepuščena posamezna preiskovalna dejanja, opravi po potrebi tudi druga preiskovalna dejanja, ki so s temi v zvezi ali iz njih izvirajo.

(2) Če preiskovalni sodnik, ki so mu bila prepuščena posamezna preiskovalna dejanja, za to ni pristojen, pošlje zadevo pristojnemu preiskovalnemu sodniku in o tem obvesti preiskovalnega sodnika, ki mu je zadevo poslal.

Article 174

(1) The investigating judge and/or the police entrusted with the performance of particular investigative acts shall, if appropriate, also perform other investigative acts related to or arising from the entrusted investigative acts.

(2) If the investigating judge entrusted with the performance of particular investigative acts has no jurisdiction over the matter, he or she shall refer the case to the competent investigating judge and notify the investigating judge who entrusted him or her with the case thereof.

175. člen

(1) Preiskava se opravi samo glede tistega kaznivega dejanja in zoper tistega obdolženca, na katerega se nanaša sklep o preiskavi.

(2) Če se med preiskavo pokaže, da je treba postopek razširiti tudi na kakšno drugo kaznivo dejanje ali zoper kakšno drugo osebo, obvesti preiskovalni sodnik o tem državnega tožilca. V takem primeru se smejo opraviti tista preiskovalna dejanja, ki jih ni mogoče odlašati; o vsem, kar je bilo storjeno, pa je treba obvestiti državnega tožilca.

(3) Glede razširitve preiskave veljajo določbe 168. in 169. člena tega zakona.

Article 175

(1) The investigation shall only be conducted regarding the criminal offence and the accused person specified in the ruling on investigation.

(2) If it becomes evident in the course of investigation that the proceedings should be expanded to another criminal offence or against another person, the investigating judge shall notify the state prosecutor thereof. In such case, those investigative acts that may not be delayed may be carried out, but the state prosecutor shall be notified of all the undertaken acts.

(3) Regarding the expansion of the investigation, the provisions of Articles 168 and 169 of this Act shall apply.

176. člen

Ko je izdan sklep o preiskavi, opravlja preiskovalni sodnik preiskovalna dejanja po predlogih strank ter tista dejanja, ki se mu zdijo potrebna za uspešno izvedbo postopka.

Article 176

After a ruling on the opening of the investigation is rendered, the investigating judge shall perform the investigative acts proposed by the parties, and also those acts which he or she deems necessary for the successful implementation of the procedure.

177. člen

(1) Stranke in oškodovanec smejo med preiskavo predlagati preiskovalnemu sodniku, naj se opravijo posamezna preiskovalna dejanja. Če se preiskovalni sodnik ne strinja s predlogom strank, naj se opravi posamezno preiskovalno dejanje, zahteva, naj o tem odloči senat (šesti odstavek 25. člena).

(2) Stranke in oškodovanec smejo dajati predloge iz prejšnjega odstavka tudi preiskovalnemu sodniku ali policiji, ki so ji prepuščena posamezna preiskovalna dejanja. Če se preiskovalni sodnik oziroma policija ne strinja s predlogom, obvesti o tem predlagatelja, ki lahko nato predlog ponovi pri preiskovalnem sodniku pristojnega sodišča.

178. člen

(1) Pri zaslišanju obdolženca sta lahko navzoča državni tožilec in zagovornik. Če preiskovalni sodnik oceni, da je njuna navzočnost v posameznem primeru potrebna, lahko odredi, da se zaslišanje opravi v njuni obvezni navzočnosti. Navzočnost državnega tožilca in zagovornika je obvezna vselej, ko gre za prvo zaslišanje po privedbi obdolženca na podlagi 157. člena tega zakona.

(2) Državni tožilec, oškodovanec, obdolženec in zagovornik so lahko navzoči pri ogledu in zaslišanju izvedencev.

(3) Državni tožilec in zagovornik sta lahko navzoča pri hišni preiskavi.

(4) Državni tožilec, obdolženec in zagovornik so lahko navzoči pri zaslišanju priče. Preiskovalni sodnik lahko odredi, da se obdolženec odstrani z zaslišanja, če priča v njegovi navzočnosti ne

Article 177

(1) During the investigation, the parties and the injured person may submit motions to the investigating judge to undertake particular investigative acts. If the investigating judge disagrees with the motion of the parties to undertake a particular investigative act, he or she shall request that the motion be determined by the panel (paragraph six of Article 25).

(2) The parties and the injured party may also submit the motions referred to in the preceding paragraph to the investigating judge or to the police entrusted with the performance of particular investigative acts. If the investigating judge or the police disagree with the motion, he or she or they shall notify the person who submitted the motion thereof, and this person may proceed to submit the motion in question to the investigating judge of the competent court.

Article 178

(1) The state prosecutor and the defence counsel may be present during the interrogation of the accused person. If the investigating judge assesses that their presence is necessary in a particular case, he or she may order that the interrogation take place only in their presence. The presence of the state prosecutor and the defence counsel shall be mandatory whenever the first interrogation is held after the accused person is brought before the investigating judge in accordance with Article 157 of this Act.

(2) The state prosecutor, the injured party, the accused person and the defence counsel may be present during the inspection of the crime scene and the examination of expert witnesses.

(3) The state prosecutor and the defence counsel may be present during the search of premises.

(4) The state prosecutor, the accused person and their defence counsel may be present during the examination of a witness. The investigating judge may order that the accused person be removed from

želi izpovedati ali če okoliščine kažejo, da v njegovi navzočnosti ne bo govorila resnice ali v primeru, če bo po zaslišanju priče potrebno opraviti sodno prepoznavo. Obdolženec ne sme biti navzoč pri zaslišanju priče, mlajše od 15 let, ki je oškodovanec katerega izmed kaznivih dejanj iz tretjega odstavka 65. člena tega zakona. Oškodovanec sme biti navzoč pri zaslišanju priče samo, če je verjetno, da priča ne bo prišla na glavno obravnavo. Preiskovalni sodnik lahko v posameznem primeru dovoli, da so zaradi zaščite integritete priče, mlajše od 15 let, ki je oškodovanec katerega izmed kaznivih dejanj iz tretjega odstavka 65. člena tega zakona, med njenim zaslišanjem navzoče tudi druge osebe.

(5) Preiskovalni sodnik mora na primeren način obvestiti državnega tožilca in zagovornika, kdaj in kje bo zasliševanje obdolženca. Prav tako mora na primeren način obvestiti državnega tožilca, obdolženca, zagovornika in oškodovanca, kdaj in kje bodo opravljena druga preiskovalna dejanja, pri katerih so lahko navzoči, razen če bi bilo nevarno odlašati. Če ima obdolženec zagovornika, obvesti preiskovalni sodnik praviloma samo njega. Če je obdolženec v priporu, preiskovalno dejanje pa naj bo opravljeno zunaj sedeža sodišča, odloči preiskovalni sodnik, ali je obdolženčeva navzočnost potrebna.

(6) Če tisti, ki mu je bilo poslano obvestilo o preiskovalnem dejanju, ne pride, se dejanje lahko opravi tudi v njegovi nenavzočnosti. Če preiskovalni sodnik odredi obvezno navzočnost, pa na zaslišanje obdolženca ne prideta državni tožilec ali zagovornik, se zaslišanje praviloma preloži, razen če bi potekel rok iz drugega odstavka 203. člena tega zakona oziroma če preiskovalni sodnik glede na spremenjene okoliščine oceni, da obvezna navzočnost ni več potrebna. O preložitvi oziroma izostanku z zaslišanja preiskovalni sodnik obvesti Vrhovno državno tožilstvo oziroma odvetniško zbornico.

(7) Stranke in zagovornik, ki so navzoči pri preiskovanih dejanjih lahko za razjasnitev stvari postavljajo obdolžencu, priči ali izvedencu posamezna vprašanja. Preiskovalni sodnik prepove vprašanje ali odgovor na postavljeno vprašanje, če ni dovoljeno ali če

the hearing if the witness is unwilling to testify in his or her presence or if the circumstances indicate that the witness will not tell the truth in his or her presence, or if a formal identification procedure will be required after hearing the witness. The accused person may not be present during the examination of a witness younger than 15 years who is the injured party of any of the criminal offences referred to in paragraph three of Article 65 of this Act. The injured party may only attend the examination of a witness if the witness is not likely to appear at the main hearing. In a particular case, the investigating judge may allow the presence of other persons during the hearing in order to protect the integrity of a witness under the age of 15 who is the victim of one of the criminal offences referred to in paragraph three of Article 65 of this Act.

(5) The investigating judge shall notify the state prosecutor and the defence counsel of the time and place fixed for the interrogation of the accused person in an appropriate manner. He or she shall likewise notify in an appropriate manner the state prosecutor, the accused person, the defence counsel and the injured party of the time and place fixed for the performance of other investigative acts they are entitled to attend, unless there is a danger in delaying. If the accused person has a defence counsel, the investigating judge shall, as a rule, notify only the defence counsel. If the accused person is in detention and the investigative act is to be performed outside the main court premises, the investigating judge shall decide whether the presence of the accused person is required.

(6) If a person who has been summoned fails to appear, the investigative act may also be performed in his or her absence. If mandatory presence is ordered by the investigating judge, but the state prosecutor or the defence counsel fails to appear at the interrogation of the accused person, the interrogation shall as a rule be postponed, unless the time limit referred to in paragraph two of Article 203 of this Act would thereby expire, and/or if the investigating judge, in view of the changed circumstances, assesses that mandatory presence is no longer required. The investigating judge shall notify the Office of the State Prosecutor General and/or the Bar Association of the postponement or failure to appear.

(7) The parties and the defence counsel present during an investigative act may seek clarification of certain matters by putting questions to the accused person, witness or expert witness. The investigating judge shall prohibit the asking or answering of a specific

ni v zvezi z zadevo (228. člen in prvi odstavek 241. člena). Oškodovanec lahko postavlja vprašanja le z dovoljenjem preiskovalnega sodnika. Tisti, ki so navzoči pri preiskovalnih dejanjih, imajo pravico zahtevati, naj se v zapisnik vpišejo njihove pripombe glede izvršitve posameznih dejanj, lahko pa predlagajo tudi izvedbo posameznih dokazov.

(8) Za razjasnitev posameznih tehničnih ali drugih strokovnih vprašanj, ki nastanejo v zvezi s pridobljenimi dokazi, pri zaslišanju obdolženca ali pri drugih preiskovalnih dejanjih, lahko pokliče preiskovalni sodnik osebo ustrezne stroke, da mu da o takih vprašanjih potrebna pojasnila. Če so stranke pri tem navzoče, lahko zahtevajo, naj da ta oseba natančnejša pojasnila. Če je potrebno, lahko zahteva preiskovalni sodnik pojasnila tudi od ustreznega strokovnega zavoda.

(9) Določbe prejšnjih odstavkov se uporabljajo tudi, če se opravi preiskovalno dejanje pred sklepom o preiskavi.

question if it is not allowed or has no connection with the case considered (Article 228 and paragraph one of Article 241). The injured party may only ask questions with the permission of the investigating judge. The persons present during investigative acts shall be entitled to request that their comments regarding the performance of certain acts be entered in the record and may also propose that certain evidence be presented.

(8) The investigating judge may summon an appropriate expert to clarify specific technical or other expert issues arising in connection with the obtained evidence, during the interrogation of the accused person or during other investigative acts. If the parties are present when the clarifications are given, they may request that the expert provide detailed explanations with regard to these issues. Where necessary, the investigating judge may also seek clarifications from the appropriate specialised institution.

(9) The provisions of the preceding paragraphs shall also apply if the investigative act is performed before the ruling on the opening of the investigation is rendered.

179. člen

(1) Preiskovalni sodnik s sklepom prekine preiskavo, če obdolženec po storjenem kaznivem dejanju duševno zboli ali če nastane pri njem duševna motnja ali če zboli za kakšno drugo hudo boleznijo, zaradi katere se dalj časa ne more udeleževati postopka ali če je na begu. Enako ravna preiskovalni sodnik, če so podane druge okoliščine, ki začasno preprečujejo pregon obdolženca (če ni potrebnega predloga ali dovoljenja za pregon ali če ni zahteve upravičenega tožilca).

(2) Preden se preiskava prekine, je treba zbrati vse dokaze o kaznivem dejanju in kazenski odgovornosti obdolženca, do katerih je mogoče priti.

(3) Ko prenehajo ovire, ki so povzročile prekinitev, nadaljuje preiskovalni sodnik preiskavo.

Article 179

(1) The investigating judge shall suspend investigation by a ruling if the accused person, after committing a criminal offence, becomes mentally ill or suffers from a mental disorder or from some other serious disease which prevents him or her from taking part in the proceedings for an extended period of time, or if he or she is absconding. The investigating judge shall act in the same manner if other circumstances exist which temporarily prevent the prosecution of the accused person (the absence of the necessary motion or authorisation for prosecution, or the absence of the request from the authorised prosecutor).

(2) Before the investigation is suspended, all evidence which can be obtained in relation to the criminal offence and the criminal liability of the accused person shall be collected.

(3) The investigating judge shall resume the investigation when the obstacles that caused suspension cease to exist.

180. člen

(1) Če državni tožilec med preiskavo ali po končani preiskavi izjavi, da odstopa od pregona, preiskovalni sodnik obvesti o tem oškodovanca in ga posebej pouči o njegovi pravici, da sme nadaljevati pregon (60. in 62. člen). Če oškodovancu obvestila ni bilo mogoče vročiti, ker sodišču ni prijavil spremembe naslova ali prebivališča, se šteje, da ne namerava nadaljevati pregona.

(2) Če oškodovanec ne nadaljuje pregona, preiskovalni sodnik s sklepom ustavi preiskavo. Sklep se pošlje obdolžencu, državnemu tožilcu in oškodovancu.

181. člen

(1) Preiskavo ustavi s sklepom senat (šesti odstavek 25. člena), kadar med preiskavo odloča o kateremkoli vprašanju, in sicer v naslednjih primerih:

1) če spozna, da dejanje, ki ga je obdolženec obdolžen, ni kaznivo dejanje;
2) če so okoliščine, ki izključujejo krivdo ali kaznivost obdolženca, pa ni pogojev za varnostne ukrepe;
3) če je kazenski pregon zastaran ali je dejanje obseženo z amnestijo ali pomilostitvijo ali če so podane druge okoliščine, ki izključujejo pregon;
4) če ni dokazov, da bi bil obdolženec storil kaznivo dejanje;
5) 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.

Article 180

(1) If the state prosecutor, in the course of an investigation or after its conclusion, declares that he or she is relinquishing the prosecution, the investigating judge shall notify the injured party thereof and shall also specifically inform him or her of his or her right to continue the prosecution (Articles 60 and 62). If it is impossible to serve such notification on the injured party because he or she has failed to report a change in address or residence to the court, it shall be deemed that the injured party does not intend to continue the prosecution.

(2) If the injured party does not continue the prosecution, the investigating judge shall discontinue the investigation by a ruling. The ruling shall be delivered to the accused person, the state prosecutor and the injured party.

Article 181

(1) The panel shall discontinue investigation by a ruling (paragraph six of Article 25) when deciding on any issue in the course of an investigation, in the following instances:

1) if it finds that the offence the accused person is charged with is not a criminal offence;
2) if circumstances precluding the accused person's culpability or criminal liability exist and there are no grounds for the application of precautionary measures;
3) if criminal prosecution becomes statute-barred or if the offence is amnestied or pardoned, or if other circumstances exist precluding prosecution;
4) if there is no evidence that the accused person has committed the criminal offence, or
5) if there is disproportionality between the minor significance of the criminal offence (its risks are insignificant because of the nature or gravity of the offence, or because the harmful consequences are insignificant or did not occur, or because of other circumstances in which the criminal offence was committed and the low degree of the perpetrator’s culpability, or because of the perpetrator's personal circumstances), and the consequences to be caused by criminal

(2) Če preiskovalni sodnik spozna, da so razlogi za ustavitev preiskave iz prejšnjega odstavka, obvesti o tem državnega tožilca. Če državni tožilec v osmih dneh ne obvesti preiskovalnega sodnika, da odstopa od pregona, zahteva preiskovalni sodnik, naj senat odloči o ustavitvi preiskave.

(3) Sklep o ustavitvi preiskave se pošlje državnemu tožilcu, oškodovancu in obdolžencu; če je ta v priporu, ga je treba takoj izpustiti. Zoper ta sklep imata državni tožilec in oškodovanec pravico pritožbe.

(4) Če se je zoper sklep o ustavitvi preiskave pritožil samo oškodovanec in je pritožbi ugodeno, se šteje, da je oškodovanec s pritožbo prevzel pregon.

(5) Če so podane okoliščine, ki samo začasno preprečujejo pregon obdolženca (prvi odstavek 179. člena), senat s sklepom prekine preiskavo.

(6) Ko prenehajo ovire, ki so povzročile prekinitev, nadaljuje preiskovalni sodnik preiskavo.

182. člen

(1) Preden konča preiskavo, si preiskovalni sodnik preskrbi podatke o obdolžencu, ki so navedeni v prvem odstavku 227. člena tega zakona, če manjkajo ali če se je treba o njih prepričati, kot tudi podatke o njegovih prejšnjih neizbrisanih obsodbah; če obdolženec še prestaja kazen ali kakšno drugo sankcijo, ki je zvezana z odvzemom prostosti, pa podatke o njegovem vedenju med prestajanjem kazni oziroma druge sankcije. Po potrebi si priskrbi podatke o prejšnjem življenju obdolženca in o razmerah, v katerih živi, o njegovem osebnem dohodku v zadnjih treh mesecih, kot tudi o drugih okoliščinah, ki se tičejo njegove osebnosti. Preiskovalni sodnik lahko odredi medicinske preglede ali psihološke preiskave

prosecution.

(2) If the investigating judge finds that the reasons for the discontinuance of investigation referred to in the preceding paragraph exist, he or she shall notify the state prosecutor thereof. If within eight days the state prosecutor fails to inform the investigating judge that he or she will relinquish prosecution, the investigating judge shall request that the panel decide on the discontinuation of investigation.

(3) The ruling to discontinue the investigation shall be submitted to the state prosecutor, the injured party and the accused person; if the accused person is in detention, he or she shall be immediately released. The state prosecutor and the injured party shall have the right to appeal against this ruling.

(4) If an appeal is lodged against the ruling on the discontinuation of investigation only by the injured party and the appeal is granted, it shall be deemed that the injured party has assumed the prosecution by lodging the appeal.

(5) If circumstances which prevent the prosecution of the accused person are of a temporary nature (paragraph one of Article 179), the panel shall suspend the investigation by a ruling.

(6) When the obstacles that caused the suspension cease to exist, the investigating judge shall resume the investigation.

Article 182

(1) Before the conclusion of the investigation, the investigating judge shall obtain information on the accused person referred to in paragraph one of Article 227 of this Act if such information is missing or has to be verified, as well as information on the accused person's previous convictions; if the accused person is still serving a sentence or some other sanction which is associated with the deprivation of liberty, this shall include information on the accused person's behaviour while serving a prison sentence or other sanction. If necessary, the investigating judge shall also obtain information on the earlier life of the accused person, on the circumstances in which he or she lives, his or her personal income over the last three months and other circumstances concerning his or her

obdolženca, če je treba dopolniti podatke o njegovi osebnosti.

(2) Če prihaja v poštev izrek enotne kazni, s katero naj bodo zajete tudi kazni iz prejšnjih obsodb, zahteva preiskovalni sodnik zadevne spise.

183. člen

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.

184. člen

(1) Preiskovalni sodnik konča preiskavo, ko spozna, da je stanje stvari v preiskavi zadosti razjasnjeno. Če je obdolženec v priporu in pripora pred vložitvijo obtožnice ni več mogoče podaljšati, preiskovalni sodnik pošlje spise državnemu tožilcu najpozneje petnajst dni pred iztekom pripora.

(2) Po končani preiskavi pošlje preiskovalni sodnik spise državnemu tožilcu; ta mora v petnajstih dneh predlagati dopolnitev preiskave ali vložiti obtožnico ali pa izjaviti, da odstopa od pregona. Ta rok sme senat (šesti odstavek 25. člena) na predlog državnega tožilca podaljšati.

(3) Obtožnico, v kateri predlaga podaljšanje pripora, mora državni tožilec vložiti najmanj pet dni pred iztekom pripora.

(4) Če se preiskovalni sodnik ne strinja s predlogom državnega tožilca za dopolnitev preiskave, zahteva, naj o tem odloči

personality. The investigating judge may order medical or psychological examinations of the accused person to supplement the information on his or her personality.

(2) If a joint sentence which is to include the sentences from previous judgments is considered, the investigating judge shall request the relevant files.

Article 183

If the parties and the defence counsel were not present during particular investigative acts and the investigating judge assesses that it would be in the interests of the further course of the investigation if they were acquainted with important evidence, he or she shall inform them that they may get acquainted with such evidence within a specific time limit and that they may make motions for new evidence to be taken.

Article 184

(1) The investigating judge shall conclude the investigation when he or she finds that the facts of the case have been sufficiently clarified. If the accused person is in detention which may no longer be extended prior to the filing of the indictment, the investigating judge shall submit the files to the state prosecutor not later than fifteen days before the expiry of the detention period.

(2) After the conclusion of the investigation, the investigating judge shall deliver the case files to the state prosecutor, who is bound to file, within fifteen days, a motion to supplement the investigation or an indictment, or declare that he or she relinquishes prosecution. The panel (paragraph six of Article 25) may extend this time limit on the motion of the state prosecutor.

(3) The state prosecutor must file the indictment requesting an extension of detention not later than five days before the expiry of the detention period.

(4) If the investigating judge disagrees with the state prosecutor's motion to supplement the investigation, he or she shall

senat (šesti odstavek 25. člena). Če senat zavrne predlog državnega tožilca, začne teči rok iz drugega odstavka od dneva, ko je državnemu tožilcu sporočena njegova odločba.

(5) Če se državni tožilec ne drži roka, ki je določen v drugem, tretjem in četrtem odstavku tega člena, mora o razlogih za to obvestiti Vrhovno državno tožilstvo.

185. člen

(1) Če preiskava ni končana v šestih mesecih, mora preiskovalni sodnik obvestiti predsednika sodišča, zakaj preiskava še ni končana.

(2) Predsednik sodišča ukrene, kar je potrebno, da se preiskava konča.

186. člen

(1) Oškodovanec kot tožilec in zasebni tožilec lahko zahtevata od preiskovalnega sodnika pristojnega sodišča, naj opravi preiskavo oziroma predlagata njeno dopolnitev. Med preiskavo lahko dajeta preiskovalnemu sodniku tudi druge predloge.

(2) Glede uvedbe, izvedbe, prekinitve in ustavitve preiskave se smiselno uporabljajo tiste določbe tega zakona, ki se nanašajo na uvedbo in potek preiskave na zahtevo državnega tožilca. Če oškodovanec kot tožilec in zasebni tožilec ne prideta na zaslišanje obdolženca, čeprav sta bila v redu obveščena in tudi ne njun pooblaščenec, se šteje, da sta umaknila zahtevo za preiskavo oziroma odstopila od kazenskega pregona. Glede vrnitve v prejšnje stanje se smiselno uporabljajo določbe 58. člena tega zakona.

(3) Ko preiskovalni sodnik spozna, da je preiskava končana, obvesti o tem oškodovanca kot tožilca ali zasebnega tožilca

request that the panel decide on the matter (paragraph six of Article 25). If the panel rejects the motion of the state prosecutor, the time limit referred to in paragraph two shall start to run from the day when the state prosecutor was notified of the panel's decision.

(5) If the state prosecutor fails to observe the time limit specified in paragraphs two, three and four of this Article, he or she is bound to notify the Office of the State Prosecutor General of the reasons.

Article 185

(1) If the investigation is not concluded within six months, the investigating judge shall be bound to notify the president of the court of the reasons for this.

(2) The president of the court shall undertake the necessary measures to conclude the investigation.

Article 186

(1) An injured party acting as prosecutor and a private prosecutor may submit a request to the investigating judge of the competent court to open an investigation or a motion to supplement an investigation. During the investigation, they shall also be entitled to submit other motions to the investigating judge.

(2) The provisions of this Act governing the opening and conduct of an investigation upon the request of the state prosecutor shall apply *mutatis mutandis* to the opening, conduct, suspension and discontinuance of an investigation. If the injured party as prosecutor and the private prosecutor, although being duly summoned, fail to appear at the interrogation of the accused person, and if their counsel also fails to appear, it shall be considered that they have withdrawn the request for investigation and/or to have relinquished criminal prosecution. Regarding *restitutio ad integrum*, the provisions of Article 58 of this Act shall apply *mutatis mutandis*.

(3) Where the investigating judge finds that the investigation is concluded, he or she shall inform the injured party acting as prosecutor or

in ga opozori, da mora v petnajstih dneh vložiti obtožnico oziroma zasebno tožbo in da se bo štelo, da je odstopil od pregona, če tega ne bi storil, in bo postopek s sklepom ustavljen. Tako opozorilo mora dati preiskovalni sodnik tudi, če senat (šesti odstavek 25. člena) zavrne predlog oškodovanca kot tožilca ali predlog zasebnega tožilca za dopolnitev preiskave zato, ker misli, da je stanje stvari dovolj razjasnjeno.

the private prosecutor thereof and shall instruct them that they should file an indictment or a private action within fifteen days, and that if they fail to do so, it shall be deemed that they have relinquished prosecution, and the proceedings shall be discontinued by a ruling. The investigating judge is also bound to give such an instruction if the panel (paragraph six of Article 25) rejects the motion of the injured party as prosecutor or the motion of the private prosecutor to supplement the investigation because it considers that the facts of the case have been sufficiently clarified.

187. člen

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.

Article 187

If the investigating judge needs the assistance (criminological and technical, as well as other) of the police or other state authorities regarding the investigation, they shall be bound to provide this assistance upon his or her request. The investigating judge may also request assistance from companies and other legal entities if this is necessary for the performance of an investigative act that may not be delayed.

188. člen

Če to terjajo koristi kazenskega postopka, ohranitev tajnosti, koristi javnega reda ali razlogi morale, varstva osebnega ali družinskega življenja obdolženca, oškodovanca ali priče, naloži uradna oseba, ki opravlja preiskovalno dejanje, tistim, ki jih zaslišuje ali so navzoči pri preiskovalnih dejanjih ali pa pregledujejo preiskovalne spise, da morajo ohraniti v tajnosti posamezna dejstva ali podatke, ki jih pri tem zvedo, in jih opozori, da pomeni izdaja tajnosti kaznivo dejanje. Taka odredba se zapiše v zapisnik o preiskovalnem dejanju oziroma zaznamuje na pregledanih spisih, opozorjena oseba pa jo podpiše.

Article 188

If necessary for the interests of criminal proceedings, for the purpose of keeping information confidential, for reasons of public order or for moral considerations and protection of the personal or family life of the accused person, of the injured party or of a witness, the official who conducts an investigative act shall order the persons who are being interrogated or are present during investigative acts, or who inspect investigation files, to keep certain facts or information they have learned in the proceedings confidential, and shall inform them that the disclosure of confidential data is a criminal offence. Such order shall be entered in the record of investigative acts or shall be noted in the inspected files, and the person informed shall sign it.

189. člen

Kadar odloča senat med preiskavo, sme zahtevati od preiskovalnega sodnika in od strank potrebna pojasnila, lahko pa tudi pokliče obe stranki, naj na njegovi seji ustno razložita svoja stališča.

Article 189

Where the panel decides during an investigation, it may seek the necessary explanations from the investigating judge and the parties, and may also summon both parties to a panel session in order to explain their arguments orally.

190. člen

(1) Preiskovalni sodnik sme kaznovati z denarno kaznijo določeno v prvem odstavku 78. člena tega zakona vsakogar, kdor med preiskovalnim dejanjem še po opominu moti red. Če njegova udeležba ni potrebna, ga sme odstraniti s kraja, kjer se dejanje opravlja.

(2) Obdolženec ne more biti kaznovan z denarno kaznijo.

(3) Če državni tožilec moti red, ravna preiskovalni sodnik v skladu s petim odstavkom 302. člena tega zakona.

191. člen

(1) Stranki in oškodovanec se lahko vselej obrnejo na predsednika sodišča, pred katerim teče postopek, in se pri njem pritožijo zaradi zavlačevanja postopka in drugih nepravilnosti med preiskavo.

(2) Predsednik sodišča preizkusi navedbe v pritožbi in obvesti pritožnika, ki je to zahteval, kaj je ukrenil.

XVII. poglavje
UKREPI ZA ZAGOTOVITEV OBDOLŽENČEVE NAVZOČNOSTI, ZA ODPRAVO PONOVITVENE NEVARNOSTI IN ZA USPEŠNO IZVEDBO KAZENSKEGA POSTOPKA

1. Skupna določba

192. člen

(1) Ukrepi, ki se lahko uporabijo za zagotovitev obdolženčeve navzočnosti, za odpravo ponovitvene nevarnosti in za uspešno izvedbo kazenskega postopka, so: vabilo, privedba, obljuba

Article 190

(1) The investigating judge may impose a fine referred to in paragraph one of Article 78 of this Act on any person who, despite being warned, continues to disrupt an investigative act. If the attendance of such a person is not necessary, he or she may be removed from the place where the investigative act is performed.

(2) The accused person may not be fined.

(3) If the state prosecutor causes disruption, the investigating judge shall proceed pursuant to paragraph five of Article 302 of this Act.

Article 191

(1) The parties and the injured person may always approach the president of the court before which the proceedings are pending in order to complain about the delay of proceedings and other irregularities during an investigation.

(2) The president of the court shall examine the allegations in the complaint and inform the person who submitted the complaint of the steps taken.

Chapter XVII
MEASURES TO ENSURE THE ACCUSED PERSON'S APPEARANCE, ELIMINATE THE RISK OF RECIDIVISM AND SUCCESSFULLY CONDUCT CRIMINAL PROCEEDINGS

1. Common provision

Article 192

(1) The measures which may be used to ensure the accused person's appearance, eliminate the risk of recidivism and to successfully conduct criminal proceedings shall include: summons, forced appearance,

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.

2. Vabilo

193. člen

(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

the accused person's promise not to leave his or her place of residence, restraining orders prohibiting him or her from approaching a specific place or person, reporting to the police station, bail, pretrial house detention and detention.

(2) In deciding which measures referred to in the preceding paragraph should be applied, the court must take into account the conditions defined for individual measures. In selecting the measure, it must also ensure that it does not apply a more stringent measure if the same purpose can be achieved with a more lenient measure.

(3) These measures shall also be lifted *ex officio* if the reasons that dictated them cease to exist or if they are replaced by more lenient measures should the relevant conditions arise.

2. Summons

Article 193

(1) The appearance of the accused person during criminal procedural acts shall be ensured by a summons. The summons shall be sent to the accused person by the court.

(2) The summons shall be sent to the accused person in the form of a sealed written document containing: the address of the court sending the summons; the name and surname of the accused person; the designation of the criminal offence he or she is charged with; the place, day and hour at which he or she is to appear; the indication that he or she is being summoned as an accused person; a warning that he or she will be brought in forcibly if he or she fails to appear; an instruction on the obligation to duly justify his or her absence if summoned to appear (paragraphs five and six of this Article); the official seal and the name and surname of the judge issuing the summons.

(3) When summoned for the first time, the accused person shall be informed in the summons of his or her right to retain a defence counsel and of the right of the defence counsel to attend his or her interrogation.

(4) The accused person must immediately notify the court of any

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.

3. Privedba

194. člen

change to his or her address and any intention to change the place of residence. The accused person must be informed of the aforementioned obligation at his or her first interrogation and/or upon the service of an indictment without investigation (paragraph six of Article 170), a motion of indictment or a private action, whereby he or she shall be warned of the consequences provided by this Act.

(5) The court may justify the accused person's absence if there are justifiable reasons that prevent him or her from coming to court, such as the death of a close relative, medical reasons, a natural disaster or an urgent obligation where failure to comply would result in significant damage.

(6) The accused person must file an excuse with the court before which the proceedings are pending at least 48 hours before the hearing to which he or she has been summoned, unless the reason arises later and could not have been foreseen. If the accused person fails to comply with the summons for medical reasons, the court shall only consider them if the illness or injury is sudden and unpredictable and prevents him or her from coming to court or participating in the criminal proceedings. The accused party must submit a doctor's certificate issued on the prescribed form in accordance with the Act governing health care. The court may request that the justifiability of issuing such doctor's certificate be assessed by a designated doctor of the Health Insurance Institute in accordance with the Act governing health care. If it is found that the issue of the doctor's certificate was justified, the costs incurred by the assessment shall be borne by the Health Insurance Institute, and if the issue of the doctor's certificate is found to be unjustified, they shall be borne by the accused person.

(7) If the accused person is unable to comply with the summons due to an illness or some other insurmountable impediment, he or she shall be interrogated at the place of his or her whereabouts, or shall be provided with transport to the court building or some other place where the procedural act is carried out.

3. Forced appearance

Article 194

(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.

(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.

4. Obljuba obdolženca, da ne bo zapustil prebivališča

195. člen

(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

(1) An order to bring in forcibly the accused person may be issued by the court if a ruling on detention is issued or if the accused person who has been duly summoned fails to appear and fails to justify his or her absence (paragraphs five and six of the preceding Article), or if the summons or the judgment imposing a sentence of imprisonment on the accused person could not be duly served on him or her and the circumstances clearly indicate that the accused person is trying to evade such service, after all other methods of service have failed.

(2) The order on forced appearance shall be executed by the police.

(3) Forced appearance shall be ordered in writing. The order must contain: the name and surname of the accused person who is to be brought in forcibly, the designation of the criminal offence he or she is charged with, the indication of the relevant provision of criminal law and the reason why the forced appearance is ordered, as well as the official seal and signature of the judge ordering it.

(4) The person responsible for executing the order shall serve the order on the accused person and ask him or her to go with him or her. If the accused person refuses to comply, the person responsible shall bring him or her in by force.

(5) The bringing in forcibly of military personnel, police members or prison guards shall be ordered through their command and/or the commanding officer or superior.

4. Promise of the accused person not to leave his or her place of residence

Article 195

(1) If grounds exist for the suspicion that during the proceedings, the accused person may go into hiding or leave for an unknown destination or abroad, the court may request that he or she makes a commitment not to go into hiding or leave his or her place of residence or abode without the permission of the court. If the accused

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.

4.a Prepoved približanja določenemu kraju ali osebi

195.a člen

(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

person is subject to criminal proceedings for a criminal offence committed abroad and there is a risk that he or she might repeat the criminal offence abroad, the accused person may be requested to make a commitment not to leave the country without the court's permission. The promise given shall be entered in the record.

(2) After the accused person has given the promise referred to in the preceding paragraph, he or she may be temporarily deprived of his or her passport and/or prohibited from using another document to cross the border. An appeal against the ruling on deprivation of the passport and/or prohibition of the use of another document to cross the border shall not stay its execution.

(3) The accused person bound by the aforementioned promise shall be warned that detention may be ordered against him or her if he or she breaks the promise.

4.a Restraining orders prohibiting to approach a specific place or person

Article 195a

(1) If the circumstances referred to in point 2 or 3 of paragraph one of Article 201 of this Act exist, but the risk that the accused person will destroy the traces of criminal offence, influence witnesses, accomplices or concealers, or repeat the criminal offence, complete an attempted criminal offence or commit a criminal threat can be prevented by restraining orders prohibiting the accused person from approaching a specific place or person, the court shall apply such measure.

(2) The court shall set an appropriate distance from the specific place or person which the accused person must respect and may not cross intentionally, or prohibit the accused person from contacting such person by any means, including through the use of electronic means of communication; in the contrary case, the court may order detention against him or her. The accused person must always be informed of such consequences in advance.

(3) If the distance which the accused person must respect or the prohibition from contacting the person concerned by any means, including

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.b Javljanje na policijski postaji

195.b člen

(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.

through the use of electronic means of communication, is intentionally violated by the person protected by the measure, the court may impose on such person each time he or she violates the measure the fine referred to in Article 78 of this Act.

(4) The court shall decide on the measure referred to in this Article by a reasoned ruling; the reasoning must contain the grounds for the suspicion that the accused person has committed a criminal offence, the grounds for the existence of circumstances referred to in paragraph one of this Article and the grounds for the application of this measure.

(5) The provisions of paragraphs five and six of Article 199a of this Act shall apply *mutatis mutandis* to the monitoring of the measure that prohibits access to a certain place or approaching a certain person, and action to be taken in the event of its violation.

4.b Reporting to a police station

Article 195b

(1) If there is a fear that the accused person will go into hiding or leave for an unknown destination or abroad during the proceedings, the court may decide that he or she must report on a daily basis or periodically at a specified time at the police station located in the area where he or she has permanent or temporary residence, or where he or she is staying at the time of deciding on the application of measures to ensure his or her appearance. The ruling shall be served on the accused person and sent to the relevant police station.

(2) If the accused person fails to report at the police station as determined in the ruling, the police must notify the court without delay; the court may order detention against the accused person in the event of his or her intentional violation of this obligation. The accused person must always be informed of these consequences in advance.

(3) The court shall decide on the measure referred to in this Article by a reasoned ruling; the reasoning must contain the grounds for the suspicion that the accused person has committed a criminal offence, the grounds for the existence of circumstances referred to in paragraph

(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. Varščina

196. člen

(1) Če bi bilo treba obdolženca pripreti ali če je že v priporu samo zaradi tega, ker se je bati, da bo pobegnil, se lahko pusti na prostosti oziroma izpusti, če da on osebno ali kdo drug zanj varščino, da do konca kazenskega postopka ne bo pobegnil, sam obdolženec pa obljubi, da se ne bo skrival in da brez dovoljenja ne bo zapustil svojega prebivališča.

(2) Ob izpolnjenih pogojih za odreditev pripora samo iz razloga ponovitvene nevarnosti (3. točka prvega odstavka 201. člena) se, razen v primeru, ko gre za kazniva dejanja iz XIV., XV., XIX., XX., XXI., XXVII., XXVIII., XXIX., XXX., XXXIII. in XXXIV. poglavja kazenskega zakonika, za katera je predpisana kazen pet ali več let zapora, obdolženca ob dani varščini in obljubi, da kaznivih dejanj ne bo ponavljal, da poskušanega kaznivega dejanja ne bo dokončal oziroma da ne bo storil kaznivega dejanja, s katerim je grozil, lahko pusti na prostosti oziroma izpusti, če je že v priporu.

197. člen

(1) Varščina se vselej glasi na denarni znesek, ki se določi glede na težo kaznivega dejanja, osebne in družinske razmere

one of this Article and the grounds for the application of this measure.

(4) Unless otherwise provided in this Article, the provisions of this Act on detention shall apply *mutatis mutandis* to the ordering, duration, extension and lifting of the measures referred to in the preceding Article and in this Article.

(5) The extension of the measures referred to in the preceding Article and in this Article before the indictment is lodged shall always be determined by the investigating judge *ex officio* or upon the motion of the state prosecutor.

5. Bail

Article 196

(1) If an accused person should be placed in detention or if he or she is already in detention merely as a flight risk, he or she may be left at liberty or be released on bail if he or she personally or another person on his or her behalf deposits a bail vouching that he or she will not flee before the conclusion of criminal proceedings, and if the accused person promises that he or she will not go into hiding and leave his or her residence without permission.

(2) If the conditions for ordering detention are fulfilled merely for the risk of repeating the criminal offence (point 3 of paragraph one of Article 201), the accused person, provided that the bail has been deposited and the accused person has promised not to repeat the criminal offence, not to complete an attempted criminal offence or not to commit a criminal threat, may be left at liberty or be released if in detention, except in cases involving criminal offences referred to in Chapters XIV, XV, XIX, XX, XXI, XXVII, XXVIII, XXIX, XXX, XXXIII and XXXIV of the Criminal Code punishable by a sentence of imprisonment of five or more years.

Article 197

(1) Bail shall always be an amount of money determined relative to the gravity of the criminal offence, the personal and family

obdolženca ter glede na gmotne razmere tistega, ki jo daje.

(2) Varščina se lahko da v gotovini, v vrednostnih papirjih, v dragocenostih ali v drugih premičnih stvareh večje vrednosti, ki jih je lahko vnovčiti in hraniti, v hipoteki za znesek varščine na nepremičnini tistega, ki varščino daje, ali pa v osebni zavezi ene ali več oseb, da bodo plačale določeni znesek, če obdolženec pobegne.

(3) Če obdolženec pobegne, se s sklepom določi, da vrednost, ki je bila dana kot varščina, pripade proračunu.

(4) Če obdolženec ponovi kaznivo dejanje, dokonča poskušeno kaznivo dejanje ali stori kaznivo dejanje, s katerim je grozil, se lahko pripre. Z dano varščino se ravna po prejšnjem odstavku.

198. člen

(1) Kljub dani varščini se obdolženec lahko pripre, če v redu povabljen ne pride in svojega izostanka ne opraviči, če se pripravlja na beg ali če se pokaže potem, ko je bil puščen v prostosti, zoper njega kakšen drug zakonski razlog za pripor.

(2) V primeru iz prejšnjega odstavka varščina preneha. Položeni denarni znesek, dragocenosti, vrednostni papirji ali druge premične stvari se vrnejo, hipoteka pa izbriše. Enako se ravna tudi, če se kazenski postopek pravnomočno konča s sklepom o ustavitvi ali zavrženjem obtožnice ali s sodbo.

(3) V primeru, ko je bila varščina dana na podlagi drugega odstavka 196. člena tega zakona, preneha, ko je kazenski postopek pravnomočno končan. Z varščino se ravna enako kot v prejšnjem odstavku.

(4) Če se s sodbo izreče kazen zapora, preneha varščina šele, ko obsojenec nastopi kazen.

circumstances of the accused person and the financial standing of the person who provides it.

(2) Bail may be provided in cash, securities, valuables or other movable assets of substantial value which are easy to sell and safeguard, as a mortgage in the amount of the bail placed on the immovable assets of the person providing the bail, or as a personal liability of one or more persons that should the accused person flee, he or she or they will pay the set amount of the bail.

(3) If the accused person flees, the amount provided as bail shall be confiscated towards the budget by a ruling.

(4) If the accused person repeats the criminal offence, completes an attempted criminal offence or commits a criminal threat, he or she may be placed in detention. If bail is provided, it shall be handled in accordance with the preceding paragraph.

Article 198

(1) Notwithstanding the deposited bail, detention may be ordered against the accused person if he or she fails to respond to a duly served summons without justifying his or her absence, if he or she is preparing to flee, or if another statutory reason for detention arises after the accused person is released from detention.

(2) In the case referred to in the preceding paragraph, the bail shall be repealed. The deposited cash, valuables, securities or other movable assets shall be returned and the mortgage shall be lifted. The same shall apply when criminal proceedings are concluded by a final ruling on discontinuing the proceedings or a dismissal of the indictment or by the final judgment.

(3) If bail was provided pursuant to paragraph two of Article 196 of this Act, it shall be repealed when the criminal proceedings are concluded by a final decision. The bail shall be handled in accordance with the preceding paragraph.

(4) If a sentence of imprisonment is imposed on the accused person, the bail shall only be repealed when he or she starts to serve his

199. člen

(1) Sklep o varščini izda med preiskavo preiskovalni sodnik, po vložitvi obtožnice pa senat.

(2) Sklep, s katerim se določa varščina, in sklep, s katerim varščina preneha, se izda po zaslišanju tožilca.

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

or her sentence.

Article 199

(1) The ruling on bail shall be issued by the investigating judge during the investigation, and by the panel after the indictment is filed.

(2) The ruling determining bail and the ruling repealing bail shall be issued after seeking the opinion of the state prosecutor.

5.a Pretrial house detention

Article 199a

(1) If the reasons referred to in points 1 to 3 of paragraph one of Article 201 of this Act exist, but the ordering of detention is not indispensable for ensuring the safety of people or conducting the criminal proceedings, the court may order pretrial house detention against the accused person. The ruling ordering, extending or lifting pretrial house detention shall always also be sent to the police station in the territory of which the measure is implemented.

(2) By the ruling ordering pretrial house detention, the court shall determine that the accused person may not leave the building in which he or she permanently or temporarily resides, or from the public institution providing health care or other care. The court may restrict or prohibit contacts between the accused person who is under pretrial house detention and persons who do not live with him or her or provide him or her with basic necessities.

(3) Exceptionally, the court may allow an accused person who is under pretrial house detention to leave the premises where pretrial house detention is imposed for a determined period of time if this is indispensable for the provision of basic necessities or for the performance of work. The court shall notify thereof the police station in the territory of which the measure is implemented.

(4) In the event that the accused person, without the permission

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 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

of the court, leaves the building in which he or she permanently or temporarily resides, or a public institution providing health care or other care, or does so outside the allowed time, the court may order pre-trial detention against him or her. The accused person must always be informed in advance of this consequence.

(5) The court shall supervise the implementation of pretrial house detention either directly or through the police. The police may check the implementation of pretrial house detention at any time, even without a court order, and shall notify the court without delay of any violation of this measure. The police shall enter personal and other data of the accused person in the appropriate records in accordance with the Act regulating the police.

(6) If the police apprehend the accused person outside the premises defined in the ruling without the permission referred to in paragraph three of this Article, they shall deprive him or her of liberty and bring him or her immediately before the investigating judge. The police shall notify the state prosecutor without delay of the deprivation of liberty. Upon bringing the accused person before the investigating judge, the police shall inform the judge why and when the accused person was deprive of liberty. The investigating judge shall be obliged to interrogate the accused person without delay, and in any case within 24 hours of the bringing in of the person, about the circumstances of the violation of the measure imposed and decide whether to order detention against the accused person in accordance with paragraph four of this Article. The state prosecutor and the defence counsel may be present during the interrogation. If the indictment has already been filed, the investigating judge shall, after interrogating the accused, send the case to the panel of the district court panel (paragraph six of Article 25) or to the single judge of the local court, who is bound to decide within 48 hours whether the detention against the accused person is to be ordered in accordance with paragraph four of this Article. Until the decision on detention is made, the investigating judge shall, by a ruling, order remand to which the provisions of paragraphs four and five of Article 203 of this Act shall apply *mutatis mutandis*. If detention is ordered against an accused person who does not have a defence counsel, a defence counsel shall be assigned to him or her *ex officio*. The ruling assigning the defence counsel shall be served on the defence counsel together with the order on detention.

(7) Unless otherwise provided by this Article, the provisions of

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.

6. Pripor

200. člen

(1) Pripor se sme odrediti samo ob pogojih, ki so določeni v tem zakonu.

(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.

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

this Act on detention shall apply *mutatis mutandis* to the ordering, duration, extension and lifting of pretrial house detention, as well as to the inclusion of the time spent under pretrial house detention in the overall sentence imposed.

(8) Any extension of pretrial house detention prior to the filing of an indictment shall always be determined by the panel upon a reasoned motion of the investigating judge or state prosecutor (paragraph six of Article 25). The accused person must be acquainted with the motion, as must be his or her defence counsel if the accused person has one, within the time limit referred to in paragraph two of Article 205 of this Act.

6. Detention

Article 200

(1) Detention may only be ordered under the conditions laid down by this Act.

(2) Detention may only last for the shortest time necessary. All authorities participating in the criminal proceedings and the bodies that provide them with legal assistance shall be bound to conduct especially expedited procedures if the accused person is in detention.

(3) Detention shall be lifted at any time during the proceedings as soon as the reasons for detention cease to exist.

(4) An appeal against the ruling on detention, extension or termination of detention shall be filed within three days of the service of the ruling, except where otherwise provided by the provisions of this Act on detention.

Article 201

(1) If a reasonable suspicion exists that a particular person has committed a criminal offence, detention against such person may be ordered:

1) if the person is in hiding, if his or her identity cannot be established or

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.

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.

if other circumstances exist indicating the risk of his or her flight;
2) if reasonable fear exists that he or she may destroy the traces of a crime or if specific circumstances indicate that she or he will impede the course of criminal proceedings by influencing witnesses, accomplices or concealers;
3) if the gravity of the offence, or the manner or circumstances in which the criminal offence was committed and the person's personal characteristics, his or her former life, the environment and conditions in which he or she lives or some other special circumstances indicate the risk that he or she might repeat the criminal offence, complete an attempted criminal offence or commit a criminal threat.

(2) In the case referred to in point 1 of the preceding paragraph, detention ordered only because the identity of the person could not be established shall last until the identity is established. In the case referred to in point 2 of the preceding paragraph, detention shall be lifted as soon as the evidence that warranted it is secured.

(3) In particular, the accused person's violations of the measures referred to in Articles 195, 195a, 195b, 196 and 199a of this Act shall be deemed as special circumstances referred to in points 1, 2 and 3 of this Article.

Article 202

(1) Detention shall be ordered by the investigating judge of the competent court upon the motion of the state prosecutor. Motions for ordering and extending detention must be duly reasoned.

(2) Detention shall be ordered by a written ruling containing: the name and surname of the person deprived of liberty, the criminal offence he or she is charged with, the legal grounds for detention, instructions on the right to appeal and an explanation of all relevant facts that warranted detention, whereby the investigating judge must state the specific grounds for the reasonable suspicion that the person committed the criminal offence in question, explain the relevant facts referred to in points 1 to 3 of paragraph one of the preceding Article, and indicate why the ordering of detention in the specific case is indispensable to ensure the safety of people or the conduct of the proceedings.

(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.

203. člen

(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

(3) The ruling on detention shall be served on the person to whom it refers at the time when such person is deprived of liberty, and in any case within forty-eight hours of his or her deprivation of liberty or of the time when the person was brought before the investigating judge (paragraphs one and five of Article 157). The file must indicate the hour when the person was deprived of liberty and the hour when the order was delivered to him or her.

(4) The detainee may lodge an appeal against the ruling on detention with the panel within twenty-four hours of its service (paragraph six of Article 25). If the first interrogation of the detainee takes place after the expiry of that period, he or she may lodge an appeal during this interrogation. The appeal, including a copy of the record of interrogation, provided that an interrogation took place, and the ruling on detention shall be sent to the panel immediately. The appeal shall not stay the execution of the ruling on detention.

(5) If the investigating judge disagrees with the state prosecutor's motion to order detention, he or she shall refer the matter to the panel for a decision (paragraph six of Article 25). The detainee may appeal against the ruling by which the panel has ordered detention, but the appeal shall not stay its execution. The provisions of paragraphs three and four of this Article shall apply to the service of the ruling on detention and the lodging of the appeal.

(6) In the cases referred to in paragraphs four and five of this Article, the panel must decide on the appeal within forty-eight hours.

(7) In the cases referred to in paragraph five of this Article, the investigating judge may, if a request is submitted that the panel should decide on the state prosecutor's motion to order detention, always impose an alternative measure referred to in this Chapter.

Article 203

(1) The investigating judge must immediately instruct the person who has been deprived of liberty and has been brought before him or her in accordance with Article 4 of this Act. If the detainee is a foreign citizen, the investigating judge must also inform him or that the competent body is

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.

204. člen

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.

204.a člen

(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.

obliged to notify the consulate of his or her country of his or her deprivation of liberty upon the request of the detainee. The instruction by the investigating judge and the statement of the person deprived of liberty shall be entered in the record. If necessary, the investigating judge shall assist him or her to retain a defence counsel.

(2) The investigating judge must interrogate the person deprived of liberty without delay, and in any case within forty-eight hours of the time when such person was brought before him or her.

(3) If the person deprived of liberty fails to retain a defence counsel within twenty-four hours of being instructed of this right, or declares that he or she will not retain a defence counsel, the court shall appoint a defence counsel *ex officio.*

(4) In the cases referred to in the preceding paragraphs, the investigating judge shall, by a ruling, order remand for the necessary period of time, but not longer than forty-eight hours from the moment when the person deprived of liberty was brought before him or her. The provisions of paragraph seven of Article 157 of this Act shall apply *mutatis mutandis* to an appeal lodged against such ruling.

(5) The detention referred to in the preceding paragraph shall be carried out in detention facilities.

Article 204

If the investigating judge fails to instruct the person deprived of liberty as provided by Article 4 of this Act, or if such instruction is not entered in the record, the court may not rest its decision on the deposition of the person deprived of liberty.

Article 204a

(1) Immediately after the interrogation, the state prosecutor must state whether he or she will request the initiation of criminal proceedings and detention or an alternative measure referred to in this Chapter.

(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.

205. člen

(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.

(2) If the state prosecutor announces his or her intention to proceed within the meaning of the preceding paragraph, he or she shall reason the circumstances that may influence the decision to apply a particular measure. The accused person and his or her defence counsel may submit their own motions and views in response to the acts undertaken by the state prosecutor.

(3) Once the parties have been heard on all issues that may influence the decision to apply the measures referred to in this Chapter, the investigating judge shall decide on the motions submitted by the parties.

(4) If detention has been ordered against the accused person and if the state prosecutor fails to submit a written request to initiate criminal proceedings within forty-eight hours of being notified of detention, the investigating judge shall lift the detention and release the detainee.

Article 205

(1) The accused person may be detained under the ruling of the investigating judge for a maximum period of one month from the day he or she was deprived of liberty. After that period he or she may only be kept in detention pursuant to a ruling on the extension of detention.

(2) Detention may be extended for a maximum period of two months by a ruling of the panel (paragraph six of Article 25). The panel's ruling may be appealed against, but the appeal shall not stay its execution. If criminal proceedings for a criminal offence punishable by a sentence of imprisonment of more than five years prescribed by an Act are conducted, the Supreme Court's panel may extend detention for a maximum period of another three months. The ruling on the extension of detention shall be issued by the court on the motion of the state prosecutor, who must file the motion at least five days before the expiry of detention. The accused person and his or her defence counsel must be informed of the motion without delay, and they may submit their response to the allegations stated in the motion within 24 hours of receipt of the notification. The accused person and his or her defence counsel may be informed of the motion and may submit their response at a special hearing.

(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.

206. člen

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.

207. člen

(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.

(3) The investigating judge shall submit the motion for the extension of detention together with the case files to the panel of the competent court, indicating which procedural acts he or she still intends to carry out during the investigation, or indicating the planned timeframe for the conclusion of the investigation.

(4) If the indictment is not filed by the expiry of the time limits referred to in paragraph two of this Article, detention shall be terminated and the accused person shall be released.

Article 206

The investigating judge may lift detention during the investigation in agreement with the state prosecutor if the proceedings are conducted at his or her request, unless he or she is lifting detention due to the expiry of the period allowed for detention or because the state prosecutor has discontinued the prosecution. If the investigating judge and the state prosecutor cannot reach an agreement, the investigating judge shall request that the panel decide on the matter; and the panel must take the relevant decision within forty-eight hours.

Article 207

(1) Unless otherwise provided by this Act (paragraph three of Article 272), the panel shall decide on detention during the period from the filing of the indictment until the issuing of the judgment by the court of first instance. The detainee may appeal against the ruling ordering detention within twenty-four hours of the service of the ruling. The appeal must be decided by a higher court within forty-eight hours.

(2) Upon the expiry of two months from the last ruling on detention, the panel must examine, even in the absence of a motion by the parties, whether the reasons for detention still exist, and issue a ruling establishing that such reasons continue to exist or a ruling lifting the detention.

(3) An appeal against the ruling referred to in the preceding paragraphs shall not stay its execution.

(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.

208. člen

Policija oziroma sodišče mora o odvzemu prostosti v štiriindvajsetih urah obvestiti družino tistega, ki mu je bila vzeta prostost, če ta to zahteva. O odvzemu prostosti se obvesti pristojni organ socialnega varstva, če je treba kaj ukreniti za preskrbo otrok in drugih družinskih članov, za katere skrbi tisti, ki mu je bila vzeta prostost.

7. Izvrševanje pripora

209. člen

(1) Med prestajanjem pripora se ne smeta žaliti osebnost in dostojanstvo pripornika. S pripornikom je treba ravnati humano ter varovati njegovo telesno in duševno zdravje.

(2) Zoper pripornika se smejo uporabiti samo tiste omejitve, ki so potrebne, da se prepreči beg ali dogovarjanje, ki bi lahko škodovalo uspešni izvedbi postopka.

210. člen

(1) Pripornik se sprejme v zavod, v katerem se prestaja pripor (v nadaljnjem besedilu: zavod), na podlagi pisnega sklepa o priporu.

(2) Zavod lahko sprejme pripornika tudi brez pisnega sklepa, vendar mora pristojno sodišče najpozneje v štiriindvajsetih

(4) No appeal shall be allowed against the ruling by which the panel rejects the motion for the ordering or lifting of detention.

(5) After the indictment is filed, detention may last for a maximum period of two years. If within this period a judgment of conviction is not issued against the defendant, detention shall be lifted and the defendant shall be released.

Article 208

Upon the request of the person deprived of liberty, the police or the court must inform his or her family of the deprivation of liberty within twenty-four hours. The deprivation of liberty shall be reported to the competent social welfare authority if it is necessary to provide for the children and other family members supported by the person deprived of liberty.

7. Enforcement of detention

Article 209

(1) While in detention, the detainee's personality and dignity may not be offended. The detainee must be treated in a humane manner and his or her physical and mental health must be protected.

(2) Only such restrictions as are necessary to prevent the flight of the detainee or contacts that could adversely affect the successful implementation of the proceedings may be used against the detainee.

Article 210

(1) A detainee shall be admitted to a facility in which detention is served (hereinafter: prison) on the basis of a written ruling on detention.

(2) The facility may also admit a detainee without a written ruling, but the competent court shall be obliged to send to the facility a

urah, odkar je pripornik v zavodu, poslati zavodu pisni sklep o priporu.

(3) V primeru iz prejšnjega odstavka mora odgovorni delavec zavoda napraviti uradni zaznamek, v katerem navede pristojno sodišče, ki je zahtevalo sprejem, ter datum in uro sprejema pripornika v zavod.

(4) Če zavod v roku iz prejšnjega odstavka ne prejme pisnega sklepa o priporu, izpusti pripornika in o tem obvesti pristojno sodišče.

211. člen

(1) Uprava Republike Slovenije za izvrševanje kazenskih sankcij za namene zakonitega in pravilnega izvrševanja pripora ter zaradi varstva človekovih pravic in temeljnih svoboščin pripornikov in obveščanja oškodovancev o izpustitvi in pobegu pripornikov upravlja za posamezni zavod za prestajanje kazni zapora zbirko osebnih podatkov o pripornikih in oškodovancih ter obdeluje podatke iz nje.

(2) Zbirka podatkov iz prejšnjega odstavka obsega:

1. podatke o identiteti pripornika in o njegovem osebnem stanju:
   - ime in priimek ter morebitni vzdevek;
   - datum in kraj rojstva;
   - podatke o prebivališču;
   - enotno matično številko občana;
   - davčno številko;
   - osebno fotografijo;
   - prstne odtise;
   - osnovni osebni opis;
   - podatki o družinskih razmerah;
   - podatki o državljanstvu;
   - podatki o splošnem zdravstvenem stanju ob sprejemu v pripor in morebitni invalidnosti;
   - podatki o zakonitem zastopniku;
2. podatke o sklepu o priporu:
   - naziv sodišča, ki je odredilo pripor;

written ruling on detention within twenty-four hours of the detainee's arrival at the facility.

(3) In the cases referred to in the preceding paragraph, the responsible employee of the facility must make an official note indicating the competent court that requested the admission, and the date and time of the detainee's admission to the facility.

(4) If the facility does not receive a written ruling on detention within the period referred to in the preceding paragraph, the detainee shall be released and the competent court shall be notified thereof.

Article 211

(1) The Prison Administration of the Republic of Slovenia shall, for the purpose of lawful and correct enforcement of detention and the protection of human rights and fundamental freedoms of detainees, and the notification of victims of the release and escape of detainees, manage databases on detainees and injured persons for each particular prison facility and process the personal data contained therein.

(2) The database referred to in the preceding paragraph shall comprise:

1. information concerning the identity of the detainee and his or her psycho-physical condition:
   - first name and surname, and nickname, if any;
   - date and place of birth;
   - data on residence;
   - personal identification number;
   - tax identification number;
   - personal photograph;
   - fingerprints;
   - basic physical characteristics;
   - information on family circumstances;
   - data on citizenship;
   - data on general medical condition upon his or her admission to the facility and any potential disability;
   - information concerning the legal representative;
2. information concerning the ruling on detention:
   - name of the court that ordered detention;

- opravilno številko in datum izdaje sklepa;
- kaznivo dejanje, ki ga je obdolžen;
- zakonske razloge za pripor;

3. podatke o delu, ki ga odpravlja med priporom:
   - vrsta dela, ki ga opravlja;
   - delovno mesto, na katerega je razporejen;
   - trajanje dela in odsotnosti iz dela;
   - plačilo, prejeto za opravljeno delo;
4. podatke o sprejemu v pripor, trajanju, podaljšanju oziroma odpravi pripora:
   - datum in uro sprejema v pripor;
   - ura, ko je bil priporniku vročen sklep;
   - podatki o sklepu o podaljšanju pripora;
   - podatki o sklepu o odpravi pripora;
   - datum in ura izpustitve iz pripora;
5. podatke o obnašanju pripornika in disciplinskih ukrepih:

   - podatki o osebnosti in vedenju pripornika;
   - podatki, pomembni za izdelavo varnostne ocene in za varnost pripornika;
   - vrsta disciplinskega prestopka;
   - vrsta disciplinske kazni;
   - trajanje disciplinske kazni;
6. podatke o oškodovancu, ki je zahteval obveščanje o izpustitvi in pobegu pripornika:
   - podatki o zahtevi za obveščanje;
   - ime in priimek, dan, mesec in leto rojstva, EMŠO, poštni naslov, elektronski naslov, telefonska številka, številka telefaksa oziroma drugi kontaktni podatki.

(3) Uprava Republike Slovenije za izvrševanje kazenskih sankcij zbira osebne podatke za zbirke podatkov o pripornikih iz 1. do 5. točke prejšnjega odstavka neposredno od pripornika, na katerega se nanašajo, od drugih oseb pa le na podlagi pripornikove pisne privolitve. Ne glede na določbo prejšnjega stavka se podatki o priporniku, kadar je to mogoče, zbirajo pri pravosodnih organih, policiji in drugih državnih organih ter javnih zavodih. Uprava Republike Slovenije za izvrševanje kazenskih sankcij zbira osebne podatke za zbirke podatkov o oškodovancu iz 6. točke prejšnjega odstavka od policije, državnega tožilstva, centra za socialno delo in sodišča (četrti odstavek 65.a člena), lahko pa tudi neposredno od oškodovanca.

- reference number and date of issue of the ruling;
- criminal offence the person is charged with;
- legal grounds for detention;

3. information on the work performed during the detention period:
   - type of work performed;
   - working place to which the person has been assigned;
   - duration of work and absences from work;
   - payment received for the work performed;
4. information on admission to detention and the duration, extension and/or lifting of detention:
   - date and hour of admission to detention;
   - hour when the ruling on detention was served on the detainee;
   - data on the ruling on the extension of detention;
   - data on the ruling lifting the detention;
   - date and hour of release from detention;
5. information on the behaviour of the detainee and on any disciplinary measures taken:
   - information on the detainee's personality and behaviour;
   - information relevant for the security assessment and the safety of the detainee;
   - type of disciplinary offence;
   - type of disciplinary sanction;
   - duration of disciplinary sanction;
6. information on the injured party that requested notification of the release and escape of the detainee:
   - information on the request for notification;
   - name and surname, day, month and year of birth, EMŠO number, postal address, e-mail address, telephone number, fax number or other contact information.

(3) The Prison Administration of the Republic of Slovenia shall collect personal data for the purpose of the database kept on detainees as referred to in points 1 to 5 of the preceding paragraph directly from the detainee to whom they refer, and shall collect such data from other persons only subject to the detainee's written consent. Notwithstanding the provision of the preceding sentence, data on detainees shall, wherever possible, be collected from judicial bodies, the police and other state bodies and public institutions. The Prison Administration of the Republic of Slovenia shall collect personal data for the database on the injured party referred to in point 6 of the preceding paragraph from the police, the state prosecution service, social work centres and courts (paragraph four of

(4) Podatki iz zbirke podatkov se shranjujejo in uporabljajo, dokler traja pripor; po odpravi pripora se podatki arhivirajo in se hranijo deset let na Upravi Republike Slovenije za izvrševanje kazenskih sankcij, nato pa se brišejo.

(5) Uprava Republike Slovenije za izvrševanje kazenskih sankcij kot upravljavec zbirke podatkov o pripornikih in oškodovancih iz drugega odstavka tega člena posreduje uporabnikom podatke iz te zbirke, če jih v skladu z zakonom potrebujejo za odločanje v postopkih ali na podlagi pisne privolitve ali zahteve posameznika, na katerega se podatki nanašajo.

211.a člen

(1) Uprava Republike Slovenije za izvrševanje kazenskih sankcij za namene zakonitega in pravilnega izvrševanja pripora ter varnosti v priporu, zaradi varstva človekovih pravic in temeljnih svoboščin pripornikov, obveščanja oškodovancev o izpustitvi in pobegu pripornikov, nadzorov, izvrševanja odločb sodišč ter sodelovanja s policijo in državnim tožilstvom v skladu z zakonom, upravlja za vse zavode za prestajanje kazni zapora Centralno evidenco pripornikov Republike Slovenije in obdeluje podatke v njej.

(2) Centralna evidenca pripornikov Republike Slovenije vsebuje podatke iz zbirke podatkov o pripornikih in oškodovancih iz drugega odstavka 211. člena.

(3) Evidenca se vodi s sredstvi informacijske tehnologije.

(4) Zaradi zagotavljanja točnosti in ažurnost podatkov v evidenci Upravi Republike Slovenije za izvrševanje kazenskih sankcij upravljavci zbirke podatkov Centralnega registra prebivalstva, evidenc Finančne uprave Republike Slovenije in Zavoda za zdravstveno zavarovanje ter podatkov o socialnih transferjih brezplačno posredujejo potrebne podatke, oziroma ji omogočijo neposreden elektronski dostop do podatkov na način, da jih lahko vpogleda, prepiše, izpiše ali kopira. Uprava podatke pridobiva oziroma dostopa v register in evidence z navedbo osebnega imena in naslova

Article 65a), or directly from the injured party.

(4) Data in the database shall be stored and used for the period of detention; after the lifting of detention, such data shall be kept for ten years in the archives of the Prison Administration of the Republic of Slovenia, whereupon they shall be deleted.

(5) The Prison Administration of the Republic of Slovenia as the operator of the database on detainees and injured parties referred to in paragraph two of this Article, shall transmit the data from this database to users who, in compliance with the law, need such data in order to make decisions in proceedings, or subject to the written consent or request of the person to whom such data refer.

Article 211a

(1) For the purpose of lawful and correct enforcement of detention and in order to ensure safety in detention, the protection of human rights and fundamental freedoms, the notification of victims of the release and escape of detainees, supervisions, enforcement of court decisions and cooperation with the police and state prosecutor's offices in compliance with the law, the Prison Administration of the Republic of Slovenia shall manage the Central Records of Detainees of the Republic of Slovenia for all prisons and shall process the data therein.

(2) The Central Records of Detainees of the Republic of Slovenia shall contain data from the database of detainees and injured parties referred to in paragraph two of Article 211.

(3) The records shall be managed using information technology.

(4) In order to ensure that data in the records of the Prison Administration of the Republic of Slovenia are accurate and up-to-date, the operators of the databases of the Central Population Register, the Financial Administration of the Republic of Slovenia records, the databases of the Health Insurance Institute and data on social transfers, shall transmit the necessary data to the Prison Administration free of charge and/or provide it with direct electronic access to such data in the manner whereby such data may be viewed, transcribed, printed or copied. The Prison Administration shall collect data and/or access the register and

prebivališča pripornika, navedbo pravne podlage in namena dostopa ter opravilne številke zadeve ali istih povezovalnih znakov.

(5) Podatki iz evidence se shranjujejo in uporabljajo, dokler traja pripor; po odpravi pripora se podatki arhivirajo in se hranijo deset let pri Upravi Republike Slovenije za izvrševanje kazenskih sankcij, nato pa se brišejo.

(6) Uprava Republike Slovenije za izvrševanje kazenskih sankcij kot upravljavec evidence iz drugega odstavka tega člena posreduje uporabnikom podatke iz te zbirke, če jih v skladu z zakonom potrebujejo za odločanje v postopkih ali na podlagi pisne privolitve ali zahteve posameznika, na katerega se podatki nanašajo.

(7) Minister, pristojen za pravosodje, na predlog generalnega direktorja Uprave Republike Slovenije za izvrševanje kazenskih sankcij predpiše podrobnejša pravila o upravljanju ter o obdelavi podatkov v Centralni evidenci pripornikov Republike Slovenije.

212. člen

(1) Pripornik prestaja pripor v posebnih prostorih za pripor oziroma v ločenem zaprtem delu zavoda za prestajanje kazni zapora ali njegovega oddelka.

(2) V istem prostoru ne smejo biti zaprte osebe, ki niso istega spola. Praviloma tudi ne smejo biti v istem prostoru osebe, ki so sodelovale pri istem kaznivem dejanju, in ne osebe, ki prestajajo kazen, s tistimi, ki so v priporu. Če je mogoče, ne smejo biti osebe, ki so obdolžene za kaznivo dejanje v povratku, priprte v istem prostoru z drugimi priporniki, na katere bi lahko škodljivo vplivale.

(3) Zaradi varnosti, reda in discipline, prezasedenosti zavoda ali uspešne in racionalne izvedbe kazenskega postopka, lahko pristojno sodišče premesti pripornika iz enega v drug zavod na predlog direktorja zavoda, v katerem je pripornik.

the records by indicating the full name and address of the detainee, the legal basis for access and its purpose, and the reference number of the case or unique identifiers.

(5) The data in the records shall be stored and used for the period of detention; after the lifting of detention, such data shall be kept for ten years in the archives of the Prison Administration of the Republic of Slovenia, whereupon they shall be deleted.

(6) The Prison Administration of the Republic of Slovenia as the operator of the records referred to in paragraph two of this Article, shall transmit the data from this database to users who, in compliance with an Act, need such data in order to make decisions in proceedings, or subject to the written consent or request of the person to whom such data refer.

(7) On the proposal of the Director-General of the Prison Administration of the Republic of Slovenia, the minister responsible for justice shall prescribe detailed rules on the management and processing of the data contained in the Central Records of Detainees of the Republic of Slovenia.

Article 212

(1) A detainee shall undergo his or her detention in special detention facilities or in a separate, closed part of a prison or section thereof.

(2) Persons of the opposite sex may not be accommodated in the same room. As a rule, persons who participated in the commission of the same criminal offence may not be accommodated in the same room, and persons serving a sentence of imprisonment may not be accommodated in the same room with detainees. If possible, persons who are accused of repeating a criminal offence shall not be accommodated in the same room as other detainees, as they may have bad influence on them.

(3) On the request of the director of the prison in which a particular detainee is held, the competent court may transfer a detainee from one prison to another for reasons of security, order and discipline, prison overcrowding or the successful and efficient implementation of

212.a člen

(1) Pripornicam, ki so noseče ali so rodile, se zagotovi ustrezno zdravstveno varstvo.

(2) Otrok pripornice sme do dopolnjenega drugega leta starosti na njeno zahtevo bivati skupaj z njo, če je to v njegovo največjo korist, zlasti za njegovo duševno stabilnost ali zdravstveno stanje. O tem, ali otrok ostane s pripornico ali se ji ga pripelje, v roku treh dni od prejetja zahteve odloči direktor zavoda, ki pridobi mnenje pristojnega centra za socialno delo, kateremu pred tem posreduje potrebne podatke. Direktor zavoda po uradni dolžnosti spremeni odločitev, če je to v največjo korist otroka.

(3) Zoper odločbo iz prejšnjega odstavka, se pripornica in zakoniti zastopnik otroka lahko pritožita v roku treh dni od seznanitve z odločbo. Odločba se vroči pripornici in zakonitemu zastopniku. Pritožba ne zadrži izvršitve. O pritožbi v roku treh dni po prejetju pritožbe odloča generalni direktor Uprave Republike Slovenije za izvrševanje kazenskih sankcij, ki pridobi mnenje pristojnega centra za socialno delo, kateremu pred tem posreduje potrebne podatke. Odločbe po tem in prejšnjem odstavku se izdajajo z uporabo določb zakona, ki ureja splošni upravni postopek.

(4) Pripornici in otroku, ki biva z njo, se zagotovijo ustrezno zdravstveno varstvo ter pogoji za nego in vzgojo otroka.

(5) Pripornica, ki ima pri sebi otroka, biva ločeno od ostalih pripornic, razen če to ni v največjo korist otroka.

(6) Načrt za varstvo in nego otroka v času, ko pripornica zaradi sodelovanja na obravnavi ali drugih obveznosti tega sama ne zmore, pripravi pristojni center za socialno delo v sodelovanju s

criminal proceedings.

Article 212a

(1) Detainees who are pregnant or have given birth shall be provided with adequate health care.

(2) Upon a detainee's request, her child may live with her until reaching the age of two, if this is in the child's best interest, in particular if it is for the benefit of the child's mental stability or health condition. The prison director shall decide whether or not the child will remain with the detainee or will be brought to her within three days of receipt of the detainee's request, after obtaining the opinion of the competent social work centre to which the necessary information has been duly submitted. The prison director shall change the decision ex officio this is in the best interests of the child.

(3) The detainee and the child's legal representative may appeal against the decision referred to in the preceding paragraph within three days of notification of the decision. The decision shall be served on the detainee and the legal representative. The appeal shall not stay the enforcement of the decision. The Director-General of the Prison Administration of the Republic of Slovenia shall decide on the appeal within three days of its receipt, after obtaining the opinion of the competent social work centre to which the necessary information has been duly submitted. The decisions under this and the preceding paragraph shall be issued by application of the provisions of the Act governing general administrative procedure.

(4) A detainee and the child living with her shall be provided with adequate health care and conditions for the care and upbringing of the child.

(5) A detainee with a child living with her shall be accommodated separately from the rest of the detainees, unless this is not in the child's best interest.

(6) The schedule for the custody and care of the child during the time when the detainee's presence at a hearing is required or she is prevented from caring for her child due to other obligations shall be

pripornico in zavodom.

213. člen

Pripornik sme med prestajanjem pripora imeti pri sebi in uporabljati stvari za osebno rabo, za vzdrževanje higiene, sredstva za spremljanje javnih medijev, tiskovine, strokovno in drugo literaturo, denar in druge predmete, ki glede na velikost in količino omogočajo funkcionalno bivanje v bivalnem prostoru in ne motijo sopripornikov. Ostali predmeti se ob osebnem pregledu pripornika ali med prestajanjem pripora odvzamejo in shranijo.

213.a člen

(1) Pripornik ima pravico do osemurnega nepretrganega počitka v štiriindvajsetih urah. Poleg tega mu je treba zagotoviti vsak dan najmanj dve uri gibanja na prostem.

(2) Pripornik se sme uporabiti za dela, ki so potrebna za vzdrževanje reda in čistoče v njegovem prostoru. Priporniku je treba v skladu z možnostmi zavoda in pod pogojem, da to ni škodljivo za kazenski postopek, omogočiti delo, ki ustreza njegovim duševnim in telesnim sposobnostim. O tem odloči preiskovalni sodnik oziroma predsednik senata v sporazumu z upravo zavoda.

(3) Pripornik ima pravico do plačila za opravljeno delo. Minister, pristojen za pravosodje, podrobneje predpiše način in višino plačila.

213.b člen

(1) Z dovoljenjem preiskovalnega sodnika, ki opravlja preiskavo, in pod njegovim nadzorstvom ali pod nadzorstvom nekoga, ki ga on določi, lahko obiskujejo pripornika v mejah hišnega reda zavoda bližnji sorodniki, na njegovo zahtevo pa tudi zdravnik in drugi. Preiskovalni sodnik s sklepom prepove posamezne obiske, če bi

prepared by the competent social work centre in cooperation with the detainee and the prison.

Article 213

While in detention, a detainee shall be entitled to have on him or her and use personal belongings, hygiene articles, equipment for radio and television transmission, newspapers and other publications, expert and other literature, money and other items in the quantity and size that allow functional dwelling in the room and do not disturb other detainees. Other items shall be removed when the detainee is personally searched or in the course of detention and shall be kept in storage.

Article 213a

(1) Detainees shall be entitled to eight hours of uninterrupted rest every twenty-four hour period. In addition, at least two hours of outdoor exercise shall be provided every day.

(2) A detainee may be ordered to carry out the work necessary to maintain order and cleanliness in his or her room. In accordance with the possibilities of the prison and provided that it does not have an adverse effect on criminal proceedings, a detainee shall be provided with work that suits his or her mental and physical abilities. The investigating judge or the president of the panel shall decide thereon in agreement with the prison's management.

(3) A detainee shall have the right to be paid for work performed. The minister responsible for justice shall prescribe in detail the method and amount of payment.

Article 213b

(1) With the approval of the investigating judge who is conducting the investigation and under his or her supervision or the supervision of a person designated by the investigating judge, the detainee may, in accordance with the prison's house rules, receive visits from his or her close relatives, and upon the detainee's request, also by a

zaradi tega lahko nastala škoda za postopek.

(2) Diplomatski in konzularni predstavniki tuje države imajo pravico, da z vednostjo preiskovalnega sodnika, ki opravlja preiskavo, obiskujejo in brez nadzora govorijo s pripornikom, ki je državljan njihove države.

(3) Varuh človekovih pravic oziroma njegov namestnik lahko pripornika obiskuje in si z njim dopisuje brez predhodnega obveščanja in nadzorstva preiskovalnega sodnika ali nadzorstva nekoga, ki ga ta določi. Pisanj, ki jih pripornik pošilja Uradu varuha človekovih pravic, ni dopustno pregledovati.

(4) Pripornik si lahko dopisuje ali ima druge stike z osebami zunaj zavoda. Če tako zahtevajo razlogi, zaradi katerih je bil odrejen pripor, lahko preiskovalni sodnik na predlog državnega tožilca s pisnim sklepom odredi nadzor pisemskih in drugih pošiljk ter drugih stikov pripornika z osebami zunaj zavoda. Preiskovalni sodnik lahko priporniku prepove pošiljanje ali sprejemanje pisem in drugih pošiljk ali vzpostavljanje stikov, ki so škodljivi za postopek, ne sme pa mu prepovedati, da bi poslal prošnjo ali pritožbo. Pritožba zoper ta sklep ne zadrži njegove izvršitve.

(5) Po vložitvi obtožnice do pravnomočnosti sodbe ima pravice iz prvega do četrtega odstavka tega člena predsednik senata.

213.c člen

(1) Pripornik se lahko disciplinsko kaznuje za disciplinski prestopek. Disciplinsko kazen sme po zaslišanju pripornika izreči preiskovalni sodnik oziroma predsednik senata.

(2) Disciplinski prestopki so:
- fizični napad na sopripornika, delavca zavoda ali drugo uradno osebo,
- izdelovanje, sprejemanje ali vnašanje predmetov za napad ali pobeg,

physician or other persons. The investigating judge shall prohibit certain visits by a ruling if they could impair the proceedings.

(2) Diplomatic and consular representatives of foreign countries shall have the right to visit and to talk unsupervised with a detainee who is a citizen of their country, subject to the knowledge of the investigating judge conducting the investigation.

(3) The human rights ombudsman or his or her deputy may visit a detainee and correspond with him or her without prior notification and without the supervision of the investigating judge or a person designated by the investigating judge. Letters sent by the detainee to the Office of the Human Rights Ombudsman may not be examined.

(4) A detainee shall be allowed to correspond or have other contacts with persons outside the prison. If so required by the reasons for which detention was ordered, the investigating judge may, upon the motion of the state prosecutor, order the surveillance of letters and other postal items, as well as of other contacts of the detainee with persons outside the prison, by a written ruling. The investigating judge may prohibit the detainee from sending and receiving letters and other postal items or establishing contacts which might impair the proceedings, but may not prohibit him or her from sending a request or a complaint. An appeal against this ruling shall not stay its execution.

(5) In the period from the filing of an indictment until the judgment becomes final, the president of the panel shall have the rights referred to in paragraphs one to four of this Article.

Article 213c

(1) Disciplinary sanctions may be imposed on a detainee for disciplinary offences. Such disciplinary sanction may be imposed by the investigating judge or the president of the panel after hearing the detainee.

(2) Disciplinary offences shall include:
- a physical attack on a co-detainee, employees of the prison or other officials,
- producing, receiving or bringing in items that serve for attacking or flight,

- vnašanje in izdelovanje alkoholnih pijač in narkotikov ter njihovo razpečevanje,
- kršitev predpisov o varstvu pri delu, varstvu pred požarom, eksplozijo in drugimi naravnimi nesrečami,
- ponavljajoče se kršitve hišnega reda zavoda,
- povzročitev večje materialne škode namenoma ali iz hude malomarnosti,
- žaljivo in nedostojno obnašanje.

(3) Za disciplinske prestopke se lahko izreče disciplinska kazen začasnega odvzema predmetov, razen stvari za osebno rabo, stvari za vzdrževanje higiene, sredstev za spremljanje javnih medijev, tiskovine, strokovne in druge literature in denarja.

(4) Zoper sklep o kazni, izrečeni po prvem odstavku tega člena, je v štiriindvajsetih urah od njegovega prejema dovoljena pritožba na senat (šesti odstavek 25. člena). Pritožba ne zadrži izvršitve sklepa.

213.č člen

Če s tem zakonom in predpisi, izdanimi na njegovi podlagi, ni drugače določeno, se glede spremljanja, zasledovanja, nadziranja, zagotavljanja varnosti, vzdrževanja reda in discipline, uporabe prisilnih sredstev in disciplinskega kaznovanja za pripornike smiselno uporabljajo določbe zakona, ki ureja izvrševanje kazenskih sankcij, in na njegovi podlagi izdanih predpisov.

213.d člen

(1) Nadzorstvo nad ravnanjem s pripori izvršuje predsednik okrožnega sodišča.

(2) Predsednik sodišča ali sodnik, ki ga on določi, mora vsaj enkrat na teden obiskati pripornike in jih, če misli, da je to potrebno, tudi brez navzočnosti pravosodnih policistov vprašati, kako se z njimi ravna. Dolžan je ukreniti, kar je potrebno, da se odpravijo nepravilnosti, ki jih je zapazil pri obisku zavoda. Določeni sodnik ne

- bringing in or preparing alcoholic beverages and narcotics and their distribution,
- violations of the regulations on safety at work, fire protection, explosion and other natural disasters,
- repeated violations of the prison's house rules,
- causing of considerable material damage intentionally or through gross negligence,
- insulting and unacceptable behaviour.

(3) For disciplinary offences, disciplinary sanctions in the form of the temporary seizure of objects other than personal belongings, hygiene articles, equipment for following public media, newspapers and other publications, expert and other literature, and money, may be imposed.

(4) An appeal may be lodged against a ruling on the disciplinary sanction imposed pursuant to paragraph one of this Article within twenty-four hours of its receipt (paragraph six of Article 25). The appeal shall not stay the execution of the ruling.

Article 213č

(1) Unless otherwise provided by this Act and the regulations issued pursuant thereto, the provisions of the Act governing the enforcement of criminal sanctions and the provisions of the regulations issued pursuant thereto shall apply *mutatis mutandis* to the monitoring, tracking, supervision, providing security, the maintenance of order and discipline, the use of instruments of restraint, and disciplinary sanctions associated with detainees.

Article 213d

(1) Supervision over the treatment of detainees shall be implemented by the president of the district court.

(2) The president of the court or the judge designated by him or her shall be bound to visit detainees at least once a week and, if he or she considers it appropriate, shall ask them how they are being treated even without the presence of judicial police officers. He or she shall be bound to undertake the necessary measures to remove any irregularities he or she

sme biti preiskovalni sodnik.

(3) Predsednik sodišča in preiskovalni sodnik smeta ob vsakem času obiskati pripornika, z njim govoriti in sprejemati pritožbe.

XVIII. poglavje
PREISKOVALNA DEJANJA

1. Hišna in osebna preiskava

214. člen

(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.

215. člen

(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

notices during a visit to the facility. The designated judge may not be the investigating judge.

(3) The president of the court and the investigating judge may at any time visit detainees, talk with them and receive their complaints.

Chapter XVIII
INVESTIGATIVE ACTS

1. House search and personal search

Article 214

(1) A search of the dwelling and other premises of the accused person or other persons may be carried out if reasonable grounds exist for the suspicion that a particular person has committed a criminal offence, and if it seems probable that the accused person will be arrested during the search or that the traces of crime or objects relevant for the criminal proceedings will be discovered.

(2) A personal search may be carried out if reasonable grounds exist for the suspicion that a particular person has committed a criminal offence and if it seems probable that traces and objects important for the criminal proceedings will be found during the search.

Article 215

(1) The search shall be ordered by the judge in the form of a reasoned written search warrant upon a reasoned written motion of the authorised state prosecutor. If the investigating judge does not agree with the written motion of the authorised prosecutor, he or she shall request by a reasoned opinion that the matter be decided by the panel (paragraph six of Article 25), which must decide within 72 hours of receipt of the written motion and the reasoned opinion, and notify its decision to the authorised prosecutor without delay.

(2) Before the beginning of the search, the search warrant shall be handed over to the person whose premises or person is to be

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.

(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.

216. člen

(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.

(2) Zaklenjeni prostori, pohištvo ali druge stvari se odprejo s silo samo, če njihov imetnik ni navzoč ali če jih noče prostovoljno

searched. Such a person shall be informed of his or her right to send word to his or her attorney, who may be present during the search. If the person to whom the search warrant refers demands that an attorney be present during the search, the beginning of the search shall be postponed until the attorney arrives, but not for more than two hours.

(3) Before the beginning of the search, the person to whom the search warrant refers shall be asked to surrender voluntarily the person and/or the objects sought.

(4) A search may be undertaken even without prior delivery of the search warrant and a prior demand to surrender the person or objects sought if armed resistance is expected, or if the search needs to be conducted immediately and without warning, or if a search is conducted in public premises.

(5) A search shall as a rule be conducted between 6 a.m. and 10 p.m. It may also take place outside these hours if it began within the aforementioned period but is not concluded by 10 p.m., or if the reasons referred to in Article 218 of this Act exist, or if the investigating judge assesses that a delay could lead to destruction of the traces of a criminal offence and/or of objects important for the criminal procedure, and therefore specifically authorises it.

(6) The provisions of this Article and other articles referring to house search and personal search shall apply *mutatis mutandis* to the search of concealed spaces inside any means of transport.

Article 216

(1) The person whose dwelling or other premises is/are being searched, or a representative of that person, shall have the right to be present during the search. If the person whose dwelling or other premises are being searched or his or her representative cannot be reached, the court shall appoint to such a person an authorised representative from among the attorneys and the house search shall be carried out by the investigating judge.

(2) Locked premises, furniture or other objects may only be forced open if their owner is not present or refuses to open them

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.

217. člen

voluntarily. In opening them, due care should be taken not to cause unnecessary damage.

(3) When a house search or personal search is conducted, two adult persons shall be present as witnesses. A female person may only be searched by a female person, and the witnesses of the act may also only be female. Before the search begins, the witnesses shall be instructed to observe closely how the search is conducted, and shall be informed of their right to make objections, if any, to the content of the record of the search if they believe that it is not correct, before they sign it.

(4) If a search is conducted in the premises of state authorities, companies or other legal persons, their head shall be invited to attend the search. If a search is carried out in the premises of the National Assembly of the Republic of Slovenia or the National Council of the Republic of Slovenia, a representative of the National Assembly or the National Council shall be invited to attend the search. If a search is carried out at the National Assembly in the premises of a deputy group, a parliamentary commission of inquiry or the commission of the National Assembly competent for the supervision of intelligence and security services, a representative of the National Assembly and a representative of that group or commission shall be invited to attend the search.

(5) If a search is conducted in a military facility, the responsible senior military officer shall be invited to attend it.

(6) A house search and a personal search shall be carried out considerately, to avoid disturbing the peace of the house.

(7) A record shall be made of each house search or personal search and shall be signed by the person whose premises or person have been searched, his or her representative if present during the search, and the persons whose presence is obligatory. When conducting a search, only the objects and/or documents related to the purpose of the search may be seized. The objects and/or documents seized shall be entered in the record and described in detail. The record shall be delivered to the person whose premises or person have been searched and/or to his or her representative.

Article 217

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).

If during a house search or personal search objects are found that are not related to the criminal offence that prompted the search but point to another criminal offence prosecutable *ex officio*, such objects shall also be described in the record and seized. The state prosecutor shall be immediately notified thereof in order to start criminal prosecution. The said objects shall be returned immediately if the state prosecutor finds that there are no grounds for criminal prosecution, nor any other statutory grounds for confiscating the objects (Article 498).

218. člen

(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.

Article 218

(1) Police officers may enter and, if necessary, search the dwelling and other premises of a person even without a court warrant if the owner so wishes, if someone is calling for help, if it is necessary to apprehend a perpetrator caught in the act of committing a criminal offence, if so required for the purpose of safety of people or property, or if a person who must be detained or be brought in forcibly under an order issued by the competent state authority is in the dwelling or other premises, or has taken refuge from prosecution there.

(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.

(2) In the case referred to in the preceding paragraph, a record shall not be made; instead, the owner of the dwelling shall be immediately issued with a certificate indicating the reason for entry into the dwelling or other premises. If a search was also conducted there, the provisions of paragraphs three and six of Article 216 of this Act shall apply.

(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.

(3) A search may also be carried out without the presence of witnesses if their presence cannot be secured immediately and if there is a danger in delaying. The reasons for the search without the presence of witnesses shall be noted in the record.

(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.

(4) Police officers may carry out a personal search without a search warrant and without the presence of witnesses when enforcing a ruling on forced appearance or depriving the person of liberty, if it is suspected that the person is in possession of weapons for attacking or that he or she will discard, hide or destroy objects that need to be seized as evidence in criminal proceedings.

(5) Kadar opravijo policisti preiskavo brez odredbe, morajo

(5) After conducting a search without a search warrant, the

o tem nemudoma podati poročilo državnemu tožilcu, če postopek že teče, pa tudi preiskovalnemu sodniku.

police officers shall be bound to immediately submit a report thereon to the state prosecutor, and if proceedings are already pending, also to the investigating judge.

219. člen

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.

Article 219

If a search was carried out without a written court search warrant (paragraph one of Article 215) or without the persons whose presence at a search is obligatory (paragraphs one and three of Article 216), or if the search was carried out in contravention of the provisions of paragraphs one, three and four of the preceding Article, the court may not rest its decision on the evidence thus obtained.

219.a člen

(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.

(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.

Article 219a

(1) A search of electronic and related devices, and electronic data storage devices (electronic devices), including network-connected and accessible information systems where data is stored, may be carried out for the purpose of obtaining information in electronic form if reasonable grounds for suspicion exist that a criminal offence has been committed and if it is likely that the electronic device contains electronic information:

- on the basis of which the suspect or the accused person may be identified, uncovered or apprehended, or the traces of the criminal offence that are important for criminal proceedings may be uncovered, or
- which may be used as evidence in criminal proceedings.

(2) The search shall be carried out with the prior written consent of the owner and the users of the electronic device known by and accessible to the police who have reasonable expectations of privacy (user) concerning such a device, or pursuant to a reasoned written warrant of the court issued upon a motion of the state prosecutor. When the search is carried out pursuant to a court warrant, a copy of such warrant shall be served on the owner or user of the electronic device which is to be searched before the beginning of the search. The search of an electronic device seized from an attorney, a candidate attorney or a trainee attorney may only be carried out pursuant to a court search warrant, reasoned in accordance with paragraph six of Article 220 of this Act.

(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.

(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,

(3) The motion and the warrant for the search of an electronic device shall contain:
- information allowing identification of the electronic device to be searched;
- justification of the reasons for the search;
- a definition of the information content sought;
- other important circumstances that require the use of this investigative act and determine the method of its implementation.

(4) If the search of an electronic device is ordered in a warrant for house or personal search, the conditions and procedures referred to in this Article shall apply to the issuing of this part of the warrant and its implementation. In such case, the motion for the house search or personal search shall also be given by the state prosecutor.

(5) Exceptionally, if a written warrant may not be obtained in due time and if there is an immediate and serious threat to the safety of people or property, the investigating judge may order a search of the electronic device by an oral warrant upon an oral motion of the state prosecutor. The investigating judge shall make an official note on the motion of the state prosecutor and the warrant. The written warrant must be issued within 12 hours of the issue of the oral warrant, otherwise the police that implemented the warrant shall destroy or delete the secured information on the record, and inform thereof the investigating judge, the state prosecutor and the owner and/or the user of the electronic device, if known, within eight days.

(6) The owner and/or user of the electronic device must enable access to the device, and submit encryption keys or passwords and explanations on the use of the device that are necessary to achieve the purpose of the search. If he or she refuses to do so, he or she may be fined and/or imprisoned pursuant to paragraph two of Article 220 of this Act, unless he or she is a suspect, an accused person, a person who may not be heard as a witness (Article 235) or a person who may decline testimony (Article 236).

(7) The search shall be carried out in such a way as to protect the integrity of the original data and the possibility of using them in further proceedings. The search must be carried out in such a way as to encroach as little as possible on the rights of persons who are not suspected or

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.

(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

accused persons, and to protect the secrecy and/or confidentiality of the information and not cause disproportionate damage.

(8) The search shall be carried out by a properly qualified person. A record shall be made of the search and shall include, inter alia, the following information:
- identification of the electronic device that has been examined;
- the date and hour of the beginning and conclusion of the search, which must be provided separately for each search if the search was not carried out in one part;
- any persons involved in and present during the search;
- the reference number of the warrant and the issuing court;
- the method of carrying out the search;
- the findings of the search and other relevant circumstances.

(9) If there is a need to search an electronic device that has been seized and to secure and seal the data on it pursuant to paragraph seven of Article 223a of this Act and by *mutatis mutandis* application of paragraph five of Article 220 of this Act, such search shall be carried out by an expert witness at the premises of the court or at other premises if so required for the purpose of using technical means in the search. The expert witness shall be appointed by the trial judge by a special order if he or she was not already appointed by the investigating judge (paragraph seven of Article 223a). The order shall also determine the potential use of other premises in performing the search. The search of the electronic device shall be carried out by *mutatis mutandis* application of paragraphs two and three of Article 222 of this Act.

(10) The trial judge shall also summon the defence counsel to attend the search referred to in the preceding paragraph if the electronic device was seized from the suspect or the accused person, and the counsel of the person whose electronic device was seized, if he or she has one, and a representative of the Bar Association of Slovenia if the electronic device was seized from an attorney, a candidate attorney or a trainee attorney. The aforementioned persons may object that data referred to in paragraph one of Article 222a of this Act were found during the search. The trial judge may order that the data found shall be dealt with as specially protected information and specify other necessary measures, such as the prohibition of copying data, unless this is indispensable for the production of a report, and an opinion determining the method of data processing and also other, including technical,

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.

2. Zaseg predmetov

220. člen

(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.

measures, in order to protect the secrecy or confidentiality of information and prevent excessive interference with the rights of persons other than suspects or accused persons. The provisions of this Act on expert witnesses' work shall apply to the search. The police may not participate in the implementation of the search.

(11) The data found shall be inspected by *mutatis mutandis* application of the provisions of paragraphs two to six of Article 222a of this Act.

(12) If during the search information is found that is not related to the criminal offence for which the search was ordered but points to another criminal offence prosecutable *ex officio*, such information shall be noted in the record and shall be notified immediately to the state prosecutor in order to initiate criminal prosecution. If the state prosecutor finds that there are no grounds for criminal prosecution and no other statutory reason exists for safekeeping the information, such information shall be immediately destroyed. A record shall be made of the destruction thereof.

(13) Unless otherwise provided by this Article, the provisions of paragraphs three and four of Article 215 and paragraphs four, five and seven of Article 216 of this Act shall apply *mutatis mutandis* to the issuing and implementation of the warrant on the search of an electronic device.

(14) If the search of an electronic device was carried out without a court warrant or in contravention of it, or without the written consent referred to in paragraph two of this Article, the court may not rest its decision on the record of the search and the information obtained in the search.

2. Seizure of objects

Article 220

(1) Objects that must be seized under criminal law or may serve as evidence in criminal proceedings shall be seized and delivered to the court for safekeeping, or shall be safeguarded in some other manner.

(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).

(3) O pritožbi zoper sklep, s katerim je bila izrečena denarna kazen ali odrejen zapor, odloča senat (šesti odstavek 25. člena). Pritožba zoper sklep o zaporu ne zadrži njegove izvršitve.

(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.

(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 navzočnosti predstavnika Odvetniške zbornice Slovenije smiselno uporablja določba zakona, ki ureja odvetništvo, o navzočnosti predstavnika Odvetniške zbornice Slovenije pri preiskavi odvetniške pisarne.

(2) Whoever possesses such objects must hand them over at the request of the police, the state prosecutor or the court. The request must specify or define the objects clearly or identifiably. If such a person refuses to hand over the objects even at the request of the court, he or she may be fined as set out in paragraph one of Article 78 of this Act, and if, after being fined, he or she still refuses to do so, he or she may be imprisoned. The imprisonment shall last until the delivery of the objects or until the conclusion of criminal proceedings, but not longer than ten days. A person who is a suspect, an accused person, a person who may not be heard as a witness (Article 235), or a person who may decline to testify in the proceedings (Article 236) shall not be fined or imprisoned.

(3) An appeal against the ruling imposing a fine or imprisonment shall be decided by a panel (paragraph six of Article 25). An appeal against the ruling on imprisonment shall not stay its execution.

(4) Police officers may seize the objects referred to in paragraph one of this Article when proceeding under Articles 148 and 164 of this Act or when executing the orders of the court.

(5) In seizing the objects, it shall be indicated where they have been found and their description shall be provided, and, if necessary, their identity shall also be safeguarded in some other way. A record on the seized objects shall be issued.

(6) A court order pursuant to which objects or files are to be seized from an attorney, candidate attorney or trainee attorney must contain the reasoning showing that it does not refer to the files or objects referred to in point 1 of paragraph one of Article 222a of this Act, and the reasoning showing that the information sought that must be specified or identifiable in the order and that relates to the specific pre-trial or criminal proceedings cannot in fact be effectively obtained in any other way. Before the seizure, the court order shall also be served on the Bar Association of Slovenia, which must, within a maximum of two hours of the notification of the investigative act, ensure the presence of its representative at the seizure. If the seizure is carried out in the context of the search of a law office, the provision on the presence of a representative of the Bar Association of Slovenia during the search of a law office of the Act governing the attorneys' office shall be applied *mutatis mutandis*.

(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.

221. člen

(1) Državni organi smejo odkloniti pregled ali izročitev svojih spisov in drugih listin, če mislijo, da bi bila objava njihove vsebine škodljiva za splošne koristi. Če odklonijo pregled ali izročitev spisov in drugih listin, odloči o tem dokončno senat (šesti odstavek 25. člena).

(2) Podjetja in druge pravne osebe smejo zahtevati, da se ne objavijo podatki, ki se tičejo njihovega poslovanja.

222. člen

(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.

222.a člen

(1) Zaseženi predmeti in spisi se dajo v ovitek, zapečatijo

(7) If the person whose objects or files are seized, his or her counsel or authorised representative (paragraph one of Article 216), attorney (paragraph two of Article 215), another person present (paragraphs four and five of Article 216) or a representative of the Bar Association of Slovenia declares during the seizure that it involves objects or files referred to in paragraph one of Article 222a of this Article, the procedure laid down in the provisions of Article 222a of this Act shall be complied with.

Article 221

(1) State authorities may decline to have their files and other documents inspected or handed over if they consider that the publishing of their content would be detrimental to the general interest. If they decline to have their files and other documents inspected or handed over, the final decision thereon shall be given by the panel (paragraph six of Article 25).

(2) Companies and other legal entities may request that information related to their business should not be published.

Article 222

(1) If files that may be used as evidence are seized, an inventory shall be made thereof. If this is not possible, they shall be put in a cover and sealed. The owner of the file may also put his or her seal on the cover.

(2) The person whose files have been seized shall be invited to attend the opening of the cover. If he or she fails to appear after being summoned or is absent, the cover shall be opened and the files shall be examined and inventoried in his or her absence.

(3) In examining the files care should be taken that unauthorised persons do not become acquainted with their content.

Article 222a

(1) Seized objects and files shall be placed in an envelope

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).

which shall be sealed and handed over to the trial judge for safekeeping if it is probable that:

1) the objects, files or data contained in the seized objects or files have been entrusted to the defence counsel by the suspect or accused person (point 2 of Article 235), or
2) the person from whom the objects or files were seized might violate, through his or her delivery or transmission of the information contained therein, the duty to protect the secrecy of a confession (point 4 of paragraph one of Article 236), the duty to protect professional secrecy (point 5 of paragraph one of Article 236) or the duty to protect journalistic confidentiality (point 6 of paragraph one of Article 236).

(2) The inventory and inspection of the objects or documents referred to in the preceding paragraph shall be carried out at the hearing by the *mutatis mutandis* application of paragraphs two and three of the preceding Article. The trial judge shall also summon to the hearing the state prosecutor and the defence counsel, if the objects or files were seized from the suspect or the accused person, and the counsel of the person from whom the objects or files were seized, if he or she has one, the person who may not be heard as a witness (point 2 of Article 236) and the person who may decline testimony (points 4, 5 and 6 of paragraph one of Article 236.), and may also summon the police officers who carried out the seizure. If the objects or files are seized from an attorney, a candidate attorney or a trainee attorney, a representative of the Bar Association of Slovenia shall also be summoned. The police officers who carried out the seizure and the state prosecutor may not be made aware of the content of the seized objects or files.

(3) If during the inspection of objects or files seized from an attorney, candidate attorney or trainee attorney, the trial judge finds that the objects, files or information contained therein were entrusted to the attorney, candidate attorney or trainee attorney by the suspect or the accused person as his or her defence counsel (point 1 of paragraph one of this Article), these shall be partially or fully re-sealed immediately and, when the decision granting the request referred to in paragraph six of this Article becomes final, they shall be returned to the person from whom they were seized, unless the suspect or accused person states otherwise, or if there are statutory reasons for requesting the seizure of the objects or files (Article 498).

(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.

223. člen

(4) If during the inspection of the objects and files the trial judge finds that they contain the information referred to in point 2 of paragraph one of this Article and that they were not seized in accordance with a constitutional and legal request or order, or that the conditions referred to in paragraph one of Article 164 of this Act were not complied with, these objects and files shall be inventoried and then partially or fully re-sealed immediately, and after the decision granting the request referred to in paragraph six of this Article has become final, returned to the person from whom they were seized, except in the cases referred to in paragraph three of Article 65 of this Act or if there are statutory reasons for requesting the seizure of the objects or files (Article 498), or if the conditions laid down by an Act relieving these persons of their duty to protect confidentiality or obliging them to transmit confidential information to the competent authorities are met.

(5) In acting pursuant to paragraphs three and four of this Article, the trial judge may, if necessary, also order that persons who became acquainted with the information must keep it confidential.

(6) The request of the person whose objects or files referred to in paragraph one of this Article were seized, his or her counsel, defence counsel or a representative of the Bar Association of Slovenia, for the return of the data or their removal from the criminal file, shall be decided by the trial judge by a reasoned decision which may not indicate the content of the confidential information or the content of the information claimed to be confidential by the person who lodged the request. Such person may file an appeal against the decision of the trial judge rejecting the request. The state prosecutor may appeal against the decision of the trial judge granting the request, but in doing so, he or she may not be acquainted with the confidential information or the information claimed to be confidential by the person who filed the appeal. The appeal shall be decided by a higher court within eight days. The decision issued by the higher court may not indicate the content of confidential information or the information that might be confidential depending on the decision of the higher court. After the decision rejecting the request becomes final, the objects or files shall be returned to the state prosecutor or the police.

Article 223

(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.

223.a člen

(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

(1) The investigating judge may order that postal, telegraphic and other organisations engaging in the transmission of information should withhold and deliver to the investigating judge the letters, telegrams and other shipments addressed to the accused person or sent by the accused person against acknowledgement of receipt, if circumstances exist due to which it might reasonably be expected that these items of correspondence will be evidence in the proceedings.

(2) The investigating judge shall open the delivered items of correspondence in the presence of two witnesses. In opening them care should be taken not to damage the seals; the envelopes with addresses shall be preserved. A record of the opening shall be made.

(3) If allowed by the interests of proceedings, the content of an item of correspondence may be communicated in full or in part to the accused person and/or the person to whom it is addressed, and the item of correspondence itself may be delivered to the aforesaid person. If the accused person is absent, the content of the item of correspondence shall be communicated or delivered to one of the accused person's relatives, and if none of them is to be found, it shall be returned to the sender, provided that this is not contrary to the interests of the proceedings.

Article 223a

(1) If an electronic device is seized (Article 219a) for the purpose of conducting a search, the data in electronic form shall be secured by storing them on another appropriate data storage device in such a way as to preserve the identity and integrity of the data and the possibility of using them in further proceedings, or an identical copy of the entire data storage device shall be made, whereby the integrity of the copied data shall be ensured. If this is not possible, the electronic device shall be sealed, or, if possible, only that part of the electronic device containing the information sought.

(2) If the electronic device was seized without a court warrant and a copy was made thereof for the purpose of securing the data, but the court failed to issue a search warrant under paragraph five of Article 219a of this Act within twelve hours, and/or the consent under paragraph two of Article 219.a has not been given, the police shall permanently destroy the

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

copy made on the record, and inform in writing the investigating judge, the state prosecutor, the holder and the known and available user of the electronic device thereof within eight days.

(3) The owner, user, operator or administrator of the electronic device, and/or the person having access to it shall, upon the request of the authority that confiscated it, immediately take the necessary steps within his or her power to prevent the destruction, alteration or concealment of data. If he or she refuses to act accordingly, he or she may be fined or imprisoned pursuant to the provision of paragraph two of Article 220 of this Act, unless he or she is a suspect, an accused person, a person who may not be interrogated as a witness (Article 235) or a person who may decline to testify (Article 236).

(4) The holder and the known and available user of the device shall be summoned such that he or she, his or her representative or attorney, or an expert, shall be present in securing the data pursuant to paragraph one of this Article. If he or she fails to respond to the summons, is absent or his or her identity is not known, the data shall be secured and an identical copy produced in his or her absence. The data shall be secured by a properly qualified person.

(5) In securing the data, the control value and the method of its calculation shall also be entered in the record, and/or the option of a subsequent identity and integrity verification of the secured data shall be provided for in the record by another appropriate method. A copy of the record shall be delivered to the person referred to in the preceding paragraph who was present during the securing of data.

(6) The confiscation of the electronic device and securing of data must be carried out in such a way as to encroach to the minimum extent possible on the rights of persons who are not suspects or accused persons, and to protect the secrecy and/or confidentiality of the data, and not to cause disproportionate damage due to inability to use the electronic device.

(7) In seizing the electronic device and securing the data, paragraphs six and seven of Article 220 of this Act shall apply *mutatis mutandis*, whereby in the case referred to in paragraph seven of Article 220 of this Act, the secured data may not be inspected or investigated. If the data cannot be seized from an attorney, candidate attorney or trainee

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.

(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.

224. člen

Predmeti, ki se med kazenskim postopkom zasežejo, se vrnejo lastniku oziroma imetniku, če se postopek ustavi in ni razlogov, da se vzamejo (498. člen).

3. Ravnanje s sumljivimi stvarmi

225. člen

(1) Če se najde pri obdolžencu tuja stvar, pa se ne ve, čigava je, jo organ, ki vodi postopek, opiše in opis razglasi na deski sodišča prve stopnje, na katerega območju obdolženec živi in na katerega območju je bilo kaznivo dejanje storjeno. V razglasu se

attorney and secured without first being inspected or investigated, only the investigating judge or the court expert appointed by the investigating judge shall be entitled to do so. The information thus secured shall be handed over to the court for safekeeping.

(8) The copies of seized data shall be stored as long as necessary for the proceedings. The electronic device shall be kept until the data are stored in the manner that ensures the identity and integrity of the secured data, but not for more than three months from the day of their acquisition. If such data copy cannot be produced, the electronic device or a part thereof containing the information sought shall be kept as long as necessary for the proceedings, but not for more than six months from the day of its acquisition, except if the confiscated electronic device was used for committing a criminal offence or if it serves as evidence in criminal proceedings.

(9) The copies of data obtained in accordance with the provisions of this Article which are not related to criminal prosecution and for which there is no other statutory reason to be kept (Article 498) shall be excluded from the file if this is possible and destroyed on the record; the investigating judge, the state prosecutor, the holder and the known and available user of the electronic device shall be notified thereof within eight days.

Article 224

Objects seized during criminal proceedings shall be returned to the owner and/or the actual holder if the proceedings are discontinued and the grounds for confiscation cease to exist (Article 498).

3. Handling of objects of doubtful ownership

Article 225

(1) If an object of unknown ownership is found on the accused person, the authority conducting the proceedings shall describe it and publish a notice containing a description of the object on the notice board of the first instance court in whose territory the accused person resides,

pozove lastnik, naj se v enem letu od objave razglasa zglasi, ker bo sicer stvar prodana. Denar, ki se dobi s prodajo, gre v proračun.

(2) Če gre za stvari večje vrednosti, se tak razglas lahko da tudi v dnevne liste.

(3) Če je stvar pokvarljiva ali če je njena hramba zvezana z večjimi stroški, se proda po določbah, ki veljajo za izvršilni postopek, denar pa izroči v hrambo denarnemu zavodu.

(4) Po prejšnjem odstavku je treba ravnati tudi, če pripada stvar pobeglemu ali neznanemu storilcu kaznivega dejanja.

226. člen

(1) Če se v enem letu nihče ne oglasi za stvar ali za izkupiček za prodano stvar, se izda sklep, da postane stvar last Republike Slovenije oziroma da gre denar v proračun.

(2) Lastnik ima pravico, da zahteva v pravdi vrnitev stvari ali izkupička za prodano stvar. Zastaranje te pravice začne teči z dnem objave razglasa.

4. Zaslišanje obdolženca

227. člen

(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,

and in whose territory the criminal offence was committed. The notice shall call on the owner to come forward within a year of publishing the notice or the object will be sold. The money obtained by such sale shall be transferred to the budget.

(2) If the objects are of considerable value, the notice may also be published in the daily press.

(3) If the object is perishable or its keeping involves considerable costs, it shall be sold in accordance with the provisions governing enforcement procedure and the money obtained by the sale shall be transferred to a monetary institution for safekeeping.

(4) The preceding paragraph shall also apply to the handling of objects belonging to an absconder or unknown perpetrator of a criminal offence.

Article 226

(1) If within a period of one year no person claims the object or the proceeds from its sale, a ruling shall be issued that the object shall become the property of the Republic of Slovenia or that the money shall be transferred to the budget.

(2) The owner shall have the right to file a civil action for the return of the object or the proceeds from its sale. The statute of limitation for the aforementioned right to civil action shall start to run as of the day of publishing the notice.

4. Interrogation of the accused person

Article 227

(1) At his or her first interrogation, the accused person should be asked his or her name, surname and nickname, if any, and also the previous personal name if it has been changed; the place of birth, place of residence; the day, month and year of birth; EMŠO number and citizenship; occupation, offices held at the national or local government

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, 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.

level, family circumstances, whether the accused person is literate, his or her education and schooling, whether he or she is a non-commissioned or commissioned officer or a military employee, his or her personal income and financial situation, whether he or she has been convicted and the conviction has not yet been expunged, and when and why, whether he or she has served a sentence imposed and, if so, when, whether criminal proceedings against him or her are pending for another criminal offence; if the accused person is a minor, also the identity of his or her legal representative. The accused person shall be informed of the obligation to appear when summoned and to report any change of address or any intended change of place of residence, and shall be warned of the consequences of failing to do so.

(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.

(2) The accused person shall thereafter be informed of the offence he or she is charged with and of the grounds for the charge. He or she shall be instructed that he or she shall be under no obligation to plead his or her case and answer questions, and that if he or she does plead, he or she shall be under no obligation to incriminate himself or herself or his or her close relatives or to confess guilt, and that he or she is entitled to retain a defence counsel of his or her own choice who may be present at the interrogation.

(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.

(3) If criminal offences are involved for which the Criminal Code provides that the accused person may have his or her punishment mitigated in certain cases (paragraph three of Article 294 of the Criminal Code), the accused person must also be informed accordingly.

(4) Obdolženec se zaslišuje ustno. Pri zaslševanju se mu lahko dovoli, da uporablja svoje zapiske.

(4) The accused person shall be interrogated orally. He or she may be allowed to make use his or her notes during the interrogation.

(5) Pri zaslševanju 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.

(5) During the interrogation, the accused person shall be provided with the opportunity to be heard on all the circumstances adverse to him or her in an unobstructed narrative form, and to put forward all the facts that benefit his or her defence.

(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.

(6) After the accused person has concluded his or her deposition, questions shall be put to him or her if this is necessary to fill gaps or eliminate contradictions and ambiguities in his or her account.

(7) Zaslševanje se mora opraviti tako, da se v polni meri spoštuje obdolženčeva osebnost.

(7) The interrogation shall be conducted with full respect for the accused person's personality.

(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.

228. člen

(1) Obdolžencu je treba postavljati vprašanja jasno, razločno in določno, tako da jih lahko popolnoma razume. Vprašanja zlasti ne smejo izhajati s stališča, kot da je obdolženec nekaj priznal, česar ni priznal. Prav tako se mu tudi ne smejo postavljati vprašanja, v katerih je že obsežno navodilo, kako je treba nanje odgovoriti. Obdolženec se ne sme preslepiti, da bi se dosegla kakšna njegova izjava ali priznanje.

(2) Če se poznejše obdolženčeve izpovedbe razlikujejo od prejšnjih, zlasti če obdolženec prekliče svoje priznanje, se zahteva od njega, naj pove razloge, zakaj različno izpoveduje oziroma zakaj preklicuje priznanje.

(3) Če je bilo ravnano v nasprotju z določbami prvega odstavka tega člena, na obdolženčevo izpovedbo ni mogoče opreti sodne odločbe.

229. člen

(8) Force, threats or any similar means of extorting a statement or confession from the accused person may not be used (paragraph three of Article 266).

(9) The accused person may be interrogated in the absence of his or her defence counsel if he or she has explicitly waived that right and if the defence is not mandatory, or if the defence counsel is not present although he or she was notified of the interrogation (Article 178).

(10) If the accused person has not been instructed about his or her rights referred to in paragraph two of this Article, or if the instruction provided and the statement of the accused person concerning his or her right to a defence counsel are not entered in the record, or if the interrogation was conducted in contravention of the provisions of paragraph eight or nine of this Article, the court may not rest its decision on the accused person's deposition.

Article 228

(1) The accused person should be asked questions in a clear, distinct and precise manner so that he or she can fully understand them. In particular, questions may not be based on the assumption that the accused person has admitted to something which he or she has not admitted. Nor should he or she be asked leading questions. The accused person may not be deceived in order to obtain a statement or a confession.

(2) If the subsequent statements of the accused person do not match his or her previous statements and, in particular, if the accused person withdraws his or her confession, he or she shall be required to state the reasons why his or her deposition is inconsistent and/or why he or she has withdrawn his or her confession.

(3) If the interrogation was conducted in contravention of the provisions of paragraph one of this Article, the court's decision may not rest on the accused person's deposition.

Article 229

(1) Obdolženec se sme soočiti s pričo ali z drugim obdolžencem, če se njune izpovedbe ne ujemajo v pomembnih dejstvih.

(2) Soočenci se vsak zase zaslišijo o vsaki okoliščini, v kateri se njihove izpovedbe ne ujemajo, in njihov odgovor vpiše v zapisnik.

230. člen

Predmete, ki so v zvezi s kaznivim dejanjem ali ki se uporabijo za dokaz, obdolženec najprej opiše; nato pa se mu pokažejo, da se vidi, ali jih bo prepoznal. Če se taki predmeti ne morejo prinesti, se obdolženec odpelje na kraj, kjer so.

231. člen

(1) Obdolženčeva izpovedba se vpiše v zapisnik v obliki pripovedovanja; vprašanja in odgovori nanje se vpišejo v zapisnik, če to zahtevajo stranke ali zagovornik ali če preiskovalni sodnik meni, da je to potrebno. Iz zapisnika mora biti razvidno, na čigavo vprašanje je dan odgovor.

(2) Obdolžencu se lahko dovoli, da svojo izpovedbo sam narekuje v zapisnik.

232. člen

Kljub priznanju obdolženca mora sodišče, ki vodi postopek, zbirati še druge dokaze. Če je priznanje jasno in popolno in če je podprto tudi z drugimi dokazi, se nadaljnji dokazi zbirajo samo na predlog strank.

233. člen

(1) Obdolženec se zasliši po tolmaču v primerih, ki so

(1) The accused person may be confronted with a witness or another accused person if their statements do not match in respect of important facts.

(2) The confronted persons shall be heard individually about each circumstance in respect of which their statements do not match, and their answers shall be entered in the record.

Article 230

Objects related to the criminal offence or used as evidence shall first be described by the accused person; then they shall be shown to him or her to see if he or she recognises them. If such objects cannot be brought before the accused person, he or she shall be taken to the place where the objects are located.

Article 231

(1) The accused person's deposition shall be entered in the record in the form of a narrative; questions and answers shall be entered in the record if so requested by the parties or the defence counsel, or if the investigating judge deems it necessary. The record must clearly show whose question was answered by a particular reply.

(2) The accused person may be allowed to personally dictate his or her deposition for the record.

Article 232

Notwithstanding the confession of the accused person, the court that conducts the proceedings must also collect other evidence. If the confession is clear and complete and supported by other evidence, further evidence shall only be collected on the motion of the parties.

Article 233

(1) The accused person shall be interrogated through an

določeni v tem zakonu.

(2) Če je obdolženec gluh, se mu postavljajo vprašanja pisno, če pa je nem, se zahteva od njega, da odgovori pisno. Če se zaslišanje ne more opraviti na ta način, se pokliče za tolmača nekdo, ki se zna sporazumeti z obdolžencem.

(3) Če tolmač ni že zaprisežen, mora priseči, da bo vprašanja, ki se postavljajo obdolžencu, in njegove izjave natančno prevedel.

(4) Določbe tega zakona, ki se nanašajo na izvedence, se smiselno uporabljajo za tolmače.

5. Zasliševanje prič

234. člen

(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.

235. člen

Kot priča ne sme biti zaslišan:

1) kdor bi s svojo izpovedbo prekršil dolžnost varovanja tajnih podatkov, dokler ga pristojni organ ne odveže te dolžnosti;

2) obdolženčev zagovornik o tem, kar mu je obdolženec zaupal kot svojemu zagovorniku, razen če obdolženec to sam zahteva.

interpreter in the cases provided by this Act.

(2) If the accused person is deaf, he or she shall be asked questions in writing, and if he or she is mute, he or she shall be invited to respond in writing. If the interrogation cannot be conducted in this manner, a person capable of communicating with the accused person shall be called to act as interpreter.

(3) If the interpreter has not been sworn in previously, he or she must swear that he or she will faithfully interpret the questions posed to the accused person and the statements the accused person makes.

(4) The provisions of this Act referring to expert witnesses shall apply *mutatis mutandis* to interpreters.

5. Hearing of witnesses

Article 234

(1) Persons who are likely to be able to provide some information about the criminal offence, the perpetrator and other relevant circumstances shall be summoned as witnesses.

(2) The injured party, the injured party acting as prosecutor and a private prosecutor may be heard as witnesses.

(3) Any person summoned as a witness shall be obliged to respond to the summons as well as to testify, unless otherwise provided by this Act.

Article 235

The following persons may not be heard:

1) whoever by giving testimony would violate the duty of protecting classified information, until the competent authority releases him or her from that obligation;
2) the defence counsel of the accused person, regarding testimony on matters confided to him or her by the accused person, unless the accused person so demands.

235.a člen

(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.

Article 235a

(1) If the head of the competent body (head) who has received a reasoned request from the court to release a witness (witness) from the duty of protecting confidential data referred to in point 1 of Article 235 of this Act, considers that such release is in part or in whole impossible because the disclosure of confidential data would seriously threaten the life or personal safety of such witness or an individual who has cooperated with the competent body, or a person close to him or her, or national safety, or the effectiveness of the tactics and methods of work of the competent body, or if there are other legitimate reasons or interests or rights protected by the constitution or by an Act, he or she must submit, within fifteen days of receipt of such request, a reasoned written opinion to the president of the higher court (president) in whose territory the court that filed the request is located.

(2) The head must enable the president to view all the information that according to him or her may not be released from the duty of protecting confidentiality. If the head refers to special reasons for the protection of confidentiality, he or she shall enable the president to view such confidential data at the premises and in the manner and at the time determined by the head.

(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 body, and shall enable them to state in writing their opinion on the merits of the reasons for the protection of confidentiality within three days.

(4) In deciding on the release from the duty of protecting confidentiality, the president shall determine whether the requirements of respect for the legal guarantees in criminal proceedings prevail over the reasons for not disclosing the confidential data. In his or her decision-making, the president shall not be bound by the reasons stated by the head, and shall be obliged to take into consideration also other important reasons for not disclosing the confidential data. The president shall apply *mutatis mutandis* the provisions of paragraph five of Article 240a of this Act to his or her decision-making.

(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.

235.b člen

(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.

236. člen

(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;

(5) If the president orders a witness to be released from the duty of protecting confidentiality, he or she shall define *ex officio* in his or her ruling the scope and the conditions of disclosure of confidentiality, and also potential protective measures by *mutatis mutandis* application of the provisions of paragraph one of Article 240a of this Act.

(6) The parties and the defence counsel may appeal against the ruling of the president to release or not release the witness from the duty of protecting confidentiality within three days of the service of the copy of the ruling. The appeal shall be decided by the president of the Supreme Court by *mutatis mutandis* application of the provisions of this Article.

Article 235b

(1) If a witness has to be heard in the course of criminal proceedings in respect of which a protective measure has been ordered in accordance with paragraph five of Article 235a of this Act, the investigating judge, the single judge or the president of the panel shall become acquainted with the necessary data related to the identity of the witness by viewing the file at the premises of the president of the court referred to in paragraph one of Article 235a of this Act, or shall examine the identity of the witness with his or her assistance by *mutatis mutandis* application of the provisions of paragraph six of Article 240a of this Act.

(2) During the hearing of the witness referred to in paragraph one of this Article, the judge shall prohibit any questions where the witness, in his or her answers, might disclose confidential data he or she is obliged to protect to a greater extent than authorised.

Article 236

(1) The following persons shall be exempt from the duty to testify:

1) the spouse of the accused person or the person with whom they live in extra-marital cohabitation;
2) the accused person's blood relatives in the direct line, relatives in the collateral line up to the third degree and relatives by marriage up to the second degree;

3) obdolženčev posvojenec in posvojitelj;
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.

(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.

3) the adopter or adoptee of the accused person;
4) a religious confessor, on matters confessed to him or her by the accused person or by another person;
5) an attorney, doctor, social worker, psychologist or another person, on the facts they learned in a professional capacity, if bound by the duty of maintaining the confidentiality of information acquired in their professional capacity, except in the cases referred to in paragraph three of Article 65 of this Act, or unless conditions prescribed by an Act are fulfilled under which such persons are released from the duty of protecting confidentiality and/or are bound to disclose confidential information to the competent bodies;
6) an editor, journalist or author of a contribution regarding the disclosure of a source of information, unless the disclosure is necessary to prevent imminent danger to life or human health or to prevent the commission of a criminal offence punishable by a sentence of three or more years of imprisonment, or the criminal offence of solicitation of persons under fifteen years of age for sexual purposes under Article 173a, or the presentation, manufacture, possession and distribution of pornographic material under Article 176, or abuse of office or official rights under Article 257 of the Criminal Code.

(2) The court conducting the proceedings shall be bound to instruct the persons referred to in the preceding paragraph each time before hearing them, that they are not obliged to testify, when the court learns of the existence of circumstances releasing the said persons from the duty to testify. If a witness declares that he or she waives that right and wishes to testify, he or she must be warned that the court might rest its decision on his or her testimony even if the witness declines to testify at the main hearing. The instruction and the reply thereto shall be entered in the record.

(3) Minors who in view of their age and mental development are not capable of understanding the significance of the right of not having to testify may not be heard as witnesses, except if the accused person so demands or if the court assesses that this is in the minor's best interest.

(4) A person with valid grounds to decline testifying against one of the accused persons shall be discharged from the duty of testifying against all other accused persons if by the virtue of things his or her testimony cannot be limited only to the other accused persons.

237. člen

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 bil 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.

238. člen

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.

239. člen

(1) Priče se vabijo s pisnim vabilom, v katerem se navede: ime, priimek in poklic vabljenega, kdaj in kam naj pride, kazenska zadeva, zaradi katere je vabljen, navedba, da se vabi kot priča, pouk o dolžnosti primerno opravičiti svoj izostanek (peti in šesti odstavek 193. člena), in opozorilo na posledice neopravičenega izostanka; če gre za kaznivo dejanje, ki se preganja na predlog, se oškodovanca, ki je vabljen kot priča, v vabilu opozori, da se bo v primeru neopravičenega izostanka štelo, da je umaknil predlog za pregon (244. člen). Oškodovanca, ki je vabljen kot priča, se opozori tudi, da lahko predlog za pregon umakne do konca glavne obravnave in da bo z umikom izgubil pravico, da ga vnovič poda ter da bo v primeru, če predlog umakne po začetku glavne obravnave, moral plačati stroške kazenskega postopka, razen če bo obdolženec izjavil, da jih bo plačal sam.

Article 237

If a person who has been heard as a witness is a person who may not be heard as a witness (Article 235), or a person who is not obliged to testify (Article 236), but has not been instructed of that right or has not expressly waived that right, or if the instruction and waiver were not entered in the record, or if, in contravention of paragraph three of Article 236 of this Act, a minor was heard who was not capable of understanding the significance of the right of not having to testify, or if the testimony of a witness was extorted by force, threat or similar prohibited means (paragraph three of Article 266), the court may not rest its decision on such testimony.

Article 238

A witness shall not be obliged to answer certain questions if it is probable that he or she would thereby expose himself or herself or his or her close relative (points 1 to 3 of paragraph one of Article 236) to serious disgrace, considerable pecuniary damage or criminal prosecution.

Article 239

(1) Witnesses shall be summoned by a written summons indicating the first name, surname and occupation of the person summoned, when and where to appear, the criminal case in respect of which he or she is summoned, an indication that he or she is summoned as a witness, an instruction on the duty to properly justify his or her absence (paragraphs five and six of Article 193), and a caution as to the consequences of an unjustified absence; if a criminal offence prosecuted upon a motion is involved, the injured party who has been summoned as a witness shall be advised in the summons that the motion for prosecution shall be deemed to have been withdrawn in the event of his or her unjustified absence (Article 244). The injured party who has been summoned as a witness shall also be advised that he or she may withdraw his or her motion for prosecution before the end of the main hearing and that by withdrawing it he or she shall lose the right to lodge it again, and that in the case that the motion is withdrawn after the main hearing has

(2) Mladoletna oseba, ki še ni dopolnila šestnajst let, se vabi za pričo po njenih starših oziroma po zakonskem zastopniku, razen če to ni mogoče zaradi tega, ker je treba hitro ravnati, ali zaradi drugih okoliščin.

(3) Priče, ki se zaradi starosti, bolezni ali hudih telesnih hib ne morejo odzvati vabilu, se smejo zaslišati v njihovem stanovanju.

started, he or she shall have to pay the costs of criminal proceedings, unless the accused person declares that he or she will pay them.

(2) Minors under the age of sixteen shall be summoned as witnesses through their parents or legal representatives, unless this is not possible due to the need for urgency or other circumstances.

(3) Witnesses who by reason of old age, illness or serious bodily disability are unable to respond to the summons may be examined in their abode.

240. člen

(1) Priče se zaslišujejo vsaka zase in brez navzočnosti drugih prič. Priča mora dajati odgovore ustno.

(2) Pričo je treba najprej opomniti, da je dolžna govoriti resnico in da ne sme ničesar zamolčati, nato pa jo opozoriti, da pomeni kriva izpovedba kaznivo dejanje. Pričo je treba opozoriti tudi, da ni dolžna odgovarjati na vprašanja iz 238. člena tega zakona in to opozorilo vpisati v zapisnik.

(3) Pričo je treba nato vprašati za ime in priimek, poklic, prebivališče, rojstni kraj, dan, mesec in leto rojstva, EMŠO in njeno razmerje do obdolženca in oškodovanca. Opozoriti jo je treba, da mora sporočiti sodišču spremembo naslova in prebivališča oziroma naslova zaposlitve. Policist oziroma pooblaščena oseba drugega državnega organa, ki ima pooblastila policije, ki nastopa kot priča, lahko namesto prebivališča pove naslov in naziv enote, ki ji pripada, osebe, navedene v 5. in 6. točki prvega odstavka 236. člena tega zakona pa naslov in naziv zaposlitve, če so vabljene kot priče zaradi svojega dela. Od neposrednega izvajalca ukrepov po 149.a, 150., 151., 155. in 155.a členu tega zakona se praviloma ne zahteva osebnih podatkov, ampak zadostuje, če se identificira s službenim delovnim imenom in uradnim dokumentom, ki potrjuje njegovo svojstvo.

Article 240

(1) Witnesses shall be examined individually and without the presence of other witnesses. A witness shall answer questions orally.

(2) A witness shall first be cautioned that it is his or her duty to speak the truth and that he or she may not withhold anything, whereupon he or she shall be warned that false testimony is a criminal offence. A witness shall also be cautioned that he or she is under no obligation to answer the questions referred to in Article 238 of this Act, and this caution shall be entered in the record.

(3) The witness shall then be asked his or her first name and surname, occupation, place of residence, place of birth, the day, month and year of birth, EMŠO number and his or her relationship to the accused person and the injured party. He or she shall be informed of the obligation to report to the court any change of address and place of residence or address of the place of employment. A police officer or the authorised official of some other state body vested with police powers who appears as a witness may indicate the address and the name of the unit to which he or she belongs instead of his or her place of residence, while the persons referred to in points 5 and 6 of paragraph one of Article 236 of this Act may provide their address and job title if summoned as witnesses due to the work they perform. As a rule, personal data shall not be requested from the direct provider of measures referred to in Articles 149a, 150, 151, 155 and 155a of this Act; instead, identification by the official working name and an official document certifying his or her identity shall be sufficient.

(4) Pri zaslišanju mladoletne osebe, zlasti če je bila s kaznivim dejanjem oškodovana, je treba ravnati obzirno, da zaslišanje ne bi škodljivo vplivalo na njeno duševno stanje. Če je potrebno, se zaslišanje mladoletne osebe opravi s pomočjo pedagoga ali kakšnega drugega strokovnjaka. Pri zaslišanju priče, mlajše od 15 let, je lahko navzoča oseba, ki ji priča zaupa.

(5) Zaslišanje priče, ki je oškodovanec s posebnimi potrebami po zaščiti, se glede na njene osebne okoliščine lahko opravi s pomočjo strokovnjaka ustrezne stroke, navzoča pa je lahko tudi oseba, ki jo priča sama izbere, razen če bi bilo to v nasprotju z interesi uspešne izvedbe predkazenskega ali kazenskega postopka ali koristmi priče.

(6) Zaslišanje priče, ki je oškodovanec s posebnimi potrebami po zaščiti, se glede na njene osebne okoliščine lahko opravi v posebej prilagojenih prostorih. Zaslišanje priče, mlajše od 15 let, ki je bila oškodovanec kaznivega dejanja iz tretjega odstavka 65. člena tega zakona, se opravi v posebej prilagojenih prostorih, razen če to ni potrebno zaradi opravičljivih razlogov, ki jih mora sodišče posebej obrazložiti.

240.a člen

(1) Če bi zaradi razkritja posameznih osebnih podatkov ali celotne identitete določene priče nastala resna nevarnost za njeno življenje ali telo, življenje ali telo njenega bližnjega sorodnika (1. do 3. točka prvega odstavka 236. člena) ali oseb, ki jih v skladu z določbami zakona iz tretjega odstavka 141.a člena tega zakona predlaga priča, lahko sodišče za zaščito določene priče ali njenega bližnjega odredi enega ali več zaščitnih ukrepov kot so:

1. izbris vseh ali posameznih podatkov iz tretjega odstavka 240. člena tega zakona iz kazenskega spisa;
2. označitev vseh ali nekaterih podatkov iz prejšnje točke za podatke, ki zaradi interesov postopka niso javno dostopni;
3. odredba obdolžencu, zagovorniku, oškodovancu, ali njihovim zakonitim zastopnikom in pooblaščencem, da morajo ohraniti v

(4) The hearing of a minor, especially if such person has suffered harm from the criminal offence concerned, must be conducted with particular care in order to avoid possible detrimental consequences to his or her mental state. If necessary, the hearing of a minor shall be carried out with the assistance of an educational or other expert. In hearing a witness who is younger than 15 years, a person whom the witness trusts may be present.

(5) The hearing of a witness who is a victim with special need for protection may be carried out, depending on his or her personal circumstances, with the assistance of an expert of the relevant profession, where a person of the witness's own choosing may also be present, unless this would be contrary to the interests of successful implementation of pre-trial or criminal proceedings or the interests of the witness.

(6) The hearing of a witness who is a victim with special need for protection may be carried out, depending on his or her personal circumstances, in specially adapted premises. The hearing of a witness who is younger than 15 years and who was the victim of the criminal offence referred to in paragraph three of Article 65 of this Article shall be carried out in specially adapted premises, unless this is not necessary for justifiable reasons that must be specifically substantiated by the court.

Article 240a

(1) Where the disclosure of particular personal data or of the entire identity of a particular witness would entail a serious threat to his or her life or body, or the life or body of his or her close relative (points 1 to 3 of paragraph one of Article 236), or of persons proposed by the witness in accordance with the provisions of the act referred to in paragraph three of Article 141a of this Act, the court may order one or more of the following measures to protect the witness or his or her close relative:

1) removal of all or particular data referred to in paragraph three of Article 240 of this Act from the criminal case file;
2) the marking of all or some of the data referred to in the preceding point as data not available to the public due to the interests of the proceedings;
3) issuing an order to the accused person, his or her defence counsel, the injured party or his or her legal representatives and counsels to

tajnosti posamezna dejstva ali podatke;
4. določitev psevdonima priči;
5. zaslišanje s pomočjo tehničnih sredstev (zaščitna stena, naprava za popačenje glasu, prenos zvoka iz posebnega prostora in podobna tehnična zaščitna sredstva).

(2) Zaščitne ukrepe iz prejšnjega odstavka s pisnim sklepom odredi preiskovalni sodnik na predlog državnega tožilca, priče, oškodovanca, obdolženca, njihovih zakonitih zastopnikov in pooblaščencev ali po uradni dolžnosti. Sklep ne sme vsebovati podatkov, ki bi lahko privedli do razkritja podatkov, ki so predmet zaščitnega ukrepa.

(3) Pred izdajo sklepa o uporabi zaščitnih ukrepov preiskovalni sodnik od priče pridobi podatke iz tretjega odstavka 240. člena tega zakona. V primeru odreditve zaščitnih ukrepov se ustrezni podatki iz tretjega odstavka 240. člena tega zakona takoj po identifikaciji in pred zaslišanjem priče izločijo iz spisa in hranijo kot podatki, ki zaradi interesov postopka niso javno dostopni. Njihov pregled in uporaba sta dopustna samo v postopku odločanja o pritožbi zoper sklep iz prejšnjega odstavka in v primeru preverjanja identitete po devetem odstavku tega člena.

(4) Sklep o uporabi zaščitnih ukrepov, s katerimi se identiteta priče obdolžencu in njegovemu zagovorniku v celoti prikrije (anonimna priča), lahko preiskovalni sodnik izda samo po opravljenem posebnem naroku, če oceni:

1) da obstaja resna nevarnost za življenje ali telo priče, življenje ali telo njenega bližnjega sorodnika ali oseb, ki jih v skladu z določbami zakona iz tretjega odstavka 141.a člena tega zakona predlaga priča,
2) da je izpovedba priče pomembna za kazenski postopek,

3) da priča izkazuje zadostno stopnjo verodostojnosti in
4) da interes pravičnosti in uspešne izvedbe kazenskega postopka pretehtata nad interesom obrambe, da se seznani z identiteto priče.

keep particular facts or data secret;
4) the assignment of a pseudonym to the witness;
5) hearing the witness by means of technical equipment (a protective screen, sound-altering device, transmission of sound from separate premises and other similar technical protective means).

(2) Protective measures referred to in the preceding paragraph shall be ordered by a written ruling of the investigating judge upon the motion of the state prosecutor, the witness, the injured party, the accused person, his or her legal representatives and counsels or *ex officio*. The ruling may not contain information that could lead to the disclosure of data that are the subject of the protective measure.

(3) Prior to the issuing of the ruling on the use of protective measures, the investigating judge shall obtain from the witness the data referred to in paragraph three of Article 240 of this Act. If protective measures are ordered, the relevant data referred to in paragraph three of Article 240 of this Act shall be excluded from the case file immediately after the identification of the witness and before his or her hearing, and shall be kept as data not available to the public due to the interests of the proceedings. Such data may only be inspected and used in the decision-making procedure on an appeal against the ruling referred to in the preceding paragraph, and in the case of identity verification pursuant to paragraph nine of this Article.

(4) A ruling on the use of protective measures by means of which the identity of a witness is entirely concealed from the accused person and his or her defence counsel (anonymous witness) may only be issued by the investigating judge after a special hearing has been held, if he or she assesses:
1) that the life or body of a witness, the life or body of his or her close relative or persons proposed by the witness in accordance with the provisions of the act referred to in paragraph three of Article 141a of this Act is under serious threat;
2) that the testimony of the witness is important for the criminal proceedings;
3) that the witness demonstrates an adequate degree of credibility; and
4) that the interests of justice and the successful conduct of criminal proceedings outweigh the interests of the defence in learning the identity of the witness.

(5) Na naroku iz prejšnjega odstavka je poleg državnega tožilca in priče, za katero se predlaga zaščitni ukrep, lahko prisotno samo še nujno sodno osebje in osebje za zagotavljanje varnosti. Preiskovalni sodnik na naroku vpogleda v predloženo dokumentacijo in zasliši priče ter druge osebe, ki bi lahko nudile podatke, pomembne za njegovo odločitev. Izjave, ki jih na tem naroku dajo priča ali druge osebe, se takoj po naroku izločijo iz spisa in hranijo kot podatki, ki zaradi interesov postopka niso javno dostopni. Njihov pregled in uporaba sta dopustna samo v postopku odločanja o pritožbi zoper sklep iz drugega odstavka in v primeru preverjanja identitete po devetem odstavku tega člena. Če preiskovalni sodnik na naroku ugotovi, da zaščitni ukrepi iz prvega odstavka tega člena ne zadoščajo za zagotovitev osebne varnosti, lahko državnemu tožilcu predlaga, da poda pobudo v skladu z določbami zakona iz tretjega odstavka 141.a člena tega zakona.

(6) Če so glede določene priče že pred zaslišanjem pri preiskovalnem sodniku odrejeni nujni zaščitni ukrepi ali ukrepi v programu zaščite po zakonu iz tretjega odstavka 141.a člena tega zakona, preiskovalni sodnik na naroku iz četrtega odstavka tega člena od priče pridobi podatke iz tretjega odstavka 240. člena tega zakona in preveri, ali gre dejansko za isto pričo, glede katere so bili odrejeni ukrepi. Ugotovitev se vpiše v zapisnik. Pridobljeni podatki se takoj po identifikaciji in pred zaslišanjem priče izločijo iz spisa in hranijo kot podatki, ki zaradi interesov postopka niso javno dostopni. Glede take priče preiskovalni sodnik s sklepom odloči o prikritju identitete za potrebe sodnega postopka po opravljeni oceni iz 4. točke četrtega odstavka tega člena.

(7) Med zaslišanjem priče, glede katere so odrejeni ukrepi iz prvega odstavka tega člena ali glede katere so odrejeni ukrepi v programu zaščite po zakonu iz tretjega odstavka 141.a člena tega zakona, preiskovalni sodnik prepove vsa vprašanja, pri katerih bi lahko odgovori nanje razkrili zaščitene podatke.

(5) Only essential court staff and security staff may be present at the hearing referred to in the preceding paragraph, in addition to the state prosecutor and the witness in respect of whom the protective measure has been requested. At the hearing, the investigating judge shall inspect the submitted documents and hear the witness and other persons who could provide information relevant for his or decision. The statements given by the witness or other people at this hearing shall be excluded from the case file immediately after the hearing and shall be kept as data not available to the public due to the interests of the proceedings. They may only be inspected and used in the decision-making procedure on an appeal against the ruling referred to in paragraph two and in the case of identity verification pursuant to paragraph nine of this Article. If the investigating judge establishes at the hearing that the protective measures referred to in paragraph one of this Article are not sufficient to ensure personal security, he or she may propose to the state prosecutor to make a motion in accordance with the provisions of the act referred to in paragraph three of Article 141a of this Act.

(6) If urgent protective measures or measures under the witness protection programme pursuant to the act referred to in paragraph three of Article 141a of this Act have already been ordered in respect of a certain witness prior to his or her hearing before the investigating judge, the investigating judge shall collect from the witness the data referred to in paragraph three of Article 240 of this Act at the hearing referred to in paragraph four of this Article and shall verify that it is indeed the same witness as the one in respect of whom the protective measures have been ordered. The findings shall be entered in the record. The data obtained shall be excluded from the case file immediately after the identification of the witness and before the hearing of the witness, and shall be kept as data not available to the public due to the interests of the proceedings. With regard to such witness, the investigating judge shall decide by a ruling on the concealment of his or her identity for the purposes of court proceedings after the assessment referred to in point 4 of paragraph four of this Article is made.

(7) During the hearing of a witness in respect of whom the measures referred to in paragraph one of this Article have been imposed, or in respect of whom the witness protection programme measures in accordance with the act referred to in paragraph three of Article 141a of this Act have been ordered, the investigating judge shall prohibit any

(8) Po izročitvi obtožnice sodišču do konca glavne obravnave opravlja pristojnosti preiskovalnega sodnika iz tega člena predsednik senata.

(9) Če je na glavni obravnavi treba zaslišati pričo, glede katere je bil odrejen zaščitni ukrep iz 4. točke prvega odstavka tega člena ali glede katere je odrejen ukrep po šestem odstavku tega člena, mora predsednik senata pred zaslišanjem preveriti, ali gre dejansko za isto pričo, glede katere je bil odrejen zaščitni ukrep. Ugotovitev se vpiše v zapisnik.

241. člen

(1) Po splošnih vprašanjih se od priče zahteva, naj pove vse, kar ve o zadevi; nato se ji postavljajo vprašanja, da se njene izpovedbe preskusijo, dopolnijo in razjasnijo. Pri zaslševanju priče ni dovoljeno slepiti in tudi ne postavljati takšnih vprašanj, v katerih je že obseženo navodilo, kako naj odgovori.

(2) Pričo je treba vselej vprašati, od kod ve to, o čemer priča.

(3) Priče se smejo soočiti, če se njihove izpovedbe ne ujemajo glede pomembnih dejstev. Soočenci se o vsaki okoliščini, o kateri se njihove izpovedbe ne ujemajo, zaslišijo vsak zase in njihovi odgovori vpišejo v zapisnik. Hkrati se smeta soočiti samo dve priči.

(4) Oškodovanca, ki se zaslišuje kot priča, je treba vprašati, ali želi v kazenskem postopku uveljavljati premoženjskopravni zahtevek.

242. člen

(1) Če je potrebno, da se ugotovi, ali priča pozna osebo ali

questions whose answers may disclose protected information.

(8) In the period after the submission of the indictment to the court and before the end of the main hearing, the powers of the investigating judge referred to in this Article shall be exercised by the president of the panel.

(9) If a witness in respect of whom the protective measure referred to in point 4 of paragraph one of this Article has been ordered, or in respect of whom the measure referred to in paragraph six of this Article has been ordered, is to be heard at the main hearing, the president of the panel shall be bound to verify it is indeed the same witness as the one in respect of whom the protective measure has been ordered. The findings shall be entered in the record.

Article 241

(1) After answering the general questions, the witness shall be requested to state everything known to him or her about the case, and then he or she shall be asked questions aimed at verifying, supplementing and clarifying the testimony. During the hearing of the witness, deceiving questions and leading questions shall not be permitted

(2) A witness shall always be asked for the origin of his or her knowledge about which he or she testifies.

(3) Witnesses may be confronted if their testimonies are not in agreement regarding important facts. The confronted witnesses shall be heard separately about every circumstance in respect of which their statements do not match and their answers shall be entered in the record. Only two witnesses may be confronted at a time.

(4) The injured party being heard as a witness shall be asked if he or she intends to enforce his or her pecuniary claim in the criminal proceedings.

Article 242

(1) If it is necessary to establish whether a witness recognises a

predmete, se od nje najprej zahteva, naj jih opiše in navede znake, po katerih se razlikujejo; šele potem se ji pokaže oseba ali predmet, in sicer skupaj z drugimi, njej neznanimi osebami oziroma po možnosti skupaj s predmeti iste vrste. Na smiselno enak način je treba ravnati tudi pri prepoznavanju s pomočjo drugih čutil (sluh, tip, voh in drugo).

(2) Pred prepoznavo se pričo opozori po drugem odstavku 240. člena tega zakona.

(3) Preiskovalni sodnik, ki vodi prepoznavo, mora zagotoviti, da priča pred začetkom prepoznave ne vidi oseb ali predmetov, ki jih bo prepoznavala.

(4) O prepoznavi obdolženca se sestavi zapisnik, temu pa se priloži skupni posnetek vseh oseb, ki so bile prepoznavane.

242.a člen

Če obstaja resna nevarnost za življenje ali telo osebe, ki opravlja prepoznavo, oziroma njenih bližnjih sorodnikov (1. do 3. točka prvega odstavka 236. člena) ali če je podana verjetnost, da bo oseba, ki se prepoznava, vplivala na potek prepoznave, se mora prepoznava opraviti tako, da oseba, ki se prepoznava, ne more videti osebe, ki opravlja prepoznavo.

243. člen

Če se priča zaslišuje po tolmaču ali če je gluha ali nema, se zasliši tako, kot je predpisano v 233. členu tega zakona.

244. člen

(1) Če priča, ki je bila v redu povabljena, ne pride in svojega izostanka ne opraviči (peti in šesti odstavek 193. člena), ali če se brez dovoljenja ali opravičenega razloga odstrani s kraja, kjer bi

certain person or object, he or she shall first be asked to describe them and indicate their distinctive characteristics, and only after that, the witness shall be shown the person or object together with other persons not known to him or her, or objects of the same kind, if possible. Recognition by means of other senses (hearing, touch, smell, and the like) shall be handled in a similar manner.

(2) Before recognition, the witness shall be cautioned in accordance with paragraph two of Article 240 of this Act.

(3) The investigating judge conducting the recognition procedure shall be bound to ensure that before the commencement of recognition, the witness does not see the persons or objects he or she is to view.

(4) A record on the recognition of the accused person shall be made, accompanied by a group photograph of all the persons viewed.

Article 242a

If the life or body of the person performing the recognition or of his or her close relatives (points 1 to 3 of paragraph one of Article 236) is under serious threat, or if it is probable that the person being recognised might influence the course of the recognition procedure, the recognition must be performed so as to prevent the person being recognised from seeing the person performing the recognition.

Article 243

If a witness is heard through an interpreter, or if a witness is deaf or mute, he or she shall be examined as provided in Article 233 of this Act.

Article 244

(1) If a witness who has been duly summoned fails to appear and fails to justify his or her absence (paragraphs five and six of Article 193), or leaves the location where he or she is to be examined without

morala biti zaslišana, se sme odrediti da se privede s silo, sme pa se tudi kaznovati z denarno kaznijo, določeno v prvem odstavku 78. člena tega zakona. Če gre za kaznivo dejanje, ki se preganja na predlog in oškodovanec, ki je bil v redu povabljen kot priča, na narok ne pride in svojega izostanka ne opraviči, se šteje, da je umaknil predlog za pregon in se kazenski postopek za to dejanje s sklepom ustavi, če se je že začel.

(2) Če priča pride, pa potem, ko je bila opozorjena na posledice, brez zakonskega razloga noče pričati, se sme kaznovati z denarno kaznijo, določeno v prvem odstavku 78. člena tega zakona; če pa tudi potem noče pričati, se sme zapreti. Zapor traja, dokler priča ni pri volji pričati in dokler njeno pričanje ne postane nepotrebno ali dokler se kazenski postopek ne konča, vendar največ deset dni.

(3) O pritožbi zoper sklep, s katerim je bila izrečena denarna kazen ali odrejen zapor, odloča vselej senat (šesti odstavek 25. člena). Pritožba zoper sklep o zaporu ne zadrži njegove izvršitve.

(4) Vojaške osebe in pripadniki policije se ne smejo zapreti, pač pa se o tem, da niso hoteli pričati, obvesti njihovo pristojno poveljstvo.

244.a člen

(1) V skladu z določbami tega člena se zaslišanje obdolženca ali priče lahko opravi tudi z uporabo sodobnih tehničnih sredstev za prenos slike in glasu (videokonferenca).

(2) Zaslišanje obdolženca ali priče preko videokonference se lahko opravi, če:

1. gre za zaščiteno osebo po zakonu, ki ureja zaščito prič, in bi s prihodom k organu, ki opravlja zaslišanje, nastala resna nevarnost za njeno življenje ali telo, življenje ali telo oseb, ki so z njo v razmerju iz 1. do 3. točke prvega odstavka 236. člena tega zakona, ali oseb, ki jih je predlagala v skladu z določbami zakona, ki ureja zaščito prič,

permission or a justified reason, he or she may be ordered to be brought in forcibly, and may also be fined as provided in paragraph one of Article 78 of this Act. If a criminal offence prosecuted upon a motion is involved and the injured party, who was duly summoned as a witness, fails to appear at the hearing and fails to justify his or her absence, it shall be deemed that he or she has withdrawn the motion for prosecution and the criminal proceedings for this offence shall be discontinued by a ruling if already initiated.

(2) If a witness appears as summoned, but after being informed of the consequences refuses to testify without a legitimate reason, he or she may be fined as provided in paragraph one of Article 78 of this Act; if after that, he or she still refuses to testify, he or she may be imprisoned. The imprisonment shall last for as long as the witness refuses to testify and until his or her testimony becomes unnecessary, or until the criminal proceedings are concluded, but for not more than ten days.

(3) An appeal against the ruling ordering a fine or imprisonment shall always be decided by the panel (paragraph six of Article 25). An appeal against the ruling on imprisonment shall not stay its execution.

(4) Military personnel and police members may not be imprisoned, but their refusal to testify shall be reported to their respective commands.

Article 244a

(1) In accordance with the provisions of this Article, the hearing of the accused person or witness may also be performed by the use of modern technical devices for the transmission of image and sound (videoconference).

(2) The hearing of the accused person or witness may be conducted via a videoconference if:

1. it involves a protected person under the Act regulating the protection of witnesses and if his or her coming to the authority conducting the hearing would cause serious threat to his or her life or body, the life or body of persons in a relationship with him or her as referred to in points 1 to 3 of paragraph one of Article 236 of this Act, or of the persons proposed by the witness in accordance with the provisions of

2. gre za anonimno pričo in bi s prihodom k organu, ki opravlja zaslišanje, nastala resna nevarnost za njeno življenje ali telo, življenje ali telo oseb, ki so z njo v razmerju iz 1. do 3. točke prvega odstavka 236. člena tega zakona, ali oseb, ki jih je predlagala v skladu z določbami zakona, ki ureja zaščito prič,

3. je pristojni organ podal ustrezno zaprosilo drugi državi v skladu z zakonom ali mednarodno pogodbo, ali
4. zaradi drugih upravičenih razlogov ni zaželeno ali možno, da bi oseba prišla k organu, ki opravlja zaslišanje.

(3) Če je podan pogoj iz 4. točke prejšnjega odstavka, se lahko tudi zaslišanje izvedenca opravi preko videokonference.

(4) Zaslišanje preko videokonference se opravi s smiselno uporabo določb tega zakona o zaslišanju obdolženca, priče ali izvedenca, če drug zakon, obvezujoča mednarodna pogodba ali obvezujoč pravni akt mednarodne organizacije ne določa drugače.

(5) Ob obdolžencu, priči ali izvedencu, ki se v času zaslišanja preko videokonference nahaja na ozemlju Republike Slovenije, mora biti prisotna pristojna oseba organa, ki opravlja zaslišanje ali druga oseba, ki jo ta organ pooblasti, in zagotoviti ustrezno identifikacijo zaslišane osebe. Pri takem zaslišanju so lahko navzoči zagovornik in osebe, ki skrbijo za varnost.

(6) Ob obdolžencu, priči ali izvedencu, ki se preko videokonference za potrebe domačega kazenskega postopka zaslišuje na ozemlju druge države, mora pristojni organ iz 3. točke drugega odstavka tega člena zagotoviti, da je ob obdolžencu, priči ali izvedencu navzoča pristojna oseba pristojnega organa te države, ki zagotovi identifikacijo zaslišane osebe. Pri takem zaslišanju je lahko navzoč tudi zagovornik.

(7) Minister, pristojen za pravosodje, izda navodilo, ki podrobneje ureja pogoje, ki jih morajo izpolnjevati tehnična sredstva

the Act regulating the protection of witnesses;
2. it involves an anonymous witness and if his or her coming to the authority conducting the hearing would cause serious threat to his or her life or body, the life or body of persons in a relationship with him or her as referred to in points 1 to 3 of paragraph one of Article 236 of this Act, or of the persons proposed by the witness in accordance with the provisions of the Act regulating the protection of witnesses;
3. the competent authority submitted a relevant request to another state in accordance with an Act or an international treaty; or
4. it is not desirable or possible for the person to come to the authority conducting the hearing for other justified reasons.

(3) Where the condition referred to in point 4 of the preceding paragraph is met, the hearing of an expert witness may also be conducted via a videoconference.

(4) The hearing via a videoconference shall be conducted by *mutatis mutandis* application of the provisions of this Act on the hearing of an accused person, a witness or an expert witness, unless otherwise provided by another act, a binding international treaty or a binding legal act of an international organisation.

(5) A competent person of the authority conducting the interrogation or another person authorised by this authority must be present with the accused person, witness or expert witness who is located in the territory of the Republic of Slovenia during the hearing via a videoconference, and must ensure the relevant identification of the person heard. The defence counsel and security staff may be present during such hearing.

(6) Where the accused person, witness or expert witness is heard in the territory of another country via a videoconference for the purposes of domestic criminal proceedings, the competent authority referred to in point 3 of paragraph two of this Article must ensure that a competent person of the competent authority of the foreign country concerned is present with the accused person, witness or expert witness in order to ensure the identification of the person heard. The defence counsel may also be present during such hearing.

(7) The minister responsible for justice shall issue instructions regulating in detail the conditions to be complied with by technical devices

za prenos besede in slike (videokonferenca), način njihove uporabe, prepis in predvajanje posnetkov, izdelovanje kopij posnetkov ter hrambo posnetkov.

6. Ogled

245. člen

Ogled se opravi, kadar je za ugotovitev ali razjasnitev kakšnega pomembnega dejstva v postopku potrebno neposredno opazovanje oziroma zaznavanje. Pri ogledu se lahko uporabljajo tudi tehnična sredstva.

246. člen

(1) Da se preverijo izvedeni dokazi ali ugotovijo dejstva, ki so pomembna za razjasnitev stvari, sme organ, ki vodi postopek, odrediti rekonstrukcijo dogodka tako, da se ponovijo dejanja ali situacije v razmerah, v katerih se je po izvedenih dokazih dogodek pripetil. Če so v izpovedbah posameznih prič ali obdolžencev dejanja ali situacije prikazani različno, se rekonstrukcija dogodka opravi praviloma z vsakim izmed njih posebej.

(2) Rekonstrukcija se ne sme opravljati tako, da bi se žalila javni red in morala ali da bi bilo v nevarnosti življenje ali zdravje ljudi.

(3) Pri rekonstrukciji se smejo po potrebi znova izvesti posamezni dokazi.

247. člen

(1) Organ, ki opravlja ogled ali rekonstrukcijo dogodka, lahko zahteva pomoč strokovnjaka kriminalistično-tehnične, prometne ali druge stroke, ki po potrebi tudi išče, zavaruje ali opisuje sledove, opravi potrebna merjenja in snemanja, napravi skice ali zbere druge podatke.

for the transmission of sound and image (videoconference), the method of their use, the transcription and playing of recordings, and reproduction of recordings and their storage.

6. Inspection of the crime scene

Article 245

An inspection of the crime scene shall be carried out where direct observation or detection is required in order to establish or clarify an important fact in the proceedings. Technical means may also be used during the inspection.

Article 246

(1) For the purpose of checking the evidence taken or establishing facts which are important for the clarification of the matter, the authority conducting the proceedings may order the reconstruction of an event by repeating the actions or situations under the conditions in which, according to the evidence taken, the event took place. If in statements made by individual witnesses or accused persons the actions or situations are described differently, the reconstruction of the event shall as a rule be performed separately with each of them.

(2) A reconstruction may not be performed in a manner offensive to public order and morals or in a manner that would threaten human lives and health.

(3) During the reconstruction, certain evidence may be taken again, if necessary.

Article 247

(1) The authority conducting the inspection of the crime scene or the reconstruction of the event may request the assistance of experts in criminology, transport or another discipline, who shall also seek, secure or describe the traces of the criminal offence, make the necessary measurements and recordings, draw sketches or collect other information,

(2) Na ogled ali rekonstrukcijo dogodka se lahko povabi tudi izvedenec, če naj bi bila njegova navzočnost koristna za izvid in mnenje.

7. Izvedenstvo

248. člen

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.

249. člen

(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.

if appropriate.

(2) An expert witness may also be summoned to attend the inspection of the crime scene or the reconstruction of the event if his or her presence is considered to be useful for the findings and the opinion.

7. Expert witnesses

Article 248

Where it is necessary to obtain the findings and opinions of a person possessing the necessary expertise to establish or assess an important fact in the proceedings, expert witnesses shall be engaged.

Article 249

(1) Expert examination shall be ordered by a written order of the authority conducting the proceedings. The order shall specify the facts that need to be established or assessed by expert witnesses, and the persons to be entrusted with expert examination. The order shall also be served on the parties.

(2) If there is a professional public institution for a certain type of expertise or if expert examination may be performed within a state authority, such expert examination shall as a rule be entrusted to such public institution or authority, especially if it is relatively complex. The public institution or the authority shall appoint one or several experts to perform the expert examination.

(3) Where an expert witness is appointed by the authority conducting the proceedings, such authority shall as a rule appoint a single expert witness, but if a complex expert examination is involved, it shall appoint two or more expert witnesses.

(4) If for a certain type of expert examination there are expert witnesses from the list of permanent expert witnesses, the court may appoint other expert witnesses only if there is a danger in delaying, or if the permanent expert witnesses are unavailable at that moment, or if other

circumstances so require.

250. člen

(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).

251. člen

(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.

252. člen

Article 250

(1) A person summoned as an expert witness shall be bound to respond to the summons and to provide his or her findings and opinion.

(2) If an expert witness who has been duly summoned fails to appear and does not justify his or her absence, or if he or she refuses to perform an expert examination, he or she may be fined as provided in paragraph one of Article 78 of this Act; if his or her failure to appear is unjustified, he or she may also be brought in forcibly.

(3) An appeal against the ruling imposing a fine shall be decided by the panel (paragraph six of Article 25).

Article 251

(1) A person who may not be examined as a witness (Article 235), or who is released from the duty to testify (Article 236), or against whom a criminal offence was committed, may not be appointed as an expert witness; if such person is appointed as an expert witness, the court's decision may not rest on his or her findings and opinion.

(2) A reason for the disqualification of an expert witness (Article 44) shall also exist where they are employed together with the accused party or the injured party with the same employer, and where they are employed by the injured party or the accused person.

(3) As a rule, a person heard as a witness shall not be appointed an expert witness.

(4) Where a special appeal against the ruling refusing a request for the disqualification of an expert witness is allowed (paragraph four of Article 42), the appeal shall stay the work of the expert witness, unless there is a danger in delaying.

Article 252

(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.

253. člen

(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.

(1) Before starting to prove the facts through the engagement of expert witnesses, an expert witness shall be instructed to carefully examine the object in question, to state in detail everything that he or she observes and finds, and to present his or her opinion impartially and in accordance with the rules of science or professional expertise. Expert witnesses shall be specifically cautioned that false testimony is a criminal offence.

(2) The expert witness may be required to take an oath before commencing the expert examination. Before the main hearing, the expert witness may only be sworn in before the court where the risk exists that he or she will not be able to attend the main hearing. The reason for his or her taking an oath on that occasion shall be entered in the record. A permanent expert witness who has taken a general oath shall only be reminded of the oath taken before the commencement of the expert examination. The oath shall be taken as provided for by Article 333 of this Act.

(3) The authority conducting the proceedings shall manage the taking of evidence, show to the expert witness the objects to be examined, pose questions to him or her and, if appropriate, demand clarifications regarding his or her findings and opinion given.

(4) The expert witness may be given clarifications and may be allowed to inspect the case file. He or she may propose that evidence be taken or that objects and data of importance for providing findings and the opinion be obtained. If the expert witness attends the inspection of a crime scene, the reconstruction of the event or some other investigative act, he or she may propose that specific circumstances be clarified or that a certain question be posed to the person being heard.

Article 253

(1) The expert witness shall examine objects in the presence of the authority conducting the proceedings and a court reporter, except where a prolonged examination is necessary, or if the examination is conducted in an institution or a state authority, or where moral considerations render it inappropriate.

(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.

(2) If an analysis of a specific substance is necessary in order to arrive at an expert opinion, the expert shall only be given, if possible, a sample of the substance while the remainder shall be kept in case subsequent analyses are necessary.

254. člen

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.

Article 254

The expert witness' findings and opinion shall be promptly entered in the record. The expert witness may be allowed to submit his or her written findings or opinion subsequently within the time limit set by the authority before which the proceedings are pending.

255. člen

(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.

Article 255

(1) If an expert examination is entrusted to a professional institution or a state body, the authority conducting the proceedings shall caution them that the person referred to in Article 251 of this Act may not participate in the provision of findings and opinions, nor any person who must be excluded from expert examination for some other reason provided for by this Act, and shall inform them about the consequences of providing false findings and opinions.

(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.

(2) The professional institution or the state body shall be provided with the material needed for the expert examination; if appropriate, the provisions of paragraph four of Article 252 of this Act shall be applied.

(3) Strokovni zavod oziroma državni organ pošlje sodišču pisni izvid in mnenje, ki ga podpišejo tisti, ki so opravili izvedensko delo.

(3) The professional institution or the state body shall deliver to the court the written findings and opinion signed by those who performed the expert examination.

(4) Stranke lahko zahtevajo od predstojnika strokovnega zavoda oziroma državnega organa, naj jim sporoči imena strokovnjakov, ki bodo opravili izvedensko delo.

(4) The parties may request the head of the professional institution or the state body to provide them with the names of the experts who will perform the expert examination.

(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

(5) The provisions of paragraphs one, two and three of Article 252 of this Act shall not apply if the expert examination is entrusted to a professional institution or a state body. The authority conducting the

katerim teče postopek, lahko zahteva od strokovnega zavoda oziroma organa pojasnila glede danega izvida in mnenja.

256. člen

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.

257. člen

Če se podatki izvedencev v njihovem izvidu bistveno razlikujejo ali če je njihov izvid nejasen, nepopoln ali pa sam s seboj ali z raziskanimi okoliščinami v nasprotju, pa se te pomanjkljivosti ne dajo odpraviti z novim zaslišanjem izvedencev, se dokazovanje ponovi z istimi ali drugimi izvedenci.

258. člen

Če so v mnenju izvedencev nasprotja ali pomanjkljivosti ali če nastane utemeljen dvom o pravilnosti danega mnenja, pa se te pomanjkljivosti ali dvom ne dajo odpraviti z novim zaslišanjem, se zahteva mnenje drugih izvedencev.

259. člen

(1) Pregled in raztelešenje trupla se opravi vselej, kadar je v kakšnem smrtnem primeru podan sum ali je očitno, da je bila smrt povzročena s kaznivim dejanjem ali da je v zvezi z izvršitvijo kaznivega dejanja. Če je truplo že pokopano, se odredi izkop, da se truplo pregleda in raztelesi.

(2) Pri raztelešenju trupla je treba storiti vse, kar je potrebno, da se ugotovi istovetnost trupla; v ta namen se posebej opišejo njegove zunanje in notranje telesne posebnosti.

proceedings may ask the professional institution or the state body for clarifications regarding the findings and opinion provided.

Article 256

The record of the expert examination or the written findings and opinion shall indicate the name of the person who performed the expert examination, his or her occupation, professional education and field of specialty.

Article 257

If the information provided by expert witnesses in their findings differs on essential points, or if their findings are ambiguous, incomplete, contradictory in themselves or with respect to the circumstances examined, and if such deficiencies cannot be remedied through a new hearing of expert witnesses, the expert examination shall be repeated with the participation of the same or different expert witnesses.

Article 258

If the opinion of expert witnesses contains contradictions or deficiencies, or if a reasonable doubt arises about the correctness of the provided opinion, and if these deficiencies or doubt cannot be removed through a repeated hearing of the expert witness, the opinion of other expert witnesses shall be sought.

Article 259

(1) A post mortem examination and autopsy shall be performed wherever there is a suspicion, or if it is evident, that death was caused by a criminal offence or that it is related to the commission of a criminal offence. If the corpse has already been buried, an exhumation shall be ordered for the purpose of its post-mortem examination and autopsy.

(2) In performing an autopsy, all necessary measures shall be taken to establish the identity of the corpse, and for this purpose its external and internal physical characteristics shall be described in detail.

260. člen

(1) Če se izvedensko delo ne opravi v strokovnem zavodu, opravi pregled in raztelešenje trupla en zdravnik, po potrebi pa tudi dva ali več zdravnikov, ki naj bodo po možnosti iz sodnomedicinske stroke. To izvedensko delo vodi preiskovalni sodnik, ki v zapisnik vnese izvid in mnenje izvedencev.

(2) Za izvedenca se ne sme določiti zdravnik, ki je umrlega zdravil. Pri raztelešenju trupla se lahko zaradi pojasnila o poteku in okoliščinah bolezni zdravnik, ki je umrlega zdravil, zasliši kot priča.

261. člen

(1) V svojem mnenju morajo izvedenci navesti zlasti neposreden vzrok smrti, kaj ga je sprožilo in kdaj je nastopila smrt.

(2) Če je na truplu najdena kakšna poškodba, je treba ugotoviti, ali jo je prizadel kdo drug, in če jo je, s čim, na kakšen način, koliko časa pred nastopom smrti in ali je ta poškodba povzročila smrt. Če je na truplu več poškodb, je treba ugotoviti, ali je bila vsaka poškodba prizadejana z istim sredstvom in katera je povzročila smrt; če pa je bilo več poškodb smrtnih, je treba ugotoviti, katere od njih so s svojim skupnim delovanjem povzročile smrt.

(3) V primeru iz prejšnjega odstavka je treba posebej dognati, ali je sama vrsta in splošna narava poškodbe povzročila smrt ali pa so jo povzročile osebne lastnosti ali posebnost poškodovančevega organizma ali so jo povzročile slučajne okoliščine ali okoliščine, v katerih je bila poškodba prizadejana.

(4) Poleg tega je treba dognati, ali bi bila mogla pravočasna pomoč odvrniti smrt.

Article 260

(1) If the expert examination is not performed by a professional institution, the post-mortem examination and autopsy of a corpse shall be carried out by one physician, and if necessary by two or more physicians, preferably forensic medicine specialists. This expert examination shall be directed by the investigating judge who shall enter the findings and opinion of expert witnesses in the record.

(2) The physician who treated the deceased may not be appointed as an expert witness. He or she may testify as a witness during the autopsy in order to clarify the course and circumstances of a disease.

Article 261

(1) In their opinions, expert witnesses must indicate in particular the immediate cause of death, what brought it about, and the time when the death occurred.

(2) If an injury is found on the corpse, it shall be established whether it was inflicted by another person, and if so, by what instrument, in which way, how long before death occurred and whether this injury was the cause of death. If several injuries are found on the corpse, it shall be established whether each one was inflicted by the same instrument and which particular injury caused death; if there is more than one fatal injury, it shall be established which injuries in combination were the cause of death.

(3) In the case referred to in the preceding paragraph, it shall be established in particular whether death was caused by the specific type and the general nature of the injury or due to the personal characteristics or the peculiar condition of the injured person's body, or due to accidental circumstances or the circumstances under which the injury was inflicted.

(4) In addition, it shall also be determined whether medical assistance provided in good time might have prevented death.

262. člen

(1) Pri pregledu in raztelešenju zarodka je treba posebej dognati njegovo starost, zmožnost za življenje zunaj maternice in vzrok, zakaj je zamrl.

(2) Pri pregledu in raztelešenju trupla novorojenčka je treba posebej dognati, ali je bil rojen živ ali mrtev, ali je bil zmožen za življenje, kako dolgo je živel, kdaj je umrl in kaj je bilo vzrok njegove smrti.

263. člen

(1) Če je podan sum zastrupitve, se pošljejo sumljive snovi, ki so bile najdene v truplu ali pa drugje, zavodu, ki opravlja toksikološke preiskave, da opravi izvedensko delo.

(2) Pri pregledu sumljivih snovi mora izvedenec posebej ugotoviti vrsto, količino in učinek najdenega strupa; če gre za pregled snovi, ki so bile vzete iz trupla, pa po možnosti tudi količino uporabljenega strupa.

264. člen

(1) Pri telesnih poškodbah opravi izvedenec svoje delo praviloma tako, da poškodovanca pregleda; če to ni mogoče ali ni nujno potrebno, pa na podlagi medicinske dokumentacije ali drugih podatkov v spisih. Pri pregledu je treba spoštovati telesno in duševno celovitost poškodovanca.

(2) Ko natančno opiše poškodbe, da izvedenec svoje mnenje zlasti o vrsti in teži vsake posamezne poškodbe in o njihovem skupnem učinku glede na njihovo naravo in posebne okoliščine primera, kakšen učinek imajo ponavadi takšne poškodbe in kakšen učinek so imele v konkretnem primeru, ter s čim in na kakšen način so bile prizadejane.

Article 262

(1) In performing the post-mortem examination and autopsy on a foetus, its age in particular shall be determined, as well as its capability of independent existence outside the womb and the cause of death.

(2) In performing the post-mortem examination and autopsy on a newborn child, it shall be determined in particular whether he or she was born alive or dead, whether he or she was capable of sustaining life, how long he or she lived and the time and cause of death.

Article 263

(1) If there is a suspicion of poisoning, the suspicious substances found in the corpse or elsewhere shall be sent to an institution which performs toxicological examinations for expert examination.

(2) In examining suspicious substances, the expert witness shall in particular determine the type, quantity and effects of the poison discovered; if the substances examined were taken from the corpse, the quantity of the poison used shall also be established, if possible.

Article 264

(1) In the case of bodily injuries, the expert witness shall as a rule examine the person injured; if this is not possible or absolutely necessary, the examination shall be based on medical documentation or other information contained in the files. During the examination, the physical and mental integrity of the injured person must be respected.

(2) After describing the injuries in detail, the expert witness shall in particular give his or her opinion on the type and severity of each injury and their combined effect regarding the nature and the specific circumstances of the case, the usual effect of such injuries and their specific effect in the case concerned, and by what instrument and in which manner they were inflicted.

264.a člen

Za razgovor, ki ga izvedenec opravi z oškodovancem, se smiselno uporabljajo določbe petega odstavka 65. člena tega zakona in šestega odstavka 240. člena tega zakona.

265. člen

(1) Psihiatrični pregled obdolženca se sme odrediti, če:

- nastane sum, da ob storitvi kaznivega dejanja ni bil prišteven zaradi duševne motnje ali duševne manjrazvitosti ali je bila zaradi takšnega stanja ali zaradi kakšne druge trajne in hude duševne motenosti njegova prištevnost zmanjšana, ali

- obstaja resen dvom, da se zaradi svojega duševnega stanja ne more udeleževati kazenskega postopka.

(2) Če je po mnenju izvedenca psihiatrične stroke potrebno daljše opazovanje, se obdolženec pošlje na opazovanje v ustrezen zdravstveni zavod. Sklep o tem izda sodišče na predlog državnega tožilca po predhodnem zaslišanju zagovornika in obdolženca, če njegovo zdravstveno stanje to dopušča. Opazovanje sme trajati največ en mesec. V primeru iz prve alineje prejšnjega odstavka se sme opazovanje na obrazložen predlog državnega tožilca in po poprejšnjem mnenju izvedenca psihiatrične stroke ter po predhodnem zaslišanju zagovornika podaljšati še za največ en mesec. Pritožba zoper sklep, s katerim se ukrep podaljša, ne zadrži izvršitve sklepa.

(3) Če izvedenec psihiatrične stroke ugotovi pri obdolžencu duševno motnjo, duševno manjrazvitost ali kakšno drugo trajno in hudo duševno motenost, določi njeno naravo, vrsto, stopnjo in trajnost ter da mnenje o tem, kako je ob storitvi kaznivega dejanja tako duševno stanje vplivalo na obdolženčevo prištevnost (29. člen kazenskega zakonika) ter kako še zdaj vpliva na njegovo pojmovanje in ravnanje; oziroma ali gre za tako duševno stanje, da se obdolženec

Article 264a

The provisions of paragraph five of Article 65 of this Act and paragraph six of Article 240 of this Act shall apply *mutatis* to the interview conducted by the expert witness with the injured person.

Article 265

(1) A psychiatric examination of the accused person may be ordered if:

- a suspicion arises that the accused person lacked mental capacity due to mental disorder or mental retardation when the criminal offence was committed, or that his or her mental capacity was diminished due to such condition or due to some other lasting and severe mental disorder, or
- a serious doubt exists that he or she is able to participate in criminal proceedings due to his or her mental condition.

(2) If an expert witness in psychiatry is of the opinion that extended medical observation is necessary, the accused person shall be sent to an appropriate medical institution for observation. The ruling thereon shall be issued by the court upon a motion of the state prosecutor after a prior examination of the defence counsel and the accused person, if the latter's medical condition so permits. Medical observation may last up to a maximum of one month. In the case referred to in the first indent of the preceding paragraph, such observation may, upon a reasoned motion of the state prosecutor, the prior opinion of an expert witness in psychiatry and the prior examination of the defence counsel, be extended by a maximum of one month. An appeal against the ruling extending the measure shall not stay its execution.

(3) If the expert witness in psychiatry finds that the accused person is suffering from a mental disorder, mental retardation or some other lasting and severe mental condition, he or she shall determine its nature, type, degree and duration, and give his or her opinion as to how such mental condition affected the accountability of the accused person at the time of committing the criminal offence (Article 29 of the Criminal Code) and how it still affects his or her perception and behaviour, or

ne more udeleževati kazenskega postopka, in koliko časa bo predvidoma trajala njegova procesna nesposobnost.

(4) Če sodišče pošlje v zdravstveni zavod obdolženca, ki mu je odrejen pripor, obvesti zavod o tem, zakaj je bil odrejen pripor, da zavod ukrene, kar je potrebno za zagotovitev namena pripora. Sodišče obvesti zavod tudi o morebitnem podaljšanju ali odpravi pripora.

(5) Obdolžencu, ki se pošlje na opazovanje po drugem odstavku tega člena in nima zagovornika, je treba postaviti zagovornika po uradni dolžnosti pred izdajo sklepa o opazovanju.

(6) Čas, ki ga prebije v zdravstvenem zavodu, se obdolžencu všteje v pripor oziroma v morebitno kazen.

266. člen

(1) Telesni pregled obdolženca se opravi tudi brez njegove privolitve, če je treba dognati dejstva, ki so pomembna za kazenski postopek. Telesni pregled drugih oseb se sme opraviti brez njihove privolitve samo tedaj, če je treba dognati, ali je na njihovem telesu določena sled ali posledica kaznivega dejanja.

(2) Odvzem krvi in druga zdravniška dejanja, ki se po pravilih zdravniške znanosti opravijo zaradi analize in ugotovitve drugih dejstev, pomembnih za kazenskih postopek, se smejo opraviti tudi brez privolitve tistega, ki se pregleda, razen če bi zaradi tega nastala škoda za njegovo zdravje.

(3) Ni dovoljeno, da bi se pri obdolžencu ali priči uporabili zdravniški posegi ali da bi se jima dala takšna sredstva, s katerimi bi se vplivalo na njuno voljo pri izpovedovanju.

267. člen

whether his or her mental condition is such as to render the accused person incapable of participating in criminal proceedings, and the anticipated period of his or her procedural incapacity.

(4) If the court sends the accused person against whom detention was ordered to a medical institution, it shall inform the institution of the reason why the detention was ordered, so that the institution can take the necessary steps to ensure the purpose of detention. The court shall also inform the institution of any extension or lifting of detention.

(5) The accused person who is transferred for observation referred to in paragraph two of this Article and has not retained a defence counsel shall have a defence counsel appointed for him *ex officio* before the ruling on medical observation is issued.

(6) The time the accused person spends in a medical institution shall be counted towards the period of detention or punishment if imposed.

Article 266

(1) A physical examination of the accused person shall be performed even if he or she does not give consent if this is necessary to establish the facts relevant to the criminal proceedings. A physical examination of other persons may be performed without their consent only where necessary to establish if a particular trace or consequence of a criminal offence has been left on their body.

(2) Taking blood samples and other medical procedures performed according to the rules of medical science in order to analyse and determine other relevant facts for the criminal proceedings may be performed even without the consent of the person being examined, save where such procedures would be harmful to his or her health.

(3) It shall not be permitted to perform any medical intervention on the accused person or a witness or to give him or her such medication as may influence his or her will when testifying.

Article 267

(1) Kadar je potreben izvedenski pregled poslovnih knjig, mora organ, pred katerim teče postopek, izvedencem nakazati, v kateri smeri in v kolikšnem obsegu naj pregledajo poslovne knjige ter katera dejstva in okoliščine naj ugotovijo.

(2) Če je potrebno za izvedenski pregled poslovnih knjig podjetja ali druge pravne osebe, da se najprej uredi njihovo knjigovodstvo, obremenjujejo stroški za ureditev knjigovodstva podjetje oziroma drugo pravno osebo.

(3) Sklep o ureditvi knjigovodstva izda organ, ki vodi postopek, na obrazloženo pisno poročilo izvedencev, katerim je bil naložen pregled poslovnih knjig. V sklepu je treba navesti tudi, kolikšen znesek mora podjetje oziroma druga pravna oseba založiti pri sodišču kot predujem za stroške z ureditvijo njegovega knjigovodstva. Zoper ta sklep ni pritožbe.

(4) Ko je knjigovodstvo urejeno, izda organ, ki vodi kazenski postopek, na podlagi poročila izvedencev sklep, s katerim ugotovi višino stroškov, ki so nastali zaradi ureditve knjigovodstva, in določi, da trpi ta znesek podjetje oziroma druga pravna oseba. Podjetje oziroma druga pravna oseba se lahko pritoži glede utemeljenosti odločbe o povrnitvi stroškov in glede njihove višine. O pritožbi odloča senat sodišča prve stopnje (šesti odstavek 25. člena).

(5) Stroški se izterjajo, če niso bili založeni, v dobro organa, ki je naprej izplačal stroške in nagrado izvedencem.

XIX. poglavje
OBTOŽNICA IN UGOVOR ZOPER OBTOŽNICO

268. člen

(1) Ko je končana preiskava, kot tudi kadar se brez

(1) When an expert examination of account books is required, the authority conducting the proceedings shall indicate to the expert witnesses the direction and the scope of such expert examination and the facts and circumstances to be determined.

(2) If an expert examination of account books of a company or another legal person requires that its book-keeping should first be put in order, the costs incurred by such work shall be borne by the company or another legal person.

(3) The ruling on putting book-keeping in order shall be rendered by the authority conducting the proceedings upon a reasoned written report of the expert witnesses appointed to provide an expert examination of the account books. The ruling shall also specify the amount of money that the company or another legal person is bound to deposit with the court as an advance for the costs incurred by putting its book-keeping in order. There shall be no appeal against this ruling.

(4) After the book-keeping has been put in order, the authority conducting the criminal proceedings shall, based on the report of expert witnesses, issue a ruling determining the amount of costs incurred by putting the book-keeping in order, and ordering that this amount be borne by the company or another legal person. The company or other legal person may appeal against the ruling regarding the merits of the decision on the refund of costs and regarding the amount to be refunded. The appeal shall be decided by the panel of the first instance court (paragraph six of Article 25).

(5) The payment of costs, if the full amount was not deposited in advance with the court, shall be enforced to the benefit of the authority that paid the costs and the fees for expert witnesses in the first place.

Chapter XIX
INDICTMENT AND OBJECTION TO INDICTMENT

Article 268

(1) After the investigation is concluded, and where an indictment

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.

269. člen

(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 navedena dejstva, ki se bodo dokazovala z izvedbo predlaganih dokazov in stališče 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.

may be filed without investigation (Article 170), proceedings before the court may only be conducted on the basis of an indictment filed by the state prosecutor or the injured party acting as prosecutor.

(2) The provisions on the indictment and on an objection thereto shall apply *mutatis mutandis* to a private action if filed against a criminal offence which falls under the jurisdiction of the district court.

Article 269

(1) The indictment shall contain:

1) the name and surname of the accused person including his or her personal data (Article 227), and information about whether and since when he or she has been in detention or whether he or she is at liberty; if he or she was released before the indictment was filed, for how long he or she was held in detention;
2) the description of the factual aspects of the act that constitute the statutory characteristics of a criminal offence, the time and place of the commission of the criminal offence, the object upon which and the instrument by which the criminal offence was committed, and other circumstances necessary to describe the criminal offence as precisely as possible;
3) the statutory designation of the criminal offence with an indication of the provisions of criminal law that, pursuant to the motion of the state prosecutor, are to be applied;
4) an indication of the court before which the main hearing is to be held;
5) the motion on the evidence to be taken at the main hearing, stating the names of witnesses and expert witnesses, files to be read and objects needed for evidence taking;
6) a statement of reasons giving a description of the facts to be determined by the evidence proposed, and the state prosecutor's position on the arguments of the defence.

(2) In the indictment, the state prosecutor may propose the type and extent of the sentence to be imposed on the accused person if the accused person will plead guilty when first making a statement on the indictment; the state prosecutor may propose a mitigated sentence, the method of implementing the sentence, or an admonitory sanction instead of a sentence, always in compliance with the conditions and within the limits provided for by criminal law.

(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 sme obseči več kaznivih dejanj ali več obdolžencev, vendar samo tedaj, če se lahko po 32. členu tega zakona izvede enoten postopek in izda ena sama sodba.

270. člen

(1) Obtožnica se pošlje pristojnemu sodišču v toliko izvodih, kolikor je obdolžencev in zagovornikov, en izvod pa za sodišče.

(2) Takoj po prejemu obtožnice preizkusi predsednik senata, pred katerim naj bo glavna obravnava, ali je obtožnica sestavljena po predpisih (269. člen); če spozna da ni, jo vrne tožilcu, naj jo v treh dneh popravi. Iz opravičenih razlogov lahko senat na tožilčevo zahtevo ta rok podaljša. Če oškodovanec kot tožilec ali zasebni tožilec omenjeni rok zamudi, se šteje, da je odstopil od pregona in se postopek ustavi.

271. člen

(1) Če je vložil oškodovanec kot tožilec obtožnico brez preiskave (šesti odstavek 170. člena) ali če je bila vložena zasebna tožba zaradi kaznivega dejanja, za katero ni bila opravljena preiskava, zahteva predsednik senata okrožnega sodišča odločitev senata (šesti odstavek 25. člena), če misli da ni razlogov za pregon, ker so podane okoliščine iz 1., 2., 3. ali 5. točke prvega odstavka 277. člena tega zakona.

(2) Če je oškodovanec kot tožilec ali zasebni tožilec v nasprotju s prvim in drugim odstavkom 170. člena tega zakona vložil obtožnico ali zasebno tožbo brez preiskave za kaznivo dejanje, za

(3) If the accused person is at liberty, the indictment may put forward a motion to place him or her in detention, and if he or she is already in detention, it may put forward a motion for release.

(4) A single indictment may be filed against more than one criminal offence or against more than one accused person, but only where a joinder of proceedings may be implemented and a single judgment may be issued in accordance with Article 32 of this Act.

Article 270

(1) The indictment shall be submitted to the court of jurisdiction in as many copies as there are accused persons and defence counsels, plus an extra copy for the court.

(2) Immediately upon receipt of the indictment, the president of the panel before which the main hearing is to be held shall examine whether the indictment is drawn up according to the relevant provisions (Article 269); if non-compliance is established, he or she shall return it to the state prosecutor to correct it within three days. For justified reasons, the panel may, on the state prosecutor's motion, extend this time-limit. If the injured party acting as prosecutor or a private prosecutor fails to observe the aforementioned time-limit, it shall be considered that he or she relinquishes prosecution and the proceedings shall be discontinued.

Article 271

(1) If the injured party as prosecutor files an indictment without investigation (paragraph six of Article 170), or if a private action is filed against a criminal offence that has not been subject to an investigation, the president of the district court panel shall request that the panel decides thereon (paragraph six of Article 25) if he or she considers that there are no grounds for prosecution due to the existence of circumstances referred to in points 1, 2, 3 or 5 of paragraph one of Article 277 of this Act.

(2) If the injured party acting as prosecutor or a private prosecutor has filed an indictment or a private action without a prior investigation of the criminal offence punishable by a sentence of

katero je predpisana kazen zapora nad pet let, se šteje, da je podal zahtevo za preiskavo.

(3) Zoper sklep senata ima oškodovanec kot tožilec oziroma zasebni tožilec pravico pritožbe.

272. člen

(1) Če je v obtožnici predlagano, naj se zoper obdolženca odredi pripor, odloči o tem senat (šesti odstavek 25. člena) takoj, najpozneje pa v oseminštiridesetih urah.

(2) Če je obdolženec v priporu in je v obtožnici predlagano naj se pripor podaljša, ga sodišče pouči, da lahko v roku 24 ur poda odgovor na predlog. Senat iz prejšnjega odstavka o predlogu odloči v roku treh dni od prejema odgovora oziroma izteka roka za odgovor in izda sklep, s katerim pripor podaljša ali odpravi.

(3) Če je obdolženec v priporu in ob vložitvi obtožnice ni predlagano, naj se pripor podaljša, predsednik senata brez odlašanja izda sklep o odpravi pripora.

(4) Pritožba zoper sklep iz prejšnjih odstavkov ne zadrži njegove izvršitve.

273. člen

(1) Obtožnica se vroči obdolžencu, ki je na prostosti, brez odlašanja, če je v priporu pa v štiriindvajsetih urah po prejemu.

(2) Če je zoper obdolženca odrejen pripor s sklepom senata (272. člen), se mu vroči obtožnica skupaj s sklepom, s katerim je odrejen pripor, takrat, ko se zapre.

imprisonment of five or more years in contravention of paragraphs one and two of Article 170 of this Act, it shall be considered that he or she has submitted a request for investigation.

(3) The injured party as prosecutor and the private prosecutor shall be entitled to appeal against the ruling of the panel.

Article 272

(1) If it is requested in the indictment that detention be ordered against the accused person, the panel shall take the relevant decision (paragraph six of Article 25) immediately and within forty-eight hours at the latest.

(2) If the accused person is in detention and an extension of detention is requested in the indictment, the court shall inform the accused person that he or she may submit a response to the motion within 24 hours. The panel referred to in the preceding paragraph shall decide on the motion within three days of receipt of the response or by the expiry of the time limit set for the response, and shall issue a decision on the extension or lifting of detention.

(3) If the accused person is in detention and an extension of detention is not requested when the indictment is filed, the president of the panel shall issue a ruling lifting the detention without delay.

(4) An appeal against the ruling referred to in the preceding paragraphs shall not stay its execution.

Article 273

(1) The indictment shall be served on an accused person who is at liberty without delay, and if he or she is held in detention, within twenty-four hours of its receipt.

(2) If detention is ordered against the accused person by a ruling of the panel (Article 272), the indictment shall be served on him or her when he or she is placed in detention facilities, together with the ruling on detention.

(3) Če obdolženec, ki mu je vzeta prostost, ni v zaporih pri sodišču, pri katerem naj bo glavna obravnava, odredi predsednik senata, naj ga takoj pripeljejo v te zapore, kjer se mu vroči obtožnica.

(3) If an accused person who is deprived of liberty is not held in the detention facilities of the court before which the main hearing is to be conducted, the president of the panel shall order his or her immediate transfer to such detention facilities, where the indictment shall be served on him or her.

274. člen

(1) Obdolženec ima pravico podati ugovor zoper obtožnico v osmih dneh po njeni vročitvi. Ob vročitvi obtožnice pouči sodišče obdolženca o tej njegovi pravici.

(2) Ugovor zoper obtožnico sme podati brez posebnega pooblastila obdolženca tudi zagovornik, vendar pa ne proti njegovi volji.

(3) Obdolženec se lahko odpove pravici do ugovora zoper obtožnico.

Article 274

(1) The accused person shall have the right to submit an objection to the indictment within eight days of its service. Upon service of the indictment, the court shall inform the accused person of this right.

(2) An objection to an indictment may also be submitted by a defence counsel without special authorisation of the accused person, but not against his or her will.

(3) The accused person may waive his or her right to submit an objection to the indictment.

275. člen

(1) Prepozen ugovor in ugovor, ki ga poda neupravičena oseba, zavrže s sklepom predsednik senata, pred katerim naj bo glavna obravnava. O pritožbi zoper ta sklep odloča senat (šesti odstavek 25. člena).

(2) Če predsednik senata ne zavrže ugovora po prvem odstavku tega člena, ga predloži skupaj s spisi senatu (šesti odstavek 25. člena), ki nato na seji odloči o njem. Pred odločitvijo se izvod ugovora pošlje tožilcu, ki lahko v treh dneh od prejema ugovora poda odgovor.

Article 275

(1) An objection submitted out of time and an objection submitted by an unauthorised person shall be dismissed by a ruling of the president of the panel before which the main hearing is to be held. An appeal against this ruling shall be determined by the panel (paragraph six of Article 25).

(2) If the president of the panel does not dismiss the objection pursuant to paragraph one of this Article, he or she shall refer it, together with the files, to the panel (paragraph six of Article 25), which shall decide thereon at its session. Before taking a decision, the panel shall send a copy of the objection to the state prosecutor, who may submit a response within three days of receipt.

276. člen

(1) Če senat ne zavrže ugovora kot prepoznega ali kot nedovoljenega, vzame v preizkus obtožnico.

Article 276

(1) If the panel does not dismiss the objection as submitted out of time or submitted by an unauthorised person, it shall proceed to

(2) Če senat ob ugovoru spozna, da so napake ali pomanjkljivosti v obtožnici (269. člen) ali v samem postopku ali da je potrebna boljša razjasnitev stanja stvari, da bi se mogla preizkusiti utemeljenost obtožnice, vrne obtožnico, da se opažene pomanjkljivosti odpravijo ali da se preiskava dopolni oziroma opravi. Tožilec mora v treh dneh, odkar mu je bila sporočena odločba senata, predložiti popravljeno obtožnico ali zahtevati preiskavo oziroma njeno dopolnitev. Iz opravičenih razlogov sme senat na zahtevo tožilca ta rok podaljšati. Če oškodovanec kot tožilec ali zasebni tožilec zamudi omenjeni rok, se šteje, da je odstopil od pregona, postopek pa se ustavi. Če državni tožilec zamudi rok, mora o razlogih obvestiti Vrhovno državno tožilstvo.

(3) Če senat spozna, da je za kaznivo dejanje, ki je predmet obtožbe, pristojno kakšno drugo sodišče, izreče, da je sodišče, kateremu je predložena obtožnica, nepristojno, in pošlje po pravnomočnosti sklepa zadevo pristojnemu sodišču.

(4) Če senat ugotovi, da so v spisih zapisniki ali obvestila iz 83. člena tega zakona, izda sklep o njihovi izločitvi iz spisov. Zoper ta sklep je dovoljena posebna pritožba. Ko postane sklep pravnomočen, poskrbi predsednik senata iz šestega odstavka 25. člena tega zakona, preden pošlje zadevo predsedniku senata, ki razpiše glavno obravnavo, da se izločeni zapisniki in obvestila zaprejo v poseben ovitek in izročijo preiskovalnemu sodniku, da jih shrani ločeno od drugih spisov. Teh zapisnikov in obvestil ni dovoljeno pregledovati in tudi ne uporabiti v postopku.

277. člen

(1) Ko senat sklepa o ugovoru zoper obtožnico, odloči, da se obtožba ne dopusti in da se kazenski postopek ustavi, če ugotovi:

examine the indictment.

(2) If in considering the objection, the panel finds errors or deficiencies in the indictment (Article 269) or in the procedure itself, or finds that a better clarification of the facts of the case is necessary in order to examine the grounds for the indictment, it shall return the indictment to the state prosecutor to remedy the established deficiencies or to supplement or carry out an investigation. The state prosecutor shall be bound to submit the remedied indictment or a request to supplement or carry out an investigation within three days of being notified of the panel's decision. For justified reasons, the panel may, upon a motion of the state prosecutor, extend the above time limit. If the injured party as prosecutor or the private prosecutor fails to comply with the said time limit, it shall be considered that he or she has relinquished prosecution and the proceedings shall be discontinued. If the state prosecutor fails to comply with the set time limit, he or she shall be bound to notify the Office of the State Prosecutor General of the reasons for this failure.

(3) If the panel finds that the criminal offence against which the indictment has been filed falls within the jurisdiction of some other court, it shall declare that the court before which the indictment has been filed lacks jurisdiction in this matter and shall, after the ruling becomes final, refer the case to the court of jurisdiction.

(4) If the panel establishes that the files contain records or information referred to in Article 83 of this Act, it shall render a ruling on their exclusion from the files. A special appeal against this ruling shall be allowed. After the ruling has become final, the president of the panel referred to in paragraph six of Article 25 of this Act shall, before referring the case to the president of the panel in order to schedule the main hearing, ensure that the excluded records and information are sealed in a separate envelope and delivered to the investigating judge, who shall keep them apart from other files. These records and information may not be examined nor used in the proceedings.

Article 277

(1) In deciding on an objection against the indictment, the panel shall rule that the indictment is inadmissible and that the criminal proceedings be discontinued if it is found that:

1) da dejanje, ki je predmet obtožbe, ni kaznivo dejanje;
2) da so podane okoliščine, ki izključujejo krivdo ali kaznivost, in da ni razlogov za uporabo varnostnih ukrepov;
3) da je kazenski pregon zastaran, ali je dejanje obseženo z amnestijo ali pomilostitvijo, ali če so podane druge okoliščine, ki izključujejo pregon;
4) da ni zadosti dokazov, da bi bil obdolženec utemeljeno sumljiv dejanja, ki je predmet obtožbe;

5) 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.

(2) Če senat ugotovi, da ni zahteve upravičenega tožilca ali potrebnega predloga ali dovoljenja za pregon ali če so podane druge okoliščine, ki začasno preprečujejo pregon, s sklepom zavrže obtožnico.

278. člen

(1) Ko sklepa o ugovoru zoper obtožnico državnega tožilca, vloženo po šestem odstavku 170. člena tega zakona, ali o zahtevi predsednika senata v zvezi s to obtožnico (284. člen), ali ko sklepa v primerih iz prvega odstavka 271. člena tega zakona o zahtevi predsednika senata sodišča prve stopnje, ki se ne strinja z obtožnico oškodovanca kot tožilca ali z zasebno tožbo, zavrže senat s sklepom obtožnico oziroma zasebno tožbo, če spozna da je podan kakšen razlog iz 1., 2., 3. ali 5. točke prvega oziroma iz drugega odstavka prejšnjega člena; če so bila opravljena preiskovalna dejanja, pa tudi, če spozna, da je podan razlog iz 4. točke prvega odstavka omenjenega člena.

(2) Če je bila po ugovoru zoper obtožnico državnega tožilca iz prejšnjega odstavka ali po zahtevi predsednika senata v zvezi s to obtožnico (284. člen) opravljena preiskava (drugi odstavek

1) the act which is the subject of the indictment is not a criminal offence;
2) circumstances exist which exclude guilt or criminal liability and there are no grounds for the application of safety measures;
3) the criminal prosecution is statute-barred, or the act is covered by an amnesty or pardon, or other circumstances exist barring prosecution;

4) there is insufficient evidence for the existence of a reasonable suspicion that the accused person has committed the offence he or she is charged with, or
5) there is a lack of proportion between the minor relevance of the criminal offence (its risks are insignificant due to the nature or gravity of the offence, or because the harmful consequences are insignificant or did not occur, or due to other circumstances in which the criminal offence was committed and due to the low degree of the perpetrator's guilt, or due to his or her personal circumstances), and the consequences of criminal prosecution.

(2) If the panel finds that no request for prosecution has been submitted by the authorised prosecutor, nor the required motion nor authorisation for prosecution, or that other circumstances exist that temporarily bar prosecution, it shall dismiss the indictment by a ruling.

Article 278

(1) In deciding on an objection to an indictment filed by the state prosecutor in accordance with paragraph six of Article 170 of this Act, or on the request of the president of the panel regarding this indictment (Article 284), or in deciding, in the cases referred to in paragraph one of Article 271 of this Act, on a request of the president of the panel of the first instance court who does not agree with the indictment filed by the injured party as prosecutor or with a private action, the panel shall, by a ruling, dismiss the indictment or private action if it finds that any of the reasons referred to in points 1, 2, 3 or 5 of paragraph one or paragraph two of the preceding Article exists; if investigative acts have been carried out, then also if it finds that the reason referred to in point 4 of paragraph one of the said Article exists.

(2) If upon an objection against the indictment filed by the state prosecutor referred to in the preceding paragraph, or upon the request of the president of the panel regarding this indictment (Article 284), an

276. člena), senat pa po preiskavi spozna, da je podan kakšen razlog iz prvega odstavka prejšnjega člena, odloči s sklepom, da se obtožba ne dopusti in da se kazenski postopek ustavi.

279. člen

Pri sklepu iz tretjega odstavka 276. člena ter iz 277. člena in 278. člena tega zakona senat ni vezan na pravno presojo dejanja, ki jo je tožilec navedel v obtožnici.

280. člen

(1) Če senat ne izda nobenega od sklepov iz prvega do tretjega odstavka 276., 277. in 278. člena tega zakona, zavrne ugovor kot neutemeljen.

(2) Z istim sklepom odloči senat tudi o predlogih za združitev ali izločitev postopka.

281. člen

Če podajo samo nekateri od več obdolžencev ugovor zoper obtožnico in če so razlogi, zaradi katerih je sodišče spoznalo, da se obtožba ne dopusti ali da se obtožnica zavrže, v korist tudi nekaterim obdolžencem, ki niso podali ugovora, ravna senat tako, kakor da bi bili podali ugovor tudi ti.

282. člen

Vse odločbe, ki jih izda senat v zvezi z ugovorom zoper obtožnico, morajo biti obrazložene, vendar tako, da se s tem ne vpliva naprej na rešitev tistih vprašanj, ki se bodo obravnavala na glavni obravnavi.

investigation was carried out (paragraph two of Article 276) and the panel thereafter finds that any of the reasons referred to in paragraph one of the preceding Article exists, it shall decide by a ruling that the indictment is inadmissible and that the criminal proceedings be discontinued.

Article 279

In rendering the ruling referred to in paragraph three of Article 276 and Articles 277 and 278 of this Act, the panel shall not be bound by the legal qualification of the offence stated by the state prosecutor in the indictment.

Article 280

(1) If the panel does not render any of the rulings referred to in paragraphs one to three of Article 276, and in Articles 277 and 278 of this Act, it shall reject the objection as unfounded.

(2) By the same ruling, the panel shall also decide on motions for a joinder or severance of the proceedings.

Article 281

Where only some of the several accused persons have filed an objection against the indictment and if the reasons for which the court rules that the indictment is inadmissible or is to be dismissed are also to the benefit of some of the accused persons who have not filed the objection, the panel shall proceed as if they also submitted such an objection.

Article 282

All the decisions rendered by the panel regarding an objection against the indictment must be reasoned, but in such a manner as not to predetermine the decision on the issues to be considered at the main hearing.

283. člen

(1) Zoper odločbo senata iz tretjega odstavka 276. člena tega zakona je dovoljena pritožba, zoper odločbo iz 277. in 278. člena tega zakona pa se lahko pritožita tožilec in oškodovanec. Zoper druge odločbe, ki jih izda senat v zvezi z ugovorom zoper obtožnico, ni pritožbe.

(2) Če se je zoper sklep senata pritožil samo oškodovanec in se pritožbi ugodi, se šteje, da je oškodovanec s pritožbo prevzel pregon.

284. člen

(1) Če ugovor zoper obtožnico ni bil vložen ali je bil zavržen, sme senat (šesti odstavek 25. člena) na zahtevo predsednika senata, pred katerim naj bo glavna obravnava, odločiti o vsakem vprašanju, o katerem se na podlagi tega zakona odloča v zvezi z ugovorom. Zahtevo lahko poda le do razpisa predobravnavnega naroka.

(2) Zahtevo iz prejšnjega odstavka lahko predsednik senata poda tudi v primeru, če je bil vložen ugovor zoper obtožnico. V tem primeru lahko zahtevo poda senatu najkasneje ob predložitvi obdolženčevega ugovora senatu.

(3) Določbe drugega odstavka 275. člena in členov 276 do 279 ter 282 in 283 tega zakona se smiselno uporabljajo tudi pri odločanju o zahtevi iz prvega odstavka tega člena.

285. člen

Obtožnica postane pravnomočna z dnem, ko je ugovor zavrnjen; če ugovor ni bil vložen ali je bil zavržen - z dnem, ko je senat, ki je obravnaval zahtevo predsednika senata (284. člen),

Article 283

(1) An appeal may be filed against the decision of the panel referred to in paragraph three of Article 276 of this Act, and an appeal may be filed by the state prosecutor and the injured party against the decision referred to in Articles 277 and 278 of this Act. Other decisions rendered by the panel regarding an objection against the indictment may not be appealed against.

(2) If a ruling of the panel is only appealed against by the injured party and his or her appeal is granted, the injured party shall be considered to have thereby assumed the prosecution.

Article 284

(1) If an objection against the indictment is not submitted or is dismissed, the panel (paragraph six of Article 25) may, upon the request of the president of the panel before which the main hearing is to be held, decide on every issue which pursuant to this Act is to be decided upon regarding an objection. The request may only be submitted before the pre-trial hearing is scheduled.

(2) The request referred to in the preceding paragraph may also be submitted by the president of the panel if an objection against the indictment has been lodged. In such case, the request may be submitted to the panel not later than upon the submission of the accused person's objection before the panel.

(3) The provisions of paragraph two of Article 275, Articles 276 to 279, and Articles 282 and 283 of this Act shall apply *mutatis mutandis* to deciding on the request referred to in paragraph one of this Article.

Article 285

The indictment shall become final on the day when the objection is rejected; if no objection is submitted or the objection is dismissed, the indictment shall become final on the day when the panel considering the

odločil, da se z obtožnico strinja; če take zahteve ni bilo, pa z dnem, ko je predsednik senata razpisal predobravnavni narok.

B. GLAVNA OBRAVNAVA IN SODBA

XIX.a poglavje
PREDOBRAVNAVNI NAROK

285.a člen

(1) Najpozneje v dveh mesecih po pravnomočnosti obtožnice predsednik senata razpiše predobravnavni narok, na katerem se obtoženec izjavi o krivdi ter o nadaljnjem poteku kazenskega postopka. Na narok se povabijo stranke in zagovornik. Glede vabljenja in javnosti se smiselno uporabljajo določbe o vabljenju na glavno obravnavo in javnosti glavne obravnave. Če predsednik senata v določenem roku ne razpiše predobravnavnega naroka, obvesti predsednika sodišča, iz katerih razlogov predobravnavnega naroka ni razpisal. Predsednik sodišča ukrene, kar je potrebno, da se predobravnavni narok določi v nadaljnjem roku največ dveh mesecev.

(2) O naroku se sestavi zapisnik, ki ga podpišejo navzoče osebe.

(3) V vabilu na narok iz prvega odstavka se obdolženec pouči:
1. da se bo na naroku lahko izjavil o tem, ali krivdo za kaznivo dejanje po obtožbi priznava ali ne priznava;
2. da je udeležba na predobravnavnem naroku, razen v primeru iz četrtega odstavka, obvezna, in da se bo lahko zoper obtoženca, če se brez opravičenega razloga naroka ne bo udeležil, odredila privedba ali pripor;
3. da bo obtoženec na naroku, če ne prizna krivde, lahko predlagal izločitev predsednika senata, izločitev dokazov, dokaze, ki naj jih

request of the president of the panel (Article 284) decides that it agrees with the indictment; if such request has not been submitted, the indictment shall become final on the day when the president of the panel schedules the pre-trial hearing.

B. MAIN HEARING AND JUDGMENT

Chapter XIXa
PRE-TRIAL HEARING

Article 285a

(1) Within two months of the indictment becoming final, the president of the panel shall schedule a pre-trial hearing where the defendant shall plead guilty or not guilty and make a statement regarding the further course of the criminal proceedings. The parties and the defence counsel shall be summoned to the hearing. As regards the summoning and open hearing, the provisions on summoning to the main hearing and open main hearing shall apply *mutatis mutandis*. If the president of the panel fails to schedule a pre-trial hearing within a specified time limit, he or she shall inform the president of the court of the reasons why the pre-trial hearing was not scheduled. The president of the court shall take the necessary steps to schedule the pre-trial hearing within the next two months.

(2) The record of the hearing shall be made and shall be signed by all persons present.

(3) In the summons to the hearing referred to in paragraph one, the accused person shall be informed that:
1. at the hearing, he or she may plead guilty or not guilty of the criminal offence as charged;
2. attendance at the pre-trial hearing is mandatory, except in the case referred to in paragraph four of this Article; a defendant who fails to attend the pre-trial hearing without a justified reason shall be brought in forcibly or remanded to prison;
3. if the defendant does not plead guilty as charged at the pre-trial hearing, he or she may request disqualification of the president of the

sodišče izvede na glavni obravnavi ter podal druge procesne predloge in se izjavil o načinu poteka glavne obravnave;

4. da bo imel obtoženec v nadaljnjem poteku kazenskega postopka pravico dajati dokazne in druge predloge ter zahtevati izločitev predsednika senata in izločitev dokazov le pod pogojem, da ne gre za očitno zavlačevanje ali zlorabo pravic;

5. da se s priznanjem krivde, ki se ne more preklicati, obtoženec odpoveduje pravici, da sodišče odloča o obtožbi na glavni obravnavi ter da bo dokazni postopek izveden le glede tistih okoliščin, ki so pomembne za izrek kazenske sankcije;

6. da ima pravico vzeti si zagovornika, ki je lahko navzoč na naroku.

(4) Če na predobravnavni narok ne pride obtoženec, ki je zoper obtožnico vložil ugovor, se narok ne opravi in se šteje, da krivde po obtožbi ne priznava, da se odpoveduje možnosti dogovora o načinu poteka glavne obravnave, ki bo razpisana na podlagi pravnomočne obtožnice, in da posledice iz 3. in 4. točke prejšnjega odstavka veljajo tudi zanj.

(5) Če je soobtožencev več, se predobravnavni narok lahko izvede z vsakim obtožencem posebej.

285.b člen

(1) Narok, na katerem se obdolženec izjavi o krivdi, se sme opraviti le v navzočnosti obeh strank in zagovornika, kadar je obvezna obramba z zagovornikom.

(2) Če državni tožilec ne pride na narok, se le-ta preloži in o tem obvesti Vrhovno državno tožilstvo.

(3) Če na narok ne pride obtoženec ali zagovornik, se narok preloži. Za zagotovitev navzočnosti na naroku, kadar je

panel and the exclusion of evidence, propose what evidence the court should examine at the main hearing and submit other procedural motions, and also give a statement on the manner of conducting the main hearing;

4. in the further course of criminal proceedings, the defendant shall have the right to submit motions for evidence and other motions, and to request disqualification of the president of the panel and the exclusion of evidence only under the condition that no obvious delaying of the proceedings or abuse of rights is involved;
5. by pleading guilty, which may not be revoked, the defendant waives the right whereby the court decides on the charge at the main hearing, and that evidence-taking will only be carried out in respect of those circumstances that are relevant for the imposition of a criminal sanction;
6. he or she is entitled to retain a defence counsel who may attend the hearing.

(4) If a defendant who lodged an objection against the indictment fails to attend the pre-trial hearing, the pre-trial hearing shall not be held and it shall be deemed that he or she does not plead guilty as charged, that he or she renounces the possibility of negotiating the course of the main hearing to be scheduled pursuant to the final indictment, and that the consequences referred to in points 3 and 4 of the preceding paragraph shall also apply to him or her.

(5) If there are several co-defendants, a pre-trial hearing may be held separately for each of them.

Article 285b

(1) The hearing at which the accused person pleads guilty or not guilty may only be held in the presence of both parties and the defence counsel, where defence through a defence counsel is mandatory.

(2) If the state prosecutor fails to attend the hearing, it shall be postponed and the Office of the State Prosecutor General shall be notified thereof.

(3) If the defendant or the defence counsel fails to attend the hearing, the hearing shall be postponed. To ensure attendance at a

obvezen, sme predsednik senata zoper obtoženca odrediti privedbo ali pripor pod enakimi pogoji kot veljajo za glavno obravnavo; če na narok ne pride zagovornik, ga lahko predsednik senata kaznuje z denarno kaznijo, določeno v 78. členu tega zakona.

(4) Na naroku predsednik senata ugotovi, ali je obtoženec razumel vsebino obtožbe in ga pouči po določbah 3. do 5. točke tretjega odstavka prejšnjega člena, nato pa ga pozove, da se izjavi, ali krivdo po obtožbi priznava ali ne priznava.

(5) Če predsednik senata ugotovi, da obtoženec pouka iz prejšnjega odstavka ni razumel, se mu postavi zagovornika po uradni dolžnosti do konca predobravnavnega naroka in narok preloži.

(6) Izjave o priznanju krivde ne more namesto obtoženca podati njegov zagovornik.

285.c člen

(1) Če obtoženec izjavi, da krivdo po obtožbi priznava, predsednik senata presodi:
1) ali je obtoženec razumel naravo in posledice danega priznanja;
2) ali je bilo priznanje dano prostovoljno;
3) ali je priznanje jasno in popolno ter podprto z drugimi dokazi v spisu.

(2) Po presoji pogojev iz prvega odstavka predsednik senata s sklepom odloči, ali obtoženčevo priznanje sprejme ali zavrne. Zoper ta sklep, ki se zapiše v zapisnik, ni pritožbe.

(3) Priznanja krivde, ki ga je predsednik senata sprejel, obtoženec ne more preklicati. Izjavo, da krivde ne priznava, pa obtoženec v nadaljevanju postopka lahko spremeni in krivdo prizna.

mandatory hearing, the president of the panel shall have the right to order that the defendant be brought in forcibly or remanded in custody subject to the same conditions that apply to the main hearing; if the defence counsel fails to attend the hearing, the president of the panel may impose on him or her the fine provided for in Article 78 of this Act.

(4) At the hearing, the president of the panel shall establish whether the defendant has understood the content of the charge and shall inform him or her in accordance with points 3 to 5 of paragraph three of the preceding paragraph, and then he or she shall invite the defendant to plead guilty or not guilty as charged.

(5) If the president of the panel establishes that the defendant has not understood the information referred to in the preceding paragraph, he or she shall appoint a defence counsel *ex officio* to the defendant before the end of the pre-trial hearing, and shall postpone the hearing.

(6) The defendant's defence counsel may not give a statement of guilt instead of the defendant.

Article 285c

(1) If the defendant pleads guilty as charged, the president of the panel shall assess:
1) whether the defendant has understood the nature and consequences of the confession given;
2) whether the confession of guilt was given of his or her own free will;
3) whether the confession of guilt was clear and complete and supported by other evidence in the file.

(2) After the assessment of the conditions referred to in paragraph one, the president of the panel shall decide to accept or reject the defendant's confession of guilt by a ruling. No appeal shall be allowed against this ruling, which shall be noted in the record.

(3) The defendant may not revoke a guilty plea that has been accepted by the president of the panel. However, the defendant may modify his or her plea of not guilty in the further course of proceedings and submit a guilty plea.

(4) Ob priznanju krivde se obtoženec lahko izjavi, ali pripozna premoženjskopravni zahtevek oškodovanca.

(5) Po sprejetem priznanju krivde predsednik senata pozove stranki, da predlagata, kateri dokazi naj se izvedejo na naroku za izrek kazenske sankcije, se izjavita o sestavi sodišča pri opravi tega naroka ter hkrati določi datum tega naroka. Stranki in zagovornika se opozori, da se bo narok, če nanj ne bodo prišli in svojega izostanka ne bodo opravičili, opravil v njihovi nenavzočnosti. Dano opozorilo se zapiše v zapisnik.

(6) Na predlog strank in če predsednik senata oceni, da so izpolnjeni vsi pogoji, se lahko narok za izrek kazenske sankcije opravi takoj po sprejetem priznanju krivde.

(7) Če je obtoženec obtožen za več kaznivih dejanj in prizna krivdo samo za nekatera, se o obtožbi odloči z eno odločbo, po opravljeni glavni obravnavi. Če je to smotrno, sme predsednik senata tudi odločiti, da se postopek glede tistih kaznivih dejanj, za katera je obtoženec krivdo priznal in je bilo priznanje sprejeto, nadaljuje po 285.č členu, postopek glede kaznivih dejanj, za katera krivde ni priznal, pa se izloči in dokonča posebej.

285.č člen

(1) Narok za izrek kazenske sankcije opravi sodišče v taki sestavi kot pri odločanju o obtožnici na glavni obravnavi, razen če sta se stranki sporazumeli, da ga opravi predsednik senata.

(2) Oškodovancu, ki ni vabljen kot priča in še ni bil obveščen, da sme podati predlog za uveljavitev premoženjskopravnega zahtevka, se sporoči, da ima pravico biti navzoč na naroku ter uveljavljati pravice, ki jih ima po določbah tega zakona na glavni obravnavi. Sodišče sme oškodovanca še pred

(4) When pleading guilty, the defendant may state whether he or she acknowledges the pecuniary claim of the injured party or not.

(5) After accepting the defendant's guilty plea, the president of the panel shall invite the parties to propose what evidence should be taken at the hearing held for the imposition of a criminal sanction and to make a statement as to the composition of the court at the said hearing, and shall also determine the date of the hearing. The parties and the defence counsel shall be informed that the hearing will be held in their absence if they fail to attend it without providing justification. This information shall be entered in the record.

(6) Upon the request of the parties and if the president of the panel deems that all the conditions have been met, the hearing for the imposition of a criminal sanction may be held immediately after the guilty plea has been accepted.

(7) If the defendant is charged with more than one criminal offence and pleads guilty to only some of them, the indictment shall be decided by a single decision after the main hearing is held. Where expedient, the president of the panel may also decide that the proceedings concerning the criminal offences to which the defendant pleaded guilty and his or her plea was accepted, shall be continued pursuant to the provisions of Article 285č, while proceedings concerning the criminal offences to which the defendant did not plead guilty shall be excluded and conducted separately.

Article 285č

(1) The hearing for the imposition of a criminal sanction shall be conducted by the court sitting in the same composition as when deciding on the indictment at the main hearing, unless the parties have agreed that the president of the panel shall carry out the hearing.

(2) The injured party who has not been summoned as a witness and has not yet been informed of his or her right to file a motion for a pecuniary claim shall be informed of his or her right to attend the hearing and to exercise his or her rights in accordance with the provisions of this Act at the main hearing. The court may inform the injured party before the

predobravnavnim narokom obvestiti, da sme podati tak predlog.

(3) Narok je javen. Javnost se lahko izključi le ob pogojih in po postopku, ki veljajo za izključitev javnosti glavne obravnave.

(4) Narok se izvede s smiselno uporabo določb tega zakona o glavni obravnavi, s tem, da predsednik senata prebere sklep sodišča o sprejemu priznanja krivde, v dokaznem postopku pa se izvajajo le dokazi, ki so pomembni za izrek kazenske sankcije. Obtožencu je treba omogočiti, da se izjavi o vseh okoliščinah, ki so pomembne za izrek kazenske sankcije.

(5) Državni tožilec lahko v končni besedi v korist obtoženca spremeni predlog za izrek kazenske sankcije.

(6) V sodbi, s katero se obtoženec spozna za krivega, sodišče ne more izreči strožje kazenske sankcije, kot jo je predlagal državni tožilec. Glede sodbe se smiselno uporabljajo določbe XXII. poglavja tega zakona, razen glede obrazložitve izreka o krivdi, ki se omeji samo na ugotovitev, da je obtoženec priznal krivdo pred predsednikom senata, ki je dano priznanje sprejel.

285.d člen

(1) Če obtoženec na naroku iz 285.b člena izjavi, da krivde po obtožbi ne priznava, lahko navede, katera dejstva v obtožbi priznava. Če se obtoženec o krivdi noče izjaviti, ali če sodišče njegovega priznanja ni sprejelo, se šteje, da krivde ne priznava.

(2) Po izjavi obtoženca o obtožbi ga predsednik senata pozove, da predlaga dokaze, ki naj se izvedejo na glavni obravnavi, poda druge procesne predloge in predlaga izločitev nedovoljenih dokazov.

(3) Predlogi iz prejšnjega odstavka morajo biti

pre-trial hearing that he or she is entitled to file such a motion.

(3) The hearing shall be public. The public may be excluded only under the conditions and procedure that apply to the exclusion of the public from a main hearing.

(4) The hearing shall be conducted by *mutatis mutandis* application of the provisions of this Act on the main hearing: the president of the panel shall read the court's decision on the acceptance of the guilty plea, while only the evidence relevant to the imposition of a criminal sanction shall be examined in the evidence-taking procedure. The defendant shall be given the opportunity to be heard on all circumstances relevant to the imposition of a criminal sanction.

(5) In the concluding speech, the state prosecutor may modify his or her motion for the imposition of a criminal sanction to the benefit of the defendant.

(6) In a judgment in which the defendant is found guilty, the court may not impose a criminal sanction that is more severe than the one proposed by the state prosecutor. The provisions of Chapter XXII of this Act shall apply *mutatis mutandis* to the judgment, except as regards the reasoning of the statement of guilt, which shall be limited only to the conclusion that the defendant had pleaded guilty before the president of the panel who accepted the plea given.

Article 285d

(1) If the defendant pleads not guilty as charged at the hearing referred to in Article 285b, he or she may indicate which facts in the indictment he or she admits. If the defendant refuses to plead guilty or not guilty, or if the court refuses to accept his or her plea, it shall be deemed that the defendant pleads not guilty.

(2) After the defendant has pleaded guilty or not guilty as charged, the president of the panel shall invite him or her to propose the evidence to be taken at the main hearing, to give other procedural motions and to propose the exclusion of inadmissible evidence.

(3) The motions referred to in the preceding paragraph must be

konkretizirani in obrazloženi. Če se predlaga izločitev dokaza, je treba navesti razloge, zakaj naj bi bil v obtožnici predlagan dokaz nedovoljen; glede dokazov, ki naj jih sodišče izvede na glavni obravnavi, pa je treba navesti, katera dejstva se želi z njimi dokazovati.

(4) Državni tožilec ima pravico podati odgovor na predloge obrambe.

285.e člen

(1) O predlogih obrambe za izločitev nedovoljenih dokazov odloči predsednik senata po opravljenem naroku iz 285.b člena. Če zaradi zapletenosti zadeve ali ker v pisnem gradivu v spisu ni dovolj podatkov to ni mogoče, sme predsednik senata pred odločitvijo izvesti potrebne dokaze.

(2) O predlogu iz prejšnjega odstavka odloči predsednik senata s posebnim sklepom. Zoper ta sklep je dopustna pritožba, o kateri odloči sodišče druge stopnje. Po pravnomočnosti sklepa se izločeni dokazi zaprejo v poseben ovitek in shranijo ločeno od drugih spisov.

(3) Če stranke ne predlagajo izločitve dokazov, predsednik senata pa ugotovi, da so v spisih zapisniki, obvestila ali drugi dokazi, ki se po določbah 83. člena tega zakona morajo izločiti, ravna po prejšnjem odstavku.

(4) O drugih procesnih predlogih strank odloči predsednik senata, če je pristojen za odločanje in če je to smotrno glede na stanje zadeve.

285.f člen

(1) Obtoženca, ki krivde po obtožbi na predobravnavnem naroku ne priznava, predsednik senata pouči o možnostih dogovora za hitrejši potek in končanje glavne obravnave, če se odpove določenim pravicam, ki jih ima po tem zakonu.

specified and reasoned. If the exclusion of evidence is proposed, the reasons why a piece of evidence included in the indictment should be inadmissible shall be indicated; regarding the evidence to be taken by the court at the main hearing, it shall be indicated which facts such evidence should prove.

(4) The state prosecutor shall have the right to submit a response to the motions of the defence.

Article 285e

(1) The president of the panel shall decide on the motions of the defence for the exclusion of inadmissible evidence after the hearing referred to in Article 285b is held. If this is not possible owing to the complexity of the case or lack of data in the file documents, the president of the panel may take the relevant evidence before making a decision.

(2) The president of the panel shall decide on the motion referred to in the preceding paragraph by a special ruling. An appeal shall be allowed against this ruling and shall be decided by a court of second instance. After the ruling becomes final, the excluded evidence shall be sealed in a separate envelope and kept apart from other files.

(3) If the parties do not propose the exclusion of evidence and the president of the panel establishes that the file contains records, notifications or other evidence which must be excluded in accordance with the provisions of Article 83 of this Act, he or she shall proceed according to the preceding paragraph.

(4) Other procedural motions submitted by the parties shall be decided by the president of the panel provided he or she is competent to do so and if this is expedient considering the stage of the case.

Article 285f

(1) The president of the panel shall inform a defendant who has pleaded not guilty at the pre-trial hearing of the possibility of concluding an agreement in order to accelerate the course of the main hearing and its conclusion, provided that she or he waives certain rights granted by this

(2) Na podlagi izjave obtoženca in po zaslišanju državnega tožilca sme predsednik senata odločiti:

1) da se takoj določi dan, ura in kraj glavne obravnave in se šteje, da so bile stranke in zagovornik na glavno obravnavo pravilno vabljene;
2) da obtožencu namesto senata v predpisani sestavi sodi sodnik posameznik okrožnega sodišča;
3) da se bo v primeru, če obtoženec brez opravičenega razloga ne bo prišel na glavno obravnavo, le-ta lahko opravila v njegovi nenavzočnosti, razen če senat oceni, da je njegova navzočnost nujna;
4) da se določene priče ali izvedenca ne bo vabilo na glavno obravnavo, temveč se bo zapisnik o njunem zaslišanju oziroma pisni izvid in mnenje prebral.

XX. poglavje
PRIPRAVE NA GLAVNO OBRAVNAVO

286. člen

(1) Predsednik senata določi z odredbo dan, uro in kraj glavne obravnave.

(2) Predsednik senata določi glavno obravnavo najkasneje v dveh mesecih od končanja naroka iz 285.b člena tega zakona. Če v tem roku ne določi glavne obravnave, obvesti predsednika sodišča, iz katerih razlogov glavne obravnave ni določil. Predsednik sodišča ukrene, kar je potrebno, da se glavna obravnava določi.

287. člen

(1) Glavna obravnava se opravi na sedežu sodišča, in sicer v sodnem poslopju.

(2) Če so v posameznih primerih prostori v sodnem

Act.

(2) On the basis of the defendant's statement and after hearing the opinion of the state prosecutor, the president of the panel may decide:

1) that the date, hour and venue of the main hearing be promptly determined and that it shall be deemed that the parties and the defence counsel have been duly summoned to the main hearing;
2) that the defendant shall be judged by a single judge of the district court instead of the panel sitting in the prescribed composition;
3) that in the case where the defendant fails to attend the main hearing without a justified reason, the main hearing may be held in his or her absence, unless the panel establishes that the defendant's presence is imperative;
4) that a certain witness or a certain expert witness shall not be summoned to the main hearing and that the record of his or her hearing or the written findings and opinion shall be read instead.

Chapter XX
PREPARATIONS FOR THE MAIN HEARING

Article 286

(1) The day, hour and venue of the main hearing shall be determined by an order issued by the president of the panel.

(2) The president of the panel shall schedule the main hearing within two months of the conclusion of the hearing referred to in Article 285b of this Act. Should he or she fail to schedule the main hearing within this time limit, he or she shall notify the president of the court of the reasons for this. The president of the court shall take the necessary steps to schedule the main hearing.

Article 287

(1) The main hearing shall be held in the courtroom of the main court premises.

(2) If in specific cases, the premises of the courthouse are

poslopju neprimerni za glavno obravnavo, sme predsednik sodišča določiti, naj bo obravnava v kakšnem drugem poslopju.

(3) Glavna obravnava se sme opraviti tudi v drugem kraju na območju pristojnega sodišča, če na predlog predsednika senata to dovoli predsednik sodišča.

288. člen

(1) Na glavno obravnavo se povabijo obtoženec in njegov zagovornik, tožilec, oškodovanec in njihovi zakoniti zastopniki in pooblaščenci ter tolmač. Prav tako se na glavno obravnavo povabijo priče in izvedenci, ki sta jih predlagala tožilec v obtožnici in obdolženec v ugovoru zoper obtožnico oziroma na naroku iz 285.b člena tega zakona, razen tistih, za katere predsednik senata misli, da njihovo zaslišanje na glavni obravnavi ni potrebno. Tožilec in obtoženec lahko na glavni obravnavi ponovita predloge, ki jim predsednik senata ni ugodil.

(2) Glede vsebine vabila za obtoženca in priče veljajo določbe 193. in 239. člena tega zakona. V vabilu se obtoženec opozori, da se bo glavna obravnava opravila tudi v njegovi nenavzočnosti, če bodo zato podani zakonski pogoji (tretji odstavek 307. člena).

(3) Obtožencu se mora vabilo vročiti tako, da mu ostane med vročitvijo vabila in dnevom glavne obravnave zadosti časa za pripravo obrambe, najmanj pa osem dni. Na zahtevo obtoženca ali na zahtevo tožilca s privolitvijo obtoženca se sme ta rok skrajšati.

(4) Oškodovancu, ki ni povabljen kot priča, sporoči sodišče v vabilu, da se bo glavna obravnava opravila tudi brez njega in da bo njegova izjava o premoženjskem zahtevku prebrana. Opozori ga tudi, da se bo v primeru, če ne pride, štelo, da ne namerava nadaljevati pregona, če bi državni tožilec umaknil obtožbo ter da bo v tem primeru imel možnost vrnitve v prejšnje stanje (drugi odstavek 61. člena in 62.a člen). Če gre za kaznivo dejanje, ki se preganja na predlog, se oškodovanca opozori, da lahko predlog za pregon

inadequate for holding the main hearing, the president of the court may order that the trial be held in another building.

(3) The main hearing may also be held in another location within the territory of the competent court, provided that approval is granted by the president of the court on a motion of the president of the panel.

Article 288

(1) The persons summoned to appear at the main hearing shall include the defendant, his or her defence counsel, the prosecutor, the injured party and his or her legal representatives and counsels, and the interpreter. Witnesses and expert witnesses proposed by the prosecutor in the indictment and by the accused person in his or her objection against the indictment or at the hearing referred to in Article 285b of this Act, except those whose examination at the main hearing is not considered necessary by the president of the panel, shall also be summoned to the main hearing. At the main hearing, the prosecutor and the defendant may repeat the motions that were not granted by the president of the panel.

(2) As regards the content of the summons addressed to the defendant and witnesses, the provisions of Articles 193 and 239 of this Act shall apply. In the summons, the defendant shall be informed that the main hearing shall also be held in his or her absence if the relevant statutory requirements are met (paragraph three of Article 307).

(3) The defendant must be served the summons so as to be given enough time between the service of the summons and the main hearing to prepare his or her defence, which may not be less than eight days. At the request of the defendant or at the request of the prosecutor and agreed to by the defendant, this time limit may be shortened.

(4) The injured party who has not been summoned to appear as a witness shall be informed in the summons by the court that the main hearing shall also be held in his or her absence and that his or her statement on the pecuniary claim shall be read out. The injured party shall likewise be informed that in the event of his or her failure to appear, it shall be considered that he or she does not intend to continue the prosecution if the state prosecutor decides to withdraw the charge, and that in such case, he or she will have the possibility of restitutio ad integrum

umakne do konca glavne obravnave in da bo z umikom izgubil pravico, da vnovič poda predlog ter da bo v primeru, če ga umakne po začetku glavne obravnave, moral plačati stroške kazenskega postopka, razen če bo obdolženec izjavil, da jih bo plačal sam. Oškodovanca, ki je vabljen kot priča v primeru iz prejšnjega stavka, se v vabilu opozori še, da se bo v primeru neopravičenega izostanka štelo, da je umaknil predlog za pregon ter da bo v tem primeru imel možnost vrnitve v prejšnje stanje (prvi odstavek 61.a člena in 62.a člen).

(paragraph two of Article 61 and Article 62a). If a criminal offence prosecuted upon a motion is involved, the injured party shall be informed that he or she may withdraw his or her motion for prosecution before the end of the main hearing, and that by withdrawing it he or she shall lose the right to lodge the motion again, and that if he or she withdraws the motion after the beginning of the main hearing, he or she shall have to pay the costs of criminal proceedings, unless the accused person declares that he or she will pay them. The injured party who is summoned as a witness in the case referred to in the preceding sentence, shall also be informed in the summons that in the event of unjustified absence, it shall be deemed that he or she has withdrawn the motion for prosecution, and that in such a case, he or she will have the possibility of *restitutio ad integrum* (paragraph one of Article 61a and Article 62a).

(5) Oškodovanec kot tožilec in zasebni tožilec se opozorita v vabilu, da se bo v primeru, če ne prideta na glavno obravnavo in tudi ne pošljeta pooblaščenca, štelo, da sta umaknila obtožbo ter da bosta v tem primeru imela možnost vrnitve v prejšnje stanje (drugi odstavek 58. člena, drugi odstavek 62. člena in 62.a člen).

(5) The injured party acting as prosecutor and the private prosecutor shall be informed in the summons that in the event that they fail to appear at the main hearing and also fail to send their counsel, it shall be considered that they have withdrawn the charge and that in such case, they will have the possibility of *restitutio ad integrum* (paragraph two of Article 58, paragraph two of Article 62 and Article 62a).

(6) Obtoženec, priča in izvedenec se opozorijo v vabilu na posledice, če ne pridejo na glavno obravnavo (307. in 309. člen).

(6) The defendant, the witness and the expert witness shall be informed in the summons of the consequences of failure to appear at the main hearing (Articles 307 and 309).

289. člen

Article 289

(1) Stranke pod pogojem, da navedejo utemeljene razloge, zakaj tega niso zahtevale že na predobravnavnem naroku, in oškodovanec lahko tudi po razpisu glavne obravnave zahtevajo, da se na glavno obravnavo povabijo nove priče ali novi izvedenci ali preskrbijo drugi novi dokazi. V svoji obrazloženi zahtevi morajo stranke navesti, katera dejstva naj bi se dokazala in s katerimi od predlaganih dokazov.

(1) The parties may, under the condition that they provide justified grounds as to why they had not made such a request at the pre-trial hearing, and the injured person may, even after the main hearing has been scheduled, request that new witnesses or new expert witnesses be summoned to the main hearing or that new evidence be produced at the main hearing. The request should be reasoned and should indicate which facts are to be proven and by which piece of the proposed evidence.

(2) Če predsednik senata zavrne predlog za nove dokaze, se sme tak predlog ponoviti med glavno obravnavo.

(2) If the president of the panel rejects the motion for the production of new evidence, such a motion may be repeated during the main hearing.

(3) Predsednik senata sme tudi brez predloga strank

(3) The president of the panel may, even without the motion of

odrediti, naj se za glavno obravnavo preskrbijo novi dokazi.

(4) O odločbi, s katero se odredi, naj se preskrbijo novi dokazi, se obvestijo stranke pred začetkom glavne obravnave.

290. člen

Če kaže, da bo glavna obravnava trajala daljši čas, lahko predsednik senata zahteva od predsednika sodišča, naj določi enega ali dva sodnika oziroma sodnika porotnika, ki naj bosta navzoča pri glavni obravnavi, da bi lahko nadomestila člane senata, če bi bili zadržani.

291. člen

(1) Če se zve, da kakšna priča ali izvedenec, ki je povabljen na glavno obravnavo, pa še ni bil zaslišan, ne bo mogel priti na glavno obravnavo zaradi dolgotrajne bolezni ali drugih ovir, se sme zaslišati tam, kjer je.

(2) Pričo oziroma izvedenca zasliši in po potrebi izvedenca tudi zapriseže predsednik senata ali sodnik, ki je član senata, ali pa se opravi njegovo zaslišanje po preiskovalnem sodniku sodišča, na katerega območju priča oziroma izvedenec živi.

(3) O času in kraju zaslišanja se obvestijo stranke in oškodovanec, če je glede na nujnost postopka to mogoče. Če je obtoženec v priporu, odloči predsednik senata, ali je potrebna njegova navzočnost pri zaslišanju. Kadar so stranke in oškodovanec navzoči pri zaslišanju, imajo pravice iz sedmega odstavka 178. člena tega zakona.

292. člen

Predsednik senata sme iz tehtnih razlogov na predlog

the parties, order that new evidence be produced for the main hearing.

(4) The parties shall be informed of the order for the production of new evidence prior to the beginning of the main hearing.

Article 290

If it appears that the main hearing may last some time, the president of the panel may request the president of the court to assign one or two judges or lay judges to attend the main hearing in order to replace the members of the panel who might be prevented from attending the trial.

Article 291

(1) If it is established that a witness or an expert witness who was summoned to the main hearing but has not yet been examined is unable to appear at the trial because of a long-term illness or other impediments, he or she may be heard at the place where he or she resides.

(2) The witness or the expert witness shall be heard, and the expert witness shall be sworn in, if necessary, by the president of the panel or a judge who is a member of the panel, or he or she may also be heard by the investigating judge of the court in whose territory he or she resides.

(3) The parties and the injured party shall be notified of the time and place of hearing if this is possible given the urgency of the proceedings. If the defendant is in detention, the president of the panel shall decide whether his or her presence at the hearing is necessary. Where the parties and the injured party are present at the hearing, they shall have the rights referred to in paragraph seven of Article 178 of this Act.

Article 292

The president of the panel may for substantial reasons upon a

strank ali po uradni dolžnosti z odredbo odložiti dan glavne obravnave.

293. člen

(1) Če tožilec umakne obtožnico pred začetkom glavne obravnave, predsednik senata obvesti o tem vse, ki so bili povabljeni na glavno obravnavo. Oškodovanca pa posebej obvesti o njegovi pravici, da sme nadaljevati pregon (60. in 62. člen). Če oškodovancu obvestila ni bilo mogoče vročiti, ker sodišču ni prijavil spremembe naslova ali prebivališča, se šteje, da ne namerava nadaljevati pregona.

(2) Če oškodovanec ne nadaljuje pregona, ustavi predsednik senata s sklepom kazenski postopek. Ta sklep se pošlje strankam in oškodovancu.

(3) Sklep o ustavitvi kazenskega postopka izda predsednik senata tudi, če so po pravnomočnosti obtožnice oziroma zasebne tožbe podane kakšne druge okoliščine, zaradi katerih bi se morala na glavni obravnavi izdati zavrnilna sodba (2., 3. in 4. točka 357. člena).

XXI. poglavje
GLAVNA OBRAVNAVA

1. Javnost glavne obravnave

294. člen

(1) Glavna obravnava je javna.

(2) Na glavni obravnavi smejo biti navzoče polnoletne osebe.

(3) Osebe, ki so navzoče na glavni obravnavi, ne smejo imeti pri sebi orožja ali nevarnega orodja, razen pravosodnega

motion of the parties or *ex officio* postpone the main hearing.

Article 293

(1) If the prosecutor withdraws the indictment before the beginning of the main hearing, the president of the panel shall notify thereof all those who were summoned to the main hearing. The injured party shall be notified separately of his or her right to continue the prosecution (Articles 60 and 62). If it has been impossible to serve the notification on the injured party because he or she has failed to report a change of address or residence to the court, it shall be deemed that the injured party does not to intend to continue the prosecution.

(2) If the injured party does not continue the prosecution, the president of the panel shall discontinue the criminal proceedings by a ruling. The ruling shall be delivered to the parties and the injured person.

(3) The president of the panel shall also issue a ruling on the discontinuation of the criminal proceedings if after the indictment or a private action has become final, it is established that certain other circumstances exist that would require the rendering of a judgment of rejection at the main hearing (points 2, 3 and 4 of Article 357).

Chapter XXI
THE MAIN HEARING

1. Public nature of the main hearing

Article 294

(1) The main hearing shall be held in open court.

(2) The main hearing may be attended by any persons who have attained the age of majority.

(3) Persons attending the main hearing may not carry arms or dangerous instruments, except judiciary police officers, who may be

policista, ki je lahko oborožen.

295. člen

Od začetka zasedanja pa do konca glavne obravnave, sme senat ob vsakem času po uradni dolžnosti ali na predlog strank, vselej pa po njihovem zaslišanju, izključiti javnost vse ali dela glavne obravnave, če je to potrebno za varovanje tajnosti, varstva javnega reda, morale, varstva osebnega ali družinskega življenja obtoženca, oškodovanca ali priče ali koristi mladoletnika, ali če bi po mnenju senata javnost škodovala interesom pravičnosti.

296. člen

(1) Izključitev javnosti ne velja za stranke, oškodovanca, njihove zastopnike, zagovornika in osebo, ki jo izbere oškodovanec.

(2) Senat sme dovoliti, da so na glavni obravnavi, katere javnost je izključena, navzoče posamezne uradne osebe ter znanstveni in javni delavci, na zahtevo obtoženca pa sme to dovoliti tudi njegovemu zakoncu oziroma osebi, s katero živi v zunajzakonski skupnosti in njegovim bližnjim sorodnikom.

(3) Predsednik senata opozori tiste, ki so navzoči na glavni obravnavi, katere javnost je izključena, da so dolžni varovati kot tajnost vse, kar zvedo na glavni obravnavi, in jih opozori, da pomeni izdaja tajnosti kaznivo dejanje.

297. člen

(1) O izključitvi javnosti odloči senat s sklepom, ki mora biti obrazložen in javno razglašen.

(2) Sklep o izključitvi javnosti se sme izpodbijati samo v pritožbi zoper sodbo.

armed.

Article 295

From the opening of the session until the conclusion of the main hearing, the panel may, *ex officio* or upon a motion of the parties, at any time but always after hearing the parties, exclude the public from all or part of the trial, if this is necessary for the protection of confidentiality, maintenance of law, order and morals, the protection of the personal or family life of the defendant, the injured party or the witness, or the interests of a minor, or, if in the panel's opinion, a public trial would be prejudicial to the interests of justice.

Article 296

(1) The exclusion of the public shall not apply to the parties, the injured person, their representatives, the defence counsel and the person chosen by the injured party.

(2) The panel may grant permission for certain officials, scholars and public figures, and on the defendant's request, also his or her spouse or the person with whom he or she lives in extra-marital cohabitation, as well as his or her close relatives, to be present at a main hearing that is not open to the public.

(3) The president of the panel shall inform the persons attending a main hearing closed to the public of their obligation to keep confidential all the information that comes to their knowledge at the main hearing, and shall inform them that any disclosure of confidential information is a criminal offence.

Article 297

(1) The panel shall decide on the exclusion of the public by a reasoned and publicly pronounced ruling.

(2) The ruling on the exclusion of the public may only be challenged in an appeal against the judgment.

2. Vodstvo glavne obravnave

298. člen

(1) Predsednik, člani senata, zapisnikar in nadomestni sodniki in sodniki porotniki (290. člen) morajo biti nepretrgoma na glavni obravnavi.

(2) Dolžnost predsednika senata je, da ugotovi, ali je senat sestavljen po zakonu in ali je podan kakšen razlog, zaradi katerega bi bilo treba člane senata ali zapisnikarja izločiti (1. do 5. točka 39. člena).

299. člen

(1) Predsednik senata vodi glavno obravnavo, daje besedo strankam, oškodovancu, zakonskim zastopnikom, pooblaščencem, zagovorniku, izvedencu in članom senata ter postavlja vprašanja obtožencu, pričam in izvedencem.

(2) Predsednik senata je dolžan skrbeti, da se zadeva vsestransko razčisti in odvrne vse, kar bi zavlačevalo postopek, ne da bi koristilo razjasnitvi stvari.

(3) Predsednik senata odloča o predlogih strank, če o njih ne odloča senat.

(4) O predlogu, glede katerega ni soglasja med strankami, in o soglasnih predlogih strank, s katerimi se ne strinja predsednik, odloča senat. Senat odloča tudi o ugovorih zoper ukrepe predsednika senata, ki se nanašajo na vodstvo glavne obravnave.

(5) Sklepi senata se vselej razglasijo in s kratko obrazložitvijo vpišejo v zapisnik o glavni obravnavi.

2. Conduct of the main hearing

Article 298

(1) The president and the members of the panel, the court reporter, alternate judges and lay judges (Article 290) must be continuously present at the main hearing.

(2) The president of the panel has the duty to determine whether the panel of judges is composed in accordance with the law and whether any reasons exist for the disqualification of any member of the panel or the court reporter (points 1 to 5 of Article 39).

Article 299

(1) The president of the panel shall conduct the main hearing and call on the parties, the injured person, legal representatives, counsels, the defence counsel, expert witnesses and panel members to make their statements, and shall pose questions to the defendant, witnesses and expert witnesses.

(2) It shall be the duty of the president of the panel to ensure that the case is thoroughly discussed and that whatever might delay the proceedings without contributing to the clarification of the case is eliminated.

(3) The president of the panel shall rule on the motions of the parties, unless they are determined by the panel.

(4) Motions on which the parties disagree and concordant motions of the parties which are not agreed with by the president of the panel shall be decided by the panel. The panel shall also decide on the objections against the measures undertaken by the president of the panel that refer to the conduct of the main hearing.

(5) The rulings of the panel shall always be pronounced and entered in the record of the main hearing, along with a brief statement of reasons.

300. člen

Glavna obravnava poteka v tistem redu, ki je določen v tem zakonu, vendar pa sme senat spremeniti določeni red obravnavanja zaradi posebnih okoliščin, zlasti če je veliko obtožencev, veliko kaznivih dejanj ali če je dokazno gradivo obsežno.

301. člen

(1) Dolžnost predsednika senata je skrbeti za red v sodni dvorani in za dostojanstvo sodišča. V ta namen lahko takoj po začetku zasedanja opozori tiste, ki so navzoči na glavni obravnavi, naj se dostojno obnašajo in naj ne ovirajo dela sodišča. Predsednik senata lahko odredi osebno preiskavo tistih, ki so navzoči na glavni obravnavi.

(2) Senat sme odrediti, da se odstranijo z zasedanja vsi, ki so kot poslušalci navzoči na glavni obravnavi, če se z ukrepi, ki jih določa ta zakon za vzdrževanje reda, ne more zagotoviti neoviran potek glavne obravnave.

(3) V sodni dvorani so v okviru izvrševanja pravice javnosti sojenja izjemoma dovoljena snemanja glavnih obravnav. Predsednik sodišča lahko dovoli snemanje na posamezni glavni obravnavi, senat na glavni obravnavi pa lahko iz opravičenih razlogov, zlasti spoštovanja domneve nedolžnosti in pravic drugih oseb, odloči, da se posamezni deli glavne obravnave ne snemajo. Snemanje se dovoli in izvaja v skladu s pravili sodnega reda.

302. člen

(1) Če obtoženec, zagovornik, oškodovanec, zakoniti zastopnik, pooblaščenec, priča, izvedenec, tolmač ali kdo drug, ki je navzoč na glavni obravnavi, moti red ali se ne pokori ukazom predsednika senata glede vzdrževanja reda, ga predsednik senata opomni. Če opomin ne zaleže, sme senat odrediti, naj se obtoženec

Article 300

The main hearing shall be conducted in the order laid down by this Act, but the panel may alter the regular course of the trial due to specific circumstances, in particular due to a large number of defendants and criminal offences, or due to extensive evidence.

Article 301

(1) The president of the panel shall be obliged to ensure the maintenance of order in the courtroom and the protection of the court's dignity. Immediately upon opening the session, he or she may for this purpose remind the persons attending the main hearing to behave properly and not to disturb the proceedings. The president of the panel may order a personal search of those present at the main hearing.

(2) The panel may order that all those attending the trial as an audience be removed from the session if an undisturbed course of the main hearing cannot be ensured by the measures for the maintenance of order provided by this Act.

(3) In the courtroom, the recording of main hearings in the context of exercising the right to a public trial shall only be exceptionally allowed. The president of the court may authorise recording at a particular main hearing, while the panel may decide at a main hearing that for justified reasons, in particular respect of the presumption of innocence and the rights of other persons, specific parts of the main hearing should not be recorded. The recording shall be authorised and carried out in accordance with the Court Rules.

Article 302

(1) If the defendant, defence counsel, injured person, legal representative, counsel, witness, expert witness, interpreter or some other person attending the main hearing disturbs order or fails to comply with the orders of the president of the panel regarding the maintenance of order, the president of the panel shall warn him or her accordingly. If the warning

odstrani iz sodne dvorane; druge pa sme ne le odstraniti, marveč tudi kaznovati z denarno kaznijo, določeno v prvem odstavku 78. člena tega zakona.

(2) Po odločbi senata sme biti obtoženec odstranjen iz sodne dvorane za določen čas; če je bil na glavni obravnavi že zaslišan, pa tudi za ves čas, dokler traja dokazni postopek. Pred koncem dokaznega postopka pokliče predsednik senata obtoženca in mu sporoči potek glavne obravnave. Če obtoženec še naprej moti red ali žali dostojanstvo sodišča, ga sme senat znova odstraniti z zasedanja. V takem primeru se glavna obravnava dokonča brez njegove navzočnosti, sodbo pa mu naznani predsednik ali sodnik, ki je član senata, v navzočnosti zapisnikarja.

(3) Zagovorniku ali pooblaščencu, ki kljub kazni še naprej moti red, sme senat odreči nadaljnjo obrambo oziroma zastopanje na glavi obravnavi; v tem primeru se od stranke zahteva, naj si vzame drugega zagovornika oziroma pooblaščenca. Če ni možnosti, da bi si obtoženec takoj vzel drugega zagovornika oziroma, da bi ga brez škode za obrambo postavilo sodišče, se glavna obravnava prekine ali preloži. Če si zasebni tožilec ali oškodovanec kot tožilec ne vzame takoj drugega pooblaščenca, sme senat odločiti, da bo opravil glavno obravnavo brez navzočnosti pooblaščenca, če po pretehtanju vseh okoliščin spozna, da nenavzočnost pooblaščenca ni v škodo zastopanega. Sklep o tem se z obrazložitvijo vpiše v zapisnik o glavni obravnavi. Zoper ta sklep ni dovoljena posebna pritožba.

(4) Če sodišče odstrani iz sodne dvorane oškodovanca kot tožilca ali zasebnega tožilca, ki nimata pooblaščenca ali če odstrani njunega zakonitega zastopnika, ki nima pooblaščenca, se glavna obravnava prekine oziroma preloži, dokler si ne vzamejo pooblaščenca.

(5) Če moti red državni tožilec, obvesti predsednik senata o tem pristojnega državnega tožilca, lahko pa tudi prekine glavno obravnavo in zahteva od pristojnega državnega tožilca, naj določi koga drugega za zastopanje obtožnice.

is of no avail, the panel may order that the defendant be removed from the courtroom, while other persons may not only be removed, but also fined as provided by paragraph one of Article 78 of this Act.

(2) By virtue of the decision of the panel, the defendant may be removed from the courtroom temporarily; however, if he or she was already interrogated at the main hearing, he or she may be removed for the whole period of evidence-taking. Before the evidence-taking procedure is concluded, the president of the panel shall call the defendant in and inform him or her about the course of the main hearing. If the defendant continues to disturb order or offend the dignity of the court, the panel may remove him or her again from the courtroom. In that case the main hearing shall be concluded in his or her absence and the judgment shall be pronounced to him or her by the president of the panel or by a judge sitting as a member of the panel, in the presence of the court reporter.

(3) The panel may deny further defence or representation at the main hearing to a defence counsel or a counsel who, after being punished, continues to disturb order; in this case the party shall be requested to retain another defence counsel or counsel. If it is impossible for the defendant to retain another defence counsel immediately or for the court to appoint another defence counsel without prejudicing the defence, the main hearing shall be suspended or postponed. If the private prosecutor or the injured party acting as prosecutor does not retain another counsel immediately, the panel may decide to hold the main hearing in the absence of the counsel provided that, after careful consideration of all circumstances, it finds that the absence of the counsel will not prejudice the interests of the represented person. The ruling thereon, along with a statement of reasons, shall be entered in the record of the main hearing. A special appeal against this ruling shall not be allowed.

(4) If the court removes the injured party acting as prosecutor or a private prosecutor who has no counsel from the courtroom, or if it removes his or her legal representative who has no counsel, the main hearing shall be suspended or postponed until he or she retains a counsel.

(5) If the state prosecutor disturbs order, the president of the panel shall notify the competent state prosecutor thereof and may also suspend the main hearing and request the competent state prosecutor to appoint another prosecutor to represent the prosecution.

(6) Če sodišče kaznuje odvetnika oziroma odvetniškega kandidata, ki moti red, sporoči to odvetniški zbornici.

303. člen

(1) Zoper sklep o kazni je dovoljena pritožba, vendar lahko senat ta sklep prekliče.

(2) Zoper druge odločbe, ki se nanašajo na vzdrževanje reda in vodstvo glavne obravnave, ni pritožbe.

304. člen

Če so podani razlogi za sum, da je priča ali izvedenec na glavni obravnavi po krivem izpovedal, se za tako kaznivo dejanje ne more soditi takoj. V takem primeru sme predsednik senata odrediti, naj se o izpovedbi priče oziroma izvedenca napravi poseben zapisnik in ta pošlje državnemu tožilcu. Ta zapisnik podpiše zaslišana priča oziroma izvedenec.

3. Pogoji za glavno obravnavo

305. člen

Predsednik senata začne zasedanje in naznani predmet glavne obravnave in sestavo senata. Nato ugotovi, ali so prišli vsi, ki so bili povabljeni; če niso, se prepriča, ali so jim bila vabila vročena in ali so svoj izostanek opravičili.

306. člen

(1) Če na glavno obravnavo, ki je bila razpisana na podlagi obtožnice državnega tožilca, ne pride državni tožilec, se glavna obravnava preloži, predsednik senata pa o tem obvesti Vrhovno

(6) If the court punishes an attorney or a candidate attorney who disturbs order, the Bar Association shall be notified thereof.

Article 303

(1) An appeal against a ruling imposing punishment shall be allowed, but the panel may revoke such a ruling.

(2) No appeal shall be allowed against other decisions concerning the maintenance of order and the conduct of the main hearing.

Article 304

If grounds for suspicion exist that a witness or an expert witness has given false testimony at the main hearing, he or she cannot be immediately tried for such an offence. In such case, the president of the panel may order that a separate record be made of the testimony of the witness or expert witness and be delivered to the state prosecutor. This record shall be signed by the witness or the expert witness heard.

3. Preconditions for the main hearing

Article 305

The president of the panel shall open the session and announce the case to be tried at the main hearing and the composition of the panel of judges. Thereafter he or she shall determine whether all summoned persons have appeared, and if not, he or she shall check whether the summonses were duly served and whether the persons absent have justified their absence.

Article 306

(1) If the state prosecutor fails to appear at the main hearing scheduled upon an indictment from the state prosecutor, the main hearing shall be postponed and the president of the panel shall notify the Office of

državno tožilstvo.

(2) Če na glavno obravnavo ne pride oškodovanec kot tožilec ali zasebni tožilec, čeprav sta bila v redu povabljena, in tudi ne njun pooblaščenec, ustavi senat postopek s sklepom.

(3) Če gre za kaznivo dejanje, ki se preganja na predlog, in oškodovanec, ki je bil v redu povabljen kot priča, ne pride na glavno obravnavo in svojega izostanka ne opraviči, se šteje, da je umaknil predlog za pregon in se pred začetkom glavne obravnave za to dejanje izda sklep o ustavitvi kazenskega postopka, po začetku glavne obravnave pa sodba, s katero se obtožba zavrne.

307. člen

(1) Če je bil obtoženec v redu povabljen, pa ne pride na glavno obravnavo, in tudi ne opraviči svojega izostanka, odredi senat, da se privede s silo. Če ga ni mogoče privesti takoj, senat preloži glavno obravnavo, in odredi, da se obtoženec s silo privede na prihodnjo obravnavo. Če obtoženec opraviči svoj izostanek, preden ga privedejo, prekliče predsednik senata odredbo o privedbi.

(2) Če se obtoženec, ki je bil v redu povabljen, očitno izmika in noče priti na glavno obravnavo, za pripor pa ni nobenega od razlogov iz 201. člena tega zakona, sme senat odrediti pripor, da zagotovi njegovo navzočnost na glavni obravnavi. Pritožba ne zadrži izvršitve sklepa o priporu. Za pripor, ki je bil odrejen iz tega razloga, se smiselno uporabljajo določbe 200. člena, drugega, tretjega, četrtega in šestega odstavka 202. člena ter 208. do 213.d člena tega zakona. Če ni prej odpravljen, traja pripor do objave sodbe, najdalj pa mesec dni.

(3) Če obtoženec ne pride na glavno obravnavo, kljub temu da je bil v redu povabljen, sme senat odločiti, da se glavna obravnava opravi tudi v njegovi nenavzočnosti, če njegova navzočnost ni nujna, če je navzoč njegov zagovornik in če je bil pred tem že zaslišan. Če obtoženec nima zagovornika, senat ravna po prvem odstavku tega

the State Prosecutor General thereof.

(2) If the injured party acting as prosecutor or a private prosecutor fails to appear at the main hearing although being duly summoned, and his or her counsel also fails to appear, the panel shall discontinue the proceedings by a ruling.

(3) If the case concerns a criminal offence which is prosecuted upon a motion and the injured party that was duly summoned as a witness fails to appear at the main hearing without justifying his or her absence, it shall be deemed that his or her motion for prosecution has been withdrawn and a ruling on the discontinuation of the criminal proceedings shall be issued before the beginning of the main hearing, followed by a judgment dismissing the charge after the beginning of the main hearing.

Article 307

(1) If a duly summoned defendant fails to appear at the main hearing without justifying his or her absence, the panel shall order that he or she be brought in forcibly. If he or she cannot be brought in immediately, the panel shall postpone the main hearing and order that the defendant be brought in forcibly for the next session. If the defendant justifies his or her absence before being brought in forcibly, the president of the panel shall revoke the order on his or her compulsory appearance.

(2) If a duly summoned defendant is evidently trying to evade appearing at the main hearing and none of the reasons for detention referred to in Article 201 of this Act exists, the panel shall be entitled to order detention in order to ensure his or her presence at the main hearing. An appeal against the ruling on detention shall not stay its execution. The provisions of Article 200, of paragraphs two, three, four and six of Article 202, and of Articles 208 to 213d of this Act shall apply *mutatis mutandis* to detention ordered for such reason. Unless lifted earlier, detention shall last until the pronouncement of the judgment, but not longer than one month.

(3) If a duly summoned defendant fails to appear at the main hearing, the panel may decide that the main hearing may also be held in his or her absence if his or her presence is not indispensable, if his or her defence counsel is present at the trial and if the defendant has already been heard before. If the defendant does not have a defence counsel, the

člena, sme pa tudi odločiti, da se obtožencu postavi zagovornik po uradni dolžnosti.

(4) Sklep o tem, da bo obtoženca sodil v nenavzočnosti izda senat po zaslišanju tožilca in zagovornika. Pritožba ne zadrži izvršitve sklepa.

308. člen

Če ne pride na glavno obravnavo zagovornik, ki je bil v redu povabljen, pa ne obvesti sodišča, zakaj je zadržan, brž ko za to zve, ali če brez dovoljenja zapusti obravnavo, zahteva sodišče od obtoženca, naj si takoj vzame drugega zagovornika. Če obtoženec tega ne stori in ni možnosti, da bi brez škode za obrambo zagovornika postavilo sodišče, se glavna obravnava preloži.

309. člen

(1) Če priča ali izvedenec neopravičeno izostane, čeprav je bil v redu povabljen, sme senat odrediti, da se takoj privede s silo.

(2) Glavna obravnava se lahko začne tudi brez povabljene priče ali izvedenca; v takem primeru odloči senat med glavno obravnavo, ali naj se zaradi nenavzočnosti priče ali izvedenca glavna obravnava prekine ali preloži.

(3) Pričo ali izvedenca, ki je bil v redu povabljen, pa svojega izostanka ni opravičil, sme senat kaznovati z denarno kaznijo, določeno v prvem odstavku 78. člena tega zakona, sme pa odrediti tudi prisilno privedbo na novo glavno obravnavo. V opravičenem primeru sme senat preklicati svojo odločbo o kazni.

4. Preložitev in prekinitev glavne obravnave

panel shall proceed according to paragraph one of this Article and may also decide that a defence counsel be appointed to the defendant *ex officio*.

(4) The ruling that the defendant is to be tried in his or her absence shall be issued by the panel after hearing the prosecutor and the defence counsel. An appeal shall not stay the execution of the ruling.

Article 308

If a duly summoned defence counsel fails to appear at the main hearing without notifying the court of the reasons for his or her absence as soon as he or she becomes aware of such reason, or if he or she leaves the main hearing without permission, the court shall request that the defendant immediately retain another defence counsel. If the defendant fails to do so and if it is impossible for the court to appoint a defence counsel without prejudicing the defence, the main hearing shall be postponed.

Article 309

(1) If a duly summoned witness or expert witness fails to appear without a justified reason, the panel may order that he or she be immediately brought in forcibly.

(2) The main hearing may also begin in the absence of the summoned witness or expert witness; in such case, the panel shall decide in the course of the main hearing whether it should be suspended or postponed due to the absence of the witness or expert witness.

(3) The panel may impose a fine provided for in paragraph one of Article 78 of this Act on a duly summoned witness or expert witness who fails to justify his or her absence, and may also order that he or she be brought in forcibly for the new main hearing. If the absence is justified, the panel may revoke its decision on the imposition of a fine.

4. Postponement and suspension of the main hearing

310. člen

(1) Poleg primerov, ki so posebej določeni v tem zakonu, se glavna obravnava preloži s sklepom senata, če je treba preskrbeti nove dokaze ali če se med glavno obravnavo ugotovi, da je obtoženec po storitvi kaznivega dejanja začasno duševno zbolel ali da je pri njem nastala začasna duševna motnja, ali če so podane druge ovire, da se glavna obravnava ne more uspešno izvesti do konca.

(2) V sklepu, s katerim se preloži glavna obravnava, se določi, če je to mogoče, dan in ura, kdaj se bo nadaljevala. Z istim sklepom sme senat odrediti tudi, naj se zberejo tisti dokazi, ki bi se s časom utegnili izgubiti.

(3) Zoper sklep iz prejšnjega odstavka ni pritožbe.

311. člen

(1) Glavna obravnava, ki je bila preložena, se mora začeti znova, če se je spremenila sestava senata. Vendar pa sme senat po zaslišanju strank odločiti, da se v takem primeru priče in izvedenci ne zaslišijo znova in ne opravi nov ogled, temveč da se preberejo izpovedbe prič in izvedencev, dane na prejšnji glavni obravnavi, oziroma da se prebere zapisnik o ogledu.

(2) Če se glavna obravnava, ki je bila preložena, opravlja pred istim senatom, se nadaljuje, predsednik senata pa na kratko pove potek prejšnje glavne obravnave; vendar pa sme senat v tem primeru odločiti, da se začne obravnava znova.

(3) Če je bila glavna obravnava preložena za več kot tri mesece ali če se opravlja pred drugim predsednikom senata, se mora začeti znova in se morajo vsi dokazi znova izvesti.

Article 310

(1) In addition to the cases specified in this Act, the main hearing shall be postponed by a ruling of the panel if new evidence needs to be obtained or if it is established in the course of the main hearing that the defendant, after committing the criminal offence, has been suffering from a temporary mental illness or a temporary mental disorder, or if other impediments exist hindering the successful completion of the main hearing.

(2) If possible, the ruling postponing the main hearing shall specify the date and hour when the main hearing will be resumed. By the same ruling, the panel may also order that evidence which might disappear over the lapse of time should be collected.

(3) No appeal shall be allowed against the ruling referred to in the preceding paragraph.

Article 311

(1) If the composition of the panel has changed, the postponed main hearing shall start afresh. However, after hearing the parties, the panel may in this case decide not to hear the witnesses and expert witnesses again and not to conduct a new inspection of the crime scene, but rather to read the depositions that the witnesses and expert witnesses had given at the previous trial or to read the record of the inspection of the crime scene.

(2) If the main hearing that was postponed is carried out before the same panel, it shall be resumed and the president of the panel shall give a short account of the course of the previous trial; however, the panel may in this case decide to start the main hearing afresh.

(3) If the main hearing has been postponed for more than three months or if it is held before a new president of the panel, the trial must start afresh and all evidence shall be taken anew.

312. člen

(1) Poleg primerov, ki so posebej določeni v tem zakonu, sme predsednik senata prekiniti glavno obravnavo za odmor ali zato, ker je delovni čas pretekel, ali pa zato, da se v kratkem času preskrbijo določeni dokazi ali da se pripravi obtožba ali obramba.

(2) Prekinjena glavna obravnava se vselej nadaljuje pred istim senatom.

(3) Če se glavna obravnava ne more nadaljevati pred istim senatom ali če je bila prekinjena za več kot osem dni, je treba ravnati po določbi prejšnjega člena.

313. člen

Če se pokaže med glavno obravnavo pred senatom, sestavljenim iz enega sodnika in dveh sodnikov porotnikov, da kažejo dejstva, na katera se opira obtožba, na kaznivo dejanje, za katero je pristojen senat dveh sodnikov in treh sodnikov porotnikov, se senat dopolni in glavna obravnava začne znova.

5. Zapisnik o glavni obravnavi

314. člen

(1) O glavni obravnavi se mora pisati zapisnik, v katerega se vpisuje bistvena vsebina vsega poteka glavne obravnave.

(2) Predsednik senata lahko odredi, da se ves potek glavne obravnave ali njeni posamezni deli stenografirajo. Stenografski zapisniki se v oseminštiridesetih urah prepišejo, pregledajo in priložijo zapisniku.

(3) Predsednik senata lahko odredi , da se glavna obravnava snema z ustreznimi tehničnimi sredstvi za zvočno ali

Article 312

(1) In addition to the cases specified in this Act, the president of the panel may suspend the main hearing for the purpose of rest or because the working day is over, or in order to obtain certain evidence within a short period of time, or for the preparation of the prosecution or defence.

(2) A suspended main hearing shall always be resumed before the same panel.

(3) If the main hearing cannot be resumed before the same panel or if it was suspended for more than eight days, the provisions of the preceding Article shall apply.

Article 313

If, in the course of the main hearing held before a panel composed of one judge and two lay judges, the facts on which the charge is based indicate that a criminal offence is involved falling within the competence of a panel of two judges and three lay judges, the panel shall be supplemented and the main hearing shall start afresh.

5. Record of the main hearing

Article 314

(1) A record of the main hearing shall be kept and shall contain an essential summary of the entire course of the main hearing.

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

(3) The president of the panel may order that the main hearing should be recorded by means of appropriate technical audio or audiovisual

zvočno-slikovno snemanje. Za tako snemanje se smiselno uporabljajo določbe 84. člena tega zakona. Kadar se glavna obravnava snema, se ne glede na prvi odstavek tega člena v zapisnik vpiše le, da je glavna obravnava posneta, podatke iz prvega in drugega odstavka 316. člena in 317. člena tega zakona ter kje je shranjen posnetek, če ni priložen spisom ali samodejno zabeležen v informacijskem sistemu e-sodstvo.

(4) Če se glavna obravnava ne snema, lahko predsednik senata na predlog strank ali po uradni dolžnosti odredi, da se v zapisnik dobesedno vpišejo izjave, za katere misli, da so posebno pomembne.

(5) Na glavni obravnavi, ki se ne snema, sme predsednik senata, če je to potrebno, zlasti pa, če se v zapisnik dobesedno vpiše kakšna izjava, odrediti, da se ta del zapisnika takoj prebere. Vselej se takoj prebere, če to zahteva stranka, zagovornik ali tisti, čigar izjava se vpisuje v zapisnik.

(6) Strankam se omogoči predvajanje in pridobitev kopije posnetka iz informacijskega sistema e-sodstvo takoj, ko je to tehnično izvedljivo. Posnetki glavnih obravnav se v celoti ali deloma prepišejo na utemeljeno zahtevo strank ali če sodnik sam tako odredi.

315. člen

(1) Zapisnik mora biti končan na koncu zasedanja. Podpišeta ga predsednik senata in zapisnikar.

(2) Stranke imajo pravico pregledati končani zapisnik in njegove priloge, podati pripombe glede vsebine in zahtevati njegov popravek.

(3) Popravke napačno vpisanih imen, številk in drugih očitnih napak v pisanju sme odrediti predsednik senata na predlog stranke ali zaslišanca ali po uradni dolžnosti. Druge popravke in dopolnitve zapisnika sme odrediti samo senat.

recording equipment. The provisions of Article 84 of this Act shall apply *mutatis mutandis* to such recording. Notwithstanding paragraph one of this Article, where the main hearing is audio or video recorded, the only information entered in the record shall be a note that the main hearing was recorded, the data referred to in paragraph one and two of Article 316 and Article 317 of this Act, and the place where the recording is stored if it is not enclosed with the file or automatically registered in the e-justice information system.

(4) If the main hearing is not recorded, the president of the panel may, upon the motion of a party or *ex officio*, order that the statements he or she considers particularly important be entered in the record verbatim.

(5) During a main hearing that is not audio or video recorded, the president of the panel may, where necessary, and especially if a statement is entered in the record verbatim, order that this part of the record be read out immediately. The statements recorded verbatim shall always be read out immediately if so requested by the party, defence counsel or the person whose statement is entered in the record.

(6) The parties shall be allowed to play and obtain a copy of the recording from the e-justice information system as soon as technically feasible. The recordings of the main hearings shall be transcribed in full or in part upon a reasoned request of the parties or if so ordered by the judge.

Article 315

(1) The record must be completed at the end of the session. It shall be signed by the president of the panel and the court reporter.

(2) The parties shall be entitled to review the completed record and its enclosures, to make comments on the content and to demand corrections.

(3) Corrections of incorrectly entered names, numbers and other obvious clerical errors may be ordered by the president of the panel upon the motion of the party or the person questioned, or *ex officio*. Any other corrections and amendments of the record may only be ordered by the

(4) Pripombe in predloge strank glede zapisnika ter popravke in dopolnitve zapisnika je treba zapisati v nadaljevanju končanega zapisnika. V nadaljevanju zapisnika se zapišejo tudi razlogi, zaradi katerih posamezni predlogi in pripombe niso bili sprejeti. Predsednik senata in zapisnikar podpišeta tudi nadaljevanje zapisnika.

(5) Zapisnik, izdelan v elektronski obliki, podpiše predsednik senata z elektronskim podpisom. Zapisnik podpiše tudi zapisnikar, če je sodeloval pri njegovi sestavi. Podpisa nista obvezna, če se podatki o datumu zapisnika v elektronski obliki ter podatki o zapisnikarju, ki ga je sestavil, in o sodniku, ki je vodil zapisnik, samodejno evidentirajo v informacijskem sistemu e-sodstvo.

(6) Minister, pristojen za pravosodje, podrobneje predpiše pogoje, obliko in način vodenja zapisnika o glavni obravnavi in spisa v elektronski obliki.

316. člen

(1) V uvodu zapisnika se mora navesti sodišče, pred katerim se opravlja glavna obravnava, kraj in čas zasedanja, ime in priimek predsednika senata, članov senata in zapisnikarja, tožilca, obtoženca in zagovornika, oškodovanca in njegovega zakonitega zastopnika ali pooblaščenca ter tolmača, kaznivo dejanje, ki je predmet obravnavanja in ali je glavna obravnava javna ali pa je javnost izključena.

(2) Zapisnik mora zlasti vsebovati podatke o tem, katera obtožnica je bila na glavni obravnavi prebrana in ali je tožilec obtožbo spremenil ali razširil, kaj so predlagale stranke in kaj je odločil predsednik senata ali senat, kateri dokazi so bili izvedeni, ali so bili prebrani kakšni zapisniki in druga pisanja, ali so bili reproducirani zvočni ali drugi posnetki in kakšne pripombe so glede prebranih zapisnikov, pisanj ali reproduciranih posnetkov podale stranke. Če je bila javnost na glavni obravnavi izključena, se mora navesti, da je predsednik senata opozoril navzoče na posledice, če bi neupravičeno

panel.

(4) The comments and motions of the parties regarding the record, as well as corrections and amendments of the record shall be entered in the continuation of the completed record. The reasons why certain motions and comments have not been accepted shall also be indicated in the continuation of the record. The president of the panel and the court reporter shall also sign the continuation of the record.

(5) The record drawn up in electronic form shall be signed by the president of the panel by electronic signature. The record shall also be signed by the court reporter if he or she participated in its composition. The signatures shall not be obligatory if the date of the record in electronic form and the data on the court reporter who compiled the record and on the judge who managed it are automatically recorded in the e-justice information system.

(6) The minister responsible for justice shall lay down in detail the conditions, form and method of keeping a record of the main hearing and the file in electronic form.

Article 316

(1) The introductory part of the record shall indicate the court before which the main hearing is held, the place and time of the session, the names and surnames of the president of the panel, the panel members, the court reporter, prosecutor, defendant and his or her defence counsel, the injured party and his or her legal representative or counsel, the interpreter, the criminal offence being tried and whether the main hearing is open or closed to the public.

(2) The record shall contain in particular information on the indictment which was read at the main hearing and whether the prosecutor had modified or extended the charge, which motions were filed by the parties and what decisions were rendered by the president of the panel or the panel, which evidence was taken, whether any records and other writings were read out and whether audio or other recordings were reproduced, and the comments of the parties on the records, writings or reproduced recordings read out. If the main hearing was closed to the public, it must be indicated that the president of the panel warned those

izdali, kar so na tej glavni obravnavi zvedeli kot tajnost.

(3) Izpovedbe obdolženca, prič in izvedencev se vpišejo v zapisnik tako, da se poda njihova bistvena vsebina. Te izpovedbe se vpišejo v zapisnik samo, če vsebujejo kakšno spremembo ali dopolnitev njihovih prejšnjih izpovedb. Na zahtevo stranke predsednik senata odredi, da se deloma ali v celoti prebere zapisnik o prejšnji izpovedbi.

(4) Na zahtevo stranke se v zapisnik vpiše tudi vprašanje oziroma odgovor, ki ga senat ni dovolil.

317. člen

(1) V zapisnik o glavni obravnavi se vnese celoten izrek sodbe (tretji, četrti in peti odstavek 364. člena) in navede, ali je bila sodba razglašena javno. Izrek sodbe v zapisniku o glavni obravnavi je izvirnik.

(2) Če je bil izdan sklep o priporu (361. člen), se mora tudi ta vnesti v zapisnik o glavni obravnavi.

6. Začetek glavne obravnave in zaslišanje obtoženca

318. člen

Ko predsednik senata ugotovi, da so prišli na glavno obravnavo vsi, ki so bili povabljeni, ali ko senat sklene, da bo opravil glavno obravnavo brez nekoga od povabljenih ali da bo o teh vprašanjih odločil pozneje, pokliče predsednik senata obtoženca in zahteva od njega osebne podatke (227. člen), da se prepriča o njegovi istovetnosti.

319. člen

(1) Po ugotovitvi obtoženčeve istovetnosti napoti

present of the consequences of unjustified disclosure of confidential information they learned at the main hearing.

(3) The depositions of the accused person, witnesses and expert witnesses shall be entered in the record in such a manner as to present their essential content. They shall only be entered in the record if they contain any change or supplement to their previous statements. Upon the motion of a party, the president of the panel shall order that the record of a previous deposition, or a part thereof, be read out.

(4) Upon the motion of a party, a question or an answer that the panel rejected as inadmissible shall also be entered in the record.

Article 317

(1) The record of the main hearing shall contain the entire operative part of the judgment (paragraphs three, four and five of Article 364) and shall state whether the judgment was pronounced in open court. The operative part of the judgment entered in the record of the main hearing shall be deemed the original document.

(2) If a ruling on detention (Article 361) was issued, this must also be entered in the record of the main hearing.

6. Commencement of the main hearing and interrogation of the defendant

Article 318

After the president of the panel has established that all those summoned have appeared at the main hearing, or after the panel has decided to hold the main hearing in the absence of some of the persons summoned, or after the panel has decided to postpone a decision on such issues, the president of the panel shall call the defendant and request his or her personal data (Article 227) in order to verify his or her identity.

Article 319

(1) Having established the identity of the defendant, the

predsednik senata priče in izvedence na kraj, ki je zanje določen in kjer naj počakajo, dokler jih ne pokličejo k zasliševanju. Če je potrebno, lahko predsednik senata pridrži izvedence, da spremljajo potek glavne obravnave.

(2) Če je oškodovanec navzoč, pa še ni priglasil svojega premoženjskopravnega zahtevka, ga predsednik senata pouči, da lahko poda predlog za uveljavitev tega zahtevka v kazenskem postopku in o pravicah iz 59. člena tega zakona. "Če gre za kaznivo dejanje, ki se preganja na predlog, predsednik senata oškodovanca opozori, da lahko predlog za pregon umakne do konca glavne obravnave in da bo z umikom izgubil pravico, da vnovič poda predlog ter da bo v primeru, če ga umakne po predstavitvi obtožnice, moral plačati stroške kazenskega postopka, razen če bo obdolženec izjavil, da jih bo plačal sam.

(3) Če je treba oškodovanca kot tožilca ali zasebnega tožilca zaslišati kot pričo, ju ni dopustno odstraniti z zasedanja.

(4) Predsednik senata sme odrediti, kar je potrebno, da prepreči dogovarjanje med pričami, izvedenci in strankami.

320. člen

Predsednik senata opozori obtoženca, naj pazljivo spremlja potek glavne obravnave, ter ga pouči, da sme navajati dejstva in predlagati dokaze v svojo obrambo, da sme postavljati vprašanja soobtožencem, pričam in izvedencem ter da sme podajati pripombe in pojasnila glede njihovih izpovedb.

321. člen

(1) Glavna obravnava se začne s predstavitvijo obtožnice ali zasebne tožbe.

president of the panel shall direct the witnesses and expert witnesses to a designated place where they shall wait until called upon to testify. The president of the panel may, if necessary, call on the expert witnesses to remain in the courtroom and follow the course of the main hearing.

(2) If the injured party is present and he or she has not yet submitted his or her pecuniary claim, the president of the panel shall inform him or her that he or she may make a motion for the satisfaction of this claim within criminal proceedings, as well as of his or her rights referred to in Article 59 of this Act. If a criminal offence prosecuted upon a motion is involved, the injured party shall be warned by the president of the panel that he or she may withdraw his or her motion for prosecution before the end of the main hearing, and that by withdrawing it he or she shall lose the right to lodge the motion again, and that in the case that the motion is withdrawn after the presentation of the indictment, he or she shall have to pay the costs of criminal proceedings, unless the accused person declares that he or she will pay them.

(3) If the injured party acting as prosecutor or the private prosecutor must be examined as a witness, he or she may not be removed from the session.

(4) The president of the panel may undertake the necessary measures to prevent collusion between witnesses, expert witnesses and parties.

Article 320

The president of the panel shall caution the defendant to closely follow the course of the main hearing and shall inform him or her that he or she may state the facts and present evidence in his or her defence, address questions to co-defendants, witnesses and expert witnesses, and make comments and give clarifications on their statements.

Article 321

(1) The main hearing shall commence with the reading of the indictment or private action.

(2) Obtožnico in zasebno tožbo predstavi tožilec.

(3) Če je oškodovanec navzoč, sme obrazložiti svoj premoženjskopravni zahtevek; če ni navzoč, pa prebere njegov predlog predsednik senata.

(4) Predsednik senata vpraša obtoženca, ali je razumel obtožbo. Če obtoženec ni razumel obtožbe, predsednik senata pozove tožilca, da mu razloži vsebino obtožnice tako, da jo najlažje razume.

(5) Predsednik senata pouči obtoženca po tretjem odstavku 5. člena tega zakona.

(6) Državni tožilec sme po začetku glavne obravnave podati nov predlog iz drugega odstavka 269. člena tega zakona.

322. člen

(1) Obtoženec in zagovornik imata pravico, da odgovorita na obtožbo in zavzemata svoje stališče glede obtožbe in premoženjskopravnega zahtevka oškodovanca.

(2) V odgovoru na obtožbo se obtoženec lahko izjavi le o tem, ali dejanje in premoženjskopravni zahtevek priznava in ali ima ugovore pravne narave. Namesto obtoženca lahko poda odgovor na obtožbo zagovornik, vendar ne o tem, ali obtoženec dejanje priznava.

323. člen

(1) Ko obramba zavzame svoje stališče do obtožbe, predsednik senata vpraša obtoženca, ali se želi zagovarjati.

(2) The indictment and the private action shall be read by the prosecutor.

(3) If the injured party is present, he or she may give reasons for his or her pecuniary claim, and if she or he is absent, his or her motion shall be read by the president of the panel.

(4) The president of the panel shall ask the defendant if he or she has understood the charge. If the defendant has not understood the charge, the president of the panel shall call on the prosecutor to explain the content of the indictment so that it can best be understood by the defendant.

(5) The president of the panel shall inform the defendant in accordance with paragraph three of Article 5 of this Act.

(6) After the beginning of the main hearing, the state prosecutor may submit a new motion referred to in paragraph two of Article 269 of this Act.

Article 322

(1) The defendant and the defence counsel shall have the right to respond to the indictment and state their position on the charge and the pecuniary claim of the injured party.

(2) In response to the charge, the defendant may only make a statement as to whether he or she acknowledges the criminal offence concerned and the pecuniary claim, and whether he or she has any objections of a legal nature. The defence counsel may answer the charge in place of the defendant, except for the part relating to the admission or denial of the offence.

Article 323

(1) After the defence has taken its position on the charge, the president of the panel shall ask the defendant if he or she intends to plead his or her case.

(2) Če obtoženec izjavi, da se želi zagovarjati, se ga zasliši.

(3) Pri zaslševanju obtoženca na glavni obravnavi se smiselno uporabljajo določbe, ki veljajo za zaslševanje obdolženca med preiskavo.

(4) Pri zaslišanju obtoženca ne smejo biti navzoči soobtoženci, ki še niso bili zaslišani.

324. člen

(1) Zaslišanje obtoženca se začne s pozivom predsednika senata obtožencu, da naj poda svoj zagovor.

(2) Ko obtoženec konča svojo izpovedbo, se mu lahko postavijo vprašanja. Predsednik senata pozove najprej tožilca, nato pa zagovornika, da postavljata obtožencu vprašanja. Oškodovanec, zakoniti zastopnik, pooblaščenec, soobtoženec in izvedenec smejo obtožencu postavljati neposredna vprašanja le z dovoljenjem predsednika senata.

(3) Predsednik senata prepove vprašanje ali odgovor na že postavljeno vprašanje, če ni dovoljeno (228. člen) ali če ni v zvezi z zadevo. Če predsednik senata prepove kakšno vprašanje ali odgovor, smejo stranke zahtevati, naj o tem odloči senat.

(4) Ko predsednik senata ugotovi, da tožilec, zagovornik in druge osebe iz drugega odstavka tega člena nimajo več vprašanj, lahko sam postavlja obtožencu vprašanja, če misli, da so v obtoženčevi izpovedbi ali v odgovorih na vprašanja vrzeli, nejasnosti ali nasprotja. Nato smejo obtožencu neposredno postavljati vprašanja še člani senata.

(5) Po končanem zaslišanju mora predsednik senata obtoženca vprašati, če želi še kaj povedati v svoj zagovor. Če

(2) If the defendant states that he or she intends to plead his or her case, he or she shall be interrogated.

(3) In interrogating the defendant at the main hearing, the provisions governing the interrogation of the accused person in the process of investigation shall apply *mutatis mutandis*.

(4) Co-defendants who have not yet been questioned may not be present during the interrogation of the defendant.

Article 324

(1) The interrogation of the defendant shall start with his or her being called upon by the president of the panel to present his or her defence.

(2) After the defendant has finished his or her testimony, he or she may be asked questions. The president of the panel shall first call the prosecutor and then the defence counsel to address questions to the defendant. The injured party, legal representative, counsel, co-defendant and expert witness may only ask the defendant direct questions with the approval of the president of the panel.

(3) The president of the panel shall forbid a question or reject the answer to an already asked question if the question is not permitted (Article 228) or if it has no relation to the case. If the president of the panel forbids a certain question or answer, the parties may request that the panel decide thereon.

(4) After the president of the panel establishes that the prosecutor, the defence counsel and other persons referred to in paragraph two of this Article have no more questions, he or she may proceed to address questions to the defendant if he or she believes that the defendant's testimony or answers contain gaps, ambiguities or contradictions. Subsequently, panel members may also address direct questions to the defendant.

(5) After the interrogation is completed, the president of the panel shall ask the defendant whether he or she has anything to add in his

obtoženec še kaj pove v svoj zagovor, se mu lahko znova postavljajo vprašanja.

325. člen

(1) Če obtoženec na glavni obravnavi izjavi, da se ne želi zagovarjati ali če noče odgovarjati na posamezna vprašanja, prebere predsednik senata njegovo prejšnjo izpovedbo ali del te izpovedbe.

(2) Če obtoženec na glavni obravnavi pri zaslišanju spremeni svojo prejšnjo izpovedbo, ga tožilec, zagovornik ali predsednik senata lahko opozorijo na spremembo in vprašajo, zakaj sedaj izpoveduje drugače; po potrebi pa predsednik senata prebere njegovo prejšnjo izpovedbo ali del izpovedbe.

326. člen

(1) Ko je končano zaslševanje prvega obtoženca, se nadaljuje po vrsti zaslševanje morebitnih drugih obtožencev. Po vsakem zaslševanju seznani predsednik senata zaslšanca z izpovedbami prej zaslšanih soobtožencev in ga vpraša, ali ima kaj pripomniti, prej zaslšanega obtoženca pa vpraša, ali ima kaj pripomniti k izpovedbi pozneje zaslšanega obtoženca. Vsak obtoženec ima pravico postavljati vprašanja drugim zaslšanim soobtožencem.

(2) Če se izpovedbe posameznih soobtožencev o isti okoliščini med seboj razlikujejo, sme predsednik senata soobtožence soočiti.

327. člen

Senat sme izjemoma skleniti, da se obtoženec začasno odstrani iz sodne dvorane, če soobtoženec ali priča v njegovi navzočnosti noče izpovedovati ali če okoliščine kažejo, da v njegovi

or her defence. If the defendant proceeds to elaborate upon his or her defence, he or she may again be asked questions.

Article 325

(1) If the defendant declares at the main hearing that he or she does not intend to plead his or her case or refuses to answer certain questions, the president of the panel shall read out his or her previous testimony or a part thereof.

(2) If during the interrogation at the main hearing, the defendant changes his or her previous testimony, the prosecutor, the defence counsel or the president of the panel may call his or her attention to this inconsistency and ask him or her to explain why he or she has changed his or her testimony; if necessary, the president of the panel may read out his or her previous testimony or a part thereof.

Article 326

(1) After the interrogation of the first defendant is finished, co-defendants, if any, shall be questioned in turn. After each interrogation, the president of the panel shall acquaint the co-defendant with the statements of the co-defendants interrogated before him or her and shall ask him or her if he or she has any comments thereon, and shall ask the co-defendant interrogated before him or her if he or she has any comments on the testimony of the subsequently interrogated co-defendant. Each defendant shall have the right to address questions to other interrogated co-defendants.

(2) If the depositions of individual co-defendants on the same circumstance differ, the president of the panel may make the co-defendants confront each other.

Article 327

Exceptionally, the panel may rule that the defendant should be temporarily removed from the courtroom if a co-defendant or a witness refuses to testify in his or her presence or if circumstances indicate that he

navzočnosti ne bo govoril resnice. Po vrnitvi obtoženca na zasedanje se mu prebere izpovedba soobtoženca oziroma priče. Obtoženec ima pravico postavljati soobtožencu oziroma priči vprašanja, predsednik senata pa ga vpraša, ali ima kaj pripomniti k njuni izpovedbi. Po potrebi se lahko opravi soočenje.

328. člen

Obtoženec se sme med glavno obravnavo dogovarjati s svojim zagovornikom, vendar pa se o tem, kako naj odgovori na postavljeno vprašanje, ne sme posvetovati ne s svojim zagovornikom ne s kom drugim.

7. Dokazni postopek

329. člen

(1) Ko je obtoženec zaslišan, se postopek nadaljuje s sprejemanjem dokazov.

(2) Dokazovanje obsega vsa dejstva, za katera sodišče misli, da so pomembna za pravilno razsojo.

(3) Če senat ne odloči drugače, se v dokaznem postopku najprej izvedejo dokazi, ki jih je predlagal tožilec, nato tisti, ki jih je predlagala obramba, na koncu pa še dokazi, katerih izvedbo odredi po uradni dolžnosti senat. Če naj bo oškodovanec, ki je navzoč, zaslišan kot priča, se njegovo zaslišanje opravi takoj za zaslišanjem obtoženca.

(4) Stranke, pod pogojem iz 4. točke tretjega odstavka 285.a člena tega zakona, in oškodovanec smejo do konca glavne obravnave predlagati, naj se raziščejo nova dejstva in preskrbijo novi dokazi, smejo pa tudi ponoviti tiste predloge, ki jih je predsednik senata ali senat prej zavrnil.

or she will not tell the truth in the presence of the defendant. When the defendant returns to the session, the statements of the co-defendant and/or the witness shall be read to him or her. The defendant shall be entitled to address questions to a co-defendant or a witness, and the president of the panel shall ask him or her whether he or she has any comments regarding these statements. If necessary, a confrontation may be arranged.

Article 328

In the course of the main hearing, the defendant may consult with his or her defence counsel, but he or she may not consult with his or her defence counsel or anybody else about how he or she shall respond to the questions asked.

7. Evidence-taking procedure

Article 329

(1) After the interrogation of the defendant is completed, the proceedings shall be continued with the taking of evidence.

(2) Evidence-taking shall encompass all the facts which the court considers relevant for a correct adjudication.

(3) Unless the panel decides otherwise, the evidence proposed by the state prosecutor shall be presented first in the evidence-taking procedure, followed by the evidence proposed by the defence, and, finally, the evidence ordered by the panel to be taken *ex officio*. If the injured party present has to be heard as a witness, he or she shall be questioned immediately after the defendant.

(4) The parties, subject to the condition referred to in point 4 of paragraph three of Article 285a of this Act, and the injured person may, before the conclusion of the main hearing, propose that new facts be looked into and new evidence be taken, and may also repeat the motions dismissed earlier by the president of the panel or the panel.

(5) Senat sme odločiti, da se izvedejo tudi dokazi, ki niso bili predlagani ali jih je predlagatelj umaknil.

330. člen

Če obtoženec med glavno obravnavo krivdo po obtožbi prizna in senat to priznanje sprejme, glavno obravnavo nadaljuje ob smiselni uporabi določb 285.c in 285.č člena tega zakona.

331. člen

(1) Pri zaslševanju prič in izvedencev na glavni obravnavi se smiselno uporabljajo določbe, ki veljajo za njihovo zaslševanje med preiskavo, kolikor ni v tem poglavju drugače določeno.

(2) Priča, ki še ni bila zaslišana, praviloma ne sme biti navzoča pri sprejemanju dokazov; izvedenec, ki še ni dal svojega izvida in mnenja, pa ne sme biti navzoč pri glavni obravnavi, ko daje drug izvedenec svojo izpovedbo o isti zadevi.

(3) Če se zaslišuje kot priča oseba, ki še ni stara osemnajst let, lahko senat sklene, naj bo med njenim zaslševanjem izključena javnost.

(4) Če je mladoletna oseba navzoča na glavni obravnavi kot priča ali oškodovanec, jo je treba odstraniti iz sodne dvorane, brž ko njena navzočnost ni več potrebna.

(5) Neposredno zaslišanje oseb, mlajših od 15 let, ki so bile oškodovanci kaznivih dejanj iz tretjega odstavka 65. člena tega zakona, na glavni obravnavi ni dopustno. Sodišče mora v teh primerih odločiti, da se prebere zapisnik o prejšnjem zaslišanju teh oseb. Če je potrebno, ravna sodišče enako tudi glede drugih mladoletnih oškodovancev in glede oškodovanca s posebnimi potrebami po zaščiti.

(5) The panel may also decide to take evidence for which no motion has been made or for which the motion has been withdrawn.

Article 330

If during the main hearing the defendant pleads guilty as charged and the plea is accepted by the panel, the main hearing shall be continued with *mutatis mutandis* application of the provisions of Articles 285c and 285č of this Act.

Article 331

(1) Regarding the questioning of witnesses and expert witnesses at the main hearing, the provisions applying to the hearing of these persons during the investigation shall apply *mutatis mutandis*, unless otherwise provided by this Chapter.

(2) As a rule, a witness who has not yet been heard may not attend the evidence-taking procedure, and an expert witness who has not yet submitted his or her findings and opinion may not attend the main hearing while another expert witness is giving testimony on the same issue.

(3) If a person under the age of eighteen is heard as a witness, the panel may order that the public be excluded from the hearing.

(4) If a minor participates in the main hearing as a witness or the injured party, he or she shall be removed from the courtroom as soon as his or her presence is no longer required.

(5) Direct questioning of persons under 15 years of age who are the injured party of criminal offences referred to in paragraph three of Article 65 of this Act shall not be permitted at the main hearing. In such cases, the court must decide that the record of the previous questioning of such persons be read out. If necessary, the court shall proceed in the same manner regarding other minors who are victims and regarding an injured party with special needs for protection.

(6) Stranke lahko v primerih iz prejšnjega odstavka postavijo posredna vprašanja. Če senat spozna, da so vprašanja utemeljena in potrebna za razjasnitev dejanskega stanja, postopa po določbi 338. člena tega zakona.

332. člen

Pred zaslišanjem opomni predsednik senata pričo, da mora povedati sodišču vse, kar ji je o zadevi znano, in jo opozori, da pomeni krivo pričanje kaznivo dejanje.

333. člen

(1) Pred zaslišanjem opomni predsednik senata izvedenca, da mora dati izvid in mnenje po najboljši vednosti in ga opozori, da pomeni kriv izvid in mnenje kaznivo dejanje.

(2) Senat sme odločiti, naj izvedenec pred zaslišanjem priseže.

(3) Izvedenec priseže ustno.

(4) Besedilo prisege se glasi: »Prisegam pri svoji časti, da bom svoje izvedensko delo opravil po svoji najboljši vesti in vednosti in da bom podal svoj izvid in mnenje natančno in popolno.«.

(5) Stalni zapriseženi izvedenec se namesto nove prisege opomni na že dano prisego.

(6) Izvedenec poda na glavni obravnavi svoj izvid in mnenje ustno. Če je pred glavno obravnavo pripravil svoj izvid in mnenje pisno, se mu lahko dovoli, da ga prebere. V tem primeru se njegov pisni sestavek priloži zapisniku.

(6) In the cases referred to in the preceding paragraph, parties may ask indirect questions. If the panel finds that the questions are reasonable and necessary for the clarification of the factual situation, it shall proceed according to the provisions of Article 338 of this Act.

Article 332

Before hearing a witness, the president of the panel shall caution the witness of his or her duty to tell the court whatever he or she knows about the case and shall warn him or her that false testimony is a criminal offence.

Article 333

(1) Before hearing an expert witness, the president of the panel shall caution the expert witness of his or her duty to state his or her findings and opinion to the best of his or her knowledge, and shall warn him or her that a false finding or opinion is a criminal offence.

(2) The panel may decide that the expert witness is to be sworn in before being heard.

(3) The expert witness shall take the oath orally.

(4) The oath shall read: "I swear by my honour that I shall perform my expert examination conscientiously and to the best of my knowledge and that I shall state my findings and opinion accurately and completely."

(5) Permanent sworn expert witnesses who have taken a general oath shall not be sworn in again but only reminded of the oath they have already taken.

(6) The expert witness shall communicate his or her findings and opinion to the court orally. If he or she prepared the report on his or her findings and the opinion before the main hearing, he or she may be allowed to read it out. In such case, the written version shall be enclosed with the record.

(7) Če je opravil izvedensko delo strokovni zavod oziroma državni organ, lahko sodišče odloči, da ne bo vabilo strokovnjakov, katerim je zavod oziroma organ zaupal izvedensko delo, če glede na naravo opravljenega izvedenskega dela ni pričakovati popolnejšega pojasnila pisnega izvida in mnenja. V takem primeru sme senat na glavni obravnavi odločiti, da bosta izvid in mnenje strokovnega zavoda oziroma državnega organa samo prebrana. Če pa spozna, da je to potrebno glede na druge izvedene dokaze in pripombe strank (342. člen), lahko pozneje odloči, da bodo strokovnjaki, katerim je bilo zaupano izvedensko delo, neposredno zaslišani.

(7) If the expert examination was carried out by a professional institution or a state body, the court may decide not to summon the experts to whom the institution or the body assigned the expert examination, if no elaboration on the explanations of the written findings and opinion is expected considering the nature of the expert examination performed. In such case, the panel may decide at the main hearing that the findings and opinion of the professional institution and/or the state body should only be read out aloud. However, if the panel establishes that the presence of experts who have carried out the expert examination is necessary in view of other evidence taken and the comments of the parties (Article 342), it may subsequently decide to hear the experts directly.

334. člen

Article 334

(1) Ko priča konča svojo izpovedbo oziroma, ko izvedenec poda svoj izvid in mnenje, se jima lahko postavljajo vprašanja. Vprašanja postavlja najprej stranka, ki je predlagala izvedbo dokaza, nato nasprotna stranka ter osebe iz drugega odstavka 324. člena tega zakona, na koncu pa še predsednik senata in člani senata. Če je bila izvedba dokaza odrejena po uradni dolžnosti, postavlja vprašanja najprej predsednik senata in člani senata, nato tožilec, obramba in na koncu osebe iz drugega odstavka 324. člena tega zakona. Oškodovanec, zakoniti zastopnik, pooblaščenec in izvedenec smejo naravnost postavljati vprašanja pričam in izvedencem le z dovoljenjem predsednika senata.

(1) After a witness has given his or her testimony or an expert witness has stated his or her findings and opinion, he or she may be asked questions. Questions shall be put first by the party which made the motion for the taking of evidence, then by the opposing party, the persons referred to in paragraph two of Article 324 of this Act, and, finally, by the president and members of the panel. If evidence taking was ordered *ex officio*, questions shall first be made by the president and members of the panel, then by the prosecutor, the defence, and, finally, by the persons referred to in paragraph two of Article 324 of this Act. The injured party, legal representative, counsel and expert witness may only put direct questions to witnesses and expert witnesses with the permission of the president of the panel.

(2) Predsednik prepove vprašanje ali odgovor na že postavljeno vprašanje, če to ni dovoljeno (228. člen) ali če ni v zvezi z zadevo. Če predsednik senata prepove določeno vprašanje ali odgovor, smejo stranke zahtevati, naj o tem odloči senat.

(2) The president of the panel shall forbid a question or reject the answer to an already asked question if the question is not permitted (Article 228), or if it has no relation to the case. If the president of the panel forbids a certain question or answer, the parties may request that the panel decide thereon.

335. člen

Article 335

Če je priča ali izvedenec pri prejšnjem zaslišanju povedal dejstva, ki se jih več ne spominja, ali če spremeni svojo izpovedbo, ga predsednik senata ali stranke opozorijo na prejšnjo izpovedbo in

If a witness or an expert witness can no longer recall the facts that he or she stated in the previous examination, or if he or she changes his or her testimony, the president of the panel or the parties shall call his

vprašajo, zakaj sedaj izpoveduje drugače; po potrebi pa predsednik senata prebere njegovo prejšnjo izpovedbo ali njen del.

336. člen

(1) Zaslišane priče in izvedenci ostanejo v sodni dvorani, razen če jih predsednik senata po zaslišanju strank odpusti ali če odredi, naj se začasno odstranijo iz dvorane.

(2) Predsednik sme po predlogu strank ali po uradni dolžnosti odrediti, da se zaslišane priče in izvedenci odstranijo iz sodne dvorane, pozneje pa znova pokličejo in še enkrat zaslišijo v navzočnosti ali v nenavzočnosti drugih prič in izvedencev.

337. člen

(1) Če se na glavni obravnavi zve, da priča ali izvedenec ne more priti ali zelo težko pride k sodišču, sme senat, če je po njegovem mnenju izpovedba pomembna, odrediti, naj ga zunaj glavne obravnave zasliši predsednik senata ali sodnik, ki je član senata, ali naj ga zasliši preiskovalni sodnik sodišča, na katerega območju priča oziroma izvedenec živi.

(2) Če je treba opraviti ogled ali rekonstrukcijo zunaj glavne obravnave, ju opravi predsednik senata ali sodnik, ki je član senata.

(3) Strankam in oškodovancu se vselej sporoči, kdaj in kje bo zaslišana priča oziroma kdaj in kje bo ogled ali rekonstrukcija dogodka in se poučijo, da smejo biti pri teh dejanjih navzoči. Če je obtoženec v priporu, odloči senat, ali je potrebna njegova navzočnost pri teh dejanjih. Če so stranke in oškodovanec navzoči pri teh dejanjih, imajo pravice iz sedmega odstavka 178. člena tega zakona.

or her attention to the previous testimony and ask him or her why he or she has changed it; where necessary, the president of the panel shall read out his or her previous testimony or a part thereof.

Article 336

(1) Witnesses and expert witnesses who have testified shall remain in the courtroom unless the president of the panel, upon hearing the parties, permits them to leave or removes them temporarily from the courtroom.

(2) The president of the panel may, upon a motion of the parties or *ex officio*, order the witnesses and expert witnesses who have been heard to be removed from the courtroom and be called on later to testify again in the presence or absence of other witnesses and expert witnesses.

Article 337

(1) If it becomes known in the course of the main hearing that a witness or an expert witness is unable to appear before the court or that his or her appearance involves considerable difficulties, the panel may, if it deems that his or her testimony is important, order that he or she gives the testimony to the president of the panel or a judge sitting in the panel, or the investigating judge of the court in whose jurisdictional territory the witness or the expert resides.

(2) If an inspection of the crime scene or the reconstruction of the event has to be carried out outside the main hearing, it shall be conducted by the president of the panel or a judge sitting in the panel.

(3) The parties and the injured person shall always be informed when and where the witness shall be examined and/or when and where an inspection of the crime scene or reconstruction of the event shall take place, and shall be informed of their right to attend these actions. If the defendant has been detained, the panel shall determine whether his or her presence is necessary during these actions. If the parties and the injured person are present at these actions, they shall have the rights referred to in paragraph seven of Article 178 of this Act.

338. člen

Senat sme med glavno obravnavo po zaslišanju strank odločiti, da bo zahteval od preiskovalnega sodnika določena dejanja za razjasnitev posameznih dejstev, če bi bilo povezano s precejšnjim zavlačevanjem postopka ali s precejšnjimi drugimi težavami, ko bi se to moralo opraviti na glavni obravnavi. Kadar preiskovalni sodnik ravna po taki zahtevi senata, se uporabljajo določbe, ki se nanašajo na preiskovalna dejanja.

339. člen

(1) Zapisnike o ogledu zunaj glavne obravnave, o hišni ali osebni preiskavi, prepoznavi oseb, predmetov ali kraja storitve in o zasegu stvari ter listine, knjige, spise in druga pisanja, ki se uporabijo kot dokaz, na glavni obravnavi zaradi ugotovitve vsebine preberejo stranke oziroma upravičeni predlagatelji izvedbe posameznega dokaza ali predsednik senata, če gre za izvedbo dokaza po uradni dolžnosti. Predsednik senata lahko odredi, da se reproducira zvočni ali slikovni posnetek opravljanja preiskovalnega dejanja. Pisanja, ki pomenijo dokaz, se po možnosti predložijo v izvirniku.

(2) Predsednik senata lahko odredi, da osebe iz prejšnjega odstavka vsebino pisanj na kratko povzamejo ali pisanj ne preberejo, če se je senat seznanil z besedilom pisanj, drugi pa so z razpoložljivostjo pisanj v spisu imeli možnost, da to storijo. Vselej se prebere predhodni zapisnik o zaslišanju priče ali izvedenca, če je to potrebno zaradi obuditve spomina ali razjasnitve protislovij, in predhodni zapisnik o zaslišanju obtoženca, če je to potrebno zaradi izvedbe dokaza o priznanju krivde ali razjasnitve protislovij. Če upravičeni tožilec, obtoženec ali zagovornik nemudoma vloži ugovor na odredbo predsednika senata, da se v skladu z določbami tega člena vsebina pisanj na kratko povzame ali, da se pisanja ne preberejo, odloči senat. V zapisnik se vnese odredba predsednika senata, ugotovitev, da se je senat z besedilom pisanja seznanil, drugi pa so z razpoložljivostjo pisanj v spisu imeli možnost, da to storijo, da

Article 338

In the course of the main hearing the panel may, after hearing the parties, decide to request that the investigating judge perform particular actions necessary to clarify certain facts if the performance of such actions at the main hearing would entail a considerable delay of the proceedings or other serious difficulties. Where the investigating judge acts under such a request of the panel, the provisions relating to investigative acts shall apply.

Article 339

(1) The record of the inspection of a crime scene outside the main hearing, of a house or personal search, the identification of persons, objects or the place of the commission of the criminal offence concerned and the seizure of objects, and documents, books, files and other written material used as evidence, shall be read out at the main hearing for the purpose of establishing their content by the parties or the persons entitled to present a particular piece of evidence or the president of the panel, if such evidence is presented *ex officio*. The president of the panel may order the reproduction of an audio or video recording of the performed investigative act. The written material constituting evidence shall be submitted in the original if possible.

(2) The president of the panel may order that the persons referred to in the preceding paragraph briefly summarise the content of the documents or that they shall not read out the documents if the panel has been acquainted with these texts and if others have had the opportunity to do the same given the availability of the documents. The preliminary record of the hearing of a witness or expert witness shall always be read out, if this is necessary for recollection or clarification of contradictions, as well as the preliminary record of the hearing of the defendant, if this is necessary to present evidence of a guilty plea or to clarify contradictions. If the authorised prosecutor, defendant or defence counsel immediately objects to the order of the president of the panel to briefly summarise the content of the documents or not to read out the documents in accordance with the provisions of this Article, the panel shall decide on the objection. The record shall include the order of the president of the panel, the

je bila dana možnost ugovora in sam ugovor.

(3) Predmeti, ki utegnejo pripomoči k razjasnitvi stvari, se lahko med glavno obravnavo pokažejo obtožencu, po potrebi pa tudi pričam in izvedencem.

340. člen

(1) Poleg primerov, ki so posebej določeni v tem zakonu, se smejo zapisniki o izpovedbah prič, soobtožencev ali že obsojenih udeležencev pri kaznivem dejanju ter zapisniki ali drugi zapisi o izvidu in mnenju izvedencev prebrati po odločbi senata samo v tehle primerih:

1) če so zaslišane osebe umrle, duševno zbolele ali jih ni mogoče najti ali če zaradi starosti, bolezni ali iz drugih tehtnih vzrokov ne morejo priti ali zelo težko pridejo k sodišču ali če prebivajo v tujini in na glavno obravnavo ne pridejo, kljub temu, da so bile nanjo pravilno povabljene;
2) če priče ali izvedenci brez zakonskega razloga nočejo izpovedati na glavni obravnavi.

(2) Senat sme s soglasjem strank odločiti, naj se zapisnik o prejšnjem zaslišanju priče ali izvedenca oziroma njegov pisni izvid in mnenje prebereta tudi, če priča oziroma izvedenec nista navzoča, ne glede na to, ali sta bila povabljena na glavno obravnavo ali ne.

(3) Razlogi, zakaj se bere zapisnik, se navedejo v zapisniku o glavni obravnavi; pri branju pa se sporoči, ali je bil izvedenec zaprisežen ali ne.

(4) Pred koncem dokaznega postopka izda senat po uradni dolžnosti ali na predlog strank sklep, s katerim izloči iz spisov zapisnike in druge dokaze, na katere se po določbah tega zakona ne sme opirati sodna odločba. Poseben sklep izda tudi, če zavrne predlog stranke za izločitev. Sklep, s katerim je bilo odločeno o izločitvi zapisnikov in drugih dokazov, se sme izpodbijati le s pritožbo

statement that the panel was acquainted with the text of the documents and that others had the opportunity to do so given their availability, and the statement that the possibility of objection was duly provided and the objection itself submitted.

(3) Objects which might help clarify the case may, in the course of the main hearing, be shown to the defendant and, if necessary, also to witnesses and expert witnesses.

Article 340

(1) In addition to the cases specified in this Act, the records of the testimonies of witnesses, co-defendants or the already convicted accomplices in a criminal offence, as well as the records of the findings and opinions of expert witnesses, may, if so decided by the panel, only be read out in the following cases:

1) if the persons interrogated have died, or have become mentally ill, or if their location is unknown, or are unable to appear before the court due to old age, illness or some other relevant reason, or if their appearance involves great difficulties, or if they live abroad and fail to appear at the main hearing despite being duly summoned;
2) if witnesses or expert witnesses refuse to testify at the main hearing without a legally valid reason.

(2) Subject to the consent of the parties, the panel may decide that the record of the previous hearing of a witness or an expert witness, or the written findings and opinion of the expert witness, also be read out in court in the absence of the witness or the expert witness, whether or not they were summoned to appear at the main hearing.

(3) The reasons for reading the record shall be indicated in the record of the main hearing, and during the reading it shall be announced whether the expert witness who testified had been sworn in or not.

(4) Before the evidence-taking procedure is completed, the panel shall issue, *ex officio* or upon a motion of the parties, a ruling by which it shall exclude from the files the records and other evidence on which, under the provisions of this Act, the court decision may not rest. Such a ruling shall also be issued if the panel rejects the motion of a party for exclusion. The ruling by which the records and other evidence are

zoper sodbo. Izločeni zapisniki in drugi dokazi se zaprejo v poseben ovitek in izročijo preiskovalnemu sodniku, da jih shrani ločeno od drugih spisov (tretji odstavek 83. člena).

(5) Ko sodišče druge stopnje odloča o pritožbi zoper sodbo, s katero se izpodbija tudi sklep iz prejšnjega odstavka, sme glede na vsebino izločenega zapisnika oziroma drugega dokaza odrediti, da se opravi nova glavna obravnava pred popolnoma spremenjenim senatom.

341. člen

V primerih iz 325., petega odstavka 331., 335. in 340. člena tega zakona, kot tudi v drugih primerih, če je to potrebno, sme senat odločiti, da bo na glavni obravnavi poleg branja zapisnika reproduciral tudi zvočni ali slikovni posnetek (84. člen).

342. člen

Po končanem zaslišanju vsake priče ali izvedenca in po branju vsakega zapisnika ali drugega pisanja vpraša predsednik senata stranke in oškodovanca, ali imajo kaj pripomniti.

343. člen

(1) Po končanem dokaznem postopku vpraša predsednik senata stranke in oškodovanca, ali imajo kakšne predloge za dopolnitev dokaznega postopka.

(2) Če nihče ne predlaga dopolnitve dokaznega postopka ali če se tak predlog zavrne, sodišče pa spozna, da je stanje stvari razjasnjeno, naznani predsednik, da je dokazni postopek končan.

8. Sprememba in razširitev obtožbe

excluded may only be challenged by an appeal against the judgment. The excluded records and other evidence shall be sealed in a separate envelope and delivered to the investigating judge to be kept separate from other files (paragraph three of Article 83).

(5) In deciding on the appeal against the judgment by which the ruling referred to in the preceding paragraph is also contested, the court of second instance may, depending on the content of the excluded record and/or other evidence, order that a new main hearing be held before a completely new panel.

Article 341

In the cases referred to in Article 325, paragraph five of Article 331, and Articles 335 and 340 of this Act, as well as in other cases, the panel may, if necessary, decide that in addition to reading the record, an audio or video recording shall also be reproduced at the main hearing (Article 84).

Article 342

After the hearing of each witness or expert witness, and after reading each record or other written item, the president of the panel shall invite the parties and the injured person to make comments if they so wish.

Article 343

(1) When the evidence-taking procedure is completed, the president of the panel shall ask the parties and the injured person if they have any proposals for supplementing the evidence-taking procedure.

(2) If no motions for supplementing the evidence-taking procedure are made, or if such motion was made and rejected, and if the court finds that the facts have been sufficiently clarified, the president of the panel shall announce that the evidence-taking procedure is concluded.

8. Modification and extension of the charge

344. člen

(1) Če tožilec med dokaznim postopkom spozna, da izvedeni dokazi kažejo na to, da se je spremenilo v obtožnici navedeno dejansko stanje, sme ustno spremeniti obtožnico, sme pa tudi predlagati, naj se glavna obravnava prekine, da pripravi novo obtožnico. Spremenjena obtožnica se sme nanašati le na dejanje, ki je že predmet obtožbe.

(2) Za pripravo obrambe sme sodišče v takem primeru prekiniti glavno obravnavo.

(3) Če senat dovoli prekinitev glavne obravnave zaradi priprave nove obtožnice, določi rok, v katerem mora tožilec vložiti obtožnico. Izvod nove obtožnice se vroči obtožencu; zoper to obtožnico ni ugovora. Če tožilec v danem roku ne vloži obtožnice, nadaljuje senat glavno obravnavo na podlagi prejšnje.

345. člen

(1) Če se med glavno obravnavo odkrije kakšno obtoženčevo prejšnje kaznivo dejanje, razširi senat po obtožbi upravičenega tožilca, ki jo sme ta podati tudi ustno, glavno obravnavo praviloma tudi na to dejanje. Zoper to obtožbo ni ugovora.

(2) Za pripravo obrambe sme sodišče v takem primeru prekiniti glavno obravnavo, sme pa po zaslišanju strank odločiti, da se obtoženec za dejanje iz prejšnjega odstavka sodi posebej.

9. Beseda strank

346. člen

Article 344

(1) If the prosecutor, during the evidence-taking procedure, finds that the evidence taken indicates that the facts described in the indictment have changed, he or she may modify the indictment orally and may also propose suspension of the main hearing in order to prepare a new indictment. The modified indictment may only refer to the actions that are the subject of the original indictment.

(2) In such case the court may suspend the main hearing to allow for the preparation of defence.

(3) If the panel grants the suspension of the main hearing in order for a new indictment to be prepared, it shall determine the time limit in which the prosecutor shall be bound to file a new indictment. A copy of the indictment shall be served on the defendant and no objection against this indictment shall be allowed. If the prosecutor fails to file a new indictment within the time limit set, the panel shall resume the main hearing on the basis of the previous one.

Article 345

(1) If any previous criminal offence committed by the defendant is discovered in the course of the main hearing, the panel shall extend, as a rule, the main hearing to include this new offence, after the authorised prosecutor has made the charge which may also be submitted orally. No objection against such charge shall be allowed.

(2) In such case, the court may suspend the main hearing to give the defence time to prepare, and after hearing the parties it may decide that the defendant be tried separately for the offence referred to in the preceding paragraph.

9. Closing arguments

Article 346

Po končanem dokaznem postopku da predsednik senata besedo strankam, oškodovancu in zagovorniku. Najprej govori tožilec, za njim oškodovanec in zagovornik, nato pa obtoženec.

When the evidence-taking procedure is completed, the president of the panel shall call on the parties, the injured person and the defence counsel to present their arguments. The prosecutor shall speak first, followed by the injured party and defence counsel, and then the defendant.

347. člen

Tožilec poda v svoji besedi presojo dokazov, ki so bili izvedeni na glavni obravnavi, nato pa razloži svoje sklepe o dejstvih, ki so pomembna za odločbo, ter poda in obrazloži svoj predlog o obtoženčevi kazenski odgovornosti, o določbah kazenskega zakona, ki naj se uporabijo, ter o olajševalnih in obteževalnih okoliščinah, ki bi jih bilo treba upoštevati pri odmeri kazni. Tožilec lahko poda predlog o vrsti in višini kazni, varnostnih ukrepih ter sme predlagati, naj se izreče sodni opomin ali pogojna obsodba.

Article 347

In his or her closing arguments, the prosecutor shall present his or her assessment of the evidence taken at the main hearing, explain his or her conclusions about the facts relevant for the decision, and present and substantiate his or her motion regarding the defendant's criminal liability, the provisions of the criminal law to be applied, and the mitigating and aggravating circumstances to be taken into consideration in determining the punishment. The prosecutor may also propose the type and severity of the sentence and security measures, and may propose that a judicial admonition or a suspended sentence be pronounced.

348. člen

Oškodovanec ali njegov pooblaščenec sme v svoji besedi obrazložiti premoženjskopravni zahtevek in opozoriti na dokaze o kazenski odgovornosti obtoženca.

Article 348

In his or her closing arguments, the injured party or his or her counsel may substantiate his or her pecuniary claim and point out the evidence regarding the defendant's criminal liability.

349. člen

(1) Zagovornik ali obtoženec sam razloži v svoji besedi zagovor; pri tem sme odgovoriti na navedbe tožilca in oškodovanca.

(2) Za zagovornikom ima obtoženec pravico govoriti tudi sam, da izjavi, ali se strinja z njegovim zagovorom in da ga dopolni.

(3) Tožilec in oškodovanec imata pravico odgovoriti na zagovor, zagovornik oziroma obtoženec pa pravico odgovoriti njima.

Article 349

(1) The defence counsel or the defendant personally shall present the defence in his or her closing argument and may respond to the arguments made by the prosecutor and the injured party.

(2) After the defence counsel, the defendant shall also be entitled to present his or her closing argument in order to state whether he or she approves of the defence presented by his or her defence counsel and to supplement it.

(3) The prosecutor and the injured party shall have the right to respond to the defence and the defence counsel and/or the defendant

(4) Zadnjo besedo ima vselej obtoženec.

350. člen

(1) Beseda strank se ne sme omejiti na določen čas.

(2) Predsednik senata sme po poprejšnjem opominu ustaviti tistega, ki v svoji besedi žali javni red in moralo ali žali drugega ali se spušča v ponavljanja ali izvajanja, ki očitno niso v nobeni zvezi z zadevo. V zapisniku o glavni obravnavi se mora navesti, da ga je predsednik ustavil in zakaj ga je ustavil.

(3) Kadar zastopa obtožbo več oseb ali obrambo več zagovornikov, se ti ne smejo ponavljati. Zastopniki obtožbe oziroma obrambe se morajo sporazumeti o vprašanjih, o katerih bodo govorili.

(4) Po vseh končanih govorih mora predsednik senata vprašati, ali želi še kdo kaj povedati.

(5) Določbo tretjega odstavka 294. člena Kazenskega zakonika o omilitvi kazni je mogoče uporabiti le v primerih, ko je obdolženec do konca glavne obravnave preprečil nadaljnje izvrševanje kaznivih dejanj v hudodelski združbi ali kaznivega dejanja hudodelskega združevanja, ali če je do konca glavne obravnave razkril podatke, ki so pomembni za preiskovanje in dokazovanje že storjenih kaznivih dejanj.

351. člen

(1) Če senat po končanih izvajanjih strank ne spozna, da bi bilo treba izvesti še kakšne dokaze, naznani predsednik senata, da je

shall be entitled to comment on these responses .

(4) The defendant shall always have the last word.

Article 350

(1) The presentation of closing arguments of the parties may not be limited to a specific time.

(2) The president of the panel may, upon a prior warning, interrupt a speaker who in his or her closing arguments offends public order and morality, or offends another person, or repeats himself or herself, or speaks at great length of matters obviously irrelevant to the case. The interruption by the president of the panel and the reason for this shall be noted down in the record of the main hearing.

(3) When more than one person represents the prosecution or more than one defence counsel represents the defence, their closing arguments may not be repeated. The representatives of the prosecution and/or defence shall by mutual agreement select the issues on which each of them will speak.

(4) After all the closing arguments have been concluded, the president of the panel shall ask whether anyone wishes to make a further statement.

(5) The provision of paragraph three of Article 294 of the Criminal Code on the mitigation of punishment may only be applied in cases where the accused person has prevented any further commission of criminal offences within a criminal association or a criminal offence of criminal association before the end of the main hearing, or if he or she has disclosed, before the end of the main hearing, the information relevant for the investigation of and taking of evidence for the criminal offences already committed.

Article 351

(1) If after having heard all the closing arguments of the parties, the panel establishes that no additional evidence needs to be taken, the

glavna obravnava končana.

(2) Nato se senat umakne k posvetovanju in glasovanju, da izreče odločbo.

352. člen

(1) Senat s sklepom zavrže obtožnico:
1) če je tekel postopek brez zahteve upravičenega tožilca;
2) če ni potrebnega predloga oškodovanca ali dovoljenja pristojnega državnega organa, ali če je pristojni državni organ umaknil dovoljenje;
3) če so podane druge okoliščine ki začasno preprečujejo pregon.

(2) Sklep o zavrženju obtožnice lahko izda senat tudi po preloženi glavni obravnavi.

XXII. poglavje
SODBA

1. Izrekanje sodbe

353. člen

(1) Če sodišče med posvetovanjem ne spozna, da bi bilo treba za dopolnitev postopka ali za razjasnitev posameznih vprašanj na novo začeti glavno obravnavo, izreče sodbo.

(2) Sodba se izreče in razglasi v imenu ljudstva.

354. člen

(1) Sodba se sme nanašati samo na osebo, ki je obtožena, in samo na dejanje, ki je predmet obtožbe, obsežene v vloženi

president of the panel shall announce that the main hearing has been concluded.

(2) The panel shall then retire for deliberation and voting for the purpose of rendering a judgment.

Article 352

(1) The panel shall render a judgment rejecting the indictment:
1) if the proceedings were conducted without the request of the authorised prosecutor;
2) if the required motion of the injured party or approval for prosecution of the competent state authority is lacking, or if the competent state authority has withdrawn such approval;
3) if other circumstances exist which temporarily prevent prosecution.

(2) The panel may also render a judgment rejecting the indictment after the main hearing has been postponed.

Chapter XXII
JUDGMENT

1. Pronouncing of judgments

Article 353

(1) If during its deliberations the court establishes that there is no need to re-open the main hearing in order to supplement the procedure or clarify particular issues, it shall pronounce the judgment.

(2) The judgment shall be pronounced and delivered in the name of the people.

Article 354

(1) The judgment may only relate to the person who is charged and to the offence which is the subject of the charge as specified in the

oziroma na glavni obravnavi spremenjeni ali razširjeni obtožnici.

(2) Sodišče ni vezano na predloge tožilca glede pravne presoje dejanja.

355. člen

(1) Sodišče opre sodbo samo na dejstva in dokaze, ki so bili pretreseni na glavni obravnavi.

(2) Sodišče mora vestno pretehtati vsak dokaz posebej in v zvezi z drugimi dokazi in na podlagi take presoje storiti sklep, ali je kakšno dejstvo dokazano ali ne.

2. Vrste sodb

356. člen

(1) S sodbo se obtožba zavrne ali se obtoženec oprosti obtožbe ali pa spozna za krivega.

(2) Če obsega obtožba več kaznivih dejanj, se v sodbi izreče, ali se obtožba zavrne in glede katerih dejanj; ali se obtoženec oprosti obtožbe in glede katerih dejanj; ali se spozna za krivega in za katera dejanja.

357. člen

Sodbo, s katero zavrne obtožbo, izreče sodišče:
1) če je tožilec v času od začetka do konca glavne obravnave umaknil obtožbo;
2) če je oškodovanec umaknil predlog;
3) če je bil obtoženec za isto dejanje že pravnomočno obsojen, oproščen obtožbe ali je bil postopek zoper njega s sklepom pravnomočno ustavljen;
4) če je bil obtožencu odpuščen pregon z amnestijo ali pomilostitvijo ali če kazenski pregon ni več dopusten zaradi zastaranja ali če so

indictment filed, or amended or extended at the main hearing.

(2) The court shall not be bound by the motions of the prosecutor regarding the legal qualification of the offence.

Article 355

(1) The court shall rest its judgment only on the facts and evidence considered at the main hearing.

(2) The court shall be bound to conscientiously assess each piece of evidence separately and in relation to other evidence and, on the basis of such assessment, reach a conclusion on whether or not a particular fact has been proven.

2. Types of judgments

Article 356

(1) By a judgment, the court may either reject the charge, acquit the defendant of the charge or pronounce the accused person guilty.

(2) If the charge includes several criminal offences, the judgment shall specify whether and for which offence the charge is rejected, or whether and for which offence the defendant is acquitted, and whether and for which offence the defendant is found guilty.

Article 357

The court shall pronounce a judgment rejecting the charge:
1) if the prosecutor withdraws the charge in the period from the opening until the conclusion of the main hearing;
2) if the injured party withdraws the motion;
3) if the defendant was previously convicted or acquitted of the same offence by a final judgment, or if the proceedings against him or her were discontinued by a final ruling;
4) if the defendant has been exempted from prosecution by an amnesty or pardon, or if the period of limitation for the institution of criminal

podane druge okoliščine, ki izključujejo kazenski pregon.

358. člen

Sodbo, s katero oprosti obtoženca obtožbe, izreče sodišče:

1) če dejanje, za katero je obtožen, po zakonu ni kaznivo dejanje;
2) če so podane okoliščine, ki izključujejo krivdo ali kaznivost;
3) če ni dokazano, da je obtoženec storil dejanje, katerega je obtožen;
4) 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 povzročila obsodba.

359. člen

(1) V sodbi, s katero spozna obtoženca za krivega, izreče sodišče:

1) katerega dejanja ga spozna za krivega. Pri tem navede dejstva in okoliščine, ki so znaki kaznivega dejanja, in tiste od katerih je odvisna uporaba posamezne določbe kazenskega zakona;
2) zakonsko označbo kaznivega dejanja in katere določbe kazenskega zakona je uporabilo;
3) na kakšno kazen se obtoženec obsodi ali se mu po določbah kazenskega zakona odpusti kazen;
4) odločbo o pogojni obsodbi;
5) odločbo o varnostnih ukrepih in o odvzemu premoženjske koristi;
6) odločbo o vštetju pripora ali že prestane kazni;
7) odločbo o stroških kazenskega postopka, o premoženjskopravnem zahtevku in o tem, ali naj se pravnomočna sodba objavi v tisku oziroma po radiu ali televiziji.

prosecution has expired, or if other circumstances exist barring criminal prosecution.

Article 358

The court shall render a judgment of acquittal:

1) if the offence the defendant is charged with does not constitute a criminal offence under the law;
2) if circumstances ruling out guilt or criminal liability exist;
3) if it has not been proven that the defendant committed the offence he or she is charged with, or
4) if disproportion exists between the insignificance of the criminal offence (its risks are insignificant due to the nature or gravity of the offence, or because the harmful consequences are insignificant or did not occur, or due to other circumstances in which the criminal offence was committed and due to the low degree of the perpetrator’s guilt, or due to his or her personal circumstances), and the consequences of criminal prosecution.

Article 359

(1) In a judgment by which the defendant is found guilty, the court shall state:

1) the offence which the accused person has been found guilty of, stating the facts and circumstances indicative of the criminal nature of the offence committed, as well as those on which the application of a particular provision of criminal law depends;
2) the statutory designation of the criminal offence and the provisions of criminal law that were applied;
3) what punishment is imposed on the defendant, or whether his or her punishment is remitted according to the provisions of criminal law;
4) the decision on a suspended sentence;
5) the decision on security measures and the seizure of proceeds;
6) the decision on the inclusion of time spent in detention or served under an earlier sentence;
7) the decision on the costs of criminal proceedings and on any pecuniary claim, and on whether the final judgment should be published in the press or announced on radio or television.

(2) Če je obtoženec obsojen na denarno kazen, se v sodbi navede rok, v katerem mora denarno kazen plačati in način, kako se izvrši denarna kazen, če se tudi prisilno ne more izterjati.

(3) Sodišče lahko v sodbi odloči tudi o načinu izvršitve kazni.

(4) V primeru objave sodbe po 7. točki prvega odstavka tega člena se objavijo le naslednji osebni podatki iz izreka sodbe: ime in priimek, datum rojstva, naslov stalnega, začasnega ali drugega prebivališča ter državljanstvo obtoženca.

3. Razglasitev sodbe

360. člen

(1) Ko sodišče izreče sodbo, jo predsednik senata takoj razglasi. Če sodišče po končani glavni obravnavi ne more izreči sodbe še isti dan, odloži razglasitev sodbe največ za tri dni in določi, kdaj in kje bo razglašena.

(2) Predsednik senata prebere javno v navzočnosti strank, njihovih zakonskih zastopnikov, pooblaščencev in zagovornika izrek sodbe in pove na kratko njene razloge.

(3) Sodba se razglasi tudi tedaj, če stranka, zakoniti zastopnik, pooblaščenec ali zagovornik ni navzoč. Senat sme odrediti, da predsednik senata obtožencu, ki ni navzoč, sodbo ustno naznani ali da se mu sodba samo vroči.

(4) Če je bila javnost glavne obravnave izključena, se izrek sodbe vselej prebere na javnem zasedanju. Senat odloči, ali naj se in koliko izključi javnost pri razglasitvi razlogov sodbe.

(2) If the defendant is sentenced to a fine, the judgment shall state the time limit within which the fine must be paid and the manner of enforcing the fine even if its enforced collection fails.

(3) In the judgment, the court may also decide on the method of enforcement of the sentence.

(4) If the judgment is to be published as referred to in point 7 of paragraph one of this Article, only the following personal data from the operative part of the judgment shall be published: name and surname, date of birth, permanent, temporary or other address and nationality of the defendant.

3. Proclaiming of judgments

Article 360

(1) After the court pronounces a judgment, the president of the panel shall proclaim it immediately. If the court is unable to pronounce a judgment on the same day the main hearing is concluded, it shall postpone the proclamation of the judgment by a maximum of three days and shall determine when and where it will be proclaimed.

(2) The president of the panel shall read out the operative part of the judgment in open court and in the presence of the parties, their legal representatives, counsels and the defence counsel, and shall briefly state the reasons for such judgment.

(3) The judgment shall be proclaimed even in the absence of a party, legal representative, counsel or defence counsel. If the defendant is absent, the panel may order that he or she shall be orally informed of the judgment by the president of the panel, or that the judgment only be served on him or her.

(4) If the main hearing was closed to the public, the operative part of the judgment shall always be read out in open court. The panel shall decide on whether and to what extent the proclamation of the reasons for the judgment shall be closed to the public.

(5) Vsi navzoči poslušajo branje izreka sodbe stoje.

(5) All those present shall rise to listen to the reading of the operative part of the judgment.

361. člen

(1) Ob izreku sodbe, s katero je obtoženec obsojen na kazen zapora, senat na obrazložen predlog tožilca po predhodnem zaslišanju obtoženca in zagovornika odredi pripor, če je obtoženec že v priporu pa pripor podaljša, če je podan kakšen razlog iz 1. ali 3. točke prvega odstavka 201. člena tega zakona.

Article 361

(1) After the pronouncement of the judgment by which a sentence of imprisonment was imposed on the defendant, the panel shall, upon a reasoned motion of the state prosecutor and after hearing the defendant and his or her defence counsel, order detention, or, if the defendant is already in detention, order that detention be extended if any of the reasons referred to in points 1 or 3 of paragraph one of Article 201 of this Act exists.

(2) Prejšnji odstavek se smiselno uporablja tudi glede ukrepa približevanja določenemu kraju ali osebi v primeru izreka pogojne obsodbe z varstvenim nadzorstvom in določenimi navodili prepovedi približevanja žrtvi ali kakšni drugi osebi ali prepovedi dostopa na posamezne kraje.

(2) The provisions of the preceding paragraph shall apply *mutatis mutandis* to restraining orders prohibiting the perpetrator from approaching a specific place or person if a suspended sentence with custodial supervision was imposed, and specific instructions prohibiting the perpetrator from approaching the victim or another person, or prohibiting the perpetrator from accessing a specific place.

(3) Pripor senat vselej odpravi in odredi izpustitev obtoženca, če tožilec pred izrekom sodbe ni predlagal podaljšanja pripora, če je obtoženec oproščen obtožbe ali spoznan za krivega, pa mu je odpuščena kazen, če je obsojen samo na denarno kazen ali mu je izrečen sodni opomin ali pogojna obsodba, če je zaradi vštetja pripora kazen že prestal ali če je obtožba zavrnjena ali obtožnica zavržena, razen če je zavržena zaradi nepristojnosti sodišča.

(3) The panel shall always lift detention and order that the defendant be released if the state prosecutor did not request the extension of detention before the pronouncement of the judgment, if the defendant was acquitted of the charge or if he or she was found guilty but his or her sentence was remitted, if he or she was only sentenced to a fine or a judicial admonition or suspended sentence was imposed, or if due to the deduction of the time spent in detention, the sentence was already served, or if the charge was rejected or the indictment was dismissed, except where it is dismissed due to the lack of jurisdiction of the court.

(4) O odreditvi ali odpravi pripora po razglasitvi sodbe do njene pravnomočnosti oziroma do nastopa kazni odloča senat sodišča prve stopnje (šesti odstavek 25. člena). Pripor odredi na obrazložen predlog tožilca, odpravi pa po uradni dolžnosti ali na predlog strank po zaslišanju državnega tožilca, če teče postopek na njegovo zahtevo.

(4) After the proclamation of the judgment and until the judgment becomes final, or until the sentence starts to be served, the panel of the first instance court shall decide on the ordering or lifting of detention (paragraph six of Article 25). Detention shall be ordered on a reasoned motion of the state prosecutor and shall be lifted *ex officio* or on the motion of the parties after hearing the opinion of the state prosecutor, if the proceedings were initiated at his or her request.

(5) O odreditvi, podaljšanju ali odpravi pripora iz prejšnjih

(5) The panel shall decide on the ordering, extension or lifting of

odstavkov tega člena senat odloči s posebnim sklepom. Pritožba zoper ta sklep ne zadrži njegove izvršitve.

(6) Pripor, ki je bil odrejen ali podaljšan po določbah prejšnjih odstavkov tega člena, sme trajati do nastopa kazni, vendar najdalj do izteka kazni, izrečene v sodbi sodišča prve stopnje.

(7) Kadar izreče sodišče kazen zapora, se sme obtoženec, ki je v priporu, oddati na podlagi sklepa predsednika senata še pred pravnomočnostjo sodbe v zavod za prestajanje kazni zapora, če to sam zahteva.

362. člen

(1) Po razglasitvi sodbe pouči predsednik senata upravičence do pritožbe (367. člen) o pravici do pritožbe in o dolžnosti predhodne napovedi pritožbe ter da se bo štelo, da so se odpovedali pravici do pritožbe, če najkasneje v osmih dneh od dneva razglasitve sodbe pritožbe ne bodo napovedali. Pouk se vnese v zapisnik o glavni obravnavi.

(2) Če je obtožencu izrečena pogojna obsodba, ga predsednik opozori na pomen pogojne obsodbe in na pogoje, ki se jih mora držati.

(3) Upravičencu do pritožbe, ki ni bil navzoč pri razglasitvi sodbe, se pošlje prepis izreka sodbe, s poukom iz prvega odstavka tega člena, s tem, da mu rok za napoved pritožbe teče od vročitve prepisa izreka sodbe.

(4) Predsednik senata opozori stranke, da morajo do pravnomočnega konca postopka vsako spremembo naslova sporočiti sodišču.

4. Pisna izdelava in vročitev sodbe

detention referred to in the preceding paragraphs of this Article by a special ruling. An appeal against this ruling shall not stay its execution.

(6) Detention ordered or extended under the provisions of the preceding paragraphs of this Article may last until the sentence starts to be served, but may not last longer than until the expiry of the term of the sentence pronounced in the judgment of the first instance court.

(7) Where the court pronounces a judgment imposing a sentence of imprisonment, a defendant who is in detention may, upon his or her request, be transferred to a prison pursuant to the ruling of the president of the panel even before the judgment has become final.

Article 362

(1) After proclaiming the judgment, the president of the panel shall instruct the parties entitled to appeal (Article 367) regarding their right to appeal and the obligation to state their intention to appeal in advance, and shall warn them that they will be considered to have waived the right to appeal if they fail to state their intention to appeal within eight days of the day of proclamation of the judgment. This instruction shall be entered in the record of the main hearing.

(2) If a suspended sentence is imposed on the defendant, the president of the panel shall inform him or her of the meaning of the suspended sentence and of the conditions he or she must comply with.

(3) A party who is entitled to appeal and was absent when the judgment was proclaimed shall be sent a copy of the operative part of the judgment and the instructions referred to in paragraph one of this Article, whereby the time limit for stating his or her intention to appeal shall start to run as of the day the copy of the operative part of the judgment is served on him or her.

(4) The president of the panel shall inform the parties of their obligation to report to the court any change of address up until the final conclusion of proceedings.

4. Drawing up and serving of judgments

363. člen

(1) Razglašena sodba mora biti pisno izdelana v petnajstih dneh po razglasitvi, če je obtoženec v priporu, v ostalih primerih pa v tridesetih dneh. Če sodba ni izdelana v tem roku, mora predsednik senata obvestiti predsednika sodišča, zakaj to ni bilo storjeno. Predsednik sodišča ukrene, kar je potrebno, da se sodba čimprej izdela.

(2) Sodbo, ki se izdela v fizični obliki, podpišeta predsednik senata in zapisnikar z lastnoročnim podpisom. Sodbo, ki se izdela v elektronski obliki, podpišeta predsednik senata in zapisnikar s svojima varnima elektronskima podpisoma in varnim elektronskim podpisom sodišča, overjenim s kvalificiranim potrdilom. Če je varen elektronski podpis predsednika senata oziroma zapisnikarja overjen s kvalificiranim elektronskim potrdilom, ki vsebuje navedbo sodišča, varen elektronski podpis sodišča ni potreben.

(3) Sodbo, ki se izda v fizični obliki, lastnoročno podpiše predsednik senata. Sodbo, ki se izda v elektronski obliki, podpiše predsednik senata s svojim elektronskim podpisom.

(4) Overjen prepis sodbe, elektronski (skeniran) prepis ali elektronska oblika sodbe se vroči tožilcu, obtožencu in zagovorniku pa v skladu s 120. členom tega zakona. Če je obtoženec v priporu, morajo biti overjeni prepisi sodbe, elektronski (skeniran) prepis ali elektronska oblika sodbe odposlani v roku iz prvega odstavka tega člena.

(5) Obtožencu, zasebnemu tožilcu in oškodovancu kot tožilcu se vroči sodba s poukom o pravici do pritožbe.

(6) Overjen prepis sodbe, elektronski (skeniran) prepis ali elektronsko obliko sodbe s poukom o pravici do pritožbe vroči sodišče oškodovancu, če ima pravico do pritožbe, osebi, kateri je s to sodbo

Article 363

(1) A proclaimed judgment must be draw up in writing within fifteen days of its proclamation if the defendant is in detention, and within thirty days in other instances. If the judgment is not drawn up within this time limit, the president of the panel shall inform the president of the court of the reasons for this. The president of the court shall take the necessary steps for the judgment to be drawn up as soon as possible.

(2) A judgment drawn up in hard copy shall be signed by the president of the panel and the court reporter in their own hand. A judgment drawn up in electronic form shall be signed by the president of the panel and the court reporter with their secure electronic signatures and the secure electronic signature of the court, verified by means of a qualified certificate. The secure electronic signature of the court shall not be required if the secure electronic signature of the president of the panel or the court reporter is verified by means of a qualified certificate that also indicates the court.

(3) A judgment delivered in physical form shall be signed by the president of the panel in his or her own hand. A judgment delivered in electronic form shall be signed by the president of the panel with his or her electronic signature.

(4) A certified copy of the judgment, electronic (scanned) copy or an electronic form of the judgment shall be served on the prosecutor, while it shall be served on the defendant and defence counsel in accordance with Article 120 of this Act. If the defendant is in detention, the certified copies of the judgment, electronic (scanned) copy or the electronic form of the judgment shall be dispatched within the time limit referred to in paragraph one of this Article.

(5) The judgment served on the defendant, private prosecutor and the injured party acting as prosecutor shall contain the instruction on the right to appeal.

(6) A certified copy of the judgment, an electronic (scanned) copy or an electronic form of the judgment with the instruction on the right to appeal shall be served by the court on the injured party if he or she is

vzet predmet (drugi odstavek 73. člena kazenskega zakonika), ter pravni osebi, kateri je izrečen odvzem premoženjske koristi. Oškodovancu, ki nima pravice do pritožbe, vroči overjen prepis sodbe, elektronski (skeniran) prepis ali elektronsko obliko sodbe v primerih iz drugega odstavka 61. člena tega zakona s poukom, da ima pravico zahtevati vrnitev v prejšnje stanje. Pravnomočna sodba se vroči oškodovancu, če to zahteva, v vsakem primeru pa, če je bila izrečena pogojna obsodba z varstvenim nadzorstvom in določenim navodilom prepovedi približevanja žrtvi (7. točka tretjega odstavka 65. člena Kazenskega zakonika) ali če je bil izrečen varnostni ukrep prepovedi približevanja ali komuniciranja z žrtvijo (4. točka 69. člena Kazenskega zakonika).

(7) Če je sodišče po določbah o odmeri enotne kazni za kazniva dejanja v steku izreklo kazen in pri tem upoštevalo tudi sodbe, ki so jih izdala druga sodišča, pošlje overjen prepis, elektronski (skeniran) prepis ali elektronsko obliko pravnomočne sodbe tem sodiščem.

(8) Določbe tega člena o tem, v kakšni obliki se izdela in vroči ali pošlje sodba, se smiselno uporabljajo pri vseh vrstah sodnih odločb.

364. člen

(1) Pisno izdelana sodba se mora popolnoma ujemati s sodbo, ki je bila razglašena. Sodba mora imeti uvod, izrek in obrazložitev.

(2) Uvod sodbe obsega: navedbo, da se sodba izreka v imenu ljudstva, naslov sodišča, ime in priimek predsednika in članov senata ter zapisnikarja, ime in priimek obtoženca, kaznivo dejanje, za katero je bil obtožen, ali je bil navzoč na glavni obravnavi, dan glavne obravnave, ali je bila glavna obravnava javna, ime in priimek tožilca, zagovornika, zakonitega zastopnika in pooblaščenca, ki so bili navzoči na glavni obravnavi, in dan razglasitve izrečene sodbe.

entitled to appeal, on the person whose object was seized by this judgment (paragraph two of Article 73 of the Criminal Code) and on the legal person against which the court ordered the confiscation of proceeds. An injured party not entitled to appeal shall be served a certified copy of the judgment, an electronic (scanned) copy or an electronic form of the judgment in the cases referred to in paragraph two of Article 61 of this Act with the instruction on his or her right to request *restitutio ad integrum*. The final judgment shall be served on the injured party upon his or her request, and in all circumstances if a suspended sentence with custodial supervision and restraining orders to keep the perpetrator away from the victim are imposed (point 7 of paragraph three of Article 65 of the Criminal Code), or if a precautionary measure prohibiting approach of the victim and communication with him or her is imposed (point 4 of Article 69 of the Criminal Code).

(7) If by applying the provisions regulating the imposition of an aggregate sentence for criminal offences committed in concurrence, the court imposes a sentence taking into account the judgments rendered by other courts, a certified copy, an electronic (scanned) copy or an electronic form of the final judgment shall be sent to these courts.

(8) The provisions of this Article on the form in which a judgment is drawn up and served or dispatched shall apply *mutatis mutandis* to all types of court decisions.

Article 364

(1) A judgment drawn up in writing shall fully match the proclaimed judgment. The judgment shall have an introductory part, operative part and statement of reasons.

(2) The introductory part of the judgment shall contain the statement that the judgment is pronounced in the name of the people, the name of the court, the name and surname of the president of the panel, members of the panel and the court reporter, the name and surname of the defendant, the criminal offence the defendant is charged with, whether he or she was present at the main hearing, the date of the main hearing, whether the main hearing was open to the public, the name and surname of the prosecutor, defence counsel, legal representative and the counsel present at the main hearing, and the date on which the pronounced

(3) Izrek sodbe obsega osebne podatke o obtožencu (prvi odstavek 227. člena) in odločbo, s katero se obtoženec spozna za krivega dejanja, katerega je obtožen, s katero se oprosti obtožbe za to dejanje ali s katero se obtožba zavrne.

(4) Če je obtoženec spoznan za krivega, mora izrek sodbe obsegati vse potrebne podatke, ki so navedeni v 359. členu tega zakona, če pa je oproščen obtožbe ali je obtožba zavrnjena, mora izrek sodbe obsegati opis dejanja, katerega je bil obtožen, ter odločbo o stroških kazenskega postopka in o premoženjskopravnem zahtevku, če je bil podan.

(5) Če gre za stek kaznivih dejanj, navede sodišče v izreku sodbe kazni, ki jih je določilo za vsako posamezno kaznivo dejanje, nato pa kazen, ki jo je izreklo za vsa dejanja v steku.

(6) V obrazložitvi sodbe navede sodišče razloge za vsako posamezno točko sodbe.

(7) Sodišče navede določno in popolnoma, katera dejstva šteje za dokazana ali nedokazana in iz katerih razlogov. Pri tem navede zlasti, kako presoja verodostojnost protislovnih dokazov, iz katerih razlogov ni ugodilo posameznim predlogom strank, in kateri razlogi so bili za sodišče odločilni pri reševanju pravnih vprašanj, zlasti pri ugotavljanju, ali sta podana kaznivo dejanje in kazenska odgovornost obtoženca in pri uporabi posameznih določb kazenskega zakona glede obtoženca in njegovega dejanja.

(8) Če se obtoženec obsodi na kazen, je treba v obrazložitvi povedati, katere okoliščine je sodišče upoštevalo pri odmeri kazni. Sodišče mora posebej obrazložiti, kateri razlogi so bili zanj odločilni, ko je spoznalo, da je treba kazen omiliti, obtožencu kazen odpustiti ali izreči pogojno obsodbo ali da je treba izreči varnostni ukrep ali odvzem premoženjske koristi.

(9) Če se obtoženec oprosti obtožbe, je treba v obrazložitvi navesti zlasti, iz katerih razlogov iz 358. člena tega zakona se oprošča.

judgment was proclaimed.

(3) The operative part of the judgment shall contain the personal data of the defendant (paragraph one of Article 227) and the decision declaring the defendant guilty of the offence as charged or acquitting him or her of the charge, or dismissing the charge against him or her.

(4) If the defendant has been found guilty, the operative part of the judgment shall contain all the necessary data specified in Article 359 of this Act, and if he or she is acquitted of the charge or the charge is dismissed, it shall contain a description of the offence he or she was charged with and the decision on the costs of criminal proceedings and the pecuniary claim if such claim was filed.

(5) In the case of concurrence of criminal offences, the court shall indicate in the operative part of the judgment the punishment imposed for each particular criminal offence, and after that the aggregate punishment imposed for all the offences committed in concurrence.

(6) In the statement of reasons, the court shall indicate the reasons for each count of the judgment.

(7) The court shall indicate clearly and exhaustively which facts it considers proved or not proved and for what reasons. It shall indicate in particular how it assesses the credibility of contradictory evidence, the reasons for which particular motions of the parties were not granted, and the key reasons for its decisions on questions of law, particularly regarding the existence of the criminal offence and criminal liability of the defendant, and regarding the application of specific provisions of criminal law to the defendant and his or her offence.

(8) If the defendant is sentenced to a punishment, the statement of reasons shall indicate the circumstances that the court took into consideration in determining the punishment. The court shall specifically state which reasons were decisive for the decision that the punishment be mitigated or remitted, or that a suspended sentence or a precautionary measure or the confiscation of proceeds be imposed on the defendant.

(9) If the defendant is acquitted of the charge, the statement of reasons shall in particular indicate the reasons for acquittal referred to in Article 358 of this Act.

(10) V obrazložitvi sodbe, s katero zavrne obtožbo, se sodišče ne spušča v presojo glavne stvari, temveč se omeji samo na razloge za zavrnitev obtožbe.

365. člen

(1) Pomote v imenih in številkah ter druge očitne pisne in računske pomote, pomanjkljivosti glede oblike in neskladnosti pisno izdelane sodbe z izvirnikom popravi s posebnim sklepom predsednik senata na zahtevo strank ali po uradni dolžnosti.

(2) Če se pisno izdelana sodba in njen izvirnik ne ujemata glede podatkov iz 1. do 5. in 7. točke prvega odstavka 359. člena tega zakona, se sklep o popravku vroči osebam, ki so naštete v 363. členu tega zakona. V tem primeru teče rok za pritožbo zoper sodbo od dneva vročitve tega sklepa, zoper katerega ni posebne pritožbe.

C. POSTOPEK S PRAVNIMI SREDSTVI

XXIII. poglavje
REDNA PRAVNA SREDSTVA

1. Pritožba zoper sodbo sodišča prve stopnje

a) Pravica do pritožbe

366. člen

(1) Zoper sodbo, izdano na prvi stopnji, se smejo upravičenci pritožiti v 30 dneh od vročitve prepisa sodbe.

(10) In the statement of reasons for a judgment dismissing the charge, the court shall not assess the main cause but shall confine itself only to the reasons for dismissing the charge.

Article 365

(1) Errors in names and numbers, as well as other obvious writing and computing errors, irregularities in the form and inconsistencies between the judgment drawn up in writing and its original shall be corrected by a special ruling by the president of the panel at the request of the parties or *ex officio*.

(2) If there are inconsistencies between the judgment drawn up in writing and its original regarding the data referred to in points 1 to 5 and point 7 of paragraph one of Article 359 of this Act, the ruling on corrections shall be served on the persons referred to in Article 363 of this Act. In such case, the time limit for the appeal against the judgment shall start running as of the day of service of this ruling, against which no special appeal shall be allowed.

C. PROCEEDINGS INVOLVING LEGAL REMEDIES

Chapter XXIII
ORDINARY LEGAL REMEDIES

1. Appeal against a judgment of the first instance court

a) Right to appeal

Article 366

(1) Entitled persons may lodge an appeal against a judgment passed at first instance within 30 days of service of the copy of the judgment.

(2) Pravočasna pritožba upravičenca zadrži izvršitev sodbe.

367. člen

(1) Pravico do pritožbe imajo stranke, zagovornik, obtoženčev zakoniti zastopnik in oškodovanec.

(2) V korist obtoženca se smejo pritožiti tudi njegov zakonec oziroma oseba, s katero živi v zunajzakonski skupnosti, krvni sorodnik v ravni vrsti, posvojitelj, posvojenec, brat, sestra in rejnik. Rok za pritožbo teče tudi v tem primeru od dneva, ko je bil prepis sodbe vročen obtožencu oziroma njegovemu zagovorniku (četrti odstavek 120. člena).

(3) Državni tožilec se sme pritožiti tako v škodo kakor tudi v korist obtoženca.

(4) Oškodovanec sme izpodbijati sodbo, s katero je sodišče zavrnilo obtožbo (357. člen), oprostilo obtoženca obtožbe (358. člen), sodbo, s katero je sodišče obtoženca spoznalo za krivega, pa sme izpodbijati le glede odločbe o premoženjskopravnem zahtevku (7. točka prvega odstavka 359. člena), objavi pravnomočne sodbe in odločbe o stroških. Če je državni tožilec prevzel pregon od oškodovanca kot tožilca (drugi odstavek 63. člena), se sme oškodovanec pritožiti iz vseh razlogov, iz katerih se sme izpodbijati sodba (370. člen).

(5) Pritoži se lahko tudi oseba, kateri je bil vzet predmet (drugi odstavek 73. člena kazenskega zakonika) ali kateri je bila odvzeta premoženjska korist, pridobljena s kaznivim dejanjem (75., 77.a in 77.b člen kazenskega zakonika), in pravna oseba, kateri je bil izrečen odvzem premoženjske koristi (77. člen kazenskega zakonika).

(6) Zagovornik in osebe iz drugega odstavka tega člena se

(2) An appeal filed by an entitled person in due time shall stay the enforcement of the judgment.

Article 367

(1) The right to appeal shall be granted to the parties, the defence counsel, the defendant's legal representative and the injured party.

(2) An appeal to the benefit of the defendant may also be filed by his or her spouse or the person with whom he or she lives in extra-marital cohabitation, his or her relative by blood in direct line, his or her adoptive parent or adoptee, brother, sister or foster parent. In such case, the time limit for the appeal shall also start to run on the day the copy of the judgment is served on the defendant or his or her defence counsel (paragraph four of Article 120).

(3) The state prosecutor may file an appeal both to the prejudice and to the benefit of the defendant.

(4) The injured party may challenge the judgment by which the court rejected the charge (Article 357) or acquitted the defendant of the charge (Article 358), but may challenge the judgment by which the court found the defendant guilty only with respect to the decision on the pecuniary claim (point 7 of paragraph one of Article 359), publishing the final judgment and the decision on the costs of proceedings. If the state prosecutor has assumed the prosecution from the injured party as prosecutor (paragraph two of Article 63), the injured party may appeal on the grounds of all the reasons for which a judgment may be challenged (Article 370).

(5) An appeal may also be filed by a person whose object was seized (paragraph two of Article 73 of the Criminal Code) or whose proceeds gained through a criminal offence were confiscated (Articles 75, 77a and 77b of the Criminal Code), and by a legal person against which a decision on the confiscation of proceeds has been issued (Article 77 of the Criminal Code).

(6) The defence counsel and the persons referred to in

smejo pritožiti tudi brez posebnega obtoženčevega pooblastila, vendar ne proti njegovi volji.

368. člen

(1) Upravičenci do pritožbe (367. člen) morajo pritožbo napovedati. Pritožbo lahko napovejo takoj po razglasitvi sodbe oziroma po pouku o pravici do pritožbe (prvi odstavek 362. člena), najkasneje pa v osmih dneh od dneva razglasitve sodbe, oziroma od vročitve prepisa izreka sodbe, če niso bili navzoči pri razglasitvi sodbe (tretji odstavek 362. člena).

(2) Če upravičenec do pritožbe v zakonskem roku pritožbe ne napove, se, razen v primeru iz četrtega odstavka tega člena, šteje, da se je odpovedal pravici do pritožbe.

(3) Če nihče od upravičencev do pritožbe (367. člen) pritožbe ne napove, ni potrebno, da bi pisno izdelana sodba vsebovala obrazložitev.

(4) Če je bila obdolžencu izrečena zaporna kazen, napoved pritožbe ni potrebna. V tem primeru mora biti pisno izdelana sodba vselej obrazložena.

(5) Obtoženec, tožilec in oškodovanec se lahko odpovejo pravici do pritožbe od razglasitve sodbe do izteka roka za pritožbo. Če je bila obtožencu izrečena zaporna kazen, pa se sme obtoženec pravici do pritožbe odpovedati šele, ko mu je bila sodba vročena. Dokler sodišče druge stopnje ne izda odločbe, lahko pritožniki že podano pritožbo umaknejo. Odpoved pritožbe in umik pritožbe se ne moreta preklicati.

b) Vsebina pritožbe

paragraph two of this Article may file an appeal even without special authorisation of the defendant, but not against his or her will.

Article 368

(1) The persons entitled to appeal (Article 367) shall be obliged to state their intention to file an appeal in advance. They may state the intention to appeal immediately after the judgment is proclaimed or after the instruction on the right to appeal (paragraph one of Article 362) is given, but in any case within eight days of the date the judgment is proclaimed, and/or of the day of service of the copy of the operative part of the judgment if they were not present at the proclamation of the judgment (paragraph three of Article 362).

(2) If a person entitled to appeal fails to state his or her intention to file an appeal within the time limit prescribed, it shall be deemed that he or she has waived the right to appeal, except in the cases referred to in paragraph four of this Article.

(3) If none of the persons entitled to appeal (Article 367) states his or her intention to appeal, the judgment drawn-up in writing does not need to contain a statement of reasons.

(4) If the accused person has been sentenced to imprisonment, he or she does not need to state his or her intention to appeal. In such case, the judgment drawn-up in writing must always contain a statement of reasons.

(5) The defendant, the prosecutor and the injured party may waive their right to appeal from the moment the judgment is proclaimed until the expiry of the time limit for filing an appeal. If the defendant was sentenced to imprisonment, he or she may waive his or her right to appeal only after the judgment is served on him or her. Until the decision of the court of second instance is issued, the appellants may withdraw an already filed appeal. A waiver or withdrawal of the appeal may not be revoked.

b) Content of an appeal

369. člen

(1) Pritožba mora obsegati:
1) navedbo sodbe, zoper katero se podaja pritožba;
2) razlog za izpodbijanje (370. člen);
3) obrazložitev pritožbe;
4) predlog, da se izpodbijana sodba popolnoma ali deloma razveljavi ali spremeni;
5) na koncu podpis osebe, ki se pritožuje.

(2) Če se je zoper sodbo pritožil obtoženec ali kdo iz drugega odstavka 367. člena tega zakona, ali če se je zoper sodbo pritožil oškodovanec, oškodovanec kot tožilec ali zasebni tožilec, ki nima pooblaščenca, pa pritožba ni sestavljena v skladu z določbami prejšnjega odstavka, zahteva sodišče prve stopnje od pritožnika, naj jo v določenem roku dopolni s pisno vlogo ali na zapisnik pri tem sodišču. Če pritožnik tej zahtevi ne ustreže in pritožba ne vsebuje podatkov iz 2., 3. ali 5. točke prejšnjega odstavka, jo sodišče zavrže. Če pa pritožba ne vsebuje podatka iz 1. točke prejšnjega odstavka, jo zavrže samo, če ne more ugotoviti, na katero sodbo se nanaša. Če je pritožba podana v korist obtoženca in se da dognati, na katero sodbo se nanaša, jo sodišče vendarle pošlje sodišču druge stopnje; če pa se to ne da ugotoviti, jo zavrže.

(3) Če se je zoper sodbo pritožil oškodovanec, oškodovanec kot tožilec ali zasebni tožilec, ki ima pooblaščenca, ali državni tožilec, pa pritožba ne vsebuje podatkov iz 2., 3. ali 5. točke prvega odstavka tega člena in se ne da dognati, na katero sodbo se nanaša, jo sodišče zavrže.

(4) V pritožbi sme navajati pritožnik nova dejstva in nove dokaze, vendar pa mora povedati razloge, zakaj jih ni navedel že prej. Ko se sklicuje na nova dejstva, mora navesti dokaze, s katerimi naj bi se ta dejstva dokazala; ko se sklicuje na nove dokaze, pa mora navesti dejstva, ki jih s temi dokazi želi dokazati.

Article 369

(1) An appeal shall contain:
1) an indication of the judgment against which the appeal is lodged;
2) the reasons for challenging the judgment (Article 370);
3) the statement of reasons for the appeal;
4) the motion to revoke or change the challenged judgment in whole or in part;
5) the signature of the person filing the appeal.

(2) If an appeal against the judgment is lodged by the defendant or any other person referred to in paragraph two of Article 367 of this Act, or by the injured party, the injured party acting as prosecutor or a private prosecutor who has no counsel, and if the appeal is not drawn-up in accordance with the provisions of the preceding paragraph, the court of first instance shall request that the appellant supplement it within a specified time limit with a written submission or orally on the record at that court. If the appellant fails to comply with such request and if the appeal does not contain the data referred to in points 2, 3 and 5 of the preceding paragraph, the court shall dismiss it. If the appeal does not contain the data referred to in point 1 of the preceding paragraph, the court shall only dismiss it if it cannot be established to which judgment the appeal refers. If the appeal is lodged to the benefit of the defendant and it can be established to which judgment it refers, the court shall nevertheless send it to the court of second instance; if, however, this cannot be established, the court shall dismiss the appeal.

(3) If an appeal against the judgment is filed by the injured party, the injured party acting as prosecutor, a private prosecutor who has a counsel or the state prosecutor, but it does not contain the data referred to in points 2, 3 or 5 of paragraph one of this Article and it cannot be established to which judgment it refers, the court shall dismiss the appeal.

(4) The appellant may present new facts and new evidence in the appeal, but shall be bound to indicate the reasons for failing to present them earlier. In referring to such new facts, the appellant must present the evidence supporting these facts, and when referring to new evidence, he or she shall state the facts to be proven by this evidence.

c) Razlogi, s katerimi se sme sodba izpodbijati

370. člen

(1) Sodba se sme izpodbijati:
1) zaradi bistvene kršitve določb kazenskega postopka;
2) zaradi kršitve kazenskega zakona;
3) zaradi zmotne ali nepopolne ugotovitve dejanskega stanja;
4) zaradi odločbe o kazenskih sankcijah, o odvzemu premoženjske koristi, o stroških kazenskega postopka, o premoženjskopravnih zahtevkih in zaradi odločbe o objavi sodbe v tisku, po radiu ali po televiziji.

(2) Sodba, izrečena na podlagi sprejetega priznanja krivde in sporazuma o priznanju krivde se ne sme izpodbijati iz razloga po 3. točki prejšnjega odstavka, sodba, izrečena na podlagi sklenjenega sporazuma o priznanju krivde pa ne zaradi odločb iz 4. točke prejšnjega odstavka, če je sodba izrečena v skladu s pogoji, ki jih je državni tožilec določil za priznanje krivde v obtožnici ali s sklenjenim sporazumom o priznanju krivde.

371. člen

(1) Bistvena kršitev določb kazenskega postopka je podana:
1) če je bilo sodišče nepravilno sestavljeno ali če je pri izrekanju sodbe sodeloval sodnik ali sodnik porotnik, ki ni sodeloval na glavni obravnavi ali je bil s pravnomočno odločbo izločen iz sojenja;
2) če je na glavni obravnavi sodeloval sodnik ali sodnik porotnik, ki bi bil moral biti izločen (1. do 5. točka prvega odstavka in 1. do 3. točka drugega odstavka 39. člena);
3) če je bila glavna obravnava opravljena brez oseb, katerih navzočnost na glavni obravnavi je po zakonu obvezna, ali če je bil obdolženec, zagovornik, oškodovanec kot tožilec ali zasebni tožilec kljub svoji zahtevi prikrajšan za pravico uporabljati pri

c) Reasons for challenging a judgment

Article 370

(1) A judgment may be challenged:
1) for substantive violation of the criminal procedure provisions;
2) for violation of criminal law;
3) for erroneous or incomplete determination of the facts;
4) on the grounds of a decision on criminal sanctions, confiscation of proceeds, costs of criminal proceedings, pecuniary claims and the decision to publish the judgment in the press or announce it on radio or television.

(2) A judgment rendered on the basis of the accepted confession of guilt and a guilty plea agreement may not be challenged for the reason referred to in point 3 of the preceding paragraph, and a judgment rendered on the basis of a concluded guilty plea agreement may not be challenged on the grounds of the decisions referred to in point 4 of the preceding paragraph, if the judgment is pronounced in compliance with the conditions laid down by the state prosecutor in the indictment for a guilty plea or in the concluded guilty plea agreement.

Article 371

(1) A substantive violation of criminal procedure provisions shall be deemed to exist:
1) where the court was not properly constituted or if a judge or a lay judge who did not participate in the main hearing or was disqualified from the trial by a final decision participated in rendering the judgment;
2) if a judge or a lay judge who participated in the main hearing (points 1 to 5 of paragraph one and points 1 to 3 of paragraph two of Article 39) should have been disqualified;
3) where the main hearing was held in the absence of persons whose presence at the main hearing was mandatory as provided by an Act, or if the accused person, the counsel, the injured party as prosecutor or the private prosecutor was, contrary to his or her request, denied

preiskovalnih in drugih sodnih dejanjih ali na glavni obravnavi svoj jezik in v svojem jeziku spremljati njen potek (8. člen), ali če so bile prekršene določbe o nenadzorovanem in učinkovitem posvetovanju obdolženca z zagovornikom (74. člen);

4) če je bila v nasprotju z zakonom izključena javnost glavne obravnave;
5) če je sodišče prekršilo predpise kazenskega postopka o vprašanju, ali je podana obtožba upravičenega tožilca, ali je podan predlog oškodovanca ali dovoljenje pristojnega državnega organa;
6) če je sodbo izdalo sodišče, ki zaradi stvarne nepristojnosti ne bi smelo soditi v tej stvari, ali če je sodišče nepravilno zavrnilo obtožbo zaradi stvarne nepristojnosti;
7) če sodišče s svojo sodbo ni popolnoma rešilo predmeta obtožbe;

8) če se sodba opira na dokaz, ki je bil pridobljen s kršitvijo z ustavo določenih človekovih pravic in temeljnih svoboščin ali na dokaz, na katerega se po določbah tega zakona sodba ne more opirati, ali na dokaz, ki je bil pridobljen na podlagi takega nedovoljenega dokaza;
9) če je bila obtožba prekoračena (prvi odstavek 354. člena);
10) če je bil s sodbo prekršen 385. člen tega zakona;
11) če je izrek sodbe nerazumljiv, če nasprotuje sam sebi ali razlogom sodbe; ali če sodba sploh nima razlogov ali če v njej niso navedeni razlogi o odločilnih dejstvih ali so ti razlogi popolnoma nejasni ali v precejšnji meri s seboj v nasprotju; ali če je o odločilnih dejstvih precejšnje nasprotje med tem, kar se navaja v razlogih sodbe o vsebini listin ali zapisnikov o izpovedbah v postopku, in med samimi temi listinami oziroma zapisniki.

(2) Bistvena kršitev določb kazenskega postopka je podana tudi, če sodišče med pripravo glavne obravnave ali med glavno obravnavo ali pri izdaji sodbe ni uporabilo kakšne določbe tega zakona ali jo je uporabilo nepravilno ali če je na glavni obravnavi prekršilo pravice obrambe, pa je to vplivalo ali moglo vplivati na zakonitost in pravilnost sodbe.

the right to use his or her language during the investigative and other judicial acts or at the main hearing and to follow the course of the main hearing in his or her language (Article 8), or if the provisions on the unsupervised and effective consultation of the accused person with his or her defence counsel (Article 74) were violated;
4) if the public was excluded from the main hearing in contravention of an Act;
5) if the court violated the provisions of the criminal procedure about whether a charge of the authorised prosecutor was submitted or a motion of the injured person was filed or the approval of the competent state authority was given;
6) if the judgment was rendered by a court which lacked subject-matter jurisdiction to adjudicate the case, or if the court erroneously rejected the charge on the grounds of lack of subject-matter jurisdiction;
7) if the court in its judgment did not fully resolve the subject of the charge;
8) if the judgment is based on evidence obtained in violation of constitutionally enshrined human rights and fundamental freedoms, or on evidence on which a judgment may not rest in accordance with the provisions of this Act, or on evidence obtained on the basis of such inadmissible evidence;
9) if the judgment exceeds the charge (paragraph one of Article 354);
10) if the judgment violates the provisions of Article 385 of this Act;
11) if the operative part of the judgment is incomprehensible or self-contradictory or in contradiction with the statement of reasons for the judgment; or if the judgment lacks any reasons or the reasons referring to the relevant facts are not stated, or if these reasons are entirely unintelligible or contradictory to a significant degree; or if a significant contradiction exists regarding the relevant facts between what is indicated in the statement of reasons about the content of certain documents or records on the testimonies given in the course of proceedings, and the documents or records themselves.

(2) A substantive violation of the criminal procedure provisions shall also be deemed to exist if the court, in the course of preparing the main hearing, or during the main hearing, or in rendering the judgment, failed to apply or erroneously applied any of the provisions of this Act, or violated the rights of the defence at the main hearing, and this has in consequence affected, or might have affected, the lawfulness and regularity of the judgment.

372. člen

Kršitev kazenskega zakona je podana, če je kazenski zakon prekršen v vprašanju:
1) ali je dejanje, zaradi katerega se obtoženec preganja, kaznivo dejanje;
2) ali so podane okoliščine, ki izključujejo krivdo ali kaznivost;

3) ali so podane okoliščine, ki izključujejo kazenski pregon, zlasti pa, ali je kazenski pregon zastaran ali izključen zaradi amnestije ali pomilostitve, ali pa je stvar že pravnomočno razsojena;

4) ali je bil glede kaznivega dejanja, ki je predmet obtožbe, uporabljen zakon, ki se ne bi bil smel uporabiti;
5) ali je bila z odločbo o kazni, pogojni obsodbi ali sodnem opominu oziroma z odločbo o varnostnem ukrepu ali o odvzemu premoženjske koristi prekoračena pravica, ki jo ima sodišče po zakonu;
6) ali so bile prekršene določbe o vštevanju pripora in prestane kazni.

373. člen

(1) Sodba se sme izpodbijati zaradi zmotne ali nepopolne ugotovitve dejanskega stanja, če je sodišče kakšno odločilno dejstvo ugotovilo zmotno ali ga sploh ni ugotovilo.

(2) Dejansko stanje je nepopolno ugotovljeno tudi tedaj, če na to kažejo nova dejstva ali novi dokazi.

374. člen

(1) Sodba oziroma sklep o sodnem opominu se sme izpodbijati zaradi odločbe o kazni, pogojni obsodbi in sodnem opominu, če z njo sicer ni bila prekoračena zakonska pravica (5. točka 372. člena), vendar sodišče ni pravilno odmerilo kazni glede na

Article 372

A violation of criminal law shall be deemed to exist if criminal law is violated regarding the following issues:
1) whether the act for which the defendant is prosecuted constitutes a criminal offence;
2) whether circumstances exist that exclude criminal culpability or liability;
3) whether circumstances exist that exclude criminal prosecution and, in particular, whether the period of limitation for the institution of criminal prosecution has expired or prosecution is barred due to an amnesty or pardon, or the case has already been adjudicated in a final judgment;
4) whether an Act that should not be applied was applied in respect of the criminal offence charged;
5) whether the court has exceeded its statutory powers in rendering a decision on a punishment, suspended sentence or judicial admonition, and/or a decision on a precautionary measure or the confiscation of proceeds;
6) whether the provisions on counting time spent in detention or a previously served sentence towards the sentence have been violated.

Article 373

(1) A judgment may be challenged for the reason of an erroneous or incomplete determination of the facts, if the court has erroneously determined a certain relevant fact or failed to determine it altogether.

(2) The facts shall also be deemed to be determined incompletely if so indicated by new facts or new evidence.

Article 374

(1) A judgment or a ruling on judicial admonition may be challenged in respect of the decision on the punishment, suspended sentence and judicial admonition, if the court, while not exceeding its statutory powers (point 5 of Article 372), nevertheless failed to determine

okoliščine, ki vplivajo na to, ali naj bo kazen večja ali manjša, in zaradi tega, ker je sodišče uporabilo določbe o omilitvi kazni, o odpustitvi kazni, o pogojni obsodbi ali o sodnem opominu ali ker teh določb ni uporabilo, čeprav so bili za to podani zakonski pogoji. V primeru iz tretjega odstavka 359. člena tega zakona pa se sme odločba o kazni izpodbijati tudi iz razloga, ker sodišče ni pravilno odločilo o načinu njene izvršitve.

(2) Odločba o varnostnem ukrepu ali o odvzemu premoženjske koristi se sme izpodbijati tudi, če sicer ne gre za kršitev zakona iz 5. točke 372. člena tega zakona, pač pa je sodišče nepravilno izdalo to odločbo ali ni izreklo varnostnega ukrepa oziroma odvzema premoženjske koristi, čeprav so bili za to podani zakonski pogoji.

(3) Odločba o stroških kazenskega postopka se sme izpodbijati, če je sodišče o njih odločilo nepravilno ali v nasprotju z določbami tega zakona.

(4) Odločba o premoženjskopravnih zahtevkih ter odločba o objavi sodbe v tisku, po radiu ali televiziji se sme izpodbijati, če je sodišče o teh vprašanjih odločilo v nasprotju z določbami zakona.

d) Postopek s pritožbo

375. člen

(1) Pritožba se poda pri sodišču, ki je izreklo sodbo na prvi stopnji, v zadostnem številu izvodov za sodišče ter za nasprotno stranko in zagovornika, da nanjo odgovorita.

(2) Prepozno (389. člen) in nedovoljeno (390. člen) pritožbo zavrže s sklepom predsednik senata sodišča prve stopnje.

376. člen

the punishment properly in the light of the circumstances aggravating or mitigating the punishment, and on the grounds that the court applied, or failed to apply, the provisions on the mitigation or remission of the sentence, on a suspended sentence or a judicial admonition, notwithstanding the existence of the relevant statutory grounds. In the case referred to in paragraph three of Article 359 of this Act, a decision on the punishment may also be challenged on the grounds that the court did not make the right decision about the method of its implementation.

(2) The decision on a precautionary measure or the confiscation of proceeds may be challenged even though there was no violation of an Act as referred to in point 5 of Article 372 of this Act, yet the court rendered this decision incorrectly, or failed to impose a precautionary measure or the measure of confiscation of proceeds, notwithstanding the existence of the relevant statutory grounds.

(3) The decision on the costs of criminal proceedings may be challenged if the court has determined these costs incorrectly or in contravention of the provisions of this Act.

(4) The decision on a pecuniary claim and the decision on publishing the judgment in the press or its announcement on radio or television may be challenged if the court has decided on these issues in contravention of the provisions of an Act.

d) Appeal procedure

Article 375

(1) An appeal shall be filed with the court which rendered the judgment at first instance in a sufficient number of copies for the court and the opposing party and counsel to respond to it.

(2) Belated (Article 389) and inadmissible (Article 390) appeals shall be dismissed by a ruling of the president of the panel of the first instance court.

Article 376

Izvod pritožbe vroči sodišče prve stopnje nasprotni stranki (120. in 121. člen), ki sme nato v 15 dneh po njenem prejemu podati sodišču odgovor na pritožbo. Pritožbo in odgovor z vsemi spisi predloži sodišče prve stopnje sodišču druge stopnje.

377. člen

(1) Ko dobi sodišče druge stopnje spise s pritožbo, se spisi v skladu s sodnim redom dodelijo sodniku poročevalcu.

(2) Sejo senata na predlog sodnika poročevalca razpiše predsednik senata.

(3) Sodnik poročevalec si po potrebi lahko preskrbi od sodišča prve stopnje poročilo o kršitvah določb kazenskega postopka; lahko pa se preko tega sodišča ali preko preiskovalnega sodnika sodišča, na katerega območju je treba opraviti dejanje, ali na kakšen drug način prepriča o navedbah v pritožbi, ki se tičejo novih dokazov in novih dejstev, ali si od drugih organov ali pravnih oseb preskrbi potrebna poročila ali spise. Sodnik poročevalec z vsebino pridobljenega gradiva seznani vse stranke in zagovornike ter oškodovanca, ki se je pritožil zoper sodbo in jim določi rok, v katerem se lahko izjavijo o gradivu. Po tem odstavku lahko postopa tudi senat na seji ali obravnavi.

(4) Če sodnik poročevalec ugotovi, da so v spisih zapisniki in obvestila iz 83. člena tega zakona, pošlje spise sodišču prve stopnje pred sejo senata na drugi stopnji, da izda predsednik senata na prvi stopnji sklep o njihovi izločitvi iz spisov in jih po pravnomočnosti sklepa v zaprtem ovitku izroči preiskovalnemu sodniku, da jih hrani ločeno od drugih spisov.

378. člen

The court of first instance shall serve a copy of the appeal on the opposing party (Articles 120 and 121), who may submit a response to the appeal to the court within 15 days of service of the copy. The court of first instance shall send the appeal, the response and all the related files to the court of second instance.

Article 377

(1) When the court of second instance receives the files with the appeal, the files shall be assigned to the reporting judge in accordance with the court rules.

(2) On the proposal of the reporting judge, the president of the panel shall schedule a session of the panel.

(3) The reporting judge may, as appropriate, obtain a report on the violations of the criminal procedure provisions from the court of first instance, and may also, through this court or through the investigating judge of the court in whose jurisdictional territory the action is to be carried out, or in any other way, verify the claims in the appeal regarding the new evidence and new facts, or obtain the necessary reports or files from other authorities or legal persons. The reporting judge shall notify the content of the documents obtained to all the parties and defence counsels, and to the injured party that appealed against the judgment, and shall set a time limit within which they can make statements about the documents. The panel at a session or hearing may also proceed in accordance with this paragraph.

(4) If the reporting judge establishes that the files contain the records and information referred to in Article 83 of this Act, he or she shall send the files to the court of first instance before the session of the panel of the second instance is held, so that the president of the panel of the first instance may render a ruling on their exclusion from the files, and after the ruling has become final, he or she shall deliver them in a sealed envelope to the investigating judge for the purpose of keeping them apart from other files.

Article 378

(1) Sodišče o seji obvesti vse stranke, zagovornike in oškodovanca, ki se je pritožil zoper sodbo, če katerikoli izmed njih zahteva, da je o seji senata obveščen ali če predsednik senata oziroma senat oceni, da je njihova navzočnost na seji koristna za razjasnitev stvari.

(2) Če je obtoženec v priporu ali prestaja kazen in se želi udeležiti seje senata, mu je to potrebno omogočiti.

(3) Sejo senata vodi predsednik senata. Seja se začne s poročilom sodnika poročevalca o stanju stvari in predstavitvijo pritožb, ki se bodo obravnavale. Če je stranka ali oškodovanec, ki je vložil pritožbo, na seji navzoč, predstavi glavne poudarke vložene pritožbe, nasprotna stranka pa lahko poda odgovor na pritožbo. Senat lahko zahteva od strank in oškodovanca, ki so navzoči na seji, potrebna pojasnila glede na njihove navedbe in v zvezi z navedbami v pritožbi ter v odgovoru na pritožbo. Strankam in oškodovancu se lahko na njihov obrazložen predlog dovoli, da v dopolnitev pritožbenih navedb preberejo posamezne spise ali listine iz spisa oziroma da se vpogleda v določeno spisovno gradivo. Po zaključenih nastopih strank predsednik senata naznani, da je seja končana in se senat umakne k posvetovanju in glasovanju.

(4) Če stranke ali oškodovanec, ki se je pritožil zoper sodbo, ki so bili v redu obveščeni, ne pridejo, to ni ovira, da senat ne bi imel seje. Če obtoženec ali oškodovanec ki se je pritožil zoper sodbo, ni sporočil sodišču spremembe prebivališča ali naslova, ima senat lahko sejo, čeprav obtoženec ali oškodovanec o njej ni bil obveščen.

(5) Senat lahko sklene, da bo po seji, o kateri so bile v redu obveščene stranke in zagovorniki, svojo odločitev razglasil. Razglasitev poteka tako, da sodnik poročevalec prebere izrek odločbe in pove na kratko njene razloge.

(6) Na seji senata, na kateri so navzoče stranke, se sme

(1) If any party or the defence counsel requests to be notified of the session of the panel, or if the president of the panel or the panel considers that the presence of such party or counsel at the session would be useful for clarification of the matters, the court shall notify all the parties, the defence counsels and the injured party that appealed against the judgment of the panel session.

(2) If the defendant is in detention or serving a sentence and wishes to attend the panel session, he or shall be allowed to do so.

(3) The panel session shall be chaired by the president of the panel. The session shall open with the report of the reporting judge on the facts of the case and a presentation of the appeals to be considered. If the party or the injured party which lodged the appeal is present at the session, he or she shall present the main points of the appeal filed, and the opposing party may submit a response to the appeal. The panel may ask the parties and the injured party present at the session to provide the necessary explanations concerning their statements and concerning the allegations in the appeal and in the response to the appeal. Upon their reasoned motion, the parties and the injured party may be allowed to read certain documents or writings from the file, or to view certain files, in order to supplement the statements in their appeal. After the parties have concluded their interventions, the president of the panel shall declare the session concluded and the panel shall withdraw for consultation and voting.

(4) If the parties or the injured party that appealed against the judgment were duly notified of the session but fail to appear, the panel shall nevertheless hold the session. If the defendant or the injured party that appealed against the judgment failed to report a change of address or residence to the court, the panel may hold the session even though the defendant or the injured party were not notified thereof.

(5) The panel may decide that it shall proclaim its decision after the session regarding which the parties and defence counsels were duly notified. The decision shall be proclaimed by the reporting judge, who shall read the operative part of the judgment and provide a brief explanation of the reasons for it.

(6) The public may only be excluded from the panel session

izključiti javnost samo pod pogoji, ki so določeni v tem zakonu (členi 295 do 297).

(7) Zapisnik o seji senata se priključi spisom sodišča prve in druge stopnje.

(8) Če je sodišče druge stopnje opravilo sejo senata, o kateri so bile stranke in oškodovanec, ki se je pritožil zoper sodbo, v redu obveščeni, razglasitev odločitve pa je bila odložena, o dnevu in kraju razglasitve ni potrebno ponovno obveščati strank in oškodovanca, ki na seji niso bil navzoči.

(9) Sklepi iz 389. in 390. člena tega zakona se smejo izdati tudi brez obvestila strank in oškodovanca, ki se je pritožil zoper sodbo, o seji senata.

379. člen

(1) Sodišče druge stopnje odloči na seji senata ali na podlagi opravljene obravnave.

(2) Ali naj se opravi obravnava, odloči sodišče druge stopnje na seji senata.

380. člen

(1) Obravnava pred sodiščem druge stopnje se opravi samo, če je treba zaradi zmotne ali nepopolne ugotovitve dejanskega stanja izvesti nove dokaze ali ponoviti že prej izvedene dokaze in če so podani opravičeni razlogi za to, da se zadeva ne vrne sodišču prve stopnje v novo glavno obravnavo.

(2) Na obravnavo pred sodiščem druge stopnje se povabijo obtoženec in njegov zagovornik, tožilec, oškodovanec, zakoniti zastopniki in pooblaščenci oškodovanca, oškodovanca kot tožilca in zasebnega tožilca in pa tiste priče in izvedenci, za katere sodišče na predlog strank ali po uradni dolžnosti sklene, da jih je potrebno zaslišati.

held in the presence of the parties under the conditions laid down in this Act (Articles 295 to 297).

(7) The record of the panel session shall be enclosed with the files of the courts of the first and second instance.

(8) If the court of second instance held a panel session which the parties and the injured party that appealed against the judgment were duly notified of and the proclamation of the decision was deferred, the court shall not be obliged to again inform the parties and the injured party absent from the session of the day and place of its proclamation.

(9) The rulings referred to in Articles 389 and 390 of this Act may also be rendered without notifying the parties and the injured party that appealed against the judgment of the panel session.

Article 379

(1) The court of second instance shall render a decision either at the session of the panel or based on a completed hearing.

(2) The decision on whether to hold a hearing shall be taken at the session of the panel of the court of second instance.

Article 380

(1) A hearing before the court of second instance shall only be held if, due to an erroneous or incomplete determination of the facts of the case, new evidence has to be examined or the already examined evidence has to be repeated, and if justified reasons exist not to remand the case to the court of first instance for a new trial.

(2) The following persons shall be summoned for the main hearing before the court of second instance: the defendant and his or her defence counsel, the prosecutor, the injured party, legal representatives and counsels of the injured party, of the injured party acting as prosecutor and of the private prosecutor, and those witnesses and expert witnesses whom the court decides to examine upon the motion of the parties or *ex officio*.

(3) Če je obtoženec v priporu ali prestaja kazen, ukrene predsednik senata sodišča druge stopnje, kar je treba, da se privede na obravnavo.

(4) Če oškodovanec kot tožilec ali zasebni tožilec ne pride na obravnavo pred sodiščem druge stopnje, se ne uporabi drugi odstavek 306. člena tega zakona.

381. člen

(1) Obravnava pred sodiščem druge stopnje se začne s poročilom poročevalca, ki razloži stanje stvari, ne da bi dal svoje mnenje o utemeljenosti pritožbe.

(2) Na predlog ali po uradni dolžnosti se prebere sodba ali del sodbe, na katerega se nanaša pritožba, po potrebi pa tudi zapisnik o glavni obravnavi.

(3) Nato se pozove pritožnik, naj obrazloži pritožbo, za njim pa nasprotnik, naj mu odgovori. Obtoženec in njegov zagovornik imata vselej zadnjo besedo.

(4) Če so bile na seji senata, na kateri je bilo odločeno, da se opravi obravnava, navzoče vse stranke in zagovorniki, o seji pa je bil obveščen tudi oškodovanec, se obravnava začne z zaslišanjem obtoženca.

(5) Stranke smejo na obravnavi navajati nove dokaze in nova dejstva.

(6) Tožilec sme glede na izid obravnave popolnoma ali deloma umakniti obtožnico ali jo spremeniti v obtoženčevo korist. Če državni tožilec popolnoma umakne obtožnico, ima oškodovanec pravice, ki jih določa 61. člen tega zakona.

382. člen

Če ni v prejšnjih členih določeno kaj drugega, se določbe o glavni obravnavi pred sodiščem prve stopnje smiselno uporabljajo

(3) If the defendant is in detention or serving his or her sentence, the president of the panel of the court of second instance shall take the necessary steps to bring him or her to the hearing.

(4) Paragraph two of Article 306 of this Act shall not apply if the injured party acting as prosecutor or private prosecutor fails to appear at the hearing before the court of second instance.

Article 381

(1) The hearing before the court of second instance shall begin with the report of the reporting judge, who shall present the facts of the case without giving his or her opinion on whether the appeal is founded.

(2) Upon a motion or *ex officio*, the judgment or part of the judgement to which the appeal relates shall be read out, and if appropriate, also the record of the main hearing.

(3) The appellant shall then be called on to substantiate his or her appeal, and then the opposing party to respond to the appellant. The defendant and his or her defence counsel shall always have the last word.

(4) If all the parties and defence counsels were present at the session of the panel where it was decided that a hearing shall be held, and the injured party was also notified of the session, the hearing shall begin with the interrogation of the defendant.

(5) The parties may present new evidence and new facts at the hearing.

(6) Depending on the outcome of the trial, the prosecutor may withdraw the indictment in whole or in part or change it to the benefit of the defendant. If the state prosecutor withdraws the indictment in whole, the injured party shall have the rights provided for by Article 61 of this Act.

Article 382

Unless provided otherwise in the preceding Articles, the provisions on the main hearing before the court of first instance shall apply

tudi v postopku pred sodiščem druge stopnje.

e) Meje preizkusa sodbe sodišča prve stopnje

383. člen

(1) Sodišče druge stopnje preizkusi sodbo v tistem delu, v katerem se izpodbija s pritožbo, vendar pa mora vselej po uradni dolžnosti preizkusiti:

1) ali je podana kršitev določb kazenskega postopka iz 1., 5., 6. ter 8. do 11. točke prvega odstavka 371. člena tega zakona in ali je bila glavna obravnava v nasprotju z določbami tega zakona opravljena v nenavzočnosti obtoženca, če je bila obvezna obramba, pa tudi, ali je bila glavna obravnava opravljena v nenavzočnosti obtoženčevega zagovornika;
2) ali je bil v škodo obtoženca prekršen kazenski zakon (372. člen).

(2) Če pritožba, ki je podana v korist obtoženca, ne vsebuje podatkov iz 2. ali 3. točke prvega odstavka 369. člena tega zakona, se sodišče druge stopnje omeji na preizkus kršitev iz 1. in 2. točke prejšnjega odstavka in na preizkus odločbe o kazni, varnostnih ukrepih in odvzemu premoženjske koristi (374. člen).

384. člen

Na kršitev zakona iz 2. točke prvega odstavka 371. člena tega zakona se sme pritožnik sklicevati v pritožbi samo, če na kršitev ni mogel opozoriti med glavno obravnavo ali če je nanjo opozoril, pa je sodišče prve stopnje ni upoštevalo.

385. člen

Če je podana pritožba samo v obtoženčevo korist, se sodba ne sme spremeniti v njegovo škodo glede pravne presoje dejanja in kazenske sankcije.

mutatis mutandis to proceedings before the court of second instance.

e) Scope of appellate review of the first instance court judgment

Article 383

(1) The court of second instance shall confine its review to that part of the judgment which is challenged by the appeal, but it shall always review *ex officio*:

1) whether there exists a violation of the criminal procedure provisions referred to in points 1, 5, 6 and 8 to 11 of paragraph one of Article 371 of this Act, whether the main hearing was, in contravention of the provisions of this Act, held in the absence of the defendant, and whether, if the defence was mandatory, the main hearing was held in the absence of the defendant's defence counsel;
2) whether criminal law was violated to the prejudice of the defendant (Article 372).

(2) If the appeal filed to the benefit of the defendant does not contain the data referred to in point 2 or 3 of paragraph one of Article 369 of this Act, the court of second instance shall confine itself to review the violations referred to in points 1 and 2 of the preceding paragraph, and to review the decision on the sentence, precautionary measures and the confiscation of proceeds (Article 374).

Article 384

In the appeal, the appellant may only refer to the violation of an Act referred to in point 2 of paragraph one of Article 371 of this Act if he or she was unable to present this violation during the main hearing, or if he or she presented it but the court of first instance did not take it into account.

Article 385

If only an appeal to the benefit of the defendant has been brought, the judgment may not, in terms of legal qualification of the offence and the criminal sanction imposed, be modified to the prejudice of the

defendant.

386. člen

Pritožba zaradi zmotne in nepopolne ugotovitve dejanskega stanja ali zaradi kršitve kazenskega zakona, ki se poda v korist obtoženca, obsega tudi pritožbo zaradi odločbe o kazenski sankciji in o odvzemu premoženjske koristi (374. člen).

Article 386

An appeal on the grounds of erroneous and incomplete determination of the facts or a violation of criminal law, brought to the defendant's benefit, shall include an appeal against the decision on a criminal sanction and on the confiscation of proceeds (Article 374).

387. člen

Če sodišče druge stopnje ob pritožbi kogarkoli ugotovi, da so razlogi, zaradi katerih je odločilo v korist obtoženca, v korist tudi kateremu od soobtožencev, ki se ni pritožil ali se ni pritožil v tej smeri, ravna po uradni dolžnosti, kakor da bi se bil pritožil tudi ta.

Article 387

If upon anybody's appeal, the court of second instance finds that the reasons for which it rendered a decision to the benefit of the defendant are also beneficial to a co-defendant who did not appeal or did not appeal in the same direction, it shall proceed *ex officio* as if such appeal was also filed by the co-defendant.

f) Odločbe sodišča druge stopnje o pritožbi

f) Decisions of the court of second instance on appeals

388. člen

(1) Sodišče druge stopnje lahko na seji senata ali na podlagi obravnave zavrže pritožbo kot prepozno ali kot nedovoljeno; ali jo zavrne kot neutemeljeno in potrdi sodbo sodišča prve stopnje; ali razveljavi to sodbo in pošlje zadevo sodišču prve stopnje v novo sojenje in odločitev; ali pa spremeni sodbo sodišča prve stopnje.

(2) O vseh pritožbah zoper isto sodbo odloči sodišče druge stopnje z eno odločbo.

Article 388

(1) The court of second instance may, at the session of the panel or on the basis of the hearing, dismiss an appeal as belated or inadmissible, or reject an appeal as unfounded and uphold the judgment of the court of first instance, or set aside this judgment and remand the case to the court of first instance for retrial and a new decision, or change the judgment of the court of first instance.

(2) The court of second instance shall determine all appeals against the same judgment by a single decision.

389. člen

Pritožba se zavrže s sklepom kot prepozna, če se ugotovi, da je bila podana po preteku zakonskega roka.

Article 389

An appeal shall be dismissed by a ruling as belated if it is established that it was filed after the expiry of the statutory period.

390. člen

Pritožba se zavrže s sklepom kot nedovoljena, če se ugotovi, da jo je podala oseba, ki nima pravice do pritožbe, ali oseba, ki se je pritožbi odpovedala, ali če se ugotovi, da je pritožba umaknjena ali da je bila po umiku pritožba ponovno vložena, ali če pritožba po zakonu ni dovoljena.

391. člen

Sodišče druge stopnje zavrne s sodbo pritožbo kot neutemeljeno in potrdi sodbo sodišča prve stopnje, če ugotovi, da niso podani razlogi, s katerimi se sodba izpodbija, in tudi ne kršitev zakona iz prvega odstavka 383. člena tega zakona.

392. člen

(1) Sodišče druge stopnje s sklepom ugodi pritožbi in sodbo sodišča prve stopnje razveljavi ali jo razveljavi po uradni dolžnosti in vrne zadevo v novo sojenje, če ugotovi, da je podana bistvena kršitev določb kazenskega postopka, razen primera iz drugega odstavka tega člena in primerov iz prvega odstavka 394. člena tega zakona, ali če misli, da je treba zaradi zmotne ali nepopolne ugotovitve dejanskega stanja odrediti novo glavno obravnavo pred sodiščem prve stopnje.

(2) Če je podana bistvena kršitev določb kazenskega postopka iz 8. točke prvega odstavka 371. člena tega zakona, se sodba sodišča prve stopnje ne sme razveljaviti, če bi bila razveljavitev samo iz tega razloga v škodo obtoženca.

(3) Sodišče druge stopnje razveljavi s sklepom sodbo sodišča prve stopnje tudi ko sodba ni bila izpodbijana zaradi zmotne ali nepopolne ugotovitve dejanskega stanja, če nastane pri odločanju o pritožbi precejšen dvom o resničnosti odločilnih dejstev, ki so bila

Article 390

An appeal shall be dismissed by a ruling as inadmissible if it is established that it was filed by a person not entitled to appeal or a person who waived his or her right to appeal, or if it is established that the appeal was withdrawn, or withdrawn and filed again, or if the appeal is inadmissible as provided by an Act.

Article 391

The court of second instance shall by a judgment reject an appeal as unfounded and uphold the judgment of the court of first instance if it establishes that there are no grounds to challenge the judgment and no violations of an Act referred to in paragraph one of Article 383 of this Act.

Article 392

(1) The court of second instance shall by a ruling grant an appeal and set aside the judgment of the court of first instance, or set it aside *ex officio* and remand the case for a new trial if it finds that there exists a substantive violation of the criminal procedure provisions, except in the case referred to in paragraph two of this Article and the cases referred to in paragraph one of Article 394 of this Act, or if it considers that a new main hearing before the court of first instance should be held because of the erroneous or incomplete determination of the facts of the case.

(2) If there exists a substantive violation of the criminal procedure provisions referred to in point 8 of paragraph one of Article 371 of this Act, the judgment of the court of first instance may not be set aside if the setting aside for that sole reason would prejudice the defendant.

(3) The court of second instance shall, by a ruling, set aside the judgment of the court of first instance even though the judgment is not challenged on the grounds of erroneous or incomplete determination of the facts, if, in determining the appeal, serious doubts arise about the veracity

ugotovljena v sodbi, zaradi česar misli, da je bilo dejansko stanje zmotno ali nepopolno ugotovljeno v obtoženčevo škodo.

(4) Sodišče druge stopnje sme odrediti, da se opravi nova glavna obravnava pri sodišču prve stopnje pred popolnoma spremenjenim senatom.

(5) V primeru, ko je edini razlog za razveljavitev sodbe sodišča prve stopnje zmotno ugotovljeno dejansko stanje in je za pravilno ugotovitev potrebna samo drugačna presoja že ugotovljenih dejstev, ne pa tudi izvedba novih dokazov ali ponovitev že izvedenih dokazov, sodišče druge stopnje sodbe sodišča prve stopnje ne razveljavi, ampak ravna po prvem odstavku 394. člena tega zakona.

(6) Sodišče druge stopnje sme razveljaviti sodbo sodišča prve stopnje samo deloma, če se dajo posamezni deli sodbe izločiti brez škode za pravilno razsojo. V takem primeru sme sodišče druge stopnje za kazniva dejanja iz nerazveljavljenega dela sodbe izreči kazensko sankcijo.

(7) Če je obtoženec v priporu, preizkusi sodišče druge stopnje, ali so še dani razlogi za pripor in s sklepom ugotovi, da so razlogi za pripor še podani ali pa pripor odpravi. Pritožba zoper sklep ne zadrži njegove izvršitve.

393. člen

Če sodišče druge stopnje pri obravnavi pritožbe ugotovi, da je podan primer iz prvega odstavka 352. člena tega zakona, razveljavi s sklepom sodbo sodišča prve stopnje in zavrže obtožnico. Enako ravna sodišče druge stopnje tudi v primeru, če ugotovi, da okrajno sodišče ni bilo stvarno pristojno za sojenje, razen če je bila pritožba podana samo v korist obtoženca.

394. člen

of the relevant facts determined in the judgment, wherefrom the court infers that the facts of the case were erroneously or incompletely determined to the prejudice of the defendant.

(4) The court of second instance may order that a new main hearing before the court of first instance be held before a completely different panel of judges.

(5) In cases where the only reason for the setting aside of the judgment of the court of first instance is the erroneous determination of the facts and where all that is required for a correct determination is a different assessment of the already determined facts and not the taking of new evidence or repeating the previously taken evidence, the court of second instance shall not set aside the judgment of the court of first instance but shall act in accordance with paragraph one of Article 394 of this Act.

(6) The court of second instance may only partially set aside the judgment of the court of first instance if particular parts of the judgment may be separated without being prejudicial to a correct adjudication. In such case, the court of second instance may render a criminal sanction for the criminal offences from the part of the judgment that was not set aside.

(7) If the defendant is in detention, the court of second instance shall review whether the grounds for detention still exist and shall extend or lift the detention by a ruling. An appeal against the ruling shall not stay its execution.

Article 393

If the court of second instance, in considering an appeal, establishes that the circumstances referred to in paragraph one of Article 352 of this Act exist, it shall set aside the judgment of the court of first instance by a ruling and dismiss the indictment. The court of second instance shall proceed in the same way if it finds that the local court lacked subject-matter jurisdiction to adjudicate the case, except where the appeal was only brought to the benefit of the defendant.

Article 394

(1) Sodišče druge stopnje s sodbo ugodi pritožbi in spremeni sodbo sodišča prve stopnje ali jo spremeni po uradni dolžnosti, če ugotovi, da so bila odločilna dejstva v sodbi sodišča prve stopnje sicer pravilno ugotovljena, da pa je treba glede na ugotovljeno dejansko stanje ob pravilni uporabi zakona izreči drugačno sodbo, glede na stanje stvari pa tudi v primeru kršitve iz 5., 9. in 10. točke prvega odstavka 371. člena tega zakona.

(2) Če sodišče druge stopnje spozna, da so podani zakonski pogoji za sodni opomin, spremeni s sklepom sodbo sodišča prve stopnje in izreče sodni opomin.

(3) Če je obtoženec v priporu, preizkusi sodišče druge stopnje, ali so še dani razlogi za pripor, in s sklepom ugotovi, da so razlogi za pripor še podani, ali pa pripor odpravi. Pritožba zoper sklep ne zadrži njegove izvršitve.

(4) Če so zaradi potrditve ali spremembe sodbe sodišča prve stopnje izpolnjeni pogoji za odreditev pripora po prvem odstavku 361. člena tega zakona, sodišče druge stopnje o predlogu odloči s smiselno uporabo določb četrtega do šestega odstavka 361. člena tega zakona.

395. člen

(1) V obrazložitvi sodbe oziroma sklepa presodi sodišče druge stopnje navedbe pritožbe in navede kršitve zakona, ki jih je upoštevalo po uradni dolžnosti.

(2) Če se sodba sodišča prve stopnje razveljavi zaradi bistvenih kršitev določb kazenskega postopka, je treba v obrazložitvi navesti, katere določbe so bile prekršene in v čem je kršitev (371. člen).

(3) Če se sodba sodišča prve stopnje razveljavi zaradi zmotne ali nepopolne ugotovitve dejanskega stanja, je treba navesti, v čem so pomanjkljivosti pri ugotovitvi dejanskega stanja oziroma zakaj so novi dokazi in dejstva pomembni za pravilno odločbo in zakaj

(1) The court of second instance shall grant the appeal and change the judgment of the court of first instance *ex officio* if it finds that although the relevant facts in the judgment of the court of first instance were properly determined, in view of the established circumstances and the correct application of an Act, a different judgment should have been passed, and, in view of the facts and the circumstances of the case, also in the case of violations referred to in points 5, 9 and 10 of paragraph one of Article 371 of this Act.

(2) If the court of second instance finds that statutory grounds for judicial admonition exist, it shall change the judgment of the court of first instance by a ruling and impose a judicial admonition.

(3) If the defendant is in detention, the court of second instance shall review whether the grounds for detention still exist and shall extend or lift the detention by a ruling. An appeal against the ruling shall not stay its execution.

(4) If due to the upholding or changing of the judgment of the court of first instance the conditions are met for ordering detention pursuant to paragraph one of Article 361 of this Act, the court of second instance shall rule on the motion by *mutatis mutandis* application of the provisions of paragraphs four to six of Article 361 of this Act.

Article 395

(1) In the statement of reasons for its judgment or ruling, the court of second instance shall assess the allegations in the appeal and state the violations of an Act which it took into account *ex officio*.

(2) If the judgment of the court of first instance is set aside due to substantive violations of the criminal procedure provisions, the statement of reasons shall indicate which provisions were violated and what these violations consisted of (Article 371).

(3) If the judgment of the court of first instance is set aside due to an erroneous or incomplete determination of facts, the irregularities in determining the facts shall be stated, and/or why new evidence and new facts are important for rendering a correct decision and why they affect

vplivajo nanjo.

396. člen

(1) Sodišče druge stopnje vrne vse spise sodišču prve stopnje z zadostnim številom overjenih prepisov svoje odločbe, da jih izroči strankam in drugim prizadetim osebam.

(2) Če je obtoženec v priporu, mora sodišče druge stopnje poslati svojo odločbo s spisi sodišču prve stopnje najkasneje v treh mesecih od dneva, ko jih je od njega prejelo.

(3) Spise v elektronski obliki sodišče druge stopnje vrne sodišču prve stopnje po elektronski poti skupaj s svojo odločbo v elektronski obliki, da jo vroči strankam in drugim prizadetim osebam.

397. člen

(1) Sodišče prve stopnje, ki je dobilo zadevo v sojenje, vzame za podlago prejšnjo obtožnico. Če je sodba sodišča prve stopnje deloma razveljavljena, vzame za podlago samo tisti del obtožbe, ki se nanaša na razveljavljeni del sodbe.

(2) Na novi glavni obravnavi smejo navajati stranke tudi nova dejstva in predlagati nove dokaze.

(3) Sodišče prve stopnje mora opraviti vsa procesna dejanja in pretresti vsa sporna vprašanja, na katera je opozorilo sodišče druge stopnje v svoji odločbi.

(4) Pri izrekanju nove sodbe je sodišče prve stopnje vezano na prepoved, ki je predpisana v 385. členu tega zakona.

(5) Če je obtoženec v priporu, mora senat sodišča prve stopnje ravnati po drugem odstavku 207. člena tega zakona.

(6) Če je bil obtoženec še pred pravnomočnostjo sodbe

such decision.

Article 396

(1) The court of second instance shall return all files to the court of first instance, together with a sufficient number of certified copies of its decision to be served on the parties and other persons concerned.

(2) If the defendant is in detention, the court of second instance shall be bound to deliver its decision together with the files to the court of first instance within three months of the day of receipt of the files from that court.

(3) The court of second instance shall return the files to the court of first instance in electronic form, together with its decision in electronic form, to be served on the parties and other persons concerned.

Article 397

(1) The court of first instance to which the case was remanded for trial shall proceed on the basis of the previous indictment. If the judgment of the court of first instance was partially set aside, the court shall proceed only on the basis of that part of the indictment that refers to the set aside part of the judgment.

(2) At the retrial, the parties shall be entitled to present new facts and new evidence.

(3) The court of first instance shall be bound to perform all procedural acts and examine all disputed issues that were specified by the court of second instance in its decision.

(4) In rendering a new judgment, the court of first instance shall be bound by the prohibition referred to in Article 385 of this Act.

(5) If the defendant is in detention, the panel of the court of first instance shall proceed as provided in paragraph two of Article 207 of this Act.

(6) If the defendant had been transferred to a prison before the

oddan v zavod za prestajanje kazni (sedmi odstavek 361. člena), sme predsednik senata izdati sklep, da se obtoženca vrne v pripor.

2. Pritožba zoper sodbo sodišča druge stopnje

398. člen

(1) Zoper sodbo sodišča druge stopnje je dovoljena pritožba na vrhovno sodišče vendar samo v navedenih primerih:

1) če je sodišče druge stopnje izreklo kazen dosmrtnega zapora ali zapora 30 let ali če je potrdilo sodbo sodišča prve stopnje, s katero je bila izrečena taka kazen;

2) če je sodišče druge stopnje na podlagi opravljene obravnave dejansko stanje ugotovilo drugače kakor sodišče prve stopnje in na tako ugotovljeno dejansko stanje oprlo svojo sodbo;
3) če je sodišče druge stopnje spremenilo sodbo, s katero je sodišče prve stopnje obtoženca oprostilo obtožbe in izreklo sodbo, s katero ga je spoznalo za krivega;
4) če je sodišče druge stopnje s sodbo tretji osebi vzelo predmet (drugi odstavek 73. člena Kazenskega zakonika) ali premoženjsko korist, pridobljeno s kaznivim dejanjem (75., 77.a in 77.b člen Kazenskega zakonika) ali če je pravni osebi s sodbo izreklo odvzem premoženjske koristi (77. člen Kazenskega zakonika).

(2) O pritožbi zoper sodbo sodišča druge stopnje odloča vrhovno sodišče na seji senata po določbah, ki veljajo za postopek na drugi stopnji. Pred tem sodiščem ni obravnave.

(3) Določbe 387. člena tega zakona se uporabijo tudi za soobtoženca, ki ni imel pravice pritožiti se zoper sodbo sodišča druge stopnje.

3. Pritožba zoper sklep

judgment became final (paragraph seven of Article 361), the president of the panel may rule that he or she be returned to detention.

2. Appeal against a judgment of the court of second instance

Article 398

(1) Appeals against judgments of the courts of second instance may be lodged with the Supreme Court, but only in the following cases:

1) if the court of second instance has passed a sentence of life imprisonment or a sentence of thirty years imprisonment or has upheld the judgment of the court of first instance which imposed such a punishment;
2) if the court of second instance, after conducting a hearing, has determined the facts differently from the court of first instance and has based its judgment on such determination of facts;
3) if the court of second instance has changed the judgment of acquittal rendered by the court of first instance and rendered instead a judgment of conviction;
4) if the court of second instance seized an object from a third person by a judgment (paragraph two of Article 73 of the Criminal Code) or proceeds gained through a criminal offence (Articles 75, 77a and 77b of the Criminal Code), or if the seizure of proceeds was imposed on a legal person by the judgment (Article 77 of the Criminal Code).

(2) The Supreme Court shall decide on the appeal against the judgment of the court of second instance at the panel's session according to the provisions applying to appellate proceedings at second instance. A trial may not be held before that court.

(3) The provisions of Article 387 of this Act shall also apply to a co-defendant who was not entitled to appeal against the judgment of the court of second instance.

3. Appeal against a ruling

399. člen

(1) Zoper sklepe preiskovalnega sodnika in zoper druge sklepe sodišča, izdane na prvi stopnji, se smejo stranke in osebe, katerih pravice so prekršene, pritožiti vselej, kadar ni v tem zakonu izrecno določeno, da ni pritožbe.

(2) Zoper sklep, ki ga izda senat pred ali med preiskavo, ni pritožbe, razen če je v tem zakonu drugače določeno.

(3) Sklepi, ki se izdajo za pripravo glavne obravnave in sodbe, se smejo izpodbijati samo v pritožbi zoper sodbo.

(4) Zoper sklep vrhovnega sodišča je dovoljena pritožba le, kadar se z njim odredi pripor (četrti odstavek 394. člena in drugi odstavek 398. člena tega zakona) ali kadar se z njim izreče denarna kazen zaradi žaljive izjave (prvi, tretji in peti odstavek 78. člena).

400. člen

(1) Pritožba se poda pri sodišču, ki je izdalo sklep.

(2) Če ni v tem zakonu drugače določeno, je treba pritožbo zoper sklep podati v 15 dneh od dne, ko je bil sklep vročen.

401. člen

Če ni v tem zakonu drugače določeno, se z vložitvijo pritožbe zadrži izvršitev sklepa, zoper katerega je pritožba podana.

402. člen

(1) O pritožbi zoper sklep sodišča prve stopnje odloča

Article 399

(1) Appeals against the rulings of the investigating judge and against other rulings of the court rendered at first instance may be lodged by the parties and persons whose rights have been violated, unless the appeal is explicitly barred by the provisions of this Act.

(2) No appeal shall be permitted against the ruling rendered by the panel before or in the course of the investigation, unless provided otherwise by this Act.

(3) Rulings issued for the purpose of preparing the main hearing and the judgment may only be challenged in an appeal against the judgment.

(4) An appeal against the decision of the Supreme Court shall only be allowed if detention was ordered therein (paragraph four of Article 394 and paragraph two of Article 398 of this Act), or if a fine for an offensive statement is imposed in the decision (paragraphs one, three and five of Article 78).

Article 400

(1) An appeal shall be lodged with the court which rendered the ruling.

(2) Unless provided otherwise by this Act, an appeal against the ruling must be filed within 15 days of the ruling being served.

Article 401

Unless provided otherwise by this Act, the filing of an appeal shall stay the execution of the ruling being challenged.

Article 402

(1) An appeal against a ruling of the court of first instance shall

sodišče druge stopnje na seji senata, če ni v tem zakonu drugače določeno.

(2) O pritožbi zoper sklep preiskovalnega sodnika odloča senat istega sodišča (šesti odstavek 25. člena), če ni v tem zakonu drugače določeno.

(3) Ko sodišče odloča o pritožbi, lahko s sklepom zavrže pritožbo kot prepozno ali kot nedovoljeno ali jo zavrne kot neutemeljeno ali pa pritožbi ugodi in sklep spremeni ali razveljavi in zadevo po potrebi pošlje v novo odločitev.

(4) Ko sodišče odloča o pritožbi zoper sklep o zavrženju obtožnice, sme izreči zavrnilno sodbo, če spozna, da so podani pogoji za izdajo take sodbe.

(5) Ko sodišče preskuša pritožbo, mora po uradni dolžnosti paziti, ali je bilo sodišče prve stopnje stvarno pristojno za sklep oziroma ali je sklep izdal upravičeni organ.

403. člen

(1) Za postopek s pritožbo zoper sklep se smiselno uporabljajo členi od 367. do 375., prvi, tretji in četrti odstavek 377. člena, 385., 387. in drugi odstavek 388. člena tega zakona.

(2) Če je vložena pritožba zoper sklep iz 492. člena tega zakona, se glede obveščanja o seji senata uporabljajo določbe 378. členu tega zakona.

404. člen

Če ni v tem zakonu določeno kaj drugega, se določbe 399. do 403. člena tega zakona smiselno uporabljajo tudi za vse druge sklepe, ki se izdajo po tem zakonu.

405. člen

be decided on by the court of second instance at the panel's session, unless provided otherwise by this Act.

(2) An appeal against a ruling of the investigating judge shall be decided on by the panel of the same court (paragraph six of Article 25), unless provided otherwise by this Act.

(3) In deciding on an appeal, the court may, by a ruling, dismiss the appeal as belated or inadmissible, or reject it as unfounded, or grant it and change the ruling, or set aside the ruling and remand the case for retrial where necessary.

(4) In deciding on an appeal against a ruling dismissing the indictment, the court may render a judgment of rejection if it finds that grounds for such judgment exist.

(5) In examining an appeal, the court shall inquire *ex officio* whether the court of first instance had subject-matter jurisdiction to render the ruling and/or whether the ruling was rendered by an authorised authority.

Article 403

(1) As regards appellate proceedings against rulings, the provisions of Articles 367 to 375, paragraphs one, three and four of Article 377, Articles 385 and 387, and paragraph two of Article 388 of this Act shall apply *mutatis mutandis.*

(2) Where an appeal is filed against the ruling referred to in Article 492 of this Act, the provisions of Article 378 of this Act shall apply regarding notification of the panel session.

Article 404

Unless otherwise provided by this Act, the provisions of Articles 399 to 403 of this Act shall apply *mutatis mutandis* to all other rulings rendered pursuant to this Act.

Article 405

Določbe 365. člena tega zakona se smiselno uporabljajo tudi za tiste sklepe, zoper katere je dovoljena posebna pritožba.

XXIV. poglavje
IZREDNA PRAVNA SREDSTVA

1. Obnova kazenskega postopka

406. člen

Kazenski postopek, ki je končan s pravnomočnim sklepom ali s pravnomočno sodbo, se sme na zahtevo upravičenca obnoviti samo v primerih in ob pogojih, ki jih določa ta zakon.

407. člen

(1) Pravnomočna sodba se sme spremeniti tudi brez obnove kazenskega postopka:

1) če je bilo v dveh ali več sodbah zoper istega obsojenca pravnomočno izrečenih več kazni, pa niso bile uporabljene določbe o odmeri enotne kazni za dejanja v steku;

2) če je bila pri izreku enotne kazni po določbah o steku upoštevana kot določena (55. člen kazenskega zakonika) tudi kazen, ki je bila že zajeta v kazni, izrečeni po določbah o steku v kakšni prejšnji sodbi;

3) če se pravnomočna sodba, s katero je bila za več kaznivih dejanj izrečena enotna kazen, delno ne bi mogla izvršiti zaradi amnestije, pomilostitve ali iz. drugih razlogov.

(2) V primeru iz 1. točke prejšnjega odstavka sodišče z novo sodbo spremeni prejšnje sodbe glede odločbe o kazni in izreče eno samo kazen. Za novo sodbo je pristojno sodišče prve stopnje, ki je sodilo v zadevi, v kateri je bila izrečena najstrožja vrsta kazni; pri kaznih iste vrste tisto sodišče, ki je izreklo najvišjo kazen; če so kazni

The provisions of Article 365 of this Act shall apply *mutatis mutandis* to rulings against which a special appeal is allowed.

Chapter XXIV
EXTRAORDINARY LEGAL REMEDIES

1. Reopening of criminal proceedings

Article 406

Criminal proceedings concluded by a final ruling or a final judgment may only be reopened at the request of an authorised person in the cases and under the conditions provided by this Act.

Article 407

(1) A final judgment may be changed even without the reopening of criminal proceedings:

1) if in two or more judgments against the same convicted person more than one punishment was imposed without applying the provisions on setting an aggregate sentence for the offences committed in concurrence;
2) if in imposing an aggregate sentence by applying the provisions on concurrence (Article 55 of the Criminal Code), the punishment already included in the aggregate sentence imposed according to the provisions on concurrence by a previous judgment was also taken into account as established;
3) if a final judgment imposing an aggregate punishment for more than one criminal offence is partly unenforceable due to an act of amnesty, pardon, or for other reasons.

(2) In the case referred to in point 1 of the preceding paragraph the court shall, by a new judgment, change the previous judgments regarding the decisions on the sentence and impose an aggregate sentence. The court of first instance which imposed the most severe punishment shall have jurisdiction for rendering a new judgment, and if the

enake, pa tisto sodišče, ki je zadnje izreklo kazen.

(3) V primeru iz 2. točke prvega odstavka tega člena spremeni svojo sodbo sodišče, ki je pri izreku enotne kazni napačno upoštevalo kazen, že zajeto v kakšni prejšnji sodbi.

(4) V primeru iz 3. točke prvega odstavka tega člena spremeni sodišče, ki je sodilo na prvi stopnji, prejšnjo sodbo glede kazni in izreče novo kazen ali pa določi, koliko od kazni, ki je bila izrečena s prejšnjo sodbo, je treba izvršiti.

(5) Novo sodbo izda izvenobravnavni sodnik na predlog državnega tožilca, če je tekel postopek na njegovo zahtevo ali obsojenca. Če je predlog podal državni tožilec, izvenobravnavni sodnik pred izdajo nove sodbe zasliši obsojenca. Če je predlog podal obsojenec, izvenobravnavni sodnik pred izdajo nove sodbe posreduje predlog državnemu tožilcu, ki se lahko do njega opredeli v roku osem dni.

(6) Če so bile v primerih iz 1. in 2. točke prvega odstavka tega člena pri izreku kazni upoštevane tudi sodbe drugih sodišče, je treba overjen prepis nove pravnomočne sodbe poslati tudi tem sodiščem.

408. člen

(1) Če je bila s pravnomočnim sklepom zahteva za preiskavo zavrnjena zato ker ni bilo zahteve upravičenega tožilca ali ker ni bilo potrebnega predloga oškodovanca ali dovoljenja državnega organa, ali ker so bile podane druge okoliščine, ki so začasno preprečevale pregon, ali če je bila iz enakega razloga obtožnica zavržena, se postopek na zahtevo upravičenega tožilca nadaljuje, brž ko prenehajo vzroki, zaradi katerih je bil izdan tak sklep.

(2) Če je bila s pravnomočnim sklepom obtožnica zavržena

punishments are of the same type, the court which imposed the most severe type of punishment, or if the punishments are equal, the court which last pronounced the sentence, shall have jurisdiction.

(3) In the case referred to in point 2 of paragraph one of this Article, the court which, in pronouncing an aggregate sentence, erroneously took into account a sentence already included in some previous judgment, shall change its judgment.

(4) In the case referred to in point 3 of paragraph one of this Article, the court which adjudicated at first instance shall change the previous judgment regarding the sentence, and either pronounce a new sentence or determine what part of the sentence imposed by the previous judgment should be enforced.

(5) The new judgment shall be delivered by the trial judge upon the motion of the state prosecutor if the proceedings were instituted on his or her request, or upon the motion of the convicted person. If the motion was submitted by the state prosecutor, the trial judge shall hear the convicted person before delivering a new judgment. If the motion was submitted by the convicted person, the trial judge shall, before rendering a new judgment, forward the motion to the state prosecutor, who may state a position thereon within eight days.

(6) If in the cases referred to in points 1 and 2 of paragraph one of this Article judgements of other courts were taken into account in imposing the sentence, a certified copy of the new final judgement shall also be delivered to those courts.

Article 408

(1) If the request for investigation was rejected by a final ruling because there was no request from the authorised prosecutor or motion of the injured party, or no approval of a state authority, or because of other circumstances which temporarily barred prosecution, or if the indictment was dismissed on these same grounds, the proceedings shall be resumed on the motion of the authorised prosecutor as soon as the reasons for rendering such ruling cease to exit.

(2) If the indictment was dismissed by a final ruling for lack of

zaradi stvarne nepristojnosti sodišča, se postopek nadaljuje pred stvarno pristojnim sodiščem na zahtevo upravičenega tožilca.

the court's subject-matter jurisdiction, the proceedings shall continue before the court having subject-matter jurisdiction upon the request of the authorised prosecutor.

409. člen

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 409

If the request for investigation was rejected by a final ruling due to lack of a reasonable suspicion that the suspect or the accused person has committed a criminal offence, the criminal proceedings may be reopened upon the request of the authorised prosecutor, provided new evidence is presented on the basis of which the panel (paragraph six of Article 25) can satisfy themselves that the conditions for the reopening of criminal proceedings are complied with.

410. člen

(1) Kazenski postopek, ki je končan s pravnomočno sodbo, se sme obnoviti samo v korist obsojenca. Postopek se obnovi:

1) če se dokaže, da temelji sodba na ponarejeni listini ali na krivi izpovedbi priče, izvedenca ali tolmača;
2) če se dokaže da je prišlo do sodbe zaradi kaznivega dejanja sodnika, sodnika porotnika ali osebe, ki je opravljala preiskovalna dejanja;
3) če se navedejo nova dejstva ali predložijo novi dokazi, ki utegnejo sami zase ali v zvezi s prejšnjimi dokazi povzročiti oprostitev tistega, ki je bil obsojen, ali pa njegovo obsodbo po milejšem kazenskem zakonu;
4) če je bilo več oseb obsojenih zaradi istega dejanja, ki ga je mogla storiti samo ena oseba ali samo nekatere od njih;

5) če se v primeru obsodbe za nadaljevano kaznivo dejanje ali za kakšno drugo kaznivo dejanje, ki obsega po zakonu več istovrstnih dejanj, navedejo nova dejstva ali predložijo novi dokazi, ki kažejo na to, da obsojenec ni storil dejanja, ki je obseženo s kaznivim dejanjem iz obsodbe, da pa bi to dejstvo bistveno vplivalo na odmero kazni.

(2) V primerih iz 1. in 2. točke prejšnjega odstavka se mora

Article 410

(1) Criminal proceedings concluded by a final judgment may only be reopened to the benefit of the convicted person. The proceedings shall be reopened:
1) if it is proven that the judgment rests on a forged document or the false testimony of a witness, expert witness or interpreter;
2) if the judgment is proven to have resulted from a criminal offence committed by the judge, lay judge or the person who carried out investigative acts;
3) if new facts or new evidence are presented which alone or in relation to previous evidence will likely lead to the acquittal of the convicted person or to his or her conviction under a more lenient criminal law provision;
4) if more than one person was convicted for the same offence which could have been committed only by one person or only by some of them;
5) if in the case of conviction for a continuing criminal offence or any other criminal offence that pursuant to an Act includes several offences of the same type, new facts or new evidence are presented indicating that the convicted person did not commit the offence included in the adjudicated criminal offence, provided that such fact is likely to substantially affect the setting of the sentence.

(2) In the cases referred to in points 1 and 2 of the preceding

dokazati s pravnomočno sodbo, da so bile omenjene osebe spoznane za krive tistih kaznivih dejanj. Če se postopek zoper te osebe ne more izvesti, ker so umrle ali ker so podane okoliščine, ki izključujejo kazenski pregon, se smejo dejstva iz 1. in 2. točke prejšnjega odstavka dokazovati tudi z drugimi dokazi.

paragraph, it must be proven by a final judgment that the persons mentioned have been found guilty of the criminal offences in question. If the proceedings against these persons cannot be instituted by reason of their death or the existence of circumstances barring criminal prosecution, the facts referred to in points 1 and 2 of the preceding paragraph may also be proven using other evidence.

411. člen

(1) Obnovo kazenskega postopka smejo zahtevati stranke in zagovornik; po obsojenčevi smrti pa jo smejo zahtevati državni tožilec, če je tekel postopek na njegovo zahtevo in osebe iz drugega odstavka 367. člena tega zakona.

(2) Obnova kazenskega postopka se sme zahtevati tudi potem, ko je obsojenec kazen prestal, in ne glede na zastaranje, amnestijo ali pomilostitev.

(3) Če sodišče, ki bi bilo pristojno za odločitev o obnovi kazenskega postopka (412. člen), zve, da je podan kakšen razlog za obnovo kazenskega postopka, obvesti o tem obsojenca oziroma drugo osebo, ki je upravičena vložiti zahtevo.

Article 411

(1) A request for the reopening of criminal proceedings may be submitted by the parties and the defence counsel, and after the death of the convicted person, by the state prosecutor, if the proceedings were instituted upon his or her request, and by the persons referred to in paragraph two of Article 367 of this Act.

(2) A request for the reopening of criminal proceedings may also be submitted after the convicted person has served the sentence, notwithstanding the period of limitation for the institution of prosecution, or for amnesty or pardon.

(3) If the court which would have jurisdiction to decide on the reopening of criminal proceedings (Article 412) learns of the existence of grounds for the reopening of criminal proceedings, it shall notify the convicted person or some other person entitled to submit the request thereof.

412. člen

(1) O zahtevi za obnovo kazenskega postopka odloča senat (šesti odstavek 25. člena) sodišča, ki je v prejšnjem postopku sodilo na prvi stopnji.

(2) V zahtevi se mora navesti, iz katerega zakonskega razloga se zahteva obnova in s katerimi dokazi so podprta dejstva, na katera se zahteva opira. Če v zahtevi ni teh podatkov, zahteva sodišče od predlagatelja, naj jo v določenem roku dopolni.

(3) Pri odločanju o zahtevi v senatu ne more sodelovati

Article 412

(1) A request for the reopening of criminal proceedings shall be decided by the panel (paragraph six of Article 25) of the court which adjudicated at first instance in the previous proceedings.

(2) The request shall state what the legal grounds are for the reopening and what evidence supports the facts on which the request is based. If the request fails to state this information, the court shall call on the person who submitted the request to supplement it within a specified time limit.

(3) The judge who participated in rendering the judgment in the

sodnik, ki je sodeloval pri sodbi v prejšnjem postopku.

413. člen

(1) Sodišče zavrže zahtevo s sklepom, če ugotovi na podlagi same zahteve in spisov prejšnjega postopka, da jo je podala neupravičena oseba; ali da ni zakonskih pogojev za obnovo postopka; ali da so bila dejstva in dokazi, na katere se zahteva opira, navedena že v kakšni prejšnji zahtevi za obnovo postopka, ki je bila s pravnomočnim sklepom sodišča zavrnjena; ali da dejstva in dokazi očitno niso taki, da bi se mogla na podlagi njih dovoliti obnova; ali da tisti, ki zahteva obnovo, ni ravnal po drugem odstavku prejšnjega člena.

(2) Če sodišče ne zavrže zahteve, vroči prepis zahteve nasprotni stranki, ki ima nato v osmih dneh pravico nanjo odgovoriti. Ko prispe sodišču odgovor na zahtevo ali ko preteče rok za odgovor, odredi predsednik senata, da se raziščejo dejstva in preskrbijo dokazi, na katere se sklicujeta zahteva in odgovor nanjo. Sodnik, ki opravlja poizvedbe, ravna po petem odstavku 178. člena tega zakona.

(3) Po opravljenih poizvedbah, v primerih ko gre za kazniva dejanja, za katera se storilec preganja po uradni dolžnosti, odredi predsednik senata, naj se spisi pošljejo državnemu tožilcu, ki jih mora brez odlašanja vrniti s svojim mnenjem.

414. člen

(1) Ko državni tožilec vrne spise, sme sodišče odrediti, naj se poizvedbe dopolnijo; sicer pa na podlagi uspeha poizvedb ugodi zahtevi in dovoli obnovo kazenskega postopka ali pa zahtevo zavrne.

(2) Če sodišče spozna, da so razlogi, zaradi katerih je

previous proceedings may not sit as a member of the panel that decides on the request.

Article 413

(1) The court shall dismiss the request by a ruling if it finds, on the basis of the request itself and the files of the previous proceedings, that the request was submitted by an unauthorised person, or that the legal grounds for the reopening of proceedings do not exist, or that the facts and evidence on which the request is founded have already been presented in a previous request for the reopening of proceedings which was rejected by a final court ruling, or that the facts and evidence presented are clearly inadequate to allow for the reopening of proceedings, or that the person who requests the reopening did not proceed in accordance with the provisions of paragraph two of the preceding Article.

(2) If the court does not dismiss the request, it shall serve a copy of the request on the opposing party, who is entitled to respond to the request within eight days. When the court has received the response to the request or when the time limit for the response has expired, the president of the panel shall order that the facts and evidence set forth in the request and the response thereto be enquired into and presented, respectively. The judge engaged in the enquiries shall proceed as provided in paragraph five of Article 178 of this Act.

(3) Upon the completion of the inquiries in cases where criminal offences prosecutable *ex officio* are involved, the president of the panel shall order that the files be delivered to the state prosecutor, who shall be bound to return them without delay, together with his or her opinion.

Article 414

(1) After the state prosecutor has returned the files, the court may order that the inquiries be supplemented; based on the results of the inquiries, the court shall either grant the request and allow the reopening of criminal proceedings, or reject the request.

(2) If the court finds that the reasons for which it allowed the

dovolilo obnovo postopka, v korist tudi kateremu od soobtožencev, ki ni zahteval obnove postopka, ravna po uradni dolžnosti, kakor da bi jo bil zahteval tudi ta.

(3) V sklepu, s katerim dovoli obnovo kazenskega postopka, odloči sodišče, da se takoj razpiše nova glavna obravnava ali pa da se stvar vrne v stanje preiskave oziroma da se opravi preiskava, če je prej ni bilo.

(4) Če sodišče misli, da bo obsojenec glede na predložene dokaze v obnovljenem postopku obsojen na tako kazen, da bi moral biti po vštetju že prestane kazni izpuščen, da bo oproščen obtožbe ali da bo obtožba zoper njega zavrnjena, odredi, da se izvršitev sodbe odloži oziroma začasno ustavi.

(5) Ko postane sklep, s katerim je dovoljena obnova kazenskega postopka, pravnomočen, se izvršitev kazni ustavi; vendar pa odredi sodišče pripor, če so podani razlogi iz 201. člena tega zakona.

415. člen

(1) Za novi postopek, ki teče na podlagi sklepa, s katerim je dovoljena obnova kazenskega postopka, veljajo iste določbe kakor za prvi postopek. V novem postopku sodišče ni vezano na sklepe prejšnjega postopka.

(2) Če se novi postopek ustavi do začetka glavne obravnave, razveljavi sodišče s sklepom o ustavitvi postopka tudi prejšnjo sodbo.

(3) Ko izda sodišče v novem postopku sodbo, izreče v njej, da se prejšnja sodba deloma ali v celoti razveljavi ali pa da ostane v veljavi. V kazen, ki jo določi z novo sodbo, všteje obtožencu prestano kazen, če pa je bila obnova dovoljena samo za nekatera od dejanj, za katera je bil obtoženec obsojen, izreče novo enotno kazen po določbah kazenskega zakona.

reopening of proceedings also benefit any of the co-defendants who did not submit a request for the reopening of proceedings, it shall proceed *ex officio* as if such request was also submitted by that person.

(3) In the ruling granting the reopening of criminal proceedings, the court shall order that a new main hearing be scheduled immediately, or that the case be referred back for investigation, or that an investigation be initiated if none was conducted before.

(4) If the court considers, in view of the evidence presented, that in the reopened proceedings the convicted person will be sentenced to such punishment that after crediting the time served under an earlier sentence towards the new sentence he or she should be released, or that he or she will be acquitted of the charge, or that the charge against him or her will be rejected, it shall order the enforcement of the judgment to be postponed or suspended.

(5) When the ruling granting the reopening of criminal proceedings becomes final, enforcement of the punishment shall be suspended, but the court shall order detention if the reasons referred to in Article 201 of this Act exist.

Article 415

(1) New proceedings based on a ruling granting the reopening of criminal proceedings shall be conducted in accordance with the same provisions that were applied in the original proceedings. In the course of the new proceedings, the court shall not be bound by the rulings rendered in the previous proceedings.

(2) If the new proceedings are suspended before the opening of the main hearing, the court shall, by a ruling suspending the proceedings, also set aside the previous judgment.

(3) When the court renders a judgment in the new proceedings, it shall rule that the previous judgment is partially or entirely set aside or that it remains in force. In the punishment imposed by the new judgment, the court shall include the time already served under an earlier sentence, and if the reopening was granted for just some of the offences for which the defendant was convicted, it shall pronounce a new aggregate

(4) V novem postopku je sodišče vezano na prepoved, ki je predpisana v 385. členu tega zakona.

416. člen

Določbe tega poglavja o obnovi kazenskega postopka (členi 406 do 415) se smiselno uporabljajo tudi, kadar je vložena zahteva za spremembo pravnomočne sodne odločbe na podlagi odločbe ustavnega sodišča, s katero je bil razveljavljen ali odpravljen predpis, na podlagi katerega je bila izdana pravnomočna obsodilna sodba.

2. **(črtan)**

417. člen
(črtan)

418. člen
(črtan)

419. člen
(črtan)

3. Zahteva za varstvo zakonitosti

420. člen

(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

sentence in accordance with the provisions of criminal law.

(4) In the new proceedings, the court shall be bound by the prohibition prescribed in Article 385 of this Act.

Article 416

The provisions of this Chapter on the reopening of criminal proceedings (Articles 406 to 415) shall apply *mutatis mutandis* to a request to change a final court decision on the basis of a decision rendered by the constitutional court setting aside or abolishing the regulation pursuant to which the final judgment of conviction was issued.

2. **(Deleted)**

Article 417
(Deleted)

Article 418
(Deleted)

Article 419
(Deleted)

3. Request for the protection of legality

Article 420

(1) A request for the protection of legality against a final court decision concluding criminal proceedings, and against other decisions only if the Supreme Court may be expected to render a decision on a question of law which is important for providing legal certainty, the uniform application of the law or the development of law through case-law, and against judicial proceedings that preceded such final decision, may be

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.

421. člen

(1) Zahtevo za varstvo zakonitosti smejo vložiti vrhovni državni tožilec, obdolženec in zagovornik. Po obdolženčevi smrti pa jo smejo v njegovo korist vložiti osebe iz drugega odstavka 367. člena tega zakona.

submitted after the criminal proceedings have been concluded by a final decision in the following cases:
1) for reasons of a violation of criminal law;
2) for reasons of a substantive violation of the criminal procedure provisions referred to in paragraph one of Article 371 of this Act;
3) for reasons of other violations of criminal procedure provisions if such violations affected the legality of a court decision.

(2) A request for the protection of legality may not be submitted for the reasons of an erroneous or incomplete determination of facts, nor against a decision of the Supreme Court that determined the request for the protection of legality.

(3) Notwithstanding the provision of paragraph one of this Article, the State Prosecutor General may submit a request for the protection of legality for any violation of an Act.

(4) Notwithstanding the provision of paragraph one of this Article, a request for the protection of legality may, in the course of criminal proceedings that are not yet concluded by a final decision, only be submitted against a final decision ordering detention, except where detention was ordered by the Supreme Court (paragraph four of Article 394 and paragraph two of Article 398), and it may be submitted against a final decision on the extension of detention only if the Supreme Court's panel extends detention by a ruling (paragraph two of Article 205), and in the case of extension after the filing of an indictment (paragraph two of Article 272).

(5) The applicant may invoke the violations referred to in paragraph one of this Article only if he or she could present them in the appeal, or, alternately, if he or she did present them in the appeal but the court of second instance failed to take them into consideration.

Article 421

(1) A request for the protection of legality may be submitted by the State Prosecutor General, the accused person and the defence counsel. Upon the death of the accused person, such request may be submitted to his or her benefit by the persons referred to in paragraph two of Article 367 of this Act.

(2) Vrhovni državni tožilec sme vložiti zahtevo za varstvo zakonitosti tako v škodo, kakor tudi v korist obdolženca. Vrhovni državni tožilec lahko predlaga, da se zahteva za varstvo zakonitosti, ki jo je vložila druga oseba, zavrne kot očitno neutemeljena. Izvod obrazloženega predloga se pošlje nasprotni stranki, ki lahko v osmih dneh od prejema nanj odgovori.

(3) Obdolženec, zagovornik in osebe iz drugega odstavka 367. člena tega zakona smejo vložiti zahtevo za varstvo zakonitosti v treh mesecih oziroma, če gre za odločbo iz četrtega odstavka prejšnjega člena, v osmih dneh od zadnje vročitve pravnomočne sodne odločbe obdolžencu oziroma zagovorniku (četrti odstavek 120. člena).

(4) Če je s sodbo Evropskega sodišča za človekove pravice ugotovljena kršitev človekove pravice ali temeljne svoboščine iz Konvencije o varstvu človekovih pravic in temeljnih svoboščin oziroma njenih protokolov, ki se nanaša na pravnomočno sodno odločbo, se rok za vložitev zahteve za varstvo zakonitosti šteje od dneva dokončnosti sodbe Evropskega sodišča za človekove pravice.

(5) Ne glede na določbo drugega odstavka prejšnjega člena je mogoče zahtevo za varstvo zakonitosti iz prejšnjega odstavka vložiti tudi zoper odločbo vrhovnega sodišča.

422. člen

(1) Zahteva za varstvo zakonitosti se poda pri sodišču, ki je izdalo odločbo na prvi stopnji.

(2) Predsednik senata sodišča prve stopnje zavrže s sklepom zahtevo za varstvo zakonitosti, če je vložena zoper odločbo vrhovnega sodišča (drugi odstavek 420. člena), če jo je vložil nekdo, ki ni imel te pravice (prvi odstavek 421. člena), ali če je prepozna (tretji odstavek 421. člena). Zoper ta sklep je dovoljena pritožba na sodišče druge stopnje.

(2) The State Prosecutor General may submit a request for the protection of legality both to the prejudice and to the benefit of the accused person. The State Prosecutor General may propose that a request for the protection of legality filed by another person be rejected as manifestly unfounded. A copy of the reasoned motion shall be sent to the counterparty, who may respond to it within eight days of receipt.

(3) The accused person, the defence counsel and the persons referred to in paragraph two of Article 367 of this Act may submit a request for the protection of legality within three months or, in the case of the decision referred to in paragraph four of the preceding Article, within eight days of the last service of a final court decision on the accused person or defence counsel (paragraph four of Article 120).

(4) If a judgment of the European Court of Human Rights establishes a violation of human rights or fundamental freedoms enshrined in the Convention for the Protection of Human Rights and Fundamental Freedoms or its Protocols that refers to a final court decision, the time limit for lodging a request for the protection of legality shall start running from the date when the judgment of the European Court of Human Rights became final.

(5) Notwithstanding the provision of paragraph two of the preceding Article, the request for the protection of legality referred to in the preceding paragraph may also be submitted against a decision of the Supreme Court.

Article 422

(1) A request for the protection of legality shall be submitted before the court that rendered the decision at first instance.

(2) The president of the panel of the first instance court shall dismiss a request for the protection of legality by a ruling if the request was submitted against a decision of the Supreme Court (paragraph two of Article 420), if it was submitted by a person not entitled to do so (paragraph one of Article 421), or if it is belated (paragraph three of Article 421). An appeal against this ruling before the court of second instance shall be allowed.

(3) Sodišče prve stopnje sme, glede na vsebino zahteve za varstvo zakonitosti odrediti, da se izvršitev pravnomočne sodne odločbe odloži ali prekine.

423. člen

(1) O zahtevi za varstvo zakonitosti odloča vrhovno sodišče na seji.

(2) Vrhovno sodišče s sklepom zavrže zahtevo za varstvo zakonitosti, če je ta nedovoljena ali prepozna (drugi odstavek 422. člena) ali ne izpolnjuje pogojev iz prvega ali petega odstavka 420. člena, sicer pa izvod zahteve pošlje nasprotni stranki, ki lahko v petnajstih dneh od prejema zahteve oziroma v osmih dneh, če gre za zahtevo zoper odločbo iz četrtega odstavka 420. člena tega zakona, nanjo odgovori. Vrhovnemu državnemu tožilstvu se zahteva za varstvo zakonitosti pošlje s spisi.

(3) Preden se zadeva predloži v odločanje, lahko preskrbi sodnik, ki je določen za poročevalca, po potrebi poročilo o zatrjevanih kršitvah zakona.

(4) Glede na vsebino zahteve lahko vrhovno sodišče odredi, da se izvršitev pravnomočne sodne odločbe odloži oziroma prekine.

424. člen

(1) Pri odločanju o zahtevi za varstvo zakonitosti se omeji sodišče samo na preizkus tistih kršitev zakona, na katere se sklicuje vložnik v svoji zahtevi.

(2) Če sodišče spozna, da so razlogi, zaradi katerih je izdalo odločbo v obdolženčevo korist, podani tudi v korist kakšnega drugega soobdolženca, glede katerega ni bila vložena zahteva za varstvo zakonitosti, ravna po uradni dolžnosti, kakor da bi bila taka

(3) The court of first instance may, depending on the content of the request for the protection of legality, order that the enforcement of the final court decision be postponed or discontinued.

Article 423

(1) Requests for the protection of legality shall be decided by the Supreme Court at its sessions.

(2) The Supreme Court shall dismiss a request for the protection of legality by a ruling if the request is inadmissible or belated (paragraph two of Article 422) or if it fails to meet the requirements referred to in paragraphs one or five of Article 420; in the opposite case, it shall deliver a copy of the request to the opposing party, who is entitled to respond thereto within fifteen days of receipt of the request, or within eight days if the request in question is filed against the decision referred to in paragraph four of Article 420 of this Act. The request for the protection of legality shall be sent to the Office of the State Prosecutor General together with the files.

(3) Before the case is brought up for consideration, the reporting judge may, if necessary, provide a report on the alleged violations of an Act.

(4) Depending on the content of the request, the Supreme Court may order that the enforcement of the final court decision be postponed or discontinued.

Article 424

(1) In deciding on a request for the protection of legality, the court shall confine itself to reviewing the violations of an Act alleged by the applicant in his or her request.

(2) If the court finds that the reasons for which it rendered a decision to the benefit of the accused person are also relevant to the benefit of any co-accused person in respect of whom a request for the protection of legality was not filed, it shall proceed *ex officio* as if such a

zahteva vložena.

(3) Če je vložena zahteva za varstvo zakonitosti v obdolženčevo korist, je sodišče pri odločanju vezano na prepoved, ki je predpisana v 385. členu tega zakona.

425. člen

(1) Vrhovno sodišče zavrne s sodbo zahtevo za varstvo zakonitosti kot neutemeljeno, če ugotovi, da ni podana kršitev zakona, na katero se sklicuje vložnik v svoji zahtevi ali če je zahteva za varstvo zakonitosti vložena zaradi zmotne ali nepopolne ugotovitve dejanskega stanja.

(2) Vrhovno sodišče zavrne zahtevo za varstvo zakonitosti s sodbo s skrajšano obrazložitvijo, če na podlagi obrazloženega predloga vrhovnega državnega tožilca soglasno ugotovi, da je očitno neutemeljena (drugi odstavek 421. člena). Skrajšana obrazložitev vsebuje navedbo razlogov za očitno neutemeljenost.

426. člen

(1) Če vrhovno sodišče ugotovi, da je zahteva za varstvo zakonitosti utemeljena, izda sodbo, s katero glede na naravo kršitve: ali spremeni pravnomočno odločbo; ali v celoti ali delno razveljavi odločbo sodišča prve stopnje in višjega sodišča ali pa samo odločbo višjega sodišča in zadevo vrne v novo odločitev ali sojenje sodišču prve stopnje ali višjemu sodišču; ali pa se omeji samo na to, da ugotovi kršitev zakona.

(2) Če je zahteva za varstvo zakonitosti vložena v obdolženčevo škodo in vrhovno sodišče spozna, da je utemeljena, ugotovi le, da je bil zakon prekršen, ne da bi posegalo v pravnomočno odločbo.

(3) Če sodišče druge stopnje po določbah tega zakona ni imelo pravice odpraviti kršitev zakona, ki je bila storjena v odločbi

request was filed.

(3) If the request for the protection of legality is submitted to the benefit of the accused person, the court, in rendering a decision, shall be bound by the prohibition referred to in Article 385 of this Act.

Article 425

(1) The Supreme Court shall reject a request for the protection of legality as unfounded by a judgment if it establishes that the violation of an Act alleged by the applicant in his or her request does not exist, or that the request for the protection of legality is filed on the grounds of an erroneous or incomplete determination of the facts.

(2) The Supreme Court shall reject a request for the protection of legality by a summary reasoning if, on the basis of the reasoned motion of the State Prosecutor General, it unanimously finds that it is manifestly unfounded (paragraph two of Article 421). The summary reasoning shall indicate the reasons why the request for the protection of legality is deemed manifestly unfounded.

Article 426

(1) If the Supreme Court finds that a request for the protection of legality is well-founded, it shall pass a judgment whereby, depending on the nature of the violation, it shall either change the final decision or set aside in whole or in part both the decision of the court of first instance and the decision of the higher court, or only the decision of the higher court, and remand the case for a new decision or retrial to the court of first instance or the higher court, or shall confine itself to establishing the existence of a violation of an Act.

(2) If the Supreme Court finds that a request for the protection of legality was filed to the prejudice of the accused person and if it establishes that the request is well-founded, it shall only determine that an Act was violated without interfering with the final decision.

(3) If the court of second instance, under the provisions of this Act, was not competent to remedy a violation of an Act in the decision of

sodišča prve stopnje ali v sodnem postopku pred njo, vrhovno sodišče pa spozna, da je zahteva utemeljena in da je treba za odpravo storjene kršitve razveljaviti ali spremeniti odločbo sodišča prve stopnje, razveljavi ali spremeni tudi odločbo sodišča druge stopnje, čeprav z njo ni bil prekršen zakon.

427. člen

Če nastane pri odločanju o zahtevi za varstvo zakonitosti precejšen dvom o resničnosti odločilnih dejstev, ki so bila ugotovljena v odločbi, zoper katero je zahteva vložena, razveljavi vrhovno sodišče s sodbo, s katero odloči o zahtevi za varstvo zakonitosti, to odločbo in odredi, da se opravi nova glavna obravnava pred istim ali drugim stvarno pristojnim sodiščem prve stopnje.

427.a člen

Kadar vrhovno sodišče odloča o zahtevi za varstvo zakonitosti, pa ne gre za odločanje po četrtem odstavku 420. člena tega zakona, za obrazložitvijo odločbe navede izid glasovanja in imena in priimke vrhovnih sodnikov, ki so glasovali za odločitev, ter imena in priimke vrhovnih sodnikov, ki so dali ločena mnenja.

428. člen

(1) Če se pravnomočna sodba razveljavi in zadeva vrne v novo razsojo, se vzame za podlago prejšnja obtožnica ali tisti njen del, ki se nanaša na razveljavljeni del sodbe.

(2) Sodišče mora opraviti vsa procesna dejanja in pretresti vprašanja, na katera ga je opozorilo vrhovno sodišče.

(3) Pred sodiščem prve oziroma druge stopnje smejo stranke navesti nova dejstva in predložiti nove dokaze.

the court of first instance or in the court proceedings that preceded it, and if the Supreme Court finds that the request is well-founded and that in order to remedy the violation of an Act that occurred, the decision of the court of first instance should be set aside or changed, it shall also set aside or change the decision of the court of second instance, even though the latter did not violate an Act.

Article 427

If in deciding on a request for the protection of legality a serious doubt arises regarding the veracity of the relevant facts determined in the decision challenged by the request, the Supreme Court shall by its judgment in which it decides on the request for the protection of legality set aside such decision and order that a new main hearing be held before the same or other court of first instance with subject-matter jurisdiction.

Article 427a

Where the Supreme Court is deciding on a request for the protection of legality and its decision-making does not concern the cases referred to in paragraph four of Article 420 of this Act, it shall state, at the end of the reasoning of its decision, the outcome of the vote and the names and surnames of the Supreme Court judges who voted in favour of the adopted decision, as well as the names of those who gave dissenting opinions.

Article 428

(1) If the final judgment is set aside and the case is remanded for retrial, the previous indictment or a part thereof that relates to the set aside part of the judgment shall be taken as the basis for the new trial.

(2) The court shall be bound to perform all procedural acts and examine all issues pointed out by the Supreme Court.

(3) The parties may present new facts and new evidence before the court of first or second instance.

(4) Sodišče je pri izdaji nove odločbe vezano na prepoved, ki je predpisana v 385. členu tega zakona.

(5) Če se poleg odločbe nižjega sodišča razveljavi tudi odločba višjega sodišča, se pošlje zadeva nižjemu sodišču po višjem sodišču.

D. SKRAJŠANI IN POENOSTAVLJENA POSTOPKA TER POSEBNE DOLOČBE ZA IZREKANJE SODNEGA OPOMINA IN ZA POSTOPEK PROTI MLADOLETNIKOM

XXV. poglavje
SKRAJŠANI POSTOPEK PRED OKRAJNIM SODIŠČEM

429. člen

V postopku pred okrajnim sodiščem se uporabljajo določbe 430. do 444. člena tega zakona, za vprašanja, ki niso urejena v teh določbah, pa smiselno druge določbe tega zakona.

430. člen

(1) Kazenski postopek se uvede na podlagi obtožnega predloga državnega tožilca oziroma oškodovanca kot tožilca ali na podlagi zasebne tožbe.

(2) Državni tožilec sme vložiti obtožni predlog tudi na podlagi same kazenske ovadbe.

(3) Obtožni predlog in zasebna tožba se vložita v toliko izvodih, kolikor jih je treba za sodišče in obdolženca.

431. člen

(4) In rendering a new decision, the court shall be bound by the prohibition referred to in Article 385 of this Act.

(5) If, in addition to the decision of the lower court, the decision of the higher court is also set aside, the case shall be remanded to the lower court through the higher court.

D. SUMMARY PROCEEDINGS, SIMPLIFIED PROCEEDINGS AND SPECIAL PROVISIONS ON THE ISSUING OF JUDICIAL ADMONITIONS AND ON PROCEEDINGS AGAINST MINORS

Chapter XXV
SUMMARY PROCEEDINGS BEFORE A LOCAL COURT

Article 429

In proceedings before a local court, the provisions of Articles 430 to 444 of this Act shall apply, and as regards the issues not governed by these provisions, other provisions of this Act shall apply *mutatis mutandis.*

Article 430

(1) Criminal proceedings shall be instituted upon the motion of indictment filed by the state prosecutor and/or the injured party acting as prosecutor, or upon a private action.

(2) The state prosecutor may file a motion of indictment also on the basis of a criminal complaint alone.

(3) The motion of indictment and the private action shall be submitted in as many copies as needed for the court and the accused person.

Article 431

(1) Pred vložitvijo obtožnega predloga lahko državni tožilec predlaga sodniku posamezniku (sodnik), da opravi posamezna preiskovalna dejanja. Če se sodnik strinja z njegovim predlogom, opravi preiskovalna dejanja, nato pa pošlje vse spise državnemu tožilcu. Preiskovalna dejanja je treba opraviti kar se da hitro in kratko.

(2) Če se sodnik ne strinja s predlogom za preiskovalna dejanja, obvesti o tem državnega tožilca.

(3) Ko v primerih iz prejšnjih odstavkov državni tožilec prejme spise oziroma obvestilo od sodnika, lahko odloči, da bo vložil obtožni predlog ali pa izda sklep, s katerim kazensko ovadbo zavrže.

432. člen

(1) Pripor se sme na obrazložen predlog tožilca izjemoma odrediti zoper tistega, za katerega je utemeljen sum, da je storil kaznivo dejanje, za katero se storilec preganja po uradni dolžnosti:
1) če se skriva, če se ne da ugotoviti njegova istovetnost ali če so podane druge okoliščine, ki očitno kažejo na nevarnost, da bo sicer pobegnil;
2) če gre za kaznivo dejanje zoper javni red in mir, zoper spolno nedotakljivost ali za kaznivo dejanje s prvinami nasilja, za katera se sme izreči kazen zapora dveh let ali za druga kazniva dejanja, za katera se lahko izreče kazen zapora treh let, kadar je podan razlog za pripor iz 2. ali 3. točke prvega odstavka 201. člena tega zakona.

(2) Pred vložitvijo obtožnega predloga sme trajati pripor le toliko, kolikor je treba, da se opravijo preiskovalna dejanja, vendar ne več kot petnajst dni. O pritožbi zoper sklep o priporu odloča senat okrožnega sodišča (šesti odstavek 25. člena).

(3) Glede pripora od izročitve obtožnega predloga do konca glavne obravnave se smiselno uporabljajo določbe 207. člena tega zakona; pri tem mora sodnik vsakih mesec dni preizkusiti, ali so še dani razlogi za pripor.

(1) Before filing a motion of indictment, the state prosecutor may move that a single judge (hereinafter: the judge) perform specific investigative acts. If the judge agrees with this proposal, he or she shall perform the investigative acts and then submit all files to the state prosecutor. The investigative acts shall be carried out as expeditiously and efficiently as possible.

(2) If the judge disagrees with the motion for investigative acts, he or she shall notify the state prosecutor thereof.

(3) When in the cases referred to in the preceding paragraphs the state prosecutor receives the files or notification from the judge, he or she may decide to file a motion of indictment or issue a ruling dismissing the criminal complaint.

Article 432

(1) Upon a reasoned motion of the state prosecutor, detention may exceptionally be ordered against the person who is reasonably suspected of having committed a criminal offence prosecutable *ex officio:*
1) if such person is in hiding, if his or her identity cannot be established or if other circumstances exist that point to an obvious risk of absconding;
2) if the criminal offence involved is an offence against law and order, or sexual integrity, or an offence with elements of violence punishable by two years of imprisonment, or other criminal offences punishable by three years of imprisonment, where the grounds for detention referred to in point 2 or 3 of paragraph one of Article 201 of this Act exist.

(2) Before filing a motion of indictment, detention shall be limited to the extent necessary for investigative acts to be carried out, but may not exceed fifteen days. Appeals against the ruling on detention shall be decided by the district court panel (paragraph six of Article 25).

(3) Regarding detention from the service of the motion of indictment until the end of the main hearing, the provisions of Article 207 of this Act shall apply *mutatis mutandis*; the judge shall be bound to review on a monthly basis whether the grounds for detention still exist.

(4) Če je obdolženec v priporu, mora sodišče postopati posebno hitro.

433. člen

Če poda kazensko ovadbo oškodovanec, pa državni tožilec v enem mesecu po prejemu ovadbe ne vloži obtožnega predloga in tudi ne obvesti oškodovanca, da je zavrgel ovadbo oziroma odložil kazenski pregon (162. člen), ima oškodovanec pravico, da kot tožilec začne pregon s tem, da poda sodišču obtožni predlog.

434. člen

(1) Obtožni predlog oziroma zasebna tožba mora obsegati: ime in priimek obdolženca, z osebnimi podatki, če so znani, opis kaznivega dejanja in njegovo zakonsko označbo, sodišče, pred katerim naj se opravi glavna obravnava, predlog, kateri dokazi naj se izvedejo na glavni obravnavi, predlog, da se obdolženec spozna za krivega in obsodi po zakonu ter obrazložitev. V obrazložitvi se navede katera dejstva in dokazi utemeljujejo sum, da je obdolženec storil kaznivo dejanje, ki je predmet obtožbe oziroma zasebne tožbe.

(2) V obtožnem predlogu se sme predlagati, da se obdolženec pripre. Če je obdolženec že v priporu ali če je bil med preiskovalnimi dejanji v priporu, je treba v obtožnem predlogu navesti, koliko časa je bil priprt.

(3) Za podajo predloga o vrsti in višini kazni oziroma drugi kazenski sankciji v obtožnem predlogu državnega tožilca se smiselno uporablja določba drugega odstavka 269. člena tega zakona.

435. člen

(4) If the accused person is in detention, the court shall proceed as expeditiously as possible.

Article 433

If the criminal complaint is filed by the injured party and the state prosecutor fails, within a period of one month of receipt of the criminal complaint, to file a motion of indictment and notify the injured party of the dismissal of the complaint or of deferral of prosecution (Article 162), the injured party shall be entitled to assume the prosecution as subsidiary prosecutor by filing a motion of indictment before the court.

Article 434

(1) The motion of indictment or the private action must contain the full name of the accused person including his or her personal data if known, the description of the criminal offence and its statutory designation, the court before which the main hearing is to be held, the motion as to which evidence is to be presented at the main hearing, the motion that the accused person be found guilty and sentenced in accordance with an Act and the statement of grounds. The statement of grounds shall indicate the facts and evidence justifying the suspicion that the accused person committed the criminal offence which is the subject of the indictment or private action.

(2) The motion of indictment may contain a motion to order detention against the accused person. If the accused person is already in detention or if he or she has been in detention during the investigative acts, the motion of indictment shall indicate the period of his or her detention.

(3) The provision of paragraph two of Article 269 of this Act shall apply *mutatis mutandis* to the lodging of a motion on the type and length of sentence or some other criminal sanction in the state prosecutor's motion of indictment.

Article 435

(1) Ko sodišče prejme obtožni predlog ali zasebno tožbo, preizkusi sodnik najprej ali je sodišče pristojno in ali so dani pogoji, da se obtožni predlog oziroma zasebna tožba zavrže.

(2) Če sodnik sam ali na predlog strank ugotovi, da so v spisih zapisniki ali obvestila iz 83. člena tega zakona, izda sklep o njihovi izločitvi, o pritožbi zoper tak sklep odloča sodišče druge stopnje, ki sme glede na vsebino izločenega dokaza odrediti, da se glavna obravnava opravi pred drugim sodnikom.

(3) Če sodnik ne izda nobenega od sklepov iz prejšnjih odstavkov, odredi vročitev obtožnega akta obdolžencu, ga pisno pouči o možnosti priznanja krivde za kaznivo dejanje po obtožbi in posledicah (5. točka tretjega odstavka 285.a člena) in takoj razpiše glavno obravnavo. Če v enem mesecu ne določi glavne obravnave, obvesti o razlogih za to predsednika sodišča. Predsednik sodišča ukrene, kar je potrebno, da se glavna obravnava čim prej določi.

(4) Če sodnik oceni, da bi bilo za hitrejši potek kazenskega postopka pred razpisom glavne obravnave smotrno opraviti predobravnavni narok, se smiselno uporabljajo določbe XIX.a poglavja tega zakona.

436. člen

(1) Če sodnik spozna, da je za sojenje krajevno pristojno drugo okrajno sodišče, odstopi po pravnomočnosti sklepa zadevo temu sodišču. Če pa spozna, da je za sojenje stvarno pristojno okrožno sodišče, odstopi zadevo v nadaljnji postopek pristojnemu državnemu tožilcu. Če državni tožilec misli, da je za sojenje stvarno pristojno sodišče, ki mu je poslalo zahtevo, zahteva odločitev senata okrožnega sodišča (šesti odstavek 25. člena).

(2) Ko je razpisana glavna obravnava, se sodišče po uradni

(1) Upon receiving a motion of indictment or a private action, the judge shall first examine whether the court has jurisdiction and whether the grounds to dismiss the motion of indictment or the private action exist.

(2) If the judge establishes on his or her own or on the motion of a party that the files contain records or notifications referred to in Article 83 of this Act, he or she shall issue a ruling on their exclusion, and any appeal against such decision shall be decided by the court of second instance which may, depending on the content of the excluded evidence, order that the main hearing be held before another judge.

(3) If the judge does not issue any of the rulings referred to in the preceding paragraphs, he or she shall order that the indictment be served on the accused person, and shall inform him or her in writing of the option of pleading guilty to the criminal offence under the indictment and of its consequences (point 5 of paragraph three of Article 285a), and shall schedule the main hearing immediately. If the judge fails to schedule the main hearing within a month, he or she shall notify the president of the court of the reasons for this. The president of the court shall take the necessary steps to schedule the main hearing as soon as possible.

(4) Should a judge assess that in order to accelerate the course of criminal proceedings, a pre-trial hearing should be held before scheduling the main hearing, the provisions of Chapter XIXa of this Act shall apply *mutatis mutandis*.

Article 436

(1) If the judge establishes that the case falls within the territorial jurisdiction of another local court, he or she shall refer the case to that court after the ruling has become final. If the judge establishes that the case falls within the subject-matter jurisdiction of the district court, he or she shall refer the case to the competent state prosecutor for further proceedings. If the state prosecutor considers that the court which submitted the request for referral of the case has subject-matter jurisdiction for the trial, he or she shall request that the matter be decided by the district court panel (paragraph six of Article 25).

(2) After the main hearing is scheduled, the court may no longer

dolžnosti ne more več izreči za krajevno nepristojno.

437. člen

(1) Sodnik z obrazloženim sklepom zavrže obtožni predlog ali zasebno tožbo, če spozna, da je podan kakšen od razlogov za ustavitev postopka, ki so določeni v 277. členu tega zakona.

(2) Sklep se vroči tožilcu in obdolžencu.

438. člen
(črtan)

439. člen

(1) Sodnik povabi na glavno obravnavo obdolženca in njegovega zagovornika, tožilca, oškodovanca in njihove zakonske zastopnike in pooblaščence, priče, izvedence in tolmača; po potrebi pa preskrbi tudi predmete, ki naj se uporabijo kot dokaz na glavni obravnavi.

(2) Obdolžencu se v vabilu sporoči, da sme na glavno obravnavo priti z dokazi za svojo obrambo ali da lahko dokaze pravočasno sporoči sodišču, da bi se mogli preskrbeti za glavno obravnavo. Obdolžencu se z vabilom vred vroči tudi prepis obtožnega predloga oziroma zasebne tožbe, če mu obtožni akt ni bil poslan takoj po preizkusu (drugi odstavek 435. člena) in se pouči, da ima pravico vzeti si zagovornika, da pa, če obramba ni obvezna, glavna obravnava ne bo preložena, če zagovornik nanjo ne bi prišel ali če bi si obdolženec šele na njej vzel zagovornika.

(3) Vabilo se vroči obdolžencu tako, da mu ostane med vročitvijo vabila in glavno obravnavo zadosti časa za pripravo obrambe, najmanj pa trije dnevi. Z obdolženčevo privolitvijo se sme ta

declare *ex officio* that it lacks territorial jurisdiction.

Article 437

(1) The judge shall dismiss a motion of indictment or a private action by a reasoned ruling if he or she establishes that any of the reasons to discontinue the proceedings referred to in Article 277 of this Act exists.

(2) The decision shall be served on the prosecutor and the accused person.

Article 438
(Deleted)

Article 439

(1) The judge shall summon to the main hearing the accused person and his or her defence counsel, the prosecutor, the injured party and their legal representatives and counsels, witnesses, expert witnesses and the interpreter; the judge may, if necessary, obtain objects to be used as evidence in the main hearing.

(2) The accused person shall be informed in the summons that he or she may appear at the main hearing with evidence for his or her defence, or that he or she may propose evidence to the court in good time so that it can be obtained for the main hearing. Together with the summons, the accused person shall also be served with a copy of the motion of indictment or private action if the motion of indictment was not served on him or her immediately after the examination (paragraph two of Article 435); the accused person shall also be informed that he or she is entitled to retain a defence counsel and that unless defence is mandatory, the main hearing shall not be postponed if the defence counsel fails to appear or if the accused person retains a defence counsel only at the hearing.

(3) The summons shall be served on the accused person so as to leave him or her sufficient time between the service of the summons and the main hearing to prepare his or her defence, which may not be less

rok skrajšati.

440. člen

Glavna obravnava se opravi v kraju sodišča. V nujnih primerih, zlasti če je treba opraviti ogled ali če je to koristno za lažjo izvedbo dokaznega postopka, se sme z dovoljenjem predsednika sodišča odrediti glavna obravnava tudi v kraju, kjer je bilo kaznivo dejanje storjeno ali kjer naj se opravi ogled, če je ta kraj na območju tega sodišča.

441. člen

Ugovor krajevne nepristojnosti se sme podati le do začetka glavne obravnave.

442. člen

(1) Če obdolženec ne pride na glavno obravnavo kljub temu, da je bil v redu povabljen, sme sodnik odločiti, da se opravi glavna obravnava tudi v njegovi nenavzočnosti, s pogojem, da njegova navzočnost ni nujna in da je bil pred tem že zaslišan.

(2) Če na glavno obravnavo ne pride zagovornik, ki je bil v redu povabljen in ne obvesti sodišča, zakaj je zadržan, brž ko za to zve, ali če brez dovoljenja zapusti obravnavo ali če mu sodnik odreče nadaljnjo obrambo zaradi motenja reda, obramba pa ni obvezna, se glavna obravnava, če si obdolženec ne vzame takoj drugega zagovornika, opravi v nenavzočnosti zagovornika.

442.a člen

(1) Sodnik lahko odloči, da se bo zapisnik o glavni

than three days. This period of time may be shortened subject to the accused person's consent.

Article 440

The main hearing shall be held in the place where the court is based. In urgent cases, particularly where an inspection of the scene of the crime should be carried out, or if this is useful to facilitate the presentation of evidence, the main hearing may, subject to the approval of the president of the court, also be held at the place of the commission of the criminal offence or at the place where the inspection of the crime scene is to be carried out, provided that such place is within the jurisdictional territory of this court.

Article 441

The objection of lack of territorial jurisdiction may only be submitted before the opening of the main hearing.

Article 442

(1) If the accused person fails to appear at the main hearing despite being duly summoned, the judge may decide that the main hearing be held in his or her absence, provided that his or her presence is not necessary and that he or she has already been interrogated.

(2) If a duly summoned defence counsel fails to appear at the main hearing and does not notify the court of the reasons for his or her absence as soon as he or she becomes aware of such reasons, or if he or she leaves the main hearing without permission, or if the judge denies his or her further conduct of defence for disturbing order provided the defence is not mandatory, the main hearing shall be held in the absence of the defence counsel unless the accused person retains another defence counsel immediately.

Article 442a

(1) A judge may decide that the record of the main hearing shall

obravnavi vodil tako, da ga bo sam glasno narekoval v napravo za zvočno snemanje.

(2) V primeru iz prejšnjega odstavka se v pisno izdelanem zapisniku navedejo le podatki iz prvega odstavka 316. člena in 317. člena tega zakona ter sklep sodnika o drugačnem vodenju zapisnika.

(3) Za zvočno snemanje nareka zapisnika o glavni obravnavi se smiselno uporabijo določbe 84. člena tega zakona. Prepisi zvočnega zapisa zapisnika o glavni obravnavi morajo biti izdelani v treh dneh po razglasitvi sodbe, s katero je bil obdolženec obsojen na zaporno kazen, v drugih primerih pa v treh dneh po napovedi pritožbe. Če pritožba ni bila napovedana, se prepisi ne izdelajo.

(4) Če je bila glavna obravnava preložena za več kot en mesec, morajo biti v vsakem primeru izdelani prepisi zvočnega zapisa zapisnika o glavni obravnavi. Prepisi se lahko izdelajo tudi na zahtevo stranke ali če sodnik sam tako odredi.

443. člen

(1) Glavna obravnava se začne s predstavitvijo obtožnega predloga ali zasebne tožbe, ki jo prebere tožilec. Začeta glavna obravnava se dokonča, če je mogoče, brez prekinitve.

(2) Po končani glavni obravnavi sodnik takoj izreče sodbo in jo razglasi z bistvenimi razlogi.

(3) Določbe 361. člena tega zakona se uporabljajo smiselno tudi glede odprave pripora potem, ko je izrečena sodba.

(4) Če izreče sodnik v sodbi kazen zapora, sme odrediti, da se obdolženec pripre oziroma da ostane v priporu, če so dani razlogi iz prvega odstavka 432. člena tega zakona. Pripor sme trajati v takem

be kept by his or her dictating it out loud into an audio recording device.

(2) In the case referred to in the preceding paragraph, the record drawn-up in writing shall only contain the information referred to in paragraph one of Article 316 and Article 317 of this Act and the ruling of the judge on such a method of keeping the record.

(3) The provisions of Article 84 of this Act shall apply *mutatis mutandis* to audio recording of the dictated record of the main hearing. The transcript of the audio recording of the dictated record of the main hearing must be made within three days of the proclamation of the judgment by which the accused person was sentenced to imprisonment, and in other cases within three days of his or her stating the intention to file an appeal. If the intention to file the appeal is not stated in advance, transcripts shall not be made.

(4) If the main hearing is postponed by more than one month, transcripts of the audio recording of the record of the main hearing must in any case be made. Transcripts may also be made upon a request of the party or if so ordered by the judge.

Article 443

(1) The main hearing shall commence with the presentation of the motion of indictment or with the reading of a private action by the prosecutor. The commenced main hearing shall be completed without interruptions wherever possible.

(2) After the completed main hearing, the judge shall pronounce the judgment immediately and proclaim it together with the substantive reasons.

(3) The provisions of Article 361 of this Act shall apply *mutatis mutandis* to the lifting of detention after the judgment has been pronounced.

(4) If a sentence of imprisonment has been imposed, the judge may order that the accused person be detained or that he or she remains in detention if the grounds referred to in paragraph one of Article 432 of

primeru do pravnomočnosti sodbe oziroma do nastopa kazni, vendar največ dotlej, dokler obdolžencu ne izteče kazen, ki jo je izreklo sodišče prve stopnje.

(5) Če sodnik med ali po končani glavni obravnavi spozna, da je za sojenje stvarno pristojno okrožno sodišče ali da je podan primer iz prvega odstavka 352. člena tega zakona, zavrže s sklepom obtožni akt.

443.a člen

(1) Sodnik lahko največ za šest mesecev prekine glavno obravnavo, če državni tožilec napove, da bo zadevo odstopil v poravnavanje (161.a člen).

(2) Ko državni tožilec prejme obvestilo o izpolnitvi sporazuma, obtožni predlog umakne. Če državni tožilec v določenem roku obtožnega predloga ne umakne, sodnik nadaljuje glavno obravnavo na podlagi prejšnje.

444. člen

(1) Preden je razpisana glavna obravnava za kaznivo dejanje iz pristojnosti sodnika posameznika, za katero se storilec preganja na zasebno tožbo, lahko sodnik povabi zasebnega tožilca in obdolženca, naj prideta določenega dne sama na sodišče, da se vnaprej razjasni stvar, če misli, da bi bilo to smotrno za hitrejši konec postopka. Obdolžencu se vroči z vabilom tudi prepis zasebne tožbe.

(2) Če ne pride do poravnave strank in umika zasebne tožbe, sprejme sodnik izjave strank in jima naroči, naj predlagata dokaze, ki naj se preskrbijo.

(3) Če sodnik ne zavrže tožbe, ker je spoznal, da za to niso podani pogoji, odloči o tem, kateri dokazi naj se izvedejo na glavni obravnavi, in praviloma takoj razpiše glavno obravnavo ter to sporoči

this Act exist. In such case, the detention may last until the judgment becomes final, or until the commencement of the term of punishment, but not beyond the expiry of the sentence imposed on the accused person by the court of first instance.

(5) If during or after the main hearing the judge establishes that the case tried falls within the subject-matter jurisdiction of the district court, or that the grounds referred to in paragraph one of Article 352 of this Act exist, he or she shall dismiss the motion of indictment by a ruling.

Article 443a

(1) The judge may suspend the main hearing for a maximum of six months if the state prosecutor states his or her intention to refer the case to a settlement procedure (Article 161a).

(2) When the state prosecutor receives notification of the fulfilment of the settlement agreement, he or she shall withdraw the motion of indictment. If the state prosecutor has not withdrawn the motion of indictment within a specified time limit, the judge shall continue the main hearing on the basis of the previous one.

Article 444

(1) Before scheduling the main hearing for a criminal offence that falls within the jurisdiction of a single judge and is prosecuted upon a private action, the judge may summon the private prosecutor and the accused person to appear at court on a specific day alone to clarify the issue in advance, if he or she considers that such a move would expedite the proceedings. The accused person shall be served with a copy of the private action together with the summons.

(2) If the parties fail to reach a settlement and the private action is not withdrawn, the judge shall take down the statements of the parties and order them to propose evidence that should be obtained.

(3) If the judge does not dismiss the action because he or she has established that the necessary reasons do not exist, he or she shall determine which evidence should be taken at the main hearing and shall,

strankama.

(4) Če sodnik misli, da ni treba zbirati dokazov in da tudi ni drugih razlogov, da se posebej razpiše glavna obravnava, lahko takoj začne glavno obravnavo in po izvedbi dokazov, ki so pred sodiščem, odloči o zasebni tožbi. Na to je treba zasebnega tožilca in obdolženca v vabilu posebej opozoriti.

(5) Če zasebni tožilec na vabilo iz prvega odstavka tega člena ne pride, velja 58. člen tega zakona.

445. člen

Kadar odloča sodišče druge stopnje o pritožbi zoper sodbo, ki jo je izdalo sodišče prve stopnje po skrajšanem postopku, obvesti stranki o seji svojega senata samo, če predsednik senata ali senat spozna, da bi bila navzočnost strank koristna za razjasnitev stvari.

XXV.a poglavje
POSTOPEK ZA IZDAJO KAZNOVALNEGA NALOGA

445.a člen

(1) Za kazniva dejanja iz pristojnosti okrajnega sodišča sme državni tožilec ob vložitvi obtožnega predloga predlagati, da sodišče izda kaznovalni nalog, s katerim obdolžencu izreče predlagano kazensko sankcijo ali ukrep, ne da bi opravilo glavno obravnavo.

(2) Državni tožilec sme predlagati izrek naslednjih kazenskih sankcij in ukrepov:
1) denarno kazen, prepoved vožnje motornega vozila, pogojno obsodbo z možnostjo določitve pogoja, v skladu s katerim mora obdolženec v določenem roku vrniti premoženjsko korist, do

as a rule, schedule the main hearing immediately and notify the parties thereof.

(4) If the judge considers that there is no need to collect evidence and that no other reasons exist for scheduling the main hearing separately, he or she may commence the main hearing immediately and, after the presentation of evidence before the court, decide on the private action. The private prosecutor and the accused person shall be specifically informed of this in the summons.

(5) If the private prosecutor fails to appear after being duly summoned as referred to in paragraph one of this Article, the provisions of Article 58 of this Act shall apply.

Article 445

If the court of second instance decides on an appeal against the judgment rendered in summary proceedings by the court of first instance, it shall only notify the parties of the session of its panel if the president of the panel or the panel establishes that the presence of the parties would be useful for the clarification of the case.

XXVa
PROCEDURE FOR ISSUING A PUNITIVE ORDER

Article 445a

(1) Where criminal offences falling within the jurisdiction of a local court are involved, the state prosecutor may, when filing the motion of indictment, propose that the court issue a punitive order imposing the proposed criminal sanction or measure on the accused person without holding the main hearing.

(2) The state prosecutor may request the imposition of the following criminal sanctions and measures:
1) a fine, prohibition from driving a motor vehicle, a suspended sentence with the possibility of specifying the condition under which the accused person must, within a specified period, recover the proceeds or

katere je prišel s kaznivim dejanjem ali povrniti škodo, ki jo je povzročil s kaznivim dejanjem, pogojno obsodbo z varstvenim nadzorstvom ali sodni opomin;

2) odvzem predmetov in odvzem premoženjske koristi, pridobljene s kaznivim dejanjem.

reimburse the damage caused by the criminal offence, a suspended sentence with custodial supervision or a judicial admonition;

2) the seizure of objects and the confiscation of proceeds gained through a criminal offence.

445.b člen

Če sodnik meni, da vsebina dokazov, ki so predlagani v obtožnem predlogu, ne daje zadostne podlage za izdajo kaznovalnega naloga, ali če se ne strinja z izrekom sankcije, ki jo je predlagal državni tožilec, določi glavno obravnavo in nanjo povabi osebe iz prvega odstavka 439. člena tega zakona. V takem primeru se obdolžencu vroči le prepis obtožnega predloga brez predloga za izdajo kaznovalnega naloga.

Article 445b

If the judge considers that the evidence proposed in the motion of indictment does not provide sufficient grounds for the issuing of a punitive order or disagrees with the imposition of the sanction proposed by the state prosecutor, he or she shall schedule the main hearing and summon to it the persons referred to in paragraph one of Article 439 of this Act. In such case, only a copy of the motion of indictment shall be served on the accused person without the motion to issue a punitive order.

445.c člen

(1) Če se s predlogom strinja, sodnik s sodbo izda kaznovalni nalog.

(2) V kaznovalnem nalogu sodnik navede, da se predlogu državnega tožilca ugodi in se obdolžencu, katerega osebni podatki morajo biti navedeni, izreka kazenska sankcija ali ukrep iz predloga. Izrek sodbe o izdaji kaznovalnega naloga obsega potrebne podatke iz prvega in drugega odstavka 359. člena tega zakona. V obrazložitvi sodbe se navedejo le dokazi iz obtožnega predloga, katerih vsebina opravičuje izdajo kaznovalnega naloga.

(3) Kaznovalni nalog mora vsebovati tudi pouk obdolžencu o pravici do ugovora iz drugega odstavka 445.č člena tega zakona in da bo po izteku roka za ugovor, če ta ne bo vložen, kaznovalni nalog postal pravnomočen in da bo izrečena kazenska sankcija oziroma ukrep izvršen.

Article 445c

(1) If the judge agrees with the motion, he or she shall issue a punitive order by way of a judgment.

(2) In the punitive order the judge shall state that the motion of the state prosecutor is granted and that the criminal sanction or measure from the motion shall be imposed on the accused person whose personal data must be clearly indicated. The operative part of the judgment on the issuing of a punitive order shall contain the necessary data referred to in paragraphs one and two of Article 359 of this Act. The statement of reasons for the judgment shall only indicate the evidence from the motion of indictment whose content justifies the issuing of the punitive order.

(3) The punitive order must also contain instructions to the accused person as to his or her right to lodge an objection referred to in paragraph two of Article 445č of this Act, and a warning that unless the objection is lodged within a specified period of time, the punitive order will, upon the expiry of that period, become final and the imposed criminal sanction or measure will be executed.

445.č člen

Article 445č

(1) Overjeni prepis sodbe o kaznovalnem nalogu se vroči obdolžencu in njegovemu zagovorniku, če ga ima, ter državnemu tožilcu.

(2) Zoper kaznovalni nalog lahko obdolženec ali njegov zagovornik vložita ugovor v osmih dneh od vročitve sodbe o kaznovalnem nalogu. Ugovor se lahko vloži pisno ali ustno na zapisnik pri sodišču. Ugovor mora obsegati navedbo sodbe, s katero je bil izdan kaznovalni nalog, lahko pa se v njem predlagajo tudi dokazi, ki naj se izvedejo na glavni obravnavi. Obdolženec se lahko odpove pravici do ugovora; do izdaje sklepa o razveljavitvi sodbe o kaznovalnem nalogu, pa lahko umakne že vloženi ugovor. Odpoved ugovoru in umik ugovora se ne moreta preklicati. Plačilo denarne kazni pred iztekom roka za ugovor se ne šteje za odpoved pravici do ugovora.

(3) Obdolžencu, ki iz upravičenih razlogov zamudi rok za ugovor, dovoli sodišče vrnitev v prejšnje stanje ob smiselni uporabi določb 89. in 90. člena tega zakona.

(4) Če sodnik ob smiselni uporabi določb drugega odstavka 375. člena tega zakona ugovora ne zavrže, s sklepom razveljavi sodbo o kaznovalnem nalogu in nadaljuje postopek po določbah 439. do 443.a člena tega zakona.

445.d člen

Pri izrekanju sodbe po vloženem ugovoru sodišče ni vezano na predlog državnega tožilca iz drugega odstavka 445.a člena in na prepoved iz 385. člena tega zakona.

445.e člen

V postopku za izdajo kaznovalnega naloga se uporabljajo

(1) A certified copy of the judgment on the punitive order shall be served on the accused person, his or her defence counsel, if any, and the state prosecutor.

(2) The accused person or his or her defence counsel may, within eight days of the service of the judgment on the punitive order, lodge an objection against the punitive order. The objection may be filed in writing or orally on the record with the court. The objection shall contain an indication of the judgment by which the punitive order was issued and may also propose evidence to be presented at the main hearing. The accused person may waive his or her right to submit an objection and may withdraw the already submitted objection before the issuing of the ruling on the setting aside of the judgment on the punitive order. The waiver of the right to an objection and the withdrawal of the objection may not be revoked. The payment of the fine before the expiry of the time limit set for the submission of the objection shall not be considered as a waiver of the right to an objection.

(3) An accused person who for justifiable reasons fails to file an objection within the set time limit, shall be granted *restitutio ad integrum* by the court by *mutatis mutandis* application of the provisions of Articles 89 and 90 of this Act.

(4) If the judge, in *mutatis mutandis* application of the provisions of paragraph two of Article 375 of this Act, does not dismiss the objection, he or she shall set aside the judgment on the punitive order and proceed in accordance with the provisions of Articles 439 to 443a of this Act.

Article 445d

In rendering the judgment on the submitted objection, the court shall not be bound by the motion of the state prosecutor referred to in paragraph two of Article 445a nor by the prohibition referred to in Article 385 of this Act.

Article 445e

The provisions of Article 445a to 445d of this Act shall apply to

določbe 445.a do 445.d člena tega zakona, za vprašanja, ki niso urejena v teh določbah, pa smiselno druge določbe tega zakona.

XXVI. poglavje
POSEBNE DOLOČBE O IZREKANJU SODNEGA OPOMINA

446. člen

(1) Sodni opomin se izreče s sklepom.

(2) Če ni v tem poglavju določeno kaj drugega, se uporabljajo tiste določbe tega zakona, ki se nanašajo na sodbo, s katero je obdolženec spoznan za krivega, smiselno tudi za sklep o sodnem opominu.

447. člen

(1) Sklep o sodnem opominu se razglasi takoj po končani glavni obravnavi z bistvenimi razlogi. Glede dolžnosti napovedi pritožbe se smiselno uporabljajo določbe 368. člena tega zakona.

(2) V izreku sklepa o sodnem opominu navede sodišče poleg osebnih podatkov o obdolžencu samo, da se obdolžencu izreka sodni opomin za dejanje, ki je predmet obtožbe in zakonsko označbo kaznivega dejanja. Izrek sklepa o sodnem opominu mora obsegati tudi potrebne podatke iz 5. in 7. točke prvega odstavka 359. člena tega zakona.

(3) V obrazložitvi sklepa navede sodišče razloge, po katerih se je ravnalo pri izreku sodnega opomina.

448. člen

(1) Sklep o sodnem opominu se sme izpodbijati iz

proceedings for the issuing of a punitive order, while other provisions of this Act shall apply *mutatis mutandis* to the issues not regulated by those provisions.

Chapter XXVI
SPECIAL PROVISIONS ON ISSUING JUDICIAL ADMONITION

Article 446

(1) A judicial admonition shall be imposed by a ruling.

(2) Unless provided otherwise in this Chapter, the provisions of this Act relating to the judgment of conviction shall apply *mutatis mutandis* to the ruling on a judicial admonition.

Article 447

(1) The ruling on a judicial admonition shall be proclaimed immediately upon the conclusion of the main hearing, together with the substantive reasons. The provisions of Article 368 of this Act shall apply *mutatis mutandis* to the obligation of stating the intention to appeal in advance.

(2) In the operative part of the ruling on a judicial admonition the court shall only state, in addition to the personal data of the accused person, that the judicial admonition is issued to the accused person for the offence which is the subject of the charge, and the statutory designation of the criminal offence. The operative part of the ruling on a judicial admonition must also contain the necessary data referred to in points 5 and 7 of paragraph one of Article 359 of this Act.

(3) In the statement of reasons for the ruling, the court shall state the reasons that guided it in issuing the judicial admonition.

Article 448

(1) The ruling on a judicial admonition may be challenged for the

razlogov, ki so našteti v 1., 2. in 3. točki 370. člena tega zakona in zaradi tega, ker niso bile podane okoliščine, ki bi bile opravičevale izrek sodnega opomina.

(2) Če obsega sklep o sodnem opominu odločbo o varnostnih ukrepih, o odvzemu premoženjske koristi, o stroških kazenskega postopka ali o premoženjskopravnem zahtevku, se sme izpodbijati taka odločba iz razloga, da sodišče ni pravilno uporabilo varnostnega ukrepa ali odvzema premoženjske koristi oziroma da je odločilo o stroških kazenskega postopka ali o premoženjskopravnem zahtevku v nasprotju z določbami zakona.

449. člen

Poleg kršitev, ki so navedene v 1. do 4. točki 372. člena tega zakona, je podana kršitev kazenskega zakona tudi v primeru, ko se izreče sodni opomin, če je sodišče z odločbo o sodnem opominu, o varnostnem ukrepu ali o odvzemu premoženjske koristi prekoračilo pravice, ki jih ima po zakonu.

450. člen

(1) Če se je zoper sklep o sodnem opominu pritožil tožilec v obdolženčevo škodo, sme sodišče druge stopnje izreči sodbo, s katero spozna obdolženca za krivega in ga obsodi na kazen ali s katero izreče pogojno obsodbo, če spozna, da je sodišče prve stopnje pravilno ugotovilo odločilna dejstva, da pa prihaja ob pravilni uporabi zakona v poštev izrek kazni.

(2) Na čigarkoli pritožbo zoper sklep o sodnem opominu sme sodišče druge stopnje izdati sklep o zavrženju obtožnice oziroma obtožnega predloga ali izdati sodbo, s katero zavrne obtožbo ali obdolženca oprosti obtožbe, če spozna, da je sodišče prve stopnje pravilno ugotovilo odločilna dejstva, da pa prihaja ob pravilni uporabi zakona v poštev ena od teh odločb.

(3) Kadar so podani pogoji iz 391. člena tega zakona, izda sodišče druge stopnje sklep, s katerim zavrne pritožbo kot

reasons referred to in points 1, 2 and 3 of Article 370 of this Act, and also because the circumstances which justify the issuing of a judicial admonition did not exist.

(2) If the ruling on a judicial admonition contains a decision on precautionary measures, the confiscation of proceeds, the costs of criminal proceedings or a pecuniary claim, such decision may be challenged on the grounds that the court did not correctly apply the precautionary measure or the confiscation of proceeds, or that its decision on the costs of criminal proceedings or the pecuniary claim was rendered in contravention of the statutory provisions.

Article 449

In addition to the violations referred to in point 1 to 4 of Article 372 of this Act, a violation of criminal law shall also be deemed to exist where the court exceeds its statutory powers by its decision on a judicial admonition, a precautionary measure or the confiscation of proceeds.

Article 450

(1) If an appeal against the ruling on a judicial admonition is lodged by the prosecutor to the prejudice of the accused person, the court of second instance may render a judgment of conviction and impose a punishment or a suspended sentence, if it establishes that the court of first instance correctly determined the relevant facts, but that upon the correct application of an Act punishment should have been imposed.

(2) The court of second instance may respond to any appeal against the ruling on a judicial admonition by rendering a ruling dismissing the indictment or the motion of indictment, or by rendering a judgment rejecting the charge or acquitting the accused person of the charge, if it establishes that the court of first instance correctly determined the relevant facts, but that upon the correct application of an Act one of the aforesaid decisions should have been issued.

(3) When the conditions referred to in Article 391 of this Act exist, the court of second instance shall render a ruling rejecting the

neutemeljeno in potrdi sklep sodišča prve stopnje o sodnem opominu.

XXVI.a poglavje
SPORAZUM O PRIZNANJU KRIVDE

450.a člen

(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.

(2) Če stranki soglašata z možnostjo, da se kazenski postopek konča na podlagi sporazuma o priznanju krivde, osumljenec oziroma obdolženec pa nima zagovornika, mu predsednik sodišča na predlog državnega tožilca za postopek pogajanj postavi zagovornika po uradni dolžnosti. V primeru sklenitve sporazuma opravlja postavljeni zagovornik to dolžnost do pravnomočno končanega kazenskega postopka, sicer pa se ga razreši, ko državni tožilec obvesti predsednika sodišča, da postopek pogajanj ni bil uspešen. Nagrada in potrebni izdatki postavljenega zagovornika za postopek pogajanj so stroški kazenskega postopka, o njihovem začasnem vnaprejšnjem izplačilu na podlagi tretjega odstavka 92. člena tega zakona odloča sodišče.

(3) Če je podan predlog po prvem odstavku tega člena, se stranki lahko pogajata o pogojih priznanja krivde za kaznivo dejanje, za katero se vodi predkazenski oziroma kazenski postopek zoper

appeal as unfounded and uphold the ruling on a judicial admonition of the court of first instance.

Chapter XXVIa
GUILTY PLEA AGREEMENT

Article 450a

(1) In criminal proceedings, the accused person, the defence counsel and the state prosecutor may propose to the opposing party a guilty plea agreement with the accused person for the criminal offence committed. The state prosecutor may propose the conclusion of such an agreement even before the commencement of the criminal proceedings, if a reasonable suspicion exists that the suspect has committed the criminal offence that will be the subject of the proceedings. In this case, the state prosecutor who proposes the conclusion of such an agreement must inform the suspect in writing of the description and the legal qualification of the criminal offence which is the subject of the proposed agreement. If the suspect has not yet been interrogated, the state prosecutor must inform him or her about his or her rights referred to in paragraph four of Article 148 of this Act.

(2) If the parties agree with the alternative of concluding the criminal proceedings on the basis of a guilty plea agreement and the suspect or the accused person does not have a defence counsel, the president of the court shall appoint one to him or her *ex officio* for the negotiation procedure on the proposal of the state prosecutor. If the agreement is concluded, the appointed defence counsel shall perform this duty until the final conclusion of the criminal proceedings; otherwise, he or she shall be relieved of such duty when the state prosecutor notifies the president of the court that the negotiation procedure was not successful. The remuneration and the necessary expenses of the defence counsel appointed for the negotiation procedure shall constitute the costs of the criminal proceedings and the court shall decide on their provisional advance payment pursuant to paragraph three of Article 92 of this Act.

(3) If the proposal referred to in paragraph one of this Article is made, the parties may negotiate the conditions for the guilty plea for the criminal offence which is the subject of the pre-trial or criminal proceedings

osumljenca oziroma obdolženca ter o vsebini sporazuma. Državni tožilec se sme pogajati tudi samo z zagovornikom, če osumljenec oziroma obdolženec s tem soglaša.

(4) Sporazum o priznanju krivde mora biti sklenjen v pisni obliki in ga podpišeta stranki in zagovornik. Kaznivo dejanje, za katero je sklenjen sporazum, mora biti opisano na način, kot se zahteva za opis dejanja v obtožnici (2. točka prvega odstavka 269. člena). Sporazum se priloži k vloženi obtožnici oziroma obtožnemu predlogu; če pride do sklenitve sporazuma kasneje, ga mora državni tožilec predložiti sodišču takoj, vendar najpozneje do začetka glavne obravnave.

(5) Če do sklenitve sporazuma ne pride, se iz spisa izločijo vse listine, ki se nanašajo na postopek pogajanj.

450.b člen

(1) S sporazumom, s katerim obdolženec prizna krivdo za vsa ali nekatera kazniva dejanja, ki so predmet obtožbe, se obdolženec in državni tožilec lahko dogovorita:

1. o kazni oziroma opozorilni sankciji in o načinu izvršitve kazni;
2. o odstopu državnega tožilca od kazenskega pregona, za kazniva dejanja obdolženca, ki niso zajeta s priznanjem;
3. o stroških kazenskega postopka;
4. o izpolnitvi kakšne druge naloge.

(2) Predmet sporazuma o priznanju krivde ne morejo biti pravna opredelitev kaznivega dejanja, varnostni ukrepi, kadar so obvezni ter odvzem s kaznivim dejanjem pridobljene premoženjske koristi, razen način odvzema.

(3) O tem, kar ni ali ne sme biti predmet sporazuma, odloči sodišče na naroku iz 285.č člena tega zakona.

conducted against the suspect or the accused person, and the content of the agreement. The state prosecutor may also negotiate with the defence counsel alone subject to the consent of the suspect or the accused person.

(4) The guilty plea agreement must be concluded in writing and signed by the parties and the defence counsel. The criminal offence which is the subject of the concluded guilty plea agreement must be described in the manner as required for the description of the offence in the indictment (point 2 of paragraph one of Article 269). The agreement shall be enclosed with the lodged indictment or the motion of indictment; if the agreement is concluded subsequently, the state prosecutor shall be bound to submit it to the court immediately, but in any case not later than before the beginning of the main hearing.

(5) If an agreement is not concluded, all documents referring to the negotiation procedure shall be removed from the file.

Article 450b

(1) In an agreement whereby the accused person pleads guilty to all or some of the criminal offences charged, the accused person and the state prosecutor may agree on:

1. the punishment or the admonitory sanction and the method of enforcing the punishment;
2. the state prosecutor's relinquishing of criminal prosecution of the criminal offences committed by the accused person that are not covered by the guilty plea;
3. the costs of criminal proceedings;
4. the fulfilment of some other task.

(2) The subject of the guilty plea agreement may not be the legal qualification of a criminal offence, precautionary measures where they are mandatory and the seizure of the proceeds gained through a criminal offence, with the exception of the method of seizure.

(3) The court shall decide on what is not or may not be the subject of a guilty plea agreement at the hearing referred to in Article 285č of this Act.

450.c člen

(1) Sporazum o kazni vsebuje vrsto in višino oziroma čas trajanja kazni, ki naj se izreče obdolžencu za storjeno kaznivo dejanje. Dogovorjena kazen mora biti v mejah predpisane kazni; izrek omiljene kazni in način izvršitve kazni se sme v sporazumu predlagati le ob pogojih in v mejah, ki so predpisani v kazenskem zakonu.

(2) Če so podani zakonski pogoji, se stranki lahko dogovorita, da se obdolžencu namesto kazni izreče opozorilna sankcija. Dogovorjena opozorilna sankcija mora vsebovati vse sestavine, ki se po določbah kazenskega zakona zahtevajo za izrek take sankcije.

(3) O odstopu od kazenskega pregona za kazniva dejanja, ki niso zajeta s sporazumom o priznanju krivde, se sme državni tožilec z obdolžencem dogovoriti le, če gre za kazniva dejanja iz prvega in drugega odstavka 162. člena tega zakona in če s tem soglaša oškodovanec. Kaznivo dejanje, glede katerega državni tožilec odstopi od pregona mora biti v sporazumu čimbolj natančno opisano, z navedbo njegove pravne opredelitve. Soglasje oškodovanca se priloži sporazumu.

(4) V sporazumu o priznanju krivde se stranki lahko dogovorita, da se obdolženec, ne glede na določbe 94., 95. in 97. člena tega zakona, oprosti plačila oziroma povrnitve vseh ali dela stroškov kazenskega postopka. V tem primeru stroški kazenskega postopka bremenijo proračun.

(5) Obdolženec se s sporazumom o priznanju krivde lahko tudi zaveže, da bo najpozneje do predložitve sporazuma sodišču oškodovancu poravnal škodo, povzročeno s kaznivim dejanjem, poravnal svojo preživninsko obveznost ali izpolnil kakšno drugo nalogo iz prvega odstavka 162. člena tega zakona.

450.č člen

Article 450c

(1) The agreement on the punishment shall contain the type and length of the sentence to be imposed on the accused person for the criminal offence committed. The agreed punishment must be within the limits of the prescribed sentence and the imposition of a mitigated sentence, and the method of enforcing the sentence may be proposed in the agreement only under the conditions and within the limits prescribed by criminal law.

(2) If the relevant legal requirements are met, the parties may agree that an admonitory sanction instead of a sentence be imposed on the accused person. The agreed admonitory sanction must contain all the components that are required for issuing such a sanction under the provisions of criminal law.

(3) The state prosecutor may agree with the accused person on relinquishing the criminal prosecution of criminal offences not covered by the guilty plea agreement only if the criminal offences referred to in paragraphs one and two of Article 162 of this Act are involved and if the injured party agrees to it. A criminal offence whose criminal prosecution is relinquished by the state prosecutor must be described in as much detail as possible in the agreement and its legal qualification shall be indicated. The injured party's consent shall be enclosed with the agreement.

(4) In the guilty plea agreement, the parties may agree that the accused person, notwithstanding the provisions of Articles 94, 95 and 97 of this Act, shall be exempted from the payment or refund of all or part of the costs of criminal proceedings. In this case, the costs of criminal proceedings shall be covered by the budget.

(5) Through the guilty plea agreement, the accused person may also undertake to settle the damage caused by the criminal offence to the injured party not later than by the date of submission of the agreement to the court, to settle his or her maintenance obligation or carry out some other task referred to in paragraph one of Article 162 of this Act.

Article 450č

(1) O sporazumu o priznanju krivde, ki ga je obdolženec sklenil z državnim tožilcem, odloča sodišče, pred katerim teče kazenski postopek, na predobravnavnem naroku, če je bil sporazum sklenjen pozneje, pa na glavni obravnavi.

(2) Ko sodišče odloča o sklenjenem sporazumu o priznanju krivde, presodi:
1. ali je sporazum v skladu z določbami 450.a, 450.b in 450.c člena tega zakona in
2. ali so glede priznanja krivde izpolnjeni pogoji iz prvega odstavka 285.c člena tega zakona.

(3) Če sodišče ugotovi, da kateri izmed pogojev iz prejšnjega odstavka ni podan, ali da obdolženec ni izpolnil obveznosti iz petega odstavka prejšnjega člena, sporazum s sklepom zavrne in nadaljuje postopek, kot da je obtoženec izjavil, da krivde po obtožbi ne priznava. Če sodišče presodi, da so izpolnjeni vsi pogoji, sprejme sklep, da se sporazum o priznanju krivde sprejme in nadaljuje postopek smiselno, kot da je obtoženec izjavil, da priznava krivdo po obtožbi (285.č člen).

(4) Zoper sklep iz prejšnjega odstavka ni pritožbe.

XXVII. poglavje
POSTOPEK PROTI MLADOLETNIKOM

1. Splošne določbe

451. člen

(1) Določbe tega poglavja se uporabljajo v postopku proti osebam, ki so storile kaznivo dejanje kot mladoletniki, pa ob uvedbi postopka oziroma ob sojenju še niso stare enaindvajset let. V postopku proti mladoletnikom se ne uporabljajo določbe XXVI.a

(1) A guilty plea agreement concluded by the accused person with the state prosecutor shall be decided at the pre-trial hearing by the court before which the criminal proceedings are pending, and if the agreement was concluded subsequently, it shall be decided at the main hearing.

(2) In deciding on the concluded guilty plea agreement, the court shall assess the following:
1. whether the agreement is in compliance with the provisions of Article 450a, 450b and 450c of this Act; and
2. whether the requirements referred to in paragraph one of Article 285c of this Act have been met with respect to the guilty plea.

(3) Should the court establish that any of the requirements referred to in the preceding paragraph have not been met, or that the accused person has failed to meet the obligation referred to in paragraph five of the preceding Article, the agreement shall be rejected by a ruling and the proceedings shall continue as if the defendant pleaded not guilty under the indictment. If the court assesses that all requirements have been met, it shall render a ruling on the acceptance of the guilty plea agreement and shall proceed with the proceedings *mutatis mutandis* as if the defendant pleaded guilty under the indictment (Article 285č).

(4) There shall be no appeal against the ruling referred to in the preceding paragraph.

Chapter XXVII
PROCEEDINGS AGAINST MINORS

1. General provisions

Article 451

(1) The provisions of this Chapter shall apply to proceedings against persons who committed a criminal offence as minors and have not yet attained the age of twenty-one at the time of the institution or conducting of proceedings. The provisions of Chapter XXVIa of this Act

poglavja tega zakona. Druge določbe tega zakona se uporabljajo, če niso v nasprotju z določbami tega poglavja.

(2) Členi 453 do 455, 458 do 461, 469., 471., prvi in drugi odstavek 473. člena in 481. člen tega zakona se uporabljajo v postopku proti mlajšemu polnoletnemu, če se do začetka glavne obravnave ugotovi, da prihaja glede njega v poštev izrek vzgojnega ukrepa kot kazenske sankcije za mladoletnike, in če takrat še ni star enaindvajset let.

452. člen

Če se med postopkom ugotovi, da mladoletnik ob storitvi kaznivega dejanja še ni bil star štirinajst let, se kazenski postopek ustavi in o tem obvesti organ socialnega varstva.

453. člen

(1) Mladoletnik ne sme biti sojen v nenavzočnosti.

(2) Pri procesnih dejanjih, pri katerih je mladoletnik navzoč, zlasti pa pri njegovem zaslišanju, morajo organi, ki sodelujejo v postopku, ravnati obzirno in upoštevati mladoletnikovo duševno razvitost, občutljivost in osebne lastnosti, da ne bi kazenski postopek škodljivo vplival na njegov razvoj.

(3) Hkrati morajo ti organi s primernimi ukrepi preprečevati vsako nedisciplinirano obnašanje mladoletnika.

454. člen

(1) Mladoletnik sme imeti zagovornika od začetka pripravljalnega postopka.

(2) Mladoletnik mora imeti zagovornika od začetka

shall not apply in proceedings against minors. Other provisions of this Act shall apply insofar as they are not in contravention of the provisions of this Chapter.

(2) Articles 453 to 455, 458 to 461, 469 and 471, and paragraphs one and two of Article 473 and Article 481 of this Act shall apply in proceedings against a young adult if it is established, prior to the commencement of the main hearing, that a corrective measure as a criminal sanction applicable to minors may be imposed in his or her case, and if he or she has not yet attained the age of twenty-one at the relevant time.

Article 452

If it is established during the proceedings that the minor, at the time of committing a criminal offence, had not yet attained the age of fourteen, the criminal proceedings shall be discontinued and a social welfare authority shall be informed thereof.

Article 453

(1) A minor may not be tried in his or her absence.

(2) In carrying out procedural acts at which a minor is present and in particular during his or her questioning, the bodies participating in the proceedings shall act considerately and with due regard to the stage of the minor's mental development, sensitivity and personal characteristics, in order to avoid the criminal proceedings having a harmful effect on his or her development.

(3) At the same time, the aforementioned bodies shall take the appropriate steps to prevent any undisciplined conduct of a minor.

Article 454

(1) A minor may have a defence counsel from the beginning of the preparatory procedure.

(2) A minor must have a defence counsel from the beginning of

pripravljalnega postopka, če teče proti njemu postopek za kaznivo dejanje, za katero je predpisana kazen zapora nad tri leta; za druga kazniva dejanja, za katera je predpisana milejša kazen, pa mora imeti zagovornika, če sodnik za mladoletnike spozna, da mu je potreben.

(3) Če si v primerih iz prejšnjega odstavka ne vzame zagovornika sam mladoletnik ali mu ga ne vzamejo njegov zakoniti zastopnik ali sorodniki, mu ga postavi sodnik za mladoletnike po uradni dolžnosti.

455. člen

Nihče ne more biti oproščen dolžnosti pričevanja o okoliščinah, ki so potrebne za presojo mladoletnikove duševne razvitosti ter za spoznanje njegove osebnosti in razmer, v katerih živi (469. člen).

456. člen

(1) Če je mladoletnik sodeloval pri kaznivem dejanju skupaj s polnoletnimi, se postopek proti njemu izloči in opravi po določbah tega poglavja.

(2) Postopek proti mladoletniku se sme združiti s postopkom zoper polnoletne in opraviti po splošnih določbah tega zakona samo, če je združitev postopka nujna za vsestransko razjasnitev stvari. Sklep o tem izda senat za mladoletnike pristojnega sodišča na obrazložen predlog državnega tožilca. Zoper tak sklep ni pritožbe.

(3) Če se opravi enoten postopek za mladoletnika in polnoletne storilce, se glede mladoletnika vselej uporabijo določbe členov: 453 do 455, 458 do 461, 469., 471., prvi in drugi odstavek 473. člena in 480. člen, kadar se na glavni obravnavi razjasnjujejo vprašanja, ki se nanašajo na mladoletnika, ter določbe členov 481., 487. in 488. člen tega zakona, druge določbe tega poglavja pa, če njihova uporaba ni v nasprotju z združenim postopkom.

the preparatory procedure if he or she is being tried for a criminal offence punishable by more than three years of imprisonment; for other criminal offences subject to less severe punishment, he or she must have a defence counsel if so determined by the juvenile judge.

(3) If in the cases referred to in the preceding paragraphs a minor does not retain a defence counsel, or his or her legal representative or relatives do not retain one for him or her, the juvenile judge shall appoint one to him or her *ex officio.*

Article 455

No one shall be exempt from the duty to testify about the circumstances necessary for assessing the mental development of a minor or for obtaining an insight into his or her personality and the conditions in which he or she lives (Article 469).

Article 456

(1) If a minor has participated in a criminal offence jointly with adult persons, the proceedings against the minor shall be separated and conducted in accordance with the provisions of this Chapter.

(2) Proceedings against a minor may only be joined with proceedings against adults and conducted in accordance with the general provisions of this Act if the joinder is necessary for a comprehensive clarification of the case. A ruling to this effect shall be rendered by the juvenile panel of the competent court upon a reasoned motion of the state prosecutor. No appeal shall be allowed against such a ruling.

(3) If joint proceedings against a minor and adult perpetrators are conducted, the provisions of Articles 453 to 455, 458 to 461, 469 and 471, of paragraphs one and two of Article 473 and Article 480 shall always be applied whenever the main hearing deals with issues relating to a minor, as well as the provisions of Articles 481, 487 and 488 of this Act; other provisions of this Chapter shall apply only if their application is not in contravention of the joint proceedings.

457. člen

Če je kdo storil neko kaznivo dejanje kot mladoleten, drugo pa kot polnoleten, se opravi enoten postopek po 32. členu tega zakona pred senatom, ki sodi polnoletne.

458. člen

(1) V postopku proti mladoletnikom ima organ socialnega varstva poleg pravic, ki so mu izrecno dane v tem poglavju, tudi pravico seznaniti se s potekom postopka, dajati med postopkom predloge in opozarjati na dejstva in dokaze, ki so pomembni za pravilno odločbo.

(2) Kadar državni tožilec zahteva uvedbo postopka proti mladoletniku, mora to vselej sporočiti pristojnemu organu socialnega varstva.

459. člen

(1) Mladoletnika vabi sodišče po starših oziroma po zakonskem zastopniku, razen če to ni mogoče, ker je treba hitro ravnati, ali zaradi drugih okoliščin.

(2) Za vročanje odločb in drugih pisanj se uporabljajo smiselno določbe 120. člena tega zakona; pri tem se mladoletniku ne smejo vročati pisanja na ta način, da bi se pritrdila na sodno desko in tudi ne uporabiti drugi odstavek 116. člena tega zakona.

460. člen

(1) Brez dovoljenja sodišča se ne sme objaviti potek kazenskega postopka proti mladoletniku in tudi ne odločba, ki je bila v njem izdana.

(2) Objaviti se sme samo tisti del postopka oziroma samo tisti del odločbe, ki ga je sodišče dovolilo objaviti, vendar pa se niti v

Article 457

If a person committed a criminal offence as a minor and another criminal offence as an adult, he or she shall be tried in joint proceedings pursuant to Article 32 of this Act before a panel which tries adults.

Article 458

(1) In cases involving minors, the social welfare authority shall also have, in addition to the rights explicitly granted in this Chapter, the right to be acquainted with the course of proceedings, to make motions during the proceedings and to call attention to facts and evidence important for a correct adjudication.

(2) If the state prosecutor requests the institution of proceedings against a minor, he or she shall always be bound to notify the competent social welfare authority thereof.

Article 459

(1) Minors shall be summoned to the court through their parents or legal representatives, except where this is not possible because of the need to act quickly or due to other circumstances.

(2) The provisions of Article 120 of this Act shall apply *mutatis mutandis* to the service of decisions and other documents; minors may not be served with documents by posting them on the court notice board, nor may paragraph two of Article 116 of this Act be applied in this respect.

Article 460

(1) The course of criminal proceedings against a minor and the decision rendered may not be published without the permission of the court.

(2) Only that part of the proceedings or the decision which the court has allowed to be published may be published, and even in this case

tem primeru ne sme objaviti mladoletnikovo ime in ne drugi podatki, iz katerih bi se dalo sklepati, za katerega mladoletnika gre.

461. člen

Organi, ki sodelujejo v postopku proti mladoletniku in drugi organi in zavodi, od katerih so zahtevana sporočila, poročila ali mnenja, morajo postopati kar se da hitro, da se postopek čim prej konča.

2. Sestava sodišča

462. člen

(1) Pri okrožnih, višjih in vrhovnem sodišču so senati za mladoletnike. Pri okrožnih sodiščih je po en ali več sodnikov za mladoletnike.

(2) Senat za mladoletnike pri sodiščih prve stopnje sestavljajo sodnik za mladoletnike in dva sodnika porotnika. Sodnik za mladoletnike je predsednik senata.

(3) Pri sodiščih druge stopnje in pri vrhovnem sodišču se določijo z razporedom dela senati za mladoletnike, ki jih sestavljajo trije sodniki.

(4) Sodniki porotniki se volijo izmed profesorjev, učiteljev, vzgojiteljev in drugih oseb, ki imajo izkušnje z vzgojo mladoletnikov.

(5) Senati za mladoletnike iz tretjega odstavka tega člena odločajo o pritožbah in v drugih primerih, ki so določeni v tem zakonu.

(6) Sodnik za mladoletnike sodišča prve stopnje opravlja pripravljalni postopek in druge zadeve v postopku proti mladoletnikom.

463. člen

the minor's name and other information from which his or her identity could be inferred may not be published.

Article 461

The bodies participating in proceedings against a minor and other bodies and institutions whose advice, reports or opinions have been requested, shall be bound to proceed with a special expedition to bring the proceedings to completion as soon as possible.

2. Composition of the court

Article 462

(1) District and higher courts and the Supreme Court shall have juvenile panels. District courts shall have one or more juvenile judges.

(2) A juvenile panel in courts of first instance shall be composed of a juvenile judge and two lay judges. The juvenile judge shall be the president of the juvenile panel.

(3) In courts of second instance and in the Supreme Court, juvenile panels composed of three judges shall be determined according to the work schedule of the court.

(4) Lay judges shall be elected from among teachers, educators and other persons who have experience in the education of minors.

(5) Juvenile panels referred to in paragraph three of this Article shall also decide on appeals and in other instances defined by this Act.

(6) A juvenile judge of the court of first instance shall carry out the preliminary procedure and perform other duties in proceedings against minors.

Article 463

Sodišče, ki je pristojno za odločanje na drugi stopnji, odloča o pritožbah zoper odločbe senata za mladoletnike sodišča prve stopnje in o pritožbah zoper sklepe državnega tožilca in sodnika za mladoletnike v primerih, ki so določeni v tem zakonu, kot tudi v primerih, ko je v tem zakonu določeno, da odloča senat za mladoletnike višjega sodišča.

464. člen

Za postopek proti mladoletniku je krajevno pristojno praviloma sodišče njegovega stalnega prebivališča, če mladoletnik nima stalnega prebivališča ali če ni znano, pa sodišče, ki je pristojno za njegovo začasno prebivališče. Postopek se sme izvesti pred sodiščem, pristojnim za začasno prebivališče mladoletnika, ki ima stalno prebivališče, ali pred sodiščem, pristojnim za kraj storitve kaznivega dejanja, če je očitno, da se bo pri tem sodišču lažje izvedel.

3. Uvedba postopka

465. člen

(1) Kazenski postopek proti mladoletniku se uvede za vsa kazniva dejanja samo na zahtevo državnega tožilca.

(2) Postopek za kazniva dejanja, za katera se storilec preganja po predlogu ali na zasebno tožbo, se sme uvesti, če predlaga oškodovanec uvedbo postopka pri pristojnem državnem tožilcu v roku, ki ga določa 52. člen tega zakona.

(3) Če državni tožilec ne zahteva uvedbe postopka proti mladoletniku, obvesti o tem oškodovanca. Oškodovanec ne more prevzeti postopka oziroma ne more vložiti pri sodišču zasebne tožbe, pač pa lahko zahteva v osmih dneh, ko prejme sporočilo državnega tožilca, naj senat za mladoletnike pristojnega sodišča uvede

The court with jurisdiction to adjudicate at second instance shall decide on appeals against judgments rendered by the juvenile panel of the court of first instance, and on appeals against decisions of the state prosecutor and the juvenile judge in the cases defined by this Act, and also in cases where this Act provides that the appeal be decided by the juvenile panel of a higher court.

Article 464

Territorial jurisdiction in proceedings against minors shall as a rule be vested in the court of the place of permanent residence of a minor; if a minor has no permanent residence or if such residence is not known, territorial jurisdiction shall be vested in the court of temporary residence of the minor. Proceedings may be conducted before the court in whose jurisdictional territory a minor with a permanent residence temporarily resides, or before the court in whose jurisdictional territory the criminal offence was committed if it is clearly more expedient to conduct proceedings before that court.

3. Institution of proceedings

Article 465

(1) Criminal proceedings against minors shall, in respect of all criminal offences, only be instituted upon the request of the state prosecutor.

(2) Proceedings for criminal offences prosecuted upon a motion or private action may only be instituted if the injured party submits a motion for the institution of proceedings with the competent state prosecutor within the time limit specified in Article 52 of this Act.

(3) If the state prosecutor does not request the institution of proceedings against a minor, he or she shall notify the injured party thereof. The injured party may not assume the prosecution or file a private action with the court, but may, within eight days of receipt of the notice of the state prosecutor, request the juvenile panel of the court of jurisdiction

postopek.

466. člen

(1) Kadar gre za kaznivo dejanje, za katero je predpisana kazen zapora do treh let ali denarna kazen, lahko državni tožilec odloči, da ne bo zahteval uvedbe kazenskega postopka, čeprav so dokazi, da je mladoletnik storil kaznivo dejanje, če glede na naravo kaznivega dejanja in okoliščine, v katerih je bilo storjeno, ter glede na mladoletnikovo prejšnje življenje in njegove osebne lastnosti spozna, da postopek proti njemu ne bi bil smotrn. Za ugotovitev teh okoliščin lahko zahteva državni tožilec sporočila od mladoletnikovih staršev oziroma skrbnika ter od drugih oseb in ustanov; če je potrebno, pa lahko pokliče te osebe in tudi mladoletnika na državno tožilstvo, da zve take okoliščine neposredno od njih. Prav tako lahko zahteva mnenje o smotrnosti postopka proti mladoletniku tudi od organa socialnega varstva.

(2) Pod pogoji iz prejšnjega odstavka ter 161.a in 162. člena tega zakona sme državni tožilec odločiti, da bo odstopil ovadbo v poravnavanje ali odložil kazenski pregon.

(3) Kadar je izvrševanje kazni ali vzgojnega ukrepa v teku, sme državni tožilec odločiti, da ne bo zahteval uvedbe kazenskega postopka za drugo mladoletnikovo kaznivo dejanje, če glede na težo tega kaznivega dejanja ter glede na kazen oziroma vzgojni ukrep, ki se izvršuje, postopek in izrek kazenske sankcije zanj ne bi imela smisla.

(4) Če državni tožilec v primerih iz prvega in tretjega odstavka tega člena spozna, da uvedba postopka proti mladoletniku ne bi dosegla svojega namena, obvesti o tem organ socialnega varstva in oškodovanca ter jima sporoči razloge; oškodovanec lahko v osmih dneh zahteva od senata za mladoletnike, naj uvede postopek.

467. člen

to initiate proceedings.

Article 466

(1) In the case of a criminal offence punishable by up to three years of imprisonment or a fine, the state prosecutor may decide not to request the institution of criminal proceedings even where evidence exists that a minor has committed a criminal offence, if in view of the nature of the criminal offence and the circumstances in which it was committed, as well as in view of the past life of the minor and his or her personal traits he or she establishes that the proceedings against the minor would not be expedient. To determine these circumstances, the state prosecutor may request information from the minor's parents or guardian, and from other persons and institutions; if necessary, the state prosecutor may also summon these persons and the minor to the State Prosecutor's Office to learn about such circumstances directly from them. The state prosecutor may also request an opinion of the social welfare authority about the expediency of proceedings against the minor.

(2) Under the conditions referred to in the preceding paragraph and Articles 161a and 162 of this Act, the state prosecutor may decide to refer the criminal complaint to a settlement procedure or to defer criminal prosecution.

(3) Where the enforcement of punishment or of a corrective measure is in progress, the state prosecutor may decide not to request the institution of criminal proceedings for another criminal offence committed by the minor if, in view of the relative gravity of that offence and of the punishment or the corrective measure being enforced, the proceedings and the imposition of a criminal sanction would be pointless.

(4) If the state prosecutor in the cases referred to in paragraphs one and three of this Article finds that the institution of proceedings against a minor would not serve its purpose, he or she shall notify thereof the social welfare authority and the injured person and inform them of the reasons for this; the injured party may, within eight days, request the juvenile panel to institute proceedings.

Article 467

(1) V primerih iz tretjega odstavka 465. člena in iz četrtega odstavka prejšnjega člena odloči senat za mladoletnike na seji, ko dobi spise od državnega tožilca.

(2) Senat za mladoletnike lahko odloči, naj se postopek proti mladoletniku ne uvede ali pa naj se uvede pred sodnikom za mladoletnike. Zoper sklep senata za mladoletnike ni pritožbe.

(3) Če senat odloči, naj se uvede proti mladoletniku postopek pred sodnikom za mladoletnike, se lahko državni tožilec tega postopka udeležuje in ima vse pravice, ki mu gredo v postopku po tem zakonu.

4. Pripravljalni postopek

468. člen

(1) Uvedbo pripravljalnega postopka zahteva državni tožilec pri sodniku za mladoletnike pristojnega sodišča. Če se sodnik za mladoletnike s tem ne strinja, zahteva, naj o tem odloči senat za mladoletnike višjega sodišča.

(2) Sodnik za mladoletnike lahko prepusti policiji, naj na način, ki je predpisan v tem zakonu, izvrši odredbo o hišni preiskavi ali o zasegu predmetov.

469. člen

(1) V pripravljalnem postopku proti mladoletniku je treba poleg dejstev, ki se nanašajo na kaznivo dejanje, zlasti ugotoviti mladoletnikovo starost in okoliščine, ki so potrebne za presojo njegove duševne razvitosti, ter preučiti okolje in razmere, v katerih mladoletnik živi, in druge okoliščine, ki se tičejo njegove osebnosti.

(2) Da se ugotove te okoliščine, je treba zaslišati mladoletnikove starše, njegovega skrbnika in druge, ki lahko dajo o njih potrebne podatke. O teh okoliščinah se zahteva poročilo organa

(1) The cases referred to in paragraph three of Article 465 and paragraph four of the preceding Article shall be decided by the juvenile panel in a session after having received the files from the state prosecutor.

(2) The juvenile panel may decide that proceedings against a minor should not be instituted or should be instituted before the juvenile judge. No appeal shall be allowed against the ruling of the juvenile panel.

(3) If the panel decides that proceedings against a minor should be instituted before a juvenile judge, the state prosecutor may take part in the proceedings and shall have all the rights that he or she is entitled to in proceedings under this Act.

4. Preliminary procedure

Article 468

(1) The state prosecutor shall file the request to institute the preliminary procedure with the juvenile judge of the court of jurisdiction. If the juvenile judge disagrees with the request, he or she shall request that the matter be decided by the juvenile panel of a higher court.

(2) The juvenile judge may entrust the enforcement of an order to conduct a house search or the seizure of objects to the police to carry out as provided by this Act.

Article 469

(1) The preparatory procedure against a minor shall, in addition to the facts relating to the criminal offence, include in particular the identification of the minor's age and circumstances necessary for the assessment of his or her mental development, and an inquiry into the environment and conditions in which the minor lives, as well as other circumstances concerning his or her personality.

(2) In order to determine these circumstances, the parents of the minor, his or her guardian and other persons who may provide useful information should be heard. A report on these circumstances shall be

socialnega varstva; če je bil pri mladoletniku uporabljen vzgojni ukrep, pa poročilo o tem.

(3) Podatke o mladoletnikovi osebnosti zbira sodnik za mladoletnike. Zahteva pa lahko, naj te podatke zbere določen strokovni delavec (socialni delavec, defektolog in drugi), če je tak pri sodišču; lahko pa prepusti to tudi organu socialnega varstva.

(4) Kadar je za ugotovitev mladoletnikovega zdravstvenega stanja, njegove duševne razvitosti, psihičnih lastnosti ali nagnjenj potrebno, da ga pregledajo izvedenci, se določijo za tak pregled zdravniki, psihologi in pedagogi. Tak pregled mladoletnika se lahko opravi v zdravstvenem ali v kakšnem drugem zavodu.

470. člen

(1) Sodnik za mladoletnike sam določi, kako bo opravil posamezna dejanja; pri tem se mora ravnati po določbah tega zakona v taki meri, da so zavarovane pravice obdolženca do obrambe, pravice oškodovanca in zbiranje dokazov, ki so potrebni za odločitev.

(2) Pri dejanjih v pripravljalnem postopku smeta biti navzoča državni tožilec in zagovornik. Kadar je potrebno, se zaslišanje mladoletne osebe opravi s pomočjo pedagoga ali druge strokovne osebe. Sodnik za mladoletnike lahko dovoli, da so pri dejanju v pripravljalnem postopku navzoči predstavnik organa socialnega varstva ter mladoletnikovi starši oziroma skrbnik. Kadar so te osebe navzoče pri omenjenih dejanjih, lahko dajejo predloge in postavljajo vprašanje tistemu, ki se zaslišuje.

471. člen

(1) Sodnik za mladoletnike sme odrediti, naj se mladoletnik med pripravljalnim postopkom odda v prehodni dom, v diagnostični center, postavi pod nadzorstvo organa socialnega varstva ali izroči drugi družini, če je to potrebno, da se izloči iz okolja, v katerem je živel, ali da se mu zagotovi pomoč, varstvo ali nastanitev.

required from the social welfare authority, and if a corrective measure against the minor was applied, a report thereon shall also be required.

(3) Information about the minor's personality shall be gathered by the juvenile judge. However, the juvenile judge may also request that such information be collected by a specific professional (social worker, defectologist and others), provided there is one on the court staff, or may leave this task to the social welfare authority.

(4) Where an expert examination is necessary to determine the medical condition of a minor, his or her mental development, mental properties or disposition, experts such as physicians, psychologists and educators shall be engaged. Such examination of the minor may be carried out in a medical or other institution.

Article 470

(1) The juvenile judge shall determine how to carry out particular acts; in doing so, he or she shall be bound to comply with the provisions of this Act in such a way as to ensure that the rights of the accused person to defence, the rights of the injured party and the gathering of evidence necessary to reach a decision are secured.

(2) The state prosecutor and the defence counsel may attend the acts carried out under the preliminary procedure. Where necessary, the hearing of the minor shall be carried out with the assistance of an educator or another professional. The juvenile judge may grant permission to the representative of a social welfare authority or the minor's parents to attend the preliminary procedure acts. When present in the aforementioned acts, these persons shall be entitled to make motions and address questions to the person being heard.

Article 471

(1) The juvenile judge may order that the minor, during the preliminary procedure, be placed in a transit home or a diagnostic centre, or under the supervision of a social welfare authority, or be placed in another family, if such measures are necessary to remove the minor from his or her old surroundings or provide him or her with help, protection or

(2) Stroški za mladoletnikovo nastanitev se izplačajo naprej iz proračunskih sredstev in spadajo med stroške kazenskega postopka.

472. člen

(1) Izjemoma sme sodnik za mladoletnike odrediti, naj se mladoletnik pripre, če so za to podani razlogi iz prvega odstavka 201. člena tega zakona.

(2) Po sklepu o priporu, ki ga je izdal sodnik za mladoletnike, sme trajati pripor najdalj en mesec. Senat za mladoletnike istega sodišča sme iz opravičenih razlogov podaljšati pripor največ še za dva meseca.

473. člen

(1) Mladoletnik mora biti priprt ločeno od polnoletnih.

(2) Ne glede na prejšnji odstavek sme sodnik za mladoletnike izjemoma odrediti, naj bo mladoletnik priprt skupaj s polnoletnimi, kadar je to glede na mladoletnikovo osebnost in druge okoliščine v konkretnem primeru v njegovem interesu in v njegovo korist.

(3) Mladoletniku, ki mu je odvzeta prostost, je treba zagotoviti nego, varstvo in vso potrebno individualno pomoč, ki jo utegne potrebovati glede na svojo starost, spol in osebnost.

(4) Sodnik za mladoletnike ima nasproti priprtim mladoletnikom enake pravice, kot jih ima po tem zakonu preiskovalni sodnik glede pripornikov.

474. člen

(1) Ko preizkusi vse okoliščine, ki se nanašajo na kaznivo dejanje in na mladoletnikovo osebnost, pošlje sodnik za mladoletnike

accommodation.

(2) The costs of the minor's accommodation shall be paid out in advance from the budget and shall be included in the costs of criminal proceedings.

Article 472

(1) In exceptional cases, the juvenile judge may order detention for a minor if the reasons referred to in paragraph one of Article 201 of this Act exist.

(2) Under the ruling on detention rendered by the juvenile judge, detention may last for a maximum period of one month. The juvenile panel of the same court may, for justified reasons, extend detention by a maximum period of two months.

Article 473

(1) Minors must be held in detention separately from adults.

(2) Notwithstanding the preceding paragraph, the juvenile judge may exceptionally order that a minor be detained together with adults if this is in the minor's interest and to his or her benefit, considering the minor's personality and other circumstances in a specific case.

(3) Minors deprived of their liberty must be provided with care, protection and all necessary individual help which they might need considering their age, gender and personality.

(4) The juvenile judge shall have the same rights with regard to detained minors as the investigating judge with regard to detainees under this Act.

Article 474

(1) After examining all the circumstances relating to the criminal offence and the minor's personality, the juvenile judge shall submit the files

spise pristojnemu državnemu tožilcu; ta lahko v osmih dneh zahteva, naj se pripravljalni postopek dopolni, ali poda senatu za mladoletnike obrazložen predlog za kaznovanje oziroma za vzgojni ukrep.

(2) Predlog državnega tožilca mora obsegati: ime in priimek mladoletnika, njegovo starost, opis dejanja, dokaze, iz katerih izhaja, da je mladoletnik storil kaznivo dejanje, obrazložitev, ki mora navajati oceno mladoletnikove duševne razvitosti, in predlog, naj se mladoletnik kaznuje oziroma zanj uporabi vzgojni ukrep.

475. člen

(1) Če državni tožilec med pripravljalnim postopkom spozna, da ni podlage za postopek proti mladoletniku ali da je podan kakšen razlog iz prvega ali tretjega odstavka 466. člena tega zakona, predlaga sodniku za mladoletnike, naj ustavi postopek. O predlogu za ustavitev postopka obvesti državni tožilec tudi organ socialnega varstva.

(2) Če se sodnik za mladoletnike ne strinja s predlogom državnega tožilca, zahteva o tem odločitev senata za mladoletnike višjega sodišča.

(3) Tretji odstavek 467. člena tega zakona velja tudi, kadar senat za mladoletnike ne ugodi predlogu državnega tožilca naj se ustavi postopek.

476. člen

Kadar državni tožilec v primerih iz 467. in 475. člena tega zakona ni sodeloval v postopku proti mladoletniku, predloži sodnik za mladoletnike po končanem pripravljalnem postopku zadevo senatu za mladoletnike v sojenje.

477. člen

Sodnik za mladoletnike mora poročati predsedniku sodišča

to the competent state prosecutor, who may, within eight days, request that the preliminary procedure be supplemented, or submit to the juvenile panel a reasoned motion for punishment or a corrective measure.

(2) The state prosecutor's motion shall contain: the name and surname of the minor, his or her age, description of the criminal offence, the evidence indicating that the minor has committed a criminal offence, the statement of reasons with an assessment of the minor's mental development, and the motion that the minor be punished or a corrective measure be imposed on him or her.

Article 475

(1) If, during the preliminary procedure, the state prosecutor finds that there are no grounds for proceedings against the minor or that any of the reasons referred to in paragraph one or three of Article 466 of this Act exists, he or she shall submit a motion to the juvenile judge to discontinue the procedure. The state prosecutor shall also inform the social welfare authority of his or her motion to discontinue the procedure.

(2) If the juvenile judge disagrees with the state prosecutor's motion, he or she shall request that the juvenile panel of the higher court decide on the motion.

(3) Paragraph three of Article 467 of this Act shall also apply if the juvenile panel does not grant the state prosecutor's motion for the discontinuation of proceedings.

Article 476

If the state prosecutor in the cases referred to in Articles 467 and 475 of this Act has not participated in the proceedings against a minor, the juvenile judge shall, upon the completion of the preliminary procedure, refer the case to the juvenile panel for adjudication.

Article 477

The juvenile judge shall be bound to report each month to the

vsak mesec, katere mladoletniške zadeve še niso končane in zakaj v posameznih zadevah postopek še teče. Predsednik sodišča ukrene, kar je potrebno, da se postopek pospeši.

5. Postopek pred senatom za mladoletnike

478. člen

(1) Sodnik za mladoletnike razpiše sejo senata ali glavno obravnavo, ko prejme predlog državnega tožilca, kakor tudi v primeru, če teče postopek proti mladoletniku brez predloga državnega tožilca.

(2) Če teče postopek proti mladoletniku brez predloga državnega tožilca, razloži sodnik za mladoletnike na začetku seje oziroma glavne obravnave, katerega kaznivega dejanja je mladoletnik obdolžen.

(3) Kazni in zavodski ukrepi se smejo izreči mladoletniku samo po glavni obravnavi. Drugi vzgojni ukrepi se mu smejo izreči tudi na seji senata.

(4) Na seji senata se lahko odloči, naj se opravi glavna obravnava.

(5) O seji senata se obvestijo državni tožilec, zagovornik in predstavnik organa socialnega varstva, ki so lahko na njej navzoči; če je potrebno, pa tudi mladoletnik in njegovi starši oziroma skrbnik.

(6) Sodnik za mladoletnike sporoči mladoletniku vzgojni ukrep, ki mu je bil izrečen na seji senata.

479. člen

(1) Kadar odloča senat za mladoletnike na podlagi glavne obravnave, se uporabljajo smiselno določbe tega zakona o pripravah za glavno obravnavo, o vodstvu glavne obravnave, o preložitvi in prekinitvi glavne obravnave, o zapisniku in o poteku glavne

president of the court which juvenile cases are still pending and the reasons for this. The president of the court shall take the necessary steps to expedite proceedings.

5. Proceedings before the juvenile panel

Article 478

(1) The juvenile judge shall schedule a panel session or the main hearing upon receiving the state prosecutor's motion, and also if proceedings against a minor are conducted without the state prosecutor's motion.

(2) If proceedings against a minor are conducted without the state prosecutor's motion, the juvenile judge shall, at the beginning of the session or the main hearing, explain what criminal offence the minor is charged with.

(3) Punishments and the measures of confinement in an institution may only be imposed on the minor after the main hearing. Other corrective measures may also be imposed at the panel session.

(4) At the panel session, the decision to hold the main hearing may be taken.

(5) The state prosecutor, defence counsel and the representative of the social welfare authority shall be notified of the panel session which they shall be entitled to attend; if necessary, the minor and his or her parents or guardian may also be notified of the session.

(6) The juvenile judge shall inform the minor of the corrective measure imposed on him or her at the panel session.

Article 479

(1) When the juvenile panel decides on the basis of the main hearing, the provisions of this Act on the preparations for the main hearing, the directing, postponement, suspension, recording and course of the main hearing shall apply *mutatis mutandis*; however, the court shall not be

obravnave; sodišče pa na ta pravila ni vezano, če spozna, da v posameznem primeru njihova uporaba ne bi bila smotrna.

(2) Poleg oseb, ki so naštete v 288. členu tega zakona, se povabijo na glavno obravnavo mladoletnikovi starši oziroma skrbnik in organ socialnega varstva. Če starši, skrbnik ali predstavnik organa socialnega varstva ne pridejo, to ni ovira, da sodišče ne bi opravilo glavne obravnave.

(3) Poleg mladoletnika mora biti navzoč na glavni obravnavi državni tožilec, če je podal predlog po 474. členu tega zakona, v primeru obvezne obrambe pa tudi zagovornik.

(4) Določbe tega zakona o spremembi in razširitvi obtožbe veljajo tudi v postopku proti mladoletniku; senat za mladoletnike pa je tudi brez predloga državnega tožilca upravičen izdati odločbo na podlagi dejanskega stanja, ki se je na glavni obravnavi spremenilo.

480. člen

(1) Kadar se sodi mladoletnik, se javnost vselej izključi.

(2) Senat sme dovoliti, da so na glavni obravnavi navzoče osebe, ki se ukvarjajo z varstvom in vzgojo mladoletnikov ali z zatiranjem mladoletniške kriminalitete, ter znanstveni delavci.

(3) Med glavno obravnavo sme senat odrediti, naj se odstranijo z zasedanja vse ali posamezne osebe, izvzemši državnega tožilca, zagovornika in predstavnika organa socialnega varstva.

(4) Senat sme odrediti, naj se mladoletnik med izvedbo posameznih dokazov ali med govori strank odstrani z zasedanja.

481. člen

Med postopkom pred sodiščem sme sodnik za

bound by these rules if it establishes that their application in a particular case might not be expedient.

(2) In addition to the persons listed in Article 288 of this Act, the minor's parents or his or her guardian and a representative of the social welfare authority shall be summoned to the main hearing. If the parents, the guardian or the representative of the social welfare authority fail to appear, this shall not prevent the court from holding the main hearing.

(3) In addition to the minor, the state prosecutor must be present at the main hearing if he or she has submitted the motion referred to in Article 474 of this Act, and in the event of mandatory defence, also the defence counsel.

(4) The provisions of this Act on amending and extending the charge shall also apply to proceedings against minors; however, the juvenile panel shall, even in the absence of the state prosecutor's motion, be entitled to issue its decision on the basis of the established facts which have been changed at the main hearing.

Article 480

(1) The public shall always be excluded from trials of minors.

(2) The panel may allow the presence of persons involved in the care and education of minors or in the suppression of juvenile delinquency, and of scientific experts.

(3) During the main hearing, the panel may order all or certain persons to leave the courtroom, except the state prosecutor, defence counsel and the representative of a social welfare authority.

(4) The panel may order that the minor be removed from the courtroom while specific evidence is presented or during the statements of the parties.

Article 481

During the proceedings before the court, the juvenile judge or

mladoletnike ali senat za mladoletnike odločiti o začasni nastanitvi mladoletnika (471. člen), sme pa tudi razveljaviti poprejšnjo odločbo o tem.

the juvenile panel may decide on temporary placement of the minor (Article 471) and may also set aside an earlier decision to that effect.

482. člen

(1) Sodnik za mladoletnike mora razpisati glavno obravnavo ali sejo senata v osmih dneh od dneva, ko prejme predlog državnega tožilca ali ko je končan pripravljalni postopek (476. člen) oziroma ko je bilo na seji senata sklenjeno, naj se opravi glavna obravnava. Za vsako podaljšanje tega roka mora imeti sodnik za mladoletnike odobritev predsednika sodišča.

(2) Glavna obravnava se preloži ali prekine samo izjemoma. Vsako preložitev ali prekinitev mora sodnik za mladoletnike sporočiti predsedniku sodišča in mu pojasniti razloge za to.

(3) Sodnik za mladoletnike mora v treh dneh po razglasitvi izdelati pisno sodbo oziroma pisni sklep.

Article 482

(1) The juvenile judge shall be bound to schedule the main hearing or panel session within eight days of receipt of the state prosecutor's motion, or of the conclusion of the preliminary procedure (Article 476), or of the decision of the panel session that the main hearing be held. Any extension of this time limit shall be subject to the approval of the president of the court given to the juvenile judge.

(2) The main hearing shall only be postponed or suspended in exceptional circumstances. The juvenile judge must notify the president of the court of each postponement or suspension and explain the reasons for it.

(3) The juvenile judge must produce a written judgment or a written ruling within three days of its proclamation.

483. člen

(1) Senat za mladoletnike ni vezan na predlog državnega tožilca pri odločanju o tem, ali naj mladoletniku izreče kazen ali pa uporabi zanj vzgojni ukrep. Če pa teče postopek proti mladoletniku brez predloga državnega tožilca ali če državni tožilec umakne predlog, mu senat ne sme izreči kazni, temveč samo vzgojni ukrep.

(2) Senat ustavi s sklepom postopek v primerih, v katerih izda sodišče po 2., 3. ali 4. točki 357. člena tega zakona sodbo, s katero obtožbo zavrne ali s katero obtoženca oprosti obtožbe (358. člen) kakor tudi, kadar spozna, da ne bi bilo smotrno izreči mladoletniku niti kazni niti vzgojnega ukrepa.

(3) Senat izda sklep tudi, če izreče mladoletniku vzgojni ukrep. V izreku takega sklepa navede samo, kateri ukrep mu izreka,

Article 483

(1) In deciding whether to impose punishment or a corrective measure on a minor, the juvenile panel shall not be bound by the state prosecutor's motion. However, if proceedings against a minor are conducted without the state prosecutor's motion, or if the state prosecutor withdraws the motion, the panel may not impose punishment but only a corrective measure.

(2) The panel shall discontinue the proceedings by a ruling in circumstances where the court, pursuant to points 2, 3 or 4 of Article 357 of this Act, delivers a judgment rejecting the charge or acquitting the defendant of the charge (Article 358), and also when it establishes that it would not be expedient to impose either punishment or a corrective measure on the minor.

(3) The panel shall also issue a ruling if it imposes a corrective measure on the minor. In the operative part of such a ruling, the panel

ne izreče pa, da je mladoletnik kriv za kaznivo dejanje, katerega je bil obdolžen. V obrazložitvi sklepa opiše dejanje in navede okoliščine, ki opravičujejo izrečeni vzgojni ukrep.

(4) Sodba, s katero se izreče mladoletniku kazen, mora biti izdana v obliki, določeni v 359. členu tega zakona.

484. člen

(1) Sodišče sme obsoditi mladoletnika na plačilo stroškov kazenskega postopka in na izpolnitev premoženjskopravnih zahtevkov, če mu je izreklo kazen. Če pa mu je izreklo vzgojni ukrep, obremenjujejo stroški postopka proračun, oškodovanec pa se s premoženjskopravnim zahtevkom napoti na pravdo.

(2) Če ima mladoletnik lastne dohodke ali premoženje, se mu lahko naloži plačilo stroškov kazenskega postopka in izpolnitev premoženjskopravnega zahtevka, tudi če se mu izreče le vzgojni ukrep.

6. Pravna sredstva

485. člen

(1) Zoper sodbo, s katero je mladoletniku izrečena kazen, zoper sklep, s katerim je mladoletniku izrečen vzgojni ukrep in zoper sklep, s katerim je postopek ustavljen (drugi odstavek 483. člena), se lahko pritožijo vsi, ki imajo pravico do pritožbe zoper sodbo (367. člen), in sicer v osmih dneh po prejemu sodbe oziroma sklepa.

(2) Zagovornik, državni tožilec, zakonec, krvni sorodnik v ravni vrsti, posvojitelj, skrbnik, brat, sestra in rejnik se smejo pritožiti v mladoletnikovo korist tudi proti njegovi volji.

(3) Pritožba zoper sklep, s katerim je mladoletniku izrečen

shall only indicate the type of the measure imposed without finding the minor guilty of the criminal offence he or she has been charged with. In the statement of grounds, the panel shall describe the offence and state the circumstances that justify the imposition of such corrective measure.

(4) The judgment imposing punishment on a minor must be rendered in the form prescribed in Article 359 of this Act.

Article 484

(1) The court may sentence a minor to the payment of the costs of criminal proceedings and order him or her to settle pecuniary claims. If a corrective measure has been imposed on a minor, the costs of proceedings shall be charged to the budget and the injured party shall be directed to seek satisfaction of his or her pecuniary claim in a civil action.

(2) If a minor has an income or his or her own assets, he or she may be ordered to pay the costs of criminal proceedings and to settle the pecuniary claim even if only a corrective measure has been imposed on him or her.

6. Legal remedies

Article 485

(1) The judgment by which punishment has been imposed on a minor, the ruling by which a corrective measure has been imposed on a minor and the ruling by which proceedings have been discontinued (paragraph two of Article 483) may be appealed against by all those entitled to appeal against the judgment (Article 367), within eight days of the service of the judgment or ruling.

(2) The defence counsel, the state prosecutor, the spouse, a relative by blood in direct line, adoptive parents, the guardian, brother, sister and foster parent may appeal to the benefit of a minor even against the minor's will.

(3) An appeal against the ruling imposing a corrective measure

vzgojni ukrep, ki se prestaja v zavodu, zadrži njegovo izvršitev, če sodišče v soglasju z mladoletnikovimi starši in po zaslišanju mladoletnika ne odloči drugače.

(4) Na sejo senata sodišča druge stopnje (378. člen) povabi sodišče mladoletnika samo, če predsednik senata ali senat spozna, da bi bila njegova navzočnost koristna.

486. člen

(1) Senat sodišča druge stopnje sme spremeniti odločbo sodišča prve stopnje in izreči mladoletniku hujši ukrep, samo če je tako predlagano v pritožbi.

(2) Če z odločbo sodišča prve stopnje ni bila izrečena kazen mladoletniškega zapora, denarna kazen ali zavodski ukrep, sme senat sodišča druge stopnje izreči to kazen oziroma ta ukrep samo, če opravi obravnavo. Daljši mladoletniški zapor, višjo denarno kazen ali hujši zavodski ukrep od onega, ki je bil izrečen z odločbo sodišča prve stopnje, sme izreči senat sodišča druge stopnje tudi na seji.

487. člen

Zahteva za varstvo zakonitosti se sme vložiti tako v primeru, če je bil s sodno odločbo prekršen zakon, kakor tudi v primeru, če je bila za mladoletnika nepravilno uporabljena kazen ali kakšen vzgojni ukrep.

488. člen

Določbe o obnovi kazenskega postopka, dokončanega s pravnomočno sodbo, se uporabljajo smiselno tudi za obnovo postopka, končanega s pravnomočnim sklepom o uporabi vzgojnega ukrepa.

7. Nadzorstvo sodišča nad izvajanjem ukrepov

involving the placement of a minor in a correctional facility shall stay the enforcement of the ruling, unless the court, in agreement with the minor's parents and upon hearing the minor, decides otherwise.

(4) The court shall only summon a minor to a session of the panel of the second instance court (Article 378) if the president of the panel or the panel establishes that his or her presence would be useful.

Article 486

(1) The panel of the second instance court may change the decision of the court of first instance and impose a more severe measure on the minor only if so requested in the appeal.

(2) If the decision of the first instance court has not imposed on a minor the punishment of confinement to a juvenile prison, a fine or a corrective measure of placement in a correctional facility, the panel of the second instance court may only impose such punishment or measure if the main hearing is held. A longer juvenile prison term, a higher fine or a more severe corrective measure of placement in a correctional facility than the one imposed by a decision of the first instance court may be imposed by the panel of the second instance court also at its session.

Article 487

A request for the protection of legality may be filed both against a court decision by which an Act has been violated and if a punishment or a corrective measure was incorrectly imposed on a minor.

Article 488

The provisions on the reopening of criminal proceedings concluded by a final judgment shall apply *mutatis mutandis* to the reopening of proceedings concluded by a final ruling on the imposition of a corrective measure.

7. Court supervision over the implementation of measures

489. člen

(1) Uprava zavoda, v katerem se izvršuje vzgojni ukrep proti mladoletniku, mora vsakih šest mesecev poročati sodišču, ki je izreklo vzgojni ukrep, o mladoletnikovem obnašanju. Sodnik za mladoletnike tega sodišča lahko tudi sam obiskuje mladoletnike v zavodu.

(2) Sodnik za mladoletnike si sme po organu socialnega varstva preskrbeti obvestila o izvrševanju drugih vzgojnih ukrepov, sme pa odrediti tudi, naj to opravi določen strokovni delavec (socialni delavec, defektolog in drugi), če je tak pri sodišču. Organ socialnega varstva mora najmanj vsakih šest mesecev poročati sodišču, ki je izreklo vzgojni ukrep o poteku izvajanja izrečenega vzgojnega ukrepa.

8. Ustavitev izvrševanja in sprememba odločbe o vzgojnih ukrepih

490. člen

(1) Kadar so izpolnjeni pogoji, ki jih določa zakon za spremembo odločbe o izrečenem vzgojnem ukrepu, odloči o tem sodišče, ki je na prvi stopnji izdalo sklep o vzgojnem ukrepu, če samo spozna, da je to potrebno, ali če to predlaga državni tožilec, direktor zavoda ali organ socialnega varstva, ki mu je zaupano nadzorstvo nad mladoletnikom.

(2) Preden sodišče izda odločbo, zasliši državnega tožilca, mladoletnika, njegovega roditelja ali skrbnika ali druge osebe, poleg tega pa zahteva potrebna poročila od zavoda, v katerem mladoletnik prestaja zavodski ukrep, od organa socialnega varstva ali od drugih organov in ustanov.

(3) Po prejšnjih odstavkih ravna sodišče tudi, kadar odloča o ustavitvi izvrševanja vzgojnega ukrepa.

Article 489

(1) The administration of the facility where the corrective measure against a minor is carried out shall report every six months on the conduct of the minor to the court that imposed the corrective measure. The juvenile judge of that court may pay personal visits to the minors placed in the correctional facility.

(2) The juvenile judge may obtain information about the enforcement of other corrective measures through the social welfare authority and may also order that this task be performed by a specific professional (social worker, defectologist and similar), if there is one on the court staff. The social welfare authority must, at least every six months, report to the court that imposed the corrective measure on the implementation thereof.

8. Discontinuance of enforcement and changing decisions on corrective measures

Article 490

(1) Where the conditions laid down by an Act for changing a decision on imposed corrective measure are fulfilled, the court that issued such decision on the corrective measure at first instance shall decide thereon if it establishes that such change is necessary, or if a motion to that effect is submitted by the state prosecutor or the director of the correctional facility or the social welfare authority entrusted with the supervision of the minor.

(2) Before rendering the decision, the court shall hear the state prosecutor, the minor, his or her parent or guardian or other persons, and shall also request the necessary reports from the correctional facility in which the minor has been placed, from the social welfare authority or from other bodies and institutions.

(3) The court shall also proceed according to the preceding paragraphs when deciding on discontinuance of the enforcement of the

(4) O ustavitvi ali spremembi vzgojnega ukrepa odloča senat za mladoletnike. Pri odločanju mora upoštevati tudi uspešnost oziroma neuspešnost izvajanja vzgojnega ukrepa in mladoletnikovo sodelovanje v njem.

TRETJI DEL
POSEBNI POSTOPKI

XXVIII. poglavje
POSTOPEK ZA UPORABO VARNOSTNIH UKREPOV, ZA ODVZEM PREMOŽENJSKE KORISTI, PODKUPNIN TER DENARJA ALI PREMOŽENJA NEZAKONITEGA IZVORA IN ZA PREKLIC POGOJNE OBSODBE

491. člen

(1) Če je obdolženec storil kaznivo dejanje v neprištevnem stanju, predlaga državni tožilec sodišču, naj izreče obvezno psihiatrično zdravljenje in varstvo takega storilca v zdravstvenem zavodu oziroma obvezno psihiatrično zdravljenje storilca na prostosti, če so za tak varnostni ukrep podani pogoji, ki so določeni v kazenskem zakoniku.

(2) Obdolženec, zoper katerega je odrejen pripor, se med postopkom za uporabo varnostnega ukrepa namesti v ustrezen zdravstveni zavod. Glede trajanja, preizkušanja in odpravljanja namestitve obdolženca v tem zavodu se smiselno uporabljajo določbe tega zakona o priporu.

(3) Ko je podan predlog iz prvega odstavka tega člena, mora obdolženec imeti zagovornika.

(4) Obdolženec ima pravico zoper predlog iz prvega odstavka tega člena podati ugovor. O ugovoru odloča senat okrožnega sodišča (šesti odstavek 25. člena) s smiselno uporabo določb tega zakona o ugovoru zoper obtožnico. Enako velja za

corrective measure.

(4) The discontinuance or change of a corrective measure shall be decided by the juvenile panel. In making such decision, the panel shall also take into consideration the success or failure of the implementation of the corrective measure and the minor's cooperation therein.

SECTION THREE
SPECIAL PROCEEDINGS

Chapter XXVIII
PROCEEDINGS FOR THE APPLICATION OF PRECAUTIONARY MEASURES, CONFISCATION OF PROCEEDS, BRIBES AND MONEY OR PROPERTY OF ILLEGAL ORIGIN, AND FOR THE REVOCATION OF A SUSPENDED SENTENCE

Article 491

(1) If an accused person has committed a criminal offence in a state of mental incapacity, the state prosecutor shall make a motion to the court to order compulsory psychiatric treatment and confinement of such perpetrator in a medical institution, or compulsory psychiatric treatment of the perpetrator at liberty, if the grounds for such precautionary measure exist as provided by the Criminal Code.

(2) If the accused person is in detention, he or she shall be placed in an appropriate medical institution during the proceedings for the imposition of a precautionary measure. The provisions of this Act on detention shall be applied *mutatis mutandis* to the length, review and termination of the placement of the accused person in such institution.

(3) Where the motion referred to in paragraph one of this Article is submitted, the accused person must have a defence counsel.

(4) The accused person shall be entitled to submit an objection against the motion referred to in paragraph one of this Article. The district court panel (paragraph six of Article 25) shall decide on the objection by the *mutatis mutandis* application of the provisions of this Act on an

postopek iz pristojnosti okrajnega sodišča.

(5) Če s tem zakonom in predpisi izdanimi na njegovi podlagi, ni drugače določeno, se glede zavoda, v katerem se izvršuje namestitev oseb iz drugega odstavka tega člena, njihovega zdravljenja, spremljanja, zasledovanja, nadziranja, vzdrževanja reda in discipline, uporabe prisilnih sredstev, osebne preiskave in preiskave bivalnih prostorov in drugih posebnosti izvrševanja, smiselno uporabljajo določbe zakona, ki ureja izvrševanje varnostnih ukrepov psihiatričnega zdravljenja in varstva in na njegovi podlagi izdanih predpisov.

(6) V postopku za uporabo varnostnega ukrepa mora sodišče postopati posebej hitro.

492. člen

(1) O varnostnem ukrepu obveznega psihiatričnega zdravljenja in varstva v zdravstvenem zavodu ali obveznega psihiatričnega zdravljenja na prostosti odloči po glavni obravnavi sodišče, ki je pristojno za sojenje na prvi stopnji.

(2) Poleg oseb, ki morajo biti povabljene na glavno obravnavo, se povabijo kot izvedenci tudi zdravniki psihiatri iz zdravstvenega zavoda, kateremu je bilo zaupano izvedenstvo glede obdolženčeve prištevnosti. Obdolženec se povabi, če je njegovo stanje tako, da je lahko navzoč pri glavni obravnavi. Če obdolženca ni mogoče zaslišati ali njegov zagovor ni razumljiv, se šteje, da predlogu za izrek varnostnega ukrepa nasprotuje. O glavni obravnavi je treba obvestiti obdolženčevega zakonca in njegove starše oziroma skrbnika, glede na okoliščine pa tudi druge bližnje sorodnike.

(3) Če sodišče na podlagi izvedenih dokazov ugotovi, da je obdolženec storil določeno kaznivo dejanje in da je bil ob storitvi kaznivega dejanja neprišteven, odloči po zaslišanju povabljenih na podlagi izvida in mnenja izvedencev, ali naj mu izreče varnostni ukrep obveznega psihiatričnega zdravljenja in varstva v zdravstvenem

objection against the indictment. The same shall apply to proceedings within the jurisdiction of the local court.

(5) Unless otherwise provided by this Act and by the regulations issued pursuant thereto, the provisions of the Act governing the enforcement of precautionary measures of compulsory psychiatric treatment and confinement and the regulations issued pursuant thereto shall apply *mutatis mutandis* to the institution where the persons referred to in paragraph two of this Article are placed, to their treatment, monitoring, tracking, supervising, the maintaining of order and discipline, the use of coercive means, personal search and house search, and other particularities of enforcement.

(6) In proceedings for the imposition of a precautionary measure, the court shall proceed particularly expeditiously.

Article 492

(1) The decision on the precautionary measure of compulsory psychiatric treatment and confinement in a medical institution or compulsory psychiatric treatment at liberty shall be made after the main hearing is held by the court of jurisdiction at first instance.

(2) In addition to the persons who must be summoned to the main hearing, psychiatrists from the institution entrusted as expert witnesses regarding the mental capacity of the accused person shall also be summoned as expert witnesses. The accused person shall be summoned if his or her condition is such that he or she may be present at the main hearing. If the accused person may not be heard or if his or her defence is unintelligible, it shall be considered that he or she objects to the motion for the imposition of a precautionary measure. The spouse, the parents or the guardian of the accused person must be notified of the main hearing and, depending on the circumstances, other close relatives as well.

(3) If the court establishes on the basis of the evidence taken that the accused person has committed a specific criminal offence and that at the time of its commission he or she lacked mental capacity, it shall decide, after hearing the persons summoned, on the basis of the findings and opinion of expert witnesses, whether or not to impose the

zavodu oziroma obveznega psihiatričnega zdravljenja na prostosti. Pri odločanju o tem, katerega teh varnostnih ukrepov naj izreče, sodišče ni vezano na predlog državnega tožilca.

(4) Če sodišče na podlagi izvedenih dokazov ugotovi, da so podani razlogi, zaradi katerih se po tem zakonu obtožba zavrne ali obtoženca oprosti obtožbe, pa ne gre za primer iz šestega odstavka tega člena, kazenski postopek s sklepom ustavi.

(5) Zoper sklep sodišča se smejo v osmih dneh po njegovem prejemu pritožiti vsi tisti, ki imajo pravico do pritožbe zoper sodbo (367. člen), razen oškodovanca. V korist obdolženca se smejo pritožiti tudi proti njegovi volji.

(6) Če državni tožilec na glavni obravnavi umakne predlog za izrek varnostnega ukrepa ali če sodišče ugotovi, da obdolženec v času storitve kaznivega dejanja ni bil neprišteven, zavrže predlog za uporabo varnostnega ukrepa. V tem primeru sme državni tožilec v petnajstih dneh po pravnomočnosti sklepa o zavrženju predloga, zaradi istega kaznivega dejanja vložiti obtožnico oziroma obtožni predlog.

493. člen

(1) Varnostni ukrepi iz prvega odstavka 491. člena tega zakona se smejo izreči tudi, kadar državni tožilec na glavni obravnavi spremeni vloženo obtožnico oziroma obtožni predlog tako, da predlaga, naj se izrečejo omenjeni ukrepi.

(2) Če je zoper predlog vložen ugovor ali če je to potrebno za pripravo obrambe ali za izvedbo dokazov, se glavna obravnava preloži do odločitve o ugovoru oziroma za potreben čas.

494. člen

precautionary measure of compulsory psychiatric treatment and confinement in a medical institution or compulsory psychiatric treatment at liberty. In deciding which of these precautionary measures to impose, the court shall not be bound by the motion of the state prosecutor.

(4) Should the court, on the basis of the evidence taken, establish that reasons exist for rejecting the charge or acquitting the defendant of the charge pursuant to this Act, and if the case referred to in paragraph six of this Article is not involved, the criminal proceedings shall be discontinued by a ruling.

(5) The court's ruling may be challenged within eight days of its receipt by all those entitled to appeal against the judgment (Article 367), with the exception of the injured party. An appeal may be lodged to the benefit of the accused person even against his or her will.

(6) If the state prosecutor withdraws the motion for the imposition of a precautionary measure at the main hearing or if the court establishes that the accused person was without mental capacity at the time of committing the criminal offence, the motion for the imposition of a precautionary measure shall be rejected. In such case the state prosecutor may file an indictment or a motion of indictment for the same criminal offence within fifteen days of the day the ruling rejecting the motion has become final.

Article 493

(1) Precautionary measures referred to in paragraph one of Article 491 of this Act may also be imposed when the state prosecutor at the main hearing changes the filed indictment or the motion of indictment so as to request the imposition of the aforementioned measures.

(2) If an objection is filed against the motion or if this is required for preparation of the defence or for the taking of evidence, the main hearing shall be postponed until the decision on the objection is taken or for a necessary period of time.

Article 494

Kadar izreče sodišče kazen osebi, ki je storila kaznivo dejanje v stanju bistveno zmanjšane prištevnosti, izreče z isto sodbo tudi varnostni ukrep obveznega psihiatričnega zdravljenja in varstva v zdravstvenem zavodu, če ugotovi, da so za to podani pogoji po kazenskem zakoniku.

When imposing punishment on a person who committed a criminal offence in a state of substantially diminished mental capacity, the court shall, by the same judgment, also impose a precautionary measure of compulsory psychiatric treatment and confinement in a medical institution if it establishes that the conditions for such measure under the Criminal Code are fulfilled.

495. člen

(1) Pravnomočna odločba, s katero je izrečen varnostni ukrep obveznega psihiatričnega zdravljenja in varstva v zdravstvenem zavodu oziroma obveznega psihiatričnega zdravljenja na prostosti (492. in 494. člen), se pošlje sodišču, ki je pristojno odločiti o odvzemu poslovne sposobnosti. Odločba se sporoči tudi organu socialnega varstva.

(2) Sodišče najmanj tri mesece pred iztekom trajanja varnostnega ukrepa obveznega psihiatričnega zdravljenja in varstva v zdravstvenem zavodu oziroma obveznega psihiatričnega zdravljenja na prostosti o predvidenem izteku obvesti organ socialnega varstva in najbližje osebe po zakonu, ki ureja duševno zdravje, če glede na prejeta poročila o izvrševanju ukrepa ugotovi, da je to potrebno zaradi nadaljevanja zdravljenja ali posebne zaščite in varstva obsojenca.

Article 495

(1) The final decision imposing a precautionary measure of compulsory psychiatric treatment and confinement in a medical institution or compulsory psychiatric treatment at liberty (Articles 492 and 494) shall be submitted to the court vested with jurisdiction to decide on deprivation of the capacity to contract. The decision shall also be reported to the social welfare authority.

(2) The court shall, not later than three months before the expiry of the precautionary measure of compulsory psychiatric treatment and confinement in a medical institution, or compulsory psychiatric treatment at liberty, notify the social welfare authority and the closest relatives of the imminent expiry pursuant to the Act regulating mental health, if it establishes, on the basis of received reports on the implementation of the measure, that this is necessary for the purpose of continuing the treatment or the special protection and custody of the convicted person.

496. člen

(1) Sodišče, ki je na prvi stopnji izreklo storilcu varnostni ukrep obveznega psihiatričnega zdravljenja in varstva v zdravstvenem zavodu ali obveznega psihiatričnega zdravljenja na prostosti, sprejema vse ponovne odločitve glede trajanja in spreminjanja tega ukrepa iz kazenskega zakonika po uradni dolžnosti ali na predlog storilca ali zdravstvenega zavoda ter na podlagi mnenja zdravnikov. Pri ustavitvi ukrepa se smiselno uporablja drugi odstavek prejšnjega člena, če to dopuščajo okoliščine.

(2) Odločitve iz prejšnjega odstavka sprejme

Article 496

(1) The court of first instance that imposed the precautionary measure of compulsory psychiatric treatment and confinement of the perpetrator in a medical institution or compulsory psychiatric treatment at liberty shall, *ex officio* or on the motion of the perpetrator or the medical institution and on the basis of the opinion of physicians, adopt all further decisions regarding the duration and modification of this measure referred to in the Criminal Code. In lifting the measure, paragraph two of the preceding Article shall apply *mutatis mutandis* if the circumstances permit it.

(2) The decisions referred to in the preceding paragraph shall

izvenobravnavni sodnik. Sodnik pred odločitvijo po potrebi razpiše narok, o katerem obvesti državnega tožilca in zagovornika, in zasliši storilca, če je to potrebno in če storilčevo stanje to dopušča.

(3) V postopku ponovnega odločanja glede trajanja ali spreminjanja varnostnega ukrepa iz prvega odstavka tega člena mora imeti storilec zagovornika.

(4) Če sodišče odredi odpust neprištevnega storilca zaradi poteka roka iz kazenskega zakonika, obvesti o tem sodišče, ki je pristojno odločati o pridržanju oseb v psihiatričnem zdravstvenem zavodu.

(5) Za pritožbo zoper sklepe izdane po določbah tega člena, se smiselno uporabljajo določbe petega odstavka 492. člena tega zakona.

497. člen

Če je bilo pri izreku pogojne obsodbe obdolžencu naloženo zdravljenje na prostosti, ta pa se ni začel zdraviti ali je zdravljenje samovoljno opustil, sme sodišče po uradni dolžnosti ali na predlog zavoda, v katerem se je zdravil ali bi se moral zdraviti, in po zaslišanju obdolženca ter državnega tožilca, če je tekel postopek na njegovo zahtevo, preklicati pogojno obsodbo.

498. člen

(1) Predmeti, ki se po kazenskem zakonu smejo ali morajo vzeti, se vzamejo tudi tedaj, kadar se kazenski postopek ne konča s sodbo, s katero se obdolženec spozna za krivega, če je nevarno da bi bili uporabljeni za kaznivo dejanje ali če to zahtevajo koristi splošne varnosti ali razlogi morale.

(2) Poseben sklep o tem izda organ, pred katerim je tekel postopek takrat, ko je bil postopek končan oziroma ustavljen.

be taken by the trial judge. Prior to making the decision, the judge shall, if necessary, schedule a hearing, informing the state prosecutor and the defence counsel thereof, and shall hear the perpetrator if appropriate and if the perpetrator's condition allows it.

(3) In proceedings of reconsidering the duration or modification of the precautionary measure referred to in paragraph one of this Article, the perpetrator must have a defence counsel.

(4) If the court orders the release of a person without mental capacity because of the expiry of the term defined in the Criminal Code, it shall notify thereof the court having jurisdiction to decide on the confinement of persons in psychiatric institutions.

(5) The provisions of paragraph five of Article 492 of this Act shall apply *mutatis mutandis* to an appeal against the decisions issued pursuant to the provisions of this Article.

Article 497

Where the court, in imposing a suspended sentence, ordered medical treatment at liberty for the accused person and such person did not commence the treatment or abandoned it arbitrarily, the court may, *ex officio* or upon the motion of the institution in which the accused person was treated or should have been treated, and after hearing the accused person and the state prosecutor if the proceedings were instituted on the state prosecutor's request, revoke the suspended sentence.

Article 498

(1) Objects that may or must be seized under criminal law shall be seized also when criminal proceedings are not concluded by a judgment of conviction, if there is a risk that they might be used for a criminal offence or if so required by the interests of public safety or moral considerations.

(2) A special ruling thereon shall be issued by the authority before which the proceedings were held at the time when they were concluded or discontinued.

(3) Sklep o odvzemu predmetov iz prvega odstavka tega člena izda sodišče tudi, če v sodbi, s katero je bil obtoženec spoznan za krivega, manjka taka odločba.

(4) Overjen prepis odločbe o odvzemu predmetov se vroči lastniku predmetov, če je ta znan.

(5) Zoper odločbo iz drugega in tretjega odstavka tega člena ima lastnik predmetov pravico pritožbe, če misli, da za odvzem predmetov ni zakonske podlage. Če sklepa iz drugega odstavka tega člena ni izdalo sodišče, odloči o pritožbi senat (šesti odstavek 25. člena) sodišča, ki bi bilo pristojno za sojenje na prvi stopnji.

498.a člen

(1) Razen v primerih, ko se kazenski postopek konča s sodbo, s katero se obdolženec spozna za krivega, se denar ali premoženje nezakonitega izvora iz 245. člena kazenskega zakonika in protipravno dana ali sprejeta podkupnina iz 151., 157., 241., 242., 261., 262., 263. in 264. člena kazenskega zakonika, vzamejo tudi:

1) če so dokazani tisti zakonski znaki kaznivega dejanja iz 245. člena kazenskega zakonika, ki kažejo na to, da denar ali premoženje iz navedenega člena izvira iz kaznivih dejanj, oziroma
2) če so dokazani tisti zakonski znaki kaznivih dejanj iz 151., 157., 241., 242., 261., 262., 263. in 264. člena kazenskega zakonika, ki kažejo na to, da je bila dana ali sprejeta nagrada, darilo, podkupnina ali kakšna druga premoženjska korist.

(2) Poseben sklep o tem izda senat (šesti odstavek 25. člena) na obrazložen predlog državnega tožilca; pred tem pa mora preiskovalni sodnik na zahtevo senata zbrati podatke in raziskati vse okoliščine, ki so pomembne za ugotovitev nezakonitega izvora denarja ali premoženja oziroma protipravno dane ali sprejete podkupnine.

(3) Overjen prepis sklepa iz prejšnjega odstavka se vroči

(3) The court shall issue a ruling on the seizure of objects referred to in paragraph one of this Article even when it has failed to render such a decision in the judgment of conviction.

(4) A certified copy of the decision on the seizure of objects shall be served on their owner if his or her identity is known.

(5) The owner of the objects shall be entitled to appeal against the decision referred to in paragraphs two and three of this Article if he or she considers that there are no statutory grounds for the seizure of the objects. If the ruling referred to in paragraph two of this Article is not issued by the court, the appeal shall be decided by the panel (paragraph six of Article 25) of the court which would have had the jurisdiction to adjudicate at first instance.

Article 498a

(1) Except where criminal proceedings are concluded with a judgment of conviction, the money or property of illegal origin referred to in Article 245 of the Criminal Code and unlawfully given or accepted bribes referred to in Articles 151, 157, 241, 242, 261, 262, 263 and 264 of the Criminal Code shall also be seized:

1) if those statutory characteristics of a criminal offence referred to in Article 245 of the Criminal Code that indicate that the money or property from the stated Article originates from criminal offences, are proven, or
2) if those statutory characteristics of a criminal offence referred to in Articles 151, 157, 241, 242, 261, 262, 263 and 264 of the Criminal Code that indicate that a reward, gift, bribe or any other form of proceeds was given or accepted, are proven.

(2) The panel shall issue a special ruling thereon (paragraph six of Article 25) upon a reasoned motion of the state prosecutor; however, before this, the investigating judge must, at the request of the panel, collect data and investigate all the circumstances relevant for the determination of the illegal origin of the money or property or unlawfully given or received bribes.

(3) A certified copy of the ruling referred to in the preceding

lastniku odvzetega denarja ali premoženja oziroma podkupnine, če je ta znan. Če lastnik ni znan, se sklep pritrdi na sodno desko in se po preteku osmih dni šteje, da je bila opravljena vročitev tudi neznanemu lastniku.

(4) Zoper sklep iz drugega odstavka tega člena ima lastnik odvzetega denarja ali premoženja oziroma podkupnine pravico do pritožbe, če meni, da za odvzem ni zakonske podlage.

499. člen

(1) Premoženjska korist, ki je bila dosežena s kaznivim dejanjem ali zaradi njega, se ugotavlja v kazenskem postopku po uradni dolžnosti.

(2) Sodišče in drugi organi, pred katerimi teče kazenski postopek, morajo med postopkom zbirati dokaze in raziskovati okoliščine, ki so pomembne za ugotovitev premoženjske koristi.

(3) Če uveljavlja oškodovanec premoženjskopravni zahtevek, naj se mu vrnejo stvari, ki so bile pridobljene s kaznivim dejanjem, oziroma znesek, ki ustreza njihovi vrednosti, se ugotavlja premoženjska korist samo v tistem delu, ki ni zajet s premoženjskopravnim zahtevkom.

500. člen

(1) Kadar pride v poštev odvzem premoženjske koristi drugemu prejemniku koristi (75., 77., 77.a in 77.b člen kazenskega zakonika), ga je treba povabiti zaradi zaslišanja v predhodnem postopku in na glavni obravnavi. Za pravno osebo se povabi njen zastopnik. V vabilu ga je treba opozoriti, da bo postopek izveden tudi brez njegove navzočnosti.

(2) Zastopnik pravne osebe se zasliši na glavi obravnavi za

paragraph shall be served on the owner of the seized money or property or bribe if his or her identity is known. If the owner is unknown, the ruling shall be posted on the court notice board and, after the expiry of eight days, it shall be deemed that service on the unknown owner has thus been carried out.

(4) The owner of seized money or property or bribes shall have the right to appeal against the ruling referred to in paragraph two of this Article if he or she believes that there were no legal grounds for the seizure.

Article 499

(1) The proceeds gained through or resulting from a criminal offence shall be determined in criminal proceedings *ex officio*.

(2) The court and other authorities conducting proceedings shall be bound, in the course of the proceedings, to gather evidence and investigate the circumstances relevant for the determination of the proceeds.

(3) If the injured party has filed a pecuniary claim to recover objects gained through a criminal offence or be reimbursed by a monetary equivalent thereof, the proceeds shall only be determined in the part not covered by the pecuniary claim.

Article 500

(1) Where the confiscation of proceeds from another recipient of such proceeds is indicated (Articles 75, 77, 77a and 77b of the Criminal Code), he or she shall be summoned for questioning in pre-trial proceedings and at the main hearing. If a legal person is involved, its representative shall be summoned. In the summons, he or she shall be informed that the proceedings will be held notwithstanding his or her absence.

(2) The representative of the legal entity shall be questioned at

obdolžencem. Enako se ravna tudi glede drugega prejemnika koristi, če ni bil povabljen kot priča.

(3) Prejemnik koristi ter zastopnik pravne osebe imata v zvezi z ugotavljanjem premoženjske koristi pravico predlagati dokaze in z dovoljenjem predsednika senata postavljati vprašanja obdolžencu, pričam in izvedencem.

(4) Izključitev javnosti glavne obravnave ne velja za prejemnika koristi in zastopnika pravne osebe.

(5) Če sodišče šele med glavno obravnavo ugotovi, da pride v poštev odvzem premoženjske koristi, prekine glavno obravnavo in povabi prejemnika koristi oziroma zastopnika pravne osebe.

501. člen

Sodišče odmeri znesek premoženjske koristi po prostem preudarku, če bi bilo njeno ugotavljanje zvezano z nesorazmernimi težavami ali če bi se zaradi tega postopek preveč zavlekel.

502. člen

(1) Kadar prihaja v kazenskem postopku v poštev odvzem premoženjske koristi, obstaja pa nevarnost, da bi obdolženec, sam ali preko drugih oseb, to korist uporabil za nadaljnjo kriminalno dejavnost ali da bi jo skril, odtujil, uničil ali kako drugače z njo razpolagal, tako, da bi onemogočil ali precej otežil njen odvzem po končanem kazenskem postopku, odredi sodišče na predlog državnega tožilca začasno zavarovanje zahtevka za odvzem premoženjske koristi.

(2) Takšno zavarovanje lahko sodišče odredi tudi v predkazenskem postopku, če so podani utemeljeni razlogi za sum, da je bilo storjeno kaznivo dejanje, s katerim ali zaradi katerega je bila

the main hearing after the accused person. The court shall proceed in the same manner in respect of another recipient of the proceeds, unless he or she is summoned as a witness.

(3) The recipient of the proceeds and the representative of the legal person shall be entitled to propose evidence concerning the determination of the proceeds, and, with the permission of the president of the panel, to address questions to the accused person, witnesses and expert witnesses.

(4) The exclusion of the public from the main hearing shall not apply to the recipient of the proceeds and the representative of the legal entity.

(5) If the court finds only during the main hearing that the confiscation of proceeds may be indicated, it shall suspend the main hearing and summon the recipient of the proceeds or the representative of the legal person.

Article 501

The court shall assess the amount of proceeds at its discretion if its accurate determination would entail disproportionate difficulties or if the proceedings would thereby be excessively delayed.

Article 502

(1) When the confiscation of proceeds is indicated in the criminal proceedings and there is a risk that the accused person alone or through other persons could use such proceeds for further criminal activities, or could conceal, appropriate, destroy or otherwise dispose of it in order to prevent or render its confiscation considerably difficult after the conclusion of criminal proceedings, the court shall order, on a motion of the state prosecutor, a temporary measure securing a claim for the confiscation of proceeds.

(2) The court may also order such securing in the pre-trial procedure if there are reasonable grounds for the suspicion that a criminal offence has been committed through which or resulting from which the

pridobljena premoženjska korist, ali da je bila taka korist pridobljena za drugega ali nanj prenesena.

(3) Zavarovanje iz prejšnjih odstavkov se lahko odredi zoper obdolženca oziroma osumljenca, zoper prejemnika premoženjske koristi ali zoper druge osebe, na katere je bila prenesena, če se jim lahko odvzame po določbah Kazenskega zakonika.

502.a člen

(1) Začasno zavarovanje zahtevka za odvzem premoženjske koristi se odredi s sklepom, ki ga izda v predkazenskem postopku in med preiskavo preiskovalni sodnik. Po vložitvi obtožnice izda sklep zunaj glavne obravnave predsednik senata, na glavni obravnavi pa senat.

(2) Sklep iz prejšnjega odstavka se vroči državnemu tožilcu, osumljencu oziroma obdolžencu in osebi, zoper katero je začasno zavarovanje odrejeno (udeleženci). Sklep se pošlje pristojnemu organu oziroma osebi, ki ga izvrši. Sklep se osumljencu oziroma obdolžencu in osebi, zoper katero je začasno zavarovanje odrejeno, vroči hkrati z njegovo izvršitvijo ali po izvršitvi, vendar brez nepotrebnega odlašanja.

(3) Tisti, ki je izdal sklep, mora omogočiti osumljencu oziroma obdolžencu in osebi, zoper katero je začasno zavarovanje odrejeno, da se seznani z vsemi spisi zadeve.

(4) Če začasno zavarovanje ni odrejeno, se sklep vroči samo državnemu tožilcu, ki se lahko zoper sklep pritoži.

(5) Zoper sklep iz prvega odstavka tega člena lahko osumljenec oziroma obdolženec ali oseba, zoper katero je začasno zavarovanje odrejeno, v osmih dneh od vročitve sklepa vloži ugovor in predlaga, da sodišče opravi narok. Ugovor vroči sodišče ostalim udeležencem in jim določi rok za odgovor. Ugovor ne zadrži izvršitve

proceeds were gained, or that such proceeds were gained for or transferred to another person.

(3) The securing referred to in the preceding paragraphs may be ordered against the accused person or suspect, against the recipient of the proceeds or against other persons to whom they were transferred, provided they can be confiscated as laid down by the provisions of the Criminal Code.

Article 502a

(1) The securing of a claim for the confiscation of proceeds shall be ordered by a ruling issued by the investigating judge in the pre-trial procedure and during the investigation. After the indictment is filed, the president of the panel shall issue such a ruling outside the main hearing, and the panel shall issue it during the main hearing.

(2) The ruling referred to in the preceding paragraph shall be served on the state prosecutor, the suspect or the accused person, and the person against whom the temporary measure securing a claim was ordered (participants). The ruling shall be submitted to the competent authority or person for enforcement. It shall be served on the suspect or the accused person and the person against whom the temporary measure securing a claim was ordered, simultaneously with its enforcement or after enforcement, but without undue delay.

(3) The authority that issued the ruling must enable the suspect or the accused person and the person against whom the temporary measure securing a claim was ordered to get acquainted with all the files of the case.

(4) If a temporary measure securing a claim is not ordered, the ruling shall only be served on the state prosecutor, who may lodge an appeal against it.

(5) The suspect or the accused person or the person against whom the temporary measure securing a claim is ordered may raise an objection against the ruling referred to in paragraph one of this Article within eight days of the date of its service, and request that the court hold a hearing. The court shall serve the objection on other participants and

sklepa.

(6) O naroku odloči sodišče glede na okoliščine primera, upoštevajoč navedbe v ugovoru. Če sodišče ne razpiše naroka, o ugovoru odloči na podlagi predloženih listin in drugega predloženega gradiva ter obrazloži svojo odločitev v sklepu o ugovoru (osmi odstavek tega člena).

(7) V ugovoru in na naroku je treba vlagatelju ugovora in ostalim udeležencem omogočiti, da se izjavijo o predlaganih in odrejenih ukrepih, da podajo svoja stališča, navedbe in predloge o vseh vprašanjih začasnega zavarovanja.

(8) Ko se udeleženci naroka izjavijo o vseh vprašanjih in se izvedejo dokazi, če so potrebni za odločitev o ugovoru, sodišče odloči o ugovoru. S sklepom, ki ga izda o ugovoru, sodišče ugovor ob smiselni uporabi 375. člena tega zakona zavrže, ugovoru ugodi in razveljavi ali spremeni sklep o odreditvi začasnega zavarovanja, ali ugovor zavrne.

(9) Zoper sklep iz prejšnjega odstavka imajo udeleženci pravico do pritožbe. Pritožba ne zadrži izvršitve sklepa.

502.b člen

(1) V sklepu, s katerim se odredi začasno zavarovanje, mora sodišče navesti premoženje, ki je predmet zavarovanja, način zavarovanja (prvi odstavek 271. člena, prvi odstavek 272. člena in prvi odstavek 273. člena Zakona o izvršbi in zavarovanju) in rok trajanja ukrepa. Sklep mora biti obrazložen.

(2) Pri določitvi roka trajanja ukrepa mora sodišče upoštevati fazo kazenskega postopka, vrsto, naravo in težo kaznivega dejanja, zapletenost zadeve, pa tudi obseg in pomen

determine a time limit for their response. The objection shall not stay the execution of the ruling.

(6) The court shall decide on the hearing depending on the circumstances of the case, taking into account the allegations stated in the objection. If the court does not schedule a hearing, it shall decide on the objection on the basis of the documents and other material submitted and shall state the reasons for its decision in a ruling on the objection (paragraph eight of this Article).

(7) In the objection and at the hearing, the person filing the objection and other participants must have the opportunity to make a statement on the proposed and ordered measures, and to present their views, arguments and motions on all the issues of the temporary measure securing a claim.

(8) When the participants of the hearing make their statements on all the issues and the necessary evidence for the decision on the objection is taken, the court shall decide on the objection. In its ruling on the objection, the court shall dismiss the objection by *mutatis mutandis* application of Article 375 of this Act, grant the objection and set aside or change the ruling ordering the temporary measure securing a claim, or reject the objection.

(9) The participants shall be entitled to appeal against the ruling referred to in the preceding paragraph. An appeal shall not stay the execution of the ruling.

Article 502b

(1) In the ruling ordering the temporary measure securing a claim, the court shall be bound to specify the property which is the subject of the temporary measure securing a claim, the method of such temporary measure (paragraph one of Article 271, paragraph one of Article 272 and paragraph one of Article 273 of the Claim Enforcement and Security Act) and its duration. The ruling shall be reasoned.

(2) In determining the term of the measure, the court must take into consideration the stage of criminal proceedings, the type, nature and gravity of the criminal offence, the complexity of the case, and also the

premoženja, ki je predmet začasnega zavarovanja.

(3) V predkazenskem postopku, kakor tudi po izdaji sklepa o uvedbi preiskave, lahko začasno zavarovanje traja šest mesecev. Po vložitvi obtožnice do izvršitve pravnomočne sodbe trajanje začasnega zavarovanja ne sme biti daljše od enega leta.

(4) Rok iz prejšnjega odstavka se lahko podaljša v enakih časovnih razdobjih. Skupno trajanje začasnega zavarovanja pred uvedbo preiskave oziroma, če ta ni uvedena, pred vložitvijo obtožnice, ne sme biti daljše od dveh let. V preiskavi skupno trajanje začasnega zavarovanja ne sme biti daljše od dveh let. Po vložitvi obtožnice do izreka sodbe sodišča prve stopnje skupno trajanje začasnega zavarovanja ne sme presegati treh let.

(5) Do izvršitve pravnomočne sodne odločbe o odvzemu premoženjske koristi sme začasno zavarovanje skupno trajati največ deset let.

502.c člen

(1) Sodišče lahko na obrazložen predlog državnega tožilca, upoštevajoč merila iz prvega odstavka 502. člena tega zakona in roke iz četrtega in petega odstavka 502.b člena tega zakona, s sklepom podaljša začasno zavarovanje, odrejeno s sklepom iz prvega odstavka 502.a člena tega zakona. Preden odloči o predlogu, pošlje sodišče predlog ostalim udeležencem, da se o njem izjavijo, in jim določi primeren rok za odgovor.

(2) Sodišče lahko na obrazložen predlog državnega tožilca, osumljenca oziroma obdolženca ali osebe, zoper katero je bilo začasno zavarovanje odrejeno, upoštevajoč merila iz prvega odstavka 502. člena tega zakona, odredi nov način zavarovanja in razveljavi prejšnji sklep o začasnem zavarovanju. Preden o predlogu odloči, pošlje sodišče predlog ostalim udeležencem, da se o njem

volume and significance of the property that is the subject of the temporary measure securing the claim.

(3) In the pre-trial procedure, as well as after the ruling on the opening of an investigation is issued, the temporary measure securing a claim may last six months. The period of temporary securing may not exceed one year from the lodging of the indictment until the enforcement of the final judgment.

(4) The period referred to in the preceding paragraph may be extended for the same periods of time. The total length of the temporary measure securing a claim prior to the opening of investigation or, if an investigation is not initiated, prior to the submission of the indictment, may not exceed two years. During the investigation, the total length of the temporary measure securing the claim may not exceed two years. The total length of the temporary measure from the submission of the indictment until the pronouncement of the judgment by the court of first instance may not exceed three years.

(5) The total length of the temporary measure securing a claim until the enforcement of the final court decision on the confiscation of proceeds may not exceed ten years.

Article 502c

(1) Upon a reasoned motion of the state prosecutor, taking into consideration the criteria referred to in paragraph one of Article 502 of this Code and the periods referred to in paragraphs four and five of Article 502b of this Act, the court may extend the temporary measure securing a claim ordered by the ruling referred to in paragraph one of Article 502a of this Act by a ruling. Before deciding on the motion, the court shall send the motion to other participants to respond to it and shall set a reasonable time limit for their response.

(2) Upon a reasoned motion of the state prosecutor, the suspect or the accused person or the person against whom the temporary measure securing a claim was ordered, and taking into consideration the criteria referred to in paragraph one of Article 502 of this Act, the court may order a new method of the temporary measure securing the claim and set aside the former ruling on the temporary measure. Before deciding on

izjavijo in jim določi primeren rok za odgovor. Odločba o razveljavitvi ukrepa se izvrši po izvršitvi odločbe, s katero je odrejen nov način začasnega zavarovanja.

(3) Sodišče odpravi začasno zavarovanje na predlog udeležencev. Sodišče lahko odpravi začasno zavarovanje tudi po uradni dolžnosti zaradi poteka roka ali če državni tožilec zavrže ovadbo oziroma izjavi, da ne bo začel pregona ali da od njega odstopa. Državni tožilec mora o svoji odločitvi obvestiti sodišče.

(4) Če sodišče meni, da začasno zavarovanje ni več potrebno, pozove državnega tožilca, da se o tem v določenem roku izjavi. Če se državni tožilec v roku ne izjavi ali če odpravi začasnega zavarovanja ne nasprotuje, sodišče začasno zavarovanje odpravi.

502.č člen

O predlogu za odreditev, podaljšanje, spremembo ali odpravo začasnega zavarovanja mora sodišče odločiti posebej hitro. Če je bilo začasno zavarovanje odrejeno, morajo organi v predkazenskem postopku postopati posebej hitro, kazenski postopek pa se šteje za prednostnega.

502.d člen

Če s tem zakonom ni drugače določeno, se v postopku za začasno zavarovanje odvzema premoženjske koristi smiselno uporabljajo določbe o začasnih odredbah iz zakona, ki ureja izvršbo in zavarovanje.

502.e člen

the motion, the court shall send the motion to other participants to respond to it and shall set a reasonable time limit for their response. The decision repealing the measure shall be enforced after the execution of the decision ordering a new method of the temporary measure securing the claim.

(3) The court shall revoke the temporary measure securing a claim on a motion of the participants. The court may also revoke the temporary measure securing the claim *ex officio* due to the expiry of the time limit or if the state prosecutor dismisses the criminal complaint or states that he or she will not institute criminal prosecution or that he or she relinquishes it. The state prosecutor must notify the court of his or her decision.

(4) If the court believes that the temporary measure securing a claim is no longer necessary, it shall invite the state prosecutor to provide an opinion thereon within a specified time limit. If the state prosecutor does not provide the opinion within the specified time limit or does not object to the revocation of the temporary measure securing the claim, the court shall proceed to revoke it.

Article 502č

The court must be particularly expeditious in rendering a decision on the motion for ordering, extension, modification or revocation of the temporary measure securing a claim. If the temporary measure securing a claim has been ordered, the authorities in the pre-trial procedure must proceed particularly expeditiously and the criminal proceedings shall be considered as a priority.

Article 502d

The provisions on interim injunctions of the Act governing claim enforcement and security shall apply *mutatis mutandis* to the temporary measure securing a claim for the confiscation of proceeds, unless otherwise provided by this Act.

Article 502e

(1) O odreditvi, spremembi in odpravi začasnega zavarovanja odvzema premoženjske koristi sodišče po uradni dolžnosti obvesti pristojni davčni organ s prepisom svoje odločbe.

(2) Če pristojni davčni organ po prejemu obvestila iz prejšnjega odstavka sodišču sporoči, da v zvezi z začasno zavarovanim premoženjem načrtuje uvedbo postopka, za katerega je pooblaščen po zakonu, sodišče v odločbi o spremembi ali odpravi začasnega zavarovanja odredi, da organ, pristojen za izvršitev zavarovanja, tega ne sme spremeniti ali odpraviti pred prejemom pisnega obvestila sodišča, da je potekel en mesec od dneva vročitve odločbe o spremembi ali odpravi zavarovanja pristojnemu davčnemu organu.

503. člen

(1) Odvzem premoženjske koristi sme izreči sodišče v sodbi, s katero spozna obtoženca za krivega, v sklepu o sodnem opominu ali v sklepu o vzgojnem ukrepu ter v sklepu, s katerim izreče varnostni ukrep obveznega psihiatričnega zdravljenja in varstva v zdravstvenem zavodu in obveznega psihiatričnega zdravljenja na prostosti po kazenskem zakoniku.

(2) V izreku sodbe ali sklepa navede sodišče, kateri predmet oziroma kolikšen denarni znesek se odvzame. V upravičenih primerih sme sodišče dovoliti obročno plačilo premoženjske koristi, pri čemer določi rok plačila in višino obrokov.

(3) Overjen prepis sodbe oziroma sklepa se vroči tudi prejemniku koristi ter zastopniku pravne osebe, če je sodišče izreklo odvzem premoženjske koristi prejemniku koristi ali pravni osebi.

504. člen

Pravna oseba in prejemnik koristi iz 500. člena tega zakona lahko zahtevata obnovo kazenskega postopka glede odločbe o odvzemu premoženjske koristi.

(1) The court shall notify *ex officio* the competent tax authority by a copy of its decision of the ordering, changing and revoking of the temporary measure securing a claim for the confiscation of proceeds.

(2) If upon receipt of the notification referred to in the preceding paragraph, the competent tax authority notifies the court that it plans to initiate the procedure for which it is authorised by law regarding the temporarily secured property, the court shall order in the decision changing or revoking the temporary measure securing the claim that the authority competent to enforce such temporary measure may not modify or revoke it prior to receiving the court's written notice that one month has elapsed from the date of service of the decision on the modification or revocation of the temporary measure on the competent tax authority.

Article 503

(1) The court may order the confiscation of proceeds by a judgment of conviction, by a ruling on a judicial admonition or a ruling on a corrective measure, as well as by a ruling imposing a precautionary measure of compulsory psychiatric treatment and confinement in a medical institution and compulsory psychiatric treatment at liberty in compliance with the Criminal Code.

(2) In the operative part of the judgment or the ruling, the court shall state which object is to be seized or which sum confiscated. In duly justified cases, the court may allow the payment of proceeds in instalments, fixing the payment period and the number of instalments.

(3) Where the court has ordered the confiscation of proceeds against a recipient of the proceeds or a legal person, a certified copy of the judgment or ruling shall also be served on the recipient of the proceeds and the representative of the legal person.

Article 504

The legal person and the recipient of the proceeds referred to in Article 500 of this Act may submit a request for the reopening of criminal proceedings regarding the decision on the confiscation of proceeds.

505. člen

Drugi in tretji odstavek 368. člena ter 376. in 380. člen tega zakona se uporabljajo smiselno glede pritožbe zoper odločbo o odvzemu premoženjske koristi.

506. člen

(1) Če je v pogojni obsodbi določeno, da bo kazen izrečena, če obsojenec ne vrne premoženjske koristi, ne povrne škode ali ne izpolni kakšne druge obveznosti, obsojenec pa v določenem roku tega ne stori, izvede sodišče, ki je sodilo na prvi stopnji, postopek za preklic pogojne obsodbe na predlog upravičenega tožilca ali oškodovanca, lahko pa tudi po uradni dolžnosti. V postopku preklica pogojne obsodbe z varstvenim nadzorstvom se smiselno uporabljajo določbe tega člena, če to dopuščajo okoliščine pa tudi drugega odstavka 495. člena tega zakona.

(2) Izvenobravnavni sodnik zasliši obsojenca, če je dosegljiv, in opravi potrebne poizvedbe, da ugotovi dejstva in zbere dokaze, ki so pomembni za odločitev.

(3) Nato izvenobravnavni sodnik po potrebi razpiše narok, o katerem obvesti tožilca, obsojenca in oškodovanca. Če stranke in oškodovanec, ki so bili v redu obveščeni, ne pridejo, ali če se obsojenec očitno izmika ali ne želi priti na narok, to ni ovira za sprejem odločitve.

(4) Če izvenobravnavni sodnik ugotovi, da obsojenec ni izpolnil obveznosti, ki mu je bila naložena s sodbo, izda sodbo, s katero pogojno obsodbo prekliče in izreče kazen ali določi nov rok za izpolnitev obveznosti ali v pogojni obsodbi določeno obveznost nadomesti z drugo ustrezno, zakonsko določeno obveznostjo, ali pa odpravi ta pogoj. Če pa spozna, da ni podlage za nobeno od teh odločb, postopek za preklic pogojne obsodbe ustavi s sklepom.

Article 505

Paragraphs two and three of Article 368 and Articles 376 and 380 of this Act shall apply *mutatis mutandis* to an appeal against the decision on the confiscation of proceeds.

Article 506

(1) Where a court orders in a suspended sentence that the punishment will be imposed if the convicted person fails to return the proceeds, fails to recover damage or fails to meet other obligations, and if the convicted person fails to do so within a specified period of time, the court that adjudicated at first instance shall, upon the motion of the authorised prosecutor or the injured party or *ex officio*, carry out the procedure for the revocation of the suspended sentence. The provisions of this Article, and also the provisions of paragraph two of Article 495 of this Act if the circumstances permit, shall apply *mutatis mutandis* to the procedure of revocation of the suspended sentence with custodial supervision.

(2) The trial judge shall interrogate the convicted person if he or she is available, and shall carry out the necessary enquiries for the purpose of determining the facts and gathering evidence important for the decision.

(3) Thereafter, the trial judge shall, if necessary, schedule a hearing, informing the prosecutor, the convicted person and the injured party thereof. If the parties and the injured person who were duly notified fail to appear, or if the convicted person clearly evades or does not wish to attend the hearing, this shall not prevent the adoption of the decision.

(4) If the trial judge finds that the convicted person has not fulfilled the obligation(s) imposed on him or her by the judgment, he or she shall issue a judgment revoking the suspended sentence and imposing a punishment or setting a new time limit for the fulfilment of the obligation(s), or replacing an obligation specified in the suspended sentence with another appropriate and legally prescribed obligation, or removing this condition altogether. However, if the trial judge establishes that there is no

basis for any of these decisions, he or she shall terminate the procedure for the revocation of the suspended sentence by a ruling.

506.a člen

(1) Sodišče, ki je odredilo hrambo zaseženih predmetov ali začasno zavarovanje zahtevka za odvzem premoženjske koristi oziroma premoženja v vrednosti premoženjske koristi, mora v teh primerih postopati posebej hitro. Z zaseženimi predmeti in premoženjem, ki služi za začasno zavarovanje zahtevka, ter s predmeti ali premoženjem, ki so bili dani kot varščina (196. do 199. člen), mora ravnati kot dober gospodar.

(2) Če je hramba zaseženih predmetov ali začasno zavarovanje zahtevka iz prejšnjega odstavka povezano z nesorazmernimi stroški ali pa se vrednost premoženja ali predmetov zmanjšuje, sodišče odredi, da se tako premoženje ali predmeti prodajo, uničijo ali podarijo v javno korist. Pred odločitvijo mora sodišče pridobiti mnenje lastnika premoženja ali predmetov. Če lastnik ni znan ali mu poziva za podajo mnenja ni mogoče vročiti, sodišče poziv pritrdi na sodno desko in se po osmih dneh šteje, da je bila vročitev opravljena. Če lastnik v osmih dneh po vročitvi poziva ne poda mnenja, se šteje, da s prodajo, uničenjem ali podaritvijo soglaša.

(3) Za hrambo zaseženih predmetov in varščin ter za začasno zavarovanje zahtevkov iz prvega odstavka tega člena skrbijo pristojni državni organi, organizacije z javnimi pooblastili, izvršitelji, gospodarske družbe, samostojni podjetniki posamezniki in finančne organizacije.

(4) Postopek upravljanja s predmeti, premoženjem in varščinami iz prvega odstavka tega člen ter pogoje, ki jih morajo izpolnjevati gospodarske družbe in samostojni podjetniki posamezniki za opravljanje dejavnosti po tretjem odstavku tega člena, pravila in tarifo za njihovo delovanje ter pravila izbora med več ponudniki takih storitev predpiše Vlada Republike Slovenije.

Article 506a

(1) The court that ordered the custody of the seized objects or the temporary measure securing a claim for the confiscation of proceeds or property in a value matching the proceeds, must proceed particularly expeditiously in such cases. The court shall act as a good manager with respect to the seized objects and the property subject to the temporary measure securing a claim for the confiscation of proceeds, as well as with respect to objects and assets deposited as bail (Articles 196 to 199).

(2) If the custody of the seized objects or the temporary measure securing a claim referred to in the preceding paragraph involves disproportionate costs or if the value of the assets or the objects is decreasing, the court shall order that such assets or objects be sold, destroyed or donated for the public benefit. Before taking a decision, the court must obtain the opinion of the owner of the assets or objects. If the owner is not known or if the service of a summons on the owner for the purpose of providing an opinion is not possible, the court shall post the summons on the court notice board and after a lapse of eight days it shall be deemed that the service has been duly effected. If the owner fails to provide an opinion within eight days of service of the summons, it shall be deemed that he or she has consented to the assets or objects being sold, destroyed or donated.

(3) The competent state bodies, organisations with public authority, enforcement officers, companies, sole traders and financial organisations shall be in charge of the custody of the seized objects and bails and the temporary measure securing the claims referred to in paragraph one of this Article.

(4) The procedure for managing objects, assets and bails referred to in paragraph one of this Article, and the requirements that must be met by companies and sole traders for the performance of activities referred to in paragraph three of this Article, the rules and tariffs for their operation and the rules of selection among several providers of such services shall be prescribed by the Government of the Republic of Slovenia.

507. člen

(1) Če ni v tem poglavju določeno drugače, se glede postopka za uporabo varnostnih ukrepov, za odvzem premoženjske koristi, podkupnin in denarja ali premoženja nezakonitega izvora ter za postopek za preklic pogojne obsodbe smiselno uporabljajo druge določbe tega zakona.

(2) Določbe členov 498.a do vključno 506.a tega zakona, ki se nanašajo na odvzem denarja ali premoženja nezakonitega izvora, podkupnin in druge premoženjske koristi, se smiselno uporabljajo tudi za odvzem premoženja v vrednosti, ki ustreza premoženjski koristi (75., 77., 77.a in 77.b člen kazenskega zakonika).

(3) Določbe 499. člena tega zakona se smiselno uporabljajo tudi za predkazenski in preiskovalni postopek; pri zbiranju dokazov in raziskovanju okoliščin, ki so pomembne za ugotovitev premoženjske koristi pa poleg organov, pred katerimi teče kazenski postopek, sodelujejo tudi drugi organi, za katere zakon tako določa.

XXIX. poglavje
POSTOPEK ZA ODLOČBO O IZBRISU OBSODBE IN O PRENEHANJU VARNOSTNIH UKREPOV IN PRAVNIH POSLEDIC OBSODBE

508. člen

(1) Če se obsodba po zakonu izbriše s pretekom določenega časa in s pogojem, da obsojenec v tem času ne stori novega kaznivega dejanja (82. člen kazenskega zakonika) izda po uradni dolžnosti odločbo o izbrisu obsodbe ministrstvo, pristojno za pravosodje.

(2) **(črtan).**

509. člen

Article 507

(1) Unless otherwise provided in this Chapter, other provisions of this Act shall apply *mutatis mutandis* to the procedure for the application of precautionary measures, the confiscation of proceeds, bribes and money or property of illegal origin, and the revocation of a suspended sentence.

(2) The provisions of Articles 498a to 506a of this Act that refer to the confiscation of money or assets of illegal origin, bribes and other proceeds shall apply *mutatis mutandis* to the confiscation of assets in a value matching the proceeds (Articles 75, 77, 77a and 77b of the Criminal Code).

(3) The provisions of Article 499 of this Act shall apply *mutatis mutandis* to the pre-trial and investigation procedure; in gathering the evidence and the investigation of the circumstances relevant for the determination of proceeds, other bodies defined by this Act shall take part in addition to the bodies before which criminal proceedings are pending.

Chapter XXIX
PROCEDURES REGARDING THE DECISION ON EXPUNGING A CONVICTION AND ON THE TERMINATION OF PRECAUTIONARY MEASURES AND THE LEGAL CONSEQUENCES OF THE CONVICTION

Article 508

(1) If a conviction is expunged as provided by an Act through the lapse of a certain period of time and under the condition that the convicted person does not commit a new criminal offence within that period (Article 82 of the Criminal Code), the ministry responsible for justice shall render a decision on the expunging of the conviction *ex officio*.

(2) **(Deleted)**.

Article 509

(1) Če ministrstvo, pristojno za pravosodje, ne izda odločbe o izbrisu obsodbe, sme obsojenec zahtevati, naj se ugotovi, da je obsodba po zakonu izbrisana.

(2) Če ministrstvo, pristojno za pravosodje, v tridesetih dneh po prejemu ne izda odločbe, lahko obsojenec zahteva, naj izda sodišče, ki je izreklo sodbo na prvi stopnji, sklep o izbrisu obsodbe.

(3) O taki zahtevi odloča sodišče po zaslišanju državnega tožilca, če je tekel postopek na njegovo zahtevo.

510. člen
(črtan)

511. člen

(1) Postopek za izbris obsodbe na podlagi sodne odločbe (83. člen kazenskega zakonika) se uvede na obsojenčevo prošnjo.

(2) Prošnja se vloži pri sodišču, ki je sodilo na prvi stopnji.

(3) Izvenobravnavni sodnik preizkusi najprej, ali je pretekel čas, ki se zahteva po zakonu, nato pa opravi potrebne poizvedbe in ugotovi dejstva, na katera se sklicuje prosilec, ter zbere dokaze o vseh okoliščinah, ki so pomembne za odločbo.

(4) Sodišče lahko zahteva o obsojenčevem obnašanju poročilo od policije, na območju katere je obsojenec prebival po prestani kazni, lahko pa zahteva tako poročilo tudi od uprave zavoda, v katerem je obsojenec kazen prestal.

(5) Po poizvedbah in zaslišanju državnega tožilca, če je

(1) If the ministry responsible for justice does not issue a decision expunging the conviction, the convicted person may request it to be determined that the conviction be expunged by force of an Act.

(2) If the ministry responsible for justice does not issue a decision within thirty days of receipt of the request, the convicted person may request that the court that rendered the judgment at first instance issue a decision expunging the conviction.

(3) Such request shall be decided by the court after having heard the opinion of the state prosecutor if the proceedings were instituted upon his or her request.

Article 510
(Deleted)

Article 511

(1) The procedure for expungement of conviction on the basis of a court decision (Article 83 of the Criminal Code) shall be instituted upon the request of the convicted person.

(2) The request shall be filed with the court that adjudicated at first instance.

(3) The trial judge shall first examine whether the required period of time laid down by an Act has lapsed and then he or she shall make the necessary enquiries and determine the facts alleged by the petitioner, and gather evidence of all the circumstances relevant to the decision.

(4) The court may request a report on the convicted person's behaviour from the police unit in whose territory the convicted person has resided after serving the sentence, and may also request such a report from the administration of the prison in which the convicted person served the sentence.

(5) After completing the inquiries and hearing the opinion of the

tekel postopek na njegovo zahtevo, o prošnji odloči izvenobravnavni sodnik.

(6) Zoper odločbo sodišča o prošnji za izbris obsodbe se lahko pritožita prosilec in državni tožilec.

(7) Če sodišče zavrne prošnjo zato, ker obsojenec s svojim obnašanjem ni zaslužil izbrisa obsodbe, sme obsojenec ponoviti prošnjo po preteku dveh let, odkar je sklep o zavrnitvi prošnje postal pravnomočen.

512. člen

V potrdilu, ki se daje na podlagi kazenske evidence osebam, za uveljavljanje njihovih pravic, se izbrisana obsodba ne sme omenjati.

513. člen

(1) Postopek za prenehanje varnostnih ukrepov prepovedi opravljanja poklica, prepovedi približevanja ali komuniciranja z žrtvijo kaznivega dejanja in odvzema vozniškega dovoljenja (četrti odstavek 71., šesti odstavek 71.a in peti odstavek 72. člena kazenskega zakonika) in za prenehanje pravne posledice obsodbe (tretji odstavek 80. člena kazenskega zakonika) se uvede na obsojenčevo prošnjo, ki se vloži pri sodišču, ki je sodilo na prvi stopnji.

(2) Izvenobravnavni sodnik preizkusi najprej, ali je pretekel čas, ki se zahteva po zakonu, nato pa opravi potrebne poizvedbe in ugotovi dejstva, na katera se sklicuje prosilec, ter zbere dokaze o vseh okoliščinah, ki so pomembne za odločbo.

(3) Sodnik lahko zahteva o obsojenčevem obnašanju poročilo od policije, na območju katere je obsojenec prebival po

state prosecutor, if the proceedings were instituted upon his or her motion, the request shall be decided by the trial judge.

(6) The decision of the court on the request for expungement of the conviction may be appealed against by the petitioner and the state prosecutor.

(7) If the court rejects the request on the grounds that the convicted person does not deserve to have his or her conviction expunged due to his or her behaviour, the convicted person may repeat the request after a lapse of two years from the day the decision rejecting his or her request became final.

Article 512

An expunged conviction may not be mentioned in a certificate issued to individuals on the basis of criminal records for the purpose of exercising their rights.

Article 513

(1) The procedure for the termination of the precautionary measures of prohibition on practicing a profession, of restraining orders or prohibition of communication with the victim of a criminal offence and the revocation of a driving licence (paragraph four of Article 71, paragraph six of Article 71a and paragraph five of Article 72 of the Criminal Code), and the procedure for the termination of the legal consequences of a conviction (paragraph three of Article 80 of the Criminal Code) shall be instituted upon the request of the convicted person and shall be filed with the court that adjudicated at first instance.

(2) The trial judge shall first examine whether the required period of time laid down by an Act has lapsed and then he or she shall make the necessary enquiries and determine the facts alleged by the petitioner, and gather evidence of all the circumstances relevant to the decision.

(3) The judge may request a report on the convicted person's behaviour from the police unit in whose territory the convicted person has

prestani, odpuščeni ali zastarani glavni kazni, lahko pa zahteva tako poročilo tudi od zavoda, v katerem je obsojenec prestal kazen.

(4) Po poizvedbah in po zaslišanju državnega tožilca, če je tekel postopek na njegovo zahtevo, pri postopku za prenehanje varnostnega ukrepa prepovedi približevanja ali komuniciranja z žrtvijo kaznivega dejanja (šesti odstavek 71.a člena Kazenskega zakonika) pa tudi po zaslišanju oškodovanca o prošnji odloči izvenobravnavni sodnik. Če oškodovanec, ki je bil v redu vabljen, ne pride, to ni ovira za sprejem odločitve.

(5) Zoper sklep se lahko pritožita državni tožilec in obsojenec.

(6) Če je obsojenčeva prošnja zavrnjena, ni dovoljena nova prošnja, preden ne preteče eno leto od pravnomočnosti sklepa s katerim je bila prejšnja prošnja zavrnjena.

XXX. poglavje
POSTOPEK ZA MEDNARODNO PRAVNO POMOČ IN IZVRŠITEV MEDNARODNIH POGODB V KAZENSKOPRAVNIH STVAREH

514. člen
(delno se preneha uporabljati)

Mednarodna kazenskopravna pomoč se daje po določbah tega zakona, če ni z mednarodno pogodbo ali zakonom določeno drugače.

515. člen
(delno se preneha uporabljati)

(1) Prošnje domačih sodišč in državnih tožilstev za pravno pomoč v kazenskih zadevah se pošiljajo tujim organom po diplomatski poti. Na enak način se pošiljajo domačim sodiščem in državnim tožilstvom prošnje tujih organov za pravno pomoč.

resided after the main sentence was served, remitted or time-barred, or may also request such a report from the prison in which the convicted person served his or her sentence.

(4) After completing the enquiries and hearing the opinion of the state prosecutor if the proceedings were instituted upon his or her motion, and after hearing the injured party, the request, in the procedure for termination of the precautionary measure of restraining orders or prohibition of communication with the victim of the criminal offence (paragraph six of Article 71a of the Criminal Code), shall be decided by the trial judge. If the injured party who has been duly summoned fails to appear, this shall not prevent the adoption of a decision.

(5) An appeal may be lodged against the decision by the state prosecutor and the convicted person.

(6) If the request of the convicted person is rejected, a new request may not be filed before the lapse of one year from the day the decision rejecting the previous request became final.

Chapter XXX
PROCEDURES FOR INTERNATIONAL LEGAL ASSISTANCE AND THE IMPLEMENTATION OF INTERNATIONAL TREATIES IN CRIMINAL MATTERS

Article 514
(Ceased to apply in part)

International legal assistance in criminal matters shall be provided in accordance with the provisions of this Act, unless otherwise provided by international treaties or by an Act.

Article 515
(Ceased to apply in part)

(1) Requests for legal assistance in criminal matters from domestic courts and state prosecutor's offices shall be submitted to foreign authorities through diplomatic channels. Requests for legal assistance from foreign authorities to domestic courts and state prosecutor's offices

(2) V nujnih primerih in ob pogoju vzajemnosti se lahko prošnje za pravno pomoč pošiljajo po ministrstvu, pristojnem za notranje zadeve, kadar pa gre za kaznivo dejanje pranja denarja ali za kazniva dejanja v zvezi s kaznivim dejanjem pranja denarja, pa tudi po organu, ki je pristojen za preprečevanje pranja denarja.

(3) Če velja vzajemnost ali če tako določa mednarodna pogodba, se lahko mednarodna kazenskopravna pomoč daje tudi neposredno med domačimi in tujimi organi, ki sodelujejo v predkazenskem in kazenskem postopku. Pri tem se lahko uporabljajo sodobna tehnična sredstva, zlasti računalniško omrežje, pripomočki za prenos slike, glasu in elektronskih impulzov.

516. člen
(delno se preneha uporabljati)

(1) Ministrstvo, pristojno za zunanje zadeve, pošlje prošnjo tujega organa za pravno pomoč ministrstvu, pristojnemu za pravosodje, ta pa jo pošlje v postopek okrožnemu sodišču, na katerega območju prebiva tisti, ki mu je treba vročiti kako pisanje, ki ga je treba zaslišati ali soočiti ali na katerega območju je treba opraviti kakšno drugo preiskovalno dejanje. Če gre za prošnjo za izvedbo dejanja, za katero je po domačem pravu pristojno državno tožilstvo, pošlje ministrstvo za pravosodje prošnjo v postopek državnemu tožilstvu, na območju katerega je treba opraviti dejanje.

(2) Če je pristojnih več sodišč, je krajevno pristojno tisto, ki je pristojno za opravo prvega dejanja, navedenega v prošnji. Če je pristojnih več državnih tožilstev, je krajevno pristojno tisto, ki je pristojno za opravo prvega dejanja, navedenega v prošnji. Če tuji organ prosi za izvedbo več dejanj, od katerih je po domačih predpisih za nekatera pristojno sodišče, za druga pa državno tožilstvo, se prošnja pošlje državnemu tožilstvu, ki opravi dejanja iz svoje pristojnosti in predlaga sodišču opravo dejanj iz sodne pristojnosti.

shall be submitted in the same manner.

(2) In emergency cases and under the condition of reciprocity, requests for legal assistance may be submitted through the ministry responsible for internal affairs, and in cases involving criminal offences of money laundering or criminal offences associated with the criminal offence of money laundering, also through the body responsible for the prevention of money laundering.

(3) If reciprocity applies or if so provided by an international treaty, international legal assistance in criminal matters may also be provided directly between the domestic and foreign bodies participating in pre-trial and criminal proceedings. Modern technical means, in particular computer networks and equipment for video, audio and electronic transmission may also be used.

Article 516
(Ceased to apply in part)

(1) The ministry responsible for foreign affairs shall send a request for legal assistance from a foreign body to the ministry responsible for justice, which shall submit it for processing to the district court in whose territory the person who should be served with a document, or interrogated, or confronted, resides, or in whose territory any other investigative act should be carried out. If the request refers to the implementation of an act which, according to domestic law, falls under the jurisdiction of the state prosecutor's office, the Ministry of Justice shall submit the request for processing to the state prosecutor's office in whose territory of jurisdiction the act needs to be implemented.

(2) Where more than one court has jurisdiction, territorial jurisdiction shall be recognised for the court which is competent to implement the first act stated in the request. Where more than one state prosecutor's office has jurisdiction, territorial jurisdiction shall be recognised for the state prosecutor's office which is competent to implement the first act stated in the request. If a foreign authority makes a request for the implementation of several acts, some of which, according to domestic law, fall under the court's jurisdiction, and some under the state prosecutor's office's jurisdiction, the request shall be sent to the state prosecutor's office which shall implement the acts under its jurisdiction and

(3) V primerih iz drugega odstavka 515. člena tega zakona pošlje prošnjo sodišču oziroma državnemu tožilstvu ministrstvo, pristojno za notranje zadeve.

(4) O dovoljenosti dejanja, za katero prosi tuj organ in o načinu njegove izvršitve odloči pristojni domači organ skladno z domačimi predpisi in mednarodnimi sporazumi. Prošnji za mednarodno kazensko pomoč se sme ugoditi, če izvedba dejanja pomoči ni v nasprotju s pravnim redom Republike Slovenije ali ne škoduje njeni suverenosti in varnosti.

(5) Ne glede na določbo četrtega odstavka tega člena se na prošnjo tuje države lahko dejanje pomoči izvede na način, kot je določen v zakonodaji države prosilke, če je takšen način izvedbe dejanja skladen s temeljnimi načeli domačega kazenskega postopka.

(6) Pristojni organ v Republiki Sloveniji na prošnjo pristojnega organa države prosilke slednjega obvesti o času in kraju izvedbe določenega procesnega dejanja. Predstavniki pristojnih organov države prosilke in drugi udeleženci v postopku ter njihovi pravni zastopniki so lahko navzoči pri izvršitvi dejanja pomoči, če je verjetno, da sta njihova navzočnost oziroma sodelovanje koristna za ustrezno izvedbo pravne pomoči. O tem odloči organ, v čigar pristojnosti je izvršitev dejanja pomoči.

516.a člen
(delno se preneha uporabljati)

(1) Na prošnjo tujega organa se lahko oseba, ki ji je v Republiki Sloveniji odvzeta prostost, ne glede na državljanstvo začasno preda tujemu pravosodnemu organu zaradi izvedbe procesnih dejanj zaslišanja priče, zaslišanja izvedenca ali soočenja. Začasna predaja se opravi pod pogojem, da bo oseba v roku, ki ga določi pristojni organ Republike Slovenije, vrnjena v Republiko Slovenijo.

propose to the court to implement the acts within the court's jurisdiction.

(3) In the cases referred to in paragraph two of Article 515 of this Act, requests shall be transmitted to the court or the state prosecutor's office by the ministry responsible for internal affairs.

(4) The admissibility of the act requested by a foreign authority and the method of its implementation shall be decided by the competent domestic authority pursuant to domestic regulations and international agreements. A request for international legal assistance in criminal matters may be granted if the implementation of the act of assistance is not in contravention of the legislation of the Republic of Slovenia or does not prejudice its sovereignty and security.

(5) Notwithstanding the provision of paragraph four of this Article, an act of assistance may, on the request of the requesting state, be implemented in the manner laid down by the law of that state, if such manner of implementing the act is in compliance with the fundamental principles of domestic criminal procedure.

(6) The competent authority in the Republic of Slovenia shall, on the request of the competent authority of the requesting state, notify that authority of the time and place of implementing a certain procedural act. The representatives of the competent authorities of the requesting state and other participants in the proceedings and their legal representatives may be present during the implementation of the act of assistance if their presence and/or cooperation are likely to prove useful for the appropriate implementation of legal assistance. The authority competent to implement the act of assistance shall decide thereon.

Article 516a
(Ceased to apply in part)

(1) At the request of a foreign authority, a person who has been deprived of liberty in the Republic of Slovenia may be temporarily surrendered to a foreign judicial authority irrespective of his or her citizenship with a view to implementing the procedural acts of hearing a witness, an expert witness or for the purpose of confrontation. Temporary surrender shall be implemented under the condition that the person will be returned to Slovenia within a time limit defined by the competent Slovenian

(2) Začasna predaja je dopustna pod naslednjimi pogoji:

- da se oseba strinja z začasno predajo;
- da je prisotnost osebe v tujem kazenskem postopku nujno potrebna;
- da prisotnost osebe ni nujno potrebna v domačem kazenskem postopku;
- da zaradi začasne predaje ne bo prišlo do podaljšanja odvzema prostosti;
- da ne obstajajo drugi utemeljeni razlogi, ki bi izključevali začasno predajo.

(3) Oseba, ki je bila začasno predana tujemu pravosodnemu organu na podlagi prvega odstavka tega člena, mora ostati celotno obdobje v priporu, razen če se ukrep odvzema prostosti skladno z domačimi predpisi odpravi, o čemer organ, ki je odpravil ukrep odvzema prostosti, nemudoma obvesti pristojni tuji organ. Zoper osebo se v državi, v katero je začasno predana, ne sme začeti kazenski postopek ali izvršiti kazen za dejanje, storjeno pred začasno predajo.

(4) O dovoljenju začasne predaje odloča organ, pred katerim teče kazenski postopek oziroma v čigar pristojnosti je izvršitev kazni. Pred dovoljenjem za začasno predajo mora organ pridobiti zagotovila iz tretjega odstavka.

516.b člen
(delno se preneha uporabljati)

(1) Če je osebi v tujini odvzeta prostost, njena navzočnost pa je zaradi izvedbe procesnih dejanj zaslišanja priče, zaslišanja izvedenca ali soočenja nujno potrebna v kazenskem postopku, ki teče v Republiki Sloveniji, sme sodišče ki je pristojno za opravo tega procesnega dejanja, zaprositi za začasno predajo te osebe v Republiko Slovenijo.

authority.

(2) Temporary surrender shall be permitted under the following conditions:

- if the person to be surrendered agrees with the temporary surrender;
- if the presence of the person in foreign criminal proceedings is urgently required;
- if the presence of the person in domestic criminal proceedings is not urgently required;
- if temporary surrender will not prolong the deprivation of liberty;
- if no other reasonable grounds exist to preclude temporary surrender.

(3) A person who has been temporarily surrendered to a foreign judicial authority pursuant to paragraph one of this Article must remain in detention throughout the period concerned, unless the measure of deprivation of liberty is removed in compliance with domestic regulations, of which the authority removing the measure of deprivation of liberty shall immediately notify the competent foreign authority. Criminal proceedings may not be instituted against a person in the state to which the person has been temporarily surrendered, nor the sentence be enforced for an offence committed before the temporary surrender.

(4) The authority before which criminal proceedings are held and/or which is competent to enforce the sentence, shall decide on permission for the temporary surrender. Before permitting the temporary surrender, the authority shall obtain the guarantees referred to in paragraph three.

Article 516b
(Ceased to apply in part)

(1) If a person is deprived of his or her liberty abroad but his or her presence is urgently required in criminal proceedings held in the Republic of Slovenia for the purpose of implementing the procedural acts of hearing a witness, hearing an expert witness or confrontation, the court competent for the performance of this procedural act may request that this person be temporarily surrendered to the Republic of Slovenia.

(2) Kadar je oseba na podlagi prvega odstavka tega člena začasno predana v Republiko Slovenijo, ji mora biti ves čas na ozemlju Republike Slovenije vzeta prostost, razen če je ukrep odvzema prostosti odpravljen na podlagi odločitve tujega organa, ki je tak ukrep odredil. Dejanje, zaradi katerega je potrebna prisotnost osebe na ozemlju Republike Slovenije, se mora opraviti čim hitreje in nato osebo, ne glede na njeno državljanstvo, vrniti v državo, ki jo je začasno predala.

(3) Glede izvrševanja odvzema prostosti v Republiki Sloveniji se smiselno uporabljajo določbe 209. do 213.d člena tega zakona.

516.c člen
(delno se preneha uporabljati)

(1) Če tako določa mednarodna pogodba, lahko sodišča ali državna tožilstva brez predhodne prošnje pristojnim organom druge države pošljejo ali od njih prejmejo podatke v zvezi s kaznivimi dejanji, ki so jih pridobili pri izvrševanju svojih pristojnosti, če ocenijo, da bi bili ti podatki lahko koristni za izvedbo predkazenskega ali kazenskega postopka ali bi lahko bili podlaga za prošnjo za pravno pomoč.

(2) Izmenjava podatkov iz prejšnjega odstavka ne vpliva na uvedbo ali vodenje kazenskih postopkov oziroma ne vpliva na izvrševanje drugih pristojnosti organa, ki posreduje podatke.

(3) Če je organ pri pošiljanju podatkov postavil za njihovo uporabo kakšne pogoje, ti pogoji zavezujejo organ, ki je podatke prejel.

517. člen
(delno se preneha uporabljati)

(1) Domača sodišča smejo ugoditi predlogu državnega

(2) When a person is temporarily surrendered to the Republic of Slovenia pursuant to paragraph one of this Article, he or she must be deprived of liberty throughout the entire period of his or her stay in the territory of Slovenia, unless the measure of deprivation of liberty is lifted pursuant to the decision of the foreign authority that ordered such measure. The procedural act that requires the presence of the person in the territory of the Republic of Slovenia shall be implemented as promptly as possible and the person, irrespective of his or her citizenship, shall be returned to the state which has temporarily surrendered him or her.

(3) The provisions of Articles 209 to 213d of this Act shall apply *mutatis mutandis* to implementation of the deprivation of liberty in Slovenia.

Article 516c
(Ceased to apply in part)

(1) If so provided by an international agreement, the courts or state prosecutor's offices may, without submitting a prior request to the competent authorities of another state, exchange information on the criminal offences that they have obtained during the implementation of their tasks, should they assess that such data may be useful for the implementation of a pre-trial criminal or criminal procedure, or could serve as the basis for a request for legal assistance.

(2) The exchange of data referred to in the preceding paragraph shall not affect the institution or conduct of criminal proceedings, and/or shall not affect the implementation of other tasks of the authority transmitting the data.

(3) If any conditions about the use of data have been imposed by the authority in transmitting such data, these conditions shall be binding upon the authority receiving the data.

Article 517
(Ceased to apply in part)

(1) Domestic courts may grant the motion of the state

tožilca ali prošnji pristojnega tujega organa, s katero se zahteva izvršitev kazni zapora, varnostnega ali drugega ukrepa kazenskega sodišča, ali denarne kazni po pravnomočni kazenski sodbi tujega sodišča, če je tako določeno z mednarodno pogodbo ali če velja vzajemnost in če so izpolnjeni naslednji pogoji:

- da oseba soglaša z izvršitvijo kazni v Republiki Sloveniji, razen v primerih iz drugega odstavka tega člena;

- da iz sodbe ne izhaja kršitev temeljnih načel pravnega reda Republike Slovenije;
- da je odločba bila izdana zaradi dejanja, za katerega je po domačem zakonu predpisana kazen zapora ali denarna kazen;
- da odločba ni bila izdana zaradi političnega ali vojaškega kaznivega dejanja;
- da po domačem zakonu ni zastarala izvršitev kazni;

- da oseba ni bila zaradi istega dejanja že pravnomočno obsojena ali pravnomočno oproščena ali je bil kazenski postopek zoper njo pravnomočno ustavljen ali je bila obtožba zoper njo pravnomočno zavrnjena;

- da je oseba državljan Republike Slovenije in ima v Republiki Sloveniji stalno ali začasno prebivališče;
- da v primeru izvrševanja varnostnega ali drugega ukrepa kazenskega sodišča, ki se izvršuje z odvzemom prostosti, domač zakon določa enak ukrep;
- da je bila sodba izdana v navzočnosti, razen če proseča država predloži ustrezna dokazila, da je bila oseba osebno vabljena ali ji je bil čas in kraj postopka sporočen prek zastopnika, pooblaščenega v skladu s pravom države, ki je sodbo izdala, zaradi česar je bila sodba izdana v nenavzočnosti, ali je ta oseba pristojnemu organu izjavila, da ne izpodbija odločbe.

(2) Soglasje osebe iz prve alineje prejšnjega odstavka ni potrebno, če se je oseba s prihodom oziroma pobegom v Republiko Slovenijo izognila izvrševanju ali nadaljnjemu izvrševanju kazenske sodbe iz prejšnjega člena.

prosecutor or the request of the competent foreign authority for the enforcement of a prison sentence, a precautionary or other measure imposed by the criminal court or a fine under the final criminal judgment of a foreign court, if so provided by an international treaty or on the basis of reciprocity, and if the following requirements are met:

- that the person agrees with the enforcement of the sentence in the Republic of Slovenia, except in the cases referred to in paragraph two of this Article;
- that the judgment does not entail a violation of the fundamental principles of the legal order of the Republic of Slovenia;
- that the decision was issued for an offence punishable by a sentence of imprisonment or a fine pursuant to domestic law;
- that the decision was not issued for a political or military criminal offence;
- that the enforcement of the sentence has not become statute-barred pursuant to domestic legislation;
- that the person has not been sentenced for the same offence by a final judgment or acquitted by a final decision, or that the criminal proceedings against such person have been discontinued by a final decision, or that the indictment against the person was dismissed by a final decision;
- that the person concerned is a Slovenian citizen and has permanent or temporary residence in the Republic of Slovenia;
- that in the case of enforcement of a precautionary or other measure of a criminal court implemented through the deprivation of liberty, a domestic Act provides for the same measure;
- that the judgment was rendered in the presence of the person in question, unless the requesting state submits relevant evidence that the person had been personally summoned or had been notified of the time and venue of the proceedings through a representative authorised in accordance with the law of the state rendering the judgment, which was the reason why the judgment was issued in the person's absence, or if this person declared to the competent authority that he or she did not object to the decision.

(2) The consent of the person referred to in indent one of the preceding paragraph shall not be required if the person has avoided the enforcement or further enforcement of the criminal judgment referred to in the preceding Article by arriving in or absconding to the Republic of Slovenia.

517.a člen
(delno se preneha uporabljati)

(1) Na predlog državnega tožilca lahko preiskovalni sodnik zoper osebo iz prejšnjega člena odredi začasni odvzem prostosti zaradi zavarovanja izvršitve, če so izpolnjeni naslednji pogoji:

1. da je država izdaje sodbe poslala prošnjo za izvršitev kazenske sodbe ali naloga zaradi izvršitve kazenske sodbe;

2. da obstajajo okoliščine, ki kažejo na nevarnost, da bi se oseba z begom izognila postopku izvršitve oziroma prestajanju kazni ali ukrepa;
3. da soglasje osebe k izvrševanju ni potrebno ali je podano, in

4. da prošnja za izvršitev ni očitno nedopustna.

(2) Začasni odvzem prostosti iz prejšnjega odstavka se odredi, izvrši oziroma podaljša v skladu z določbami tega zakona, o odreditvi, izvrševanju oziroma podaljšanju pripora.

517.b člen
(delno se preneha uporabljati)

(1) Domače sodišče izvrši kazensko sodbo glede sankcije, ki jo je izreklo tuje sodišče, tako, da izreče kazensko sankcijo po kazenski zakonodaji Republike Slovenije. Pri tem je glede ugotavljanja kazenske odgovornosti, dopustnosti pregona in izrečene kazni v celoti vezano na sodbo tujega sodišča. Če se lahko kazen izvrši le glede določenih kaznivih dejanj, se kazen odmeri skladno s pravili po domačem zakonu.

(2) Kadar kazenska sankcija zaradi trajanja ni združljiva z domačimi predpisi, se lahko slednja prilagodi le, če je ta višja od najvišje kazni, ki je po domačem zakonu določena za istovrstno kaznivo dejanje. Prilagojena kazenska sankcija ne sme biti nižja od

Article 517a
(Ceased to apply in part)

(1) Upon a motion of the state prosecutor, the investigating judge may order temporary deprivation of liberty against the person referred to in the preceding Article for the purpose of securing enforcement, provided the following requirements are met:
1. that the state issuing the judgment has sent a request for the enforcement of a criminal judgment or a warrant for the enforcement of a criminal judgment;
2. that the circumstances exist indicating the risk that the person could avoid the enforcement of or the serving of the sentence or measure by absconding;
3. that the person's consent to the enforcement is not necessary or has been given, and
4. that the request for enforcement is not manifestly inadmissible.

(2) The temporary deprivation of liberty referred to in the preceding paragraph shall be ordered, enforced or extended in accordance with the provisions of this Act on the ordering, enforcement and/or extension of detention.

Article 517b
(Ceased to apply in part)

(1) A domestic court shall enforce the criminal judgment in terms of the sanction ordered by a foreign court by imposing a criminal sanction pursuant to the criminal law of the Republic of Slovenia. In this regard, the domestic court shall be fully bound by the judgment of the foreign court in terms of establishing criminal liability, the admissibility of prosecution and the imposed sentence. If the sentence may only be enforced in respect of certain criminal offences, it shall be determined in accordance with the rules of domestic law.

(2) Where a criminal sanction is incompatible with the domestic regulations because of its length, it may only be adjusted if it exceeds the maximum sentence determined for the same type of criminal offences under domestic legislation. The adjusted criminal sanction may not be

najvišje kazni, ki je po domačem zakonu določena za istovrstna kazniva dejanja.

(3) Kadar kazenska sankcija po svoji naravi ni združljiva z domačimi predpisi, se lahko prilagodi glede na kazen ali ukrep, ki je po domačem zakonu predviden za istovrstna kazniva dejanja. Takšna kazen ali ukrep mora čim bolj ustrezati kazenski sankciji, ki je bila izrečena v državi izreka.

(4) Prilagojena kazenska sankcija po svoji naravi ali trajanju ne sme biti strožja od kazenske sankcije, ki jo je izrekla država izreka.

517.c člen
(delno se preneha uporabljati)

(1) Za odločitev o izvršitvi kazenske sodbe je pristojno okrožno sodišče na območju zadnjega stalnega prebivališča osebe v Republiki Sloveniji. Če oseba ni imela stalnega prebivališča v Republiki Sloveniji, se pristojnost določi po kraju zadnjega začasnega prebivališča.

(2) Senat iz šestega odstavka 25. člena tega zakona s sodbo odloči o izvršitvi kazenske sodbe tujega sodišča ali s sklepom zavrne prošnjo. O seji senata se obvestita državni tožilec in zagovornik.

(3) V izrek sodbe iz drugega odstavka tega člena vnese sodišče celoten izrek in ime sodišča iz tuje sodbe in izreče sankcijo. V obrazložitvi sodbe navede sodišče razloge, ki jih je upoštevalo pri izreku sankcije.

(4) Odločba se vroči državnemu tožilcu, osebi ter zagovorniku, ki se lahko zoper njo pritožijo.

(5) Za izvrševanje, pogojni odpust ter pravico do

lower than the maximum sentence prescribed by domestic law for the same type of criminal offences.

(3) Where a criminal sanction is incompatible with the domestic regulations by its nature, it may be adjusted according to the sentence or measure provided under the domestic Act for the same type of criminal offences. Such a sentence or measure must match as far as possible the criminal sanction imposed by the issuing state.

(4) The adjusted criminal sanction may not be more severe by its nature or duration than the criminal sanction imposed by the issuing state.

Article 517c
(Ceased to apply in part)

(1) The decision on enforcement of the criminal judgment shall be within the competence of the district court in the territory of the last permanent residence of the person concerned in the Republic of Slovenia. If the person had no permanent residence in the Republic of Slovenia, the jurisdiction shall be determined by the place of his or her last temporary residence.

(2) The panel referred to in paragraph six of Article 25 of this Code shall decide by a judgment on the enforcement of a criminal judgment issued by a foreign court, or shall refuse the request by a ruling. The state prosecutor and the defence counsel shall be informed of the session of the panel.

(3) In the operative part of the judgment referred to in paragraph two of this Article, the court shall enter the entire operative part of the judgment and the name of the court from the foreign judgment and shall impose the sanction. In the reasoning of the judgment, the court shall state the reasons which it took into account in imposing the sanction.

(4) The decision shall be served on the state prosecutor, the person concerned and the defence counsel, all of whom may lodge an appeal against the decision.

(5) Domestic regulations shall apply to enforcement, probation

pomilostitve oziroma amnestije se uporabljajo domači predpisi.

517.č člen
(delno se preneha uporabljati)

(1) Tujec, ki se na podlagi sodbe domačega sodišča nahaja v Republiki Sloveniji na prestajanju zaporne kazni, lahko poda prošnjo za prestajanje kazni v državi državljanstva ali prebivališča. Prošnja se lahko vloži pri direktorju zapora, sodišču, ki je izreklo kazen na prvi stopnji, ali ministrstvu za pravosodje.

(2) Pristojno sodišče ali direktor zapora mora osebo seznaniti z možnostjo, da prestaja zaporno kazen v državi državljanstva ali prebivališča.

(3) Sodišče, ki je odločalo na prvi stopnji odloči o prošnji obsojene osebe s sklepom. Prošnji se sme ugoditi, če so izpolnjeni naslednji pogoji:
- zoper obsojeno osebo ne poteka drug kazenski postopek v Republiki Sloveniji
- oseba je poravnala denarno kazen oziroma premoženjsko pravni zahtevek

(4) Sklep ter ostala relevantna dokumentacija se posreduje ministru za pravosodje, ki o tem obvesti državo, v katero želi biti oseba premeščena, in na podlagi mednarodne pogodbe ali na podlagi vzajemnosti izvede postopek za transfer obsojenca.

518. člen
(delno se preneha uporabljati)

Kadar gre za kazniva dejanja ponarejanja denarja, neupravičene proizvodnje in prometa s prepovedanimi drogami, nedovoljenimi snovmi v športu in predhodnimi sestavinami za izdelavo prepovedanih drog, omogočanje uživanja prepovedanih drog ali nedovoljenih snovi v športu, spravljanja v suženjsko razmerje, trgovine z ljudmi, pridobivanja oseb, mlajših od petnajst let, za spolne namene, prikazovanja, izdelave, posesti in posredovanja

and the right to pardon or amnesty.

Article 517č
(Ceased to apply in part)

(1) An alien who serves a prison sentence in the Republic of Slovenia on the basis of a domestic court's judgment may file a request to serve the sentence in the country of his or her citizenship or residence. The request may be lodged with the director of the prison, the court that rendered the sentence at first instance or the Ministry of Justice.

(2) The competent court or the prison director must inform the person of the option of serving the prison sentence in the country of his or her citizenship or residence.

(3) The court that ruled at first instance shall decide on the request of the sentenced person by a decision. The request may be granted if the following requirements are complied with:
- that no other criminal proceedings are being conducted against the convicted person in the Republic of Slovenia;
- that the person has settled the fine or the pecuniary claim.

(4) The decision and other relevant documentation shall be submitted to the minister responsible for justice, who shall notify thereof the state to which the person wishes to be transferred and shall carry out the procedure for the transfer of the convicted person on the basis of an international treaty or reciprocity.

Article 518
(Ceased to apply in part)

In the case of criminal offences of counterfeiting money, illicit manufacturing of and trafficking in narcotic drugs, illicit substances in sports and illicit drug precursors, facilitating the consumption of narcotic drugs or illicit substances in sports, enslavement, trafficking in human beings, solicitation of persons under fifteen years of age for sexual purposes, presentation, manufacture, possession and distribution of pornographic material, or any other criminal offence for which the

pornografskega gradiva ali za kakšno drugo kaznivo dejanje, glede katerega je po mednarodnih pogodbah dogovorjena centralizacija podatkov, mora organ, pred katerim teče kazenski postopek, brez odlašanja poslati policiji podatke o kaznivem dejanju in storilcu, sodišče prve stopnje pa tudi pravnomočno sodbo.

519. člen
(delno se preneha uporabljati)

(1) Če je na ozemlju Republike Slovenije storil kaznivo dejanje tujec, ki ima stalno prebivališče v tuji državi, se smejo tej državi mimo pogojev iz 522. člena tega zakona odstopiti vsi kazenski spisi za kazenski pregon in sojenje, če tuja država temu ne nasprotuje.

(2) Preden je izdan sklep o preiskavi, odloča o odstopu pristojni državni tožilec. Med preiskavo odloča o tem na predlog državnega tožilca preiskovalni sodnik do začetka glavne obravnave pa senat (šesti odstavek 25 člena), tudi za zadeve iz pristojnosti okrajnega sodišča.

(3) Pri odločanju o odstopu kazenskih spisov organi iz prejšnjega odstavka upoštevajo tudi do tedaj nastale in bodoče stroške predkazenskega oziroma kazenskega postopka.

(4) Ni dovoljen odstop kazenskih spisov, če je oškodovanec državljan Republike Slovenije, ki temu nasprotuje, razen če je dano zavarovanje za uveljavitev njegovega premoženjskopravnega zahtevka.

(5) Ni dovoljen odstop kazenskih spisov, če je bil odrejen zaseg ali začasno zavarovanje zahtevka za odvzem denarja ali premoženja nezakonitega izvora iz 245. člena kazenskega zakonika ali protipravno dane ali sprejete podkupnine iz 151., 157., 241., 242., 261., 262. in 263. člena kazenskega zakonika, razen v primerih, ko je sodišče navedene odredbe izdalo na pobudo tuje države. V teh primerih in v primerih, ko je bilo odrejeno začasno zavarovanje zahtevka za odvzem premoženjske koristi v zvezi z drugimi kaznivimi dejanji, smejo organi iz drugega odstavka tega člena odstopiti

centralisation of data has been provided under international treaties, the authority conducting the criminal proceedings must without delay send to the police the data about the criminal offence and its perpetrator, and the court of first instance shall also send to the police the final judgment.

Article 519
(Ceased to apply in part)

(1) If an alien with permanent residence in a foreign country commits a criminal offence in the territory of the Republic of Slovenia, all criminal files for criminal prosecution and trial may be transferred to that state notwithstanding the conditions referred to in Article 522 of this Act, unless the foreign country objects to this.

(2) Before a ruling on investigation is issued, the competent state prosecutor shall decide on the transfer of files. In the course of investigation, the investigating judge shall decide on the transfer upon the motion of the state prosecutor; before the opening of the main hearing, the panel shall decide thereon (paragraph six of Article 25), including on matters within the jurisdiction of the local court.

(3) The bodies referred to in the preceding paragraph shall, in deciding on the transfer of criminal files, also take into account the hitherto incurred and future costs of pre-trail and/or criminal proceedings.

(4) The transfer of criminal files shall not be allowed if the injured party is a citizen of the Republic of Slovenia who objects to it, unless a security is provided for the enforcement of his or her pecuniary claim.

(5) The transfer of criminal files shall not be allowed if the confiscation or temporary measure securing a claim for the confiscation of the money or assets of illegal origin referred to in Article 245 of the Criminal Code, or of an illegally given or accepted bribe referred to in Articles 151, 157, 241, 242, 261, 262 and 263 of the Criminal Code was ordered, except where the court issued the aforementioned orders on the request of a foreign country. In these cases and in the cases where the temporary measure securing a claim for the confiscation of proceeds associated with other criminal offences was ordered, the bodies referred to

kazenski spis tuji državi samo, če so pred tem ugotovili, da ima ta država ustrezno urejeno zakonodajo v zvezi z odvzemom premoženjske koristi in v zvezi z odstopom kazenskih spisov tuji državi, ter upoštevali vrednost začasno zavarovanega premoženja.

(6) **(črtan)**.

520. člen
(delno se preneha uporabljati)

(1) Zahteva tuje države, naj se v Republiki Sloveniji prevzame pregon državljana Republike Slovenije ali osebe, ki ima stalno prebivališče v Republiki Sloveniji, zaradi kaznivega dejanja, storjenega v tujini, se pošlje s spisi pristojnemu državnemu tožilcu, na katerega območju ima ta oseba stalno prebivališče.

(2) Če je pri pristojnem organu tuje države podan premoženjskopravni zahtevek, se ravna, kot da bi bil ta zahtevek podan pri pristojnem sodišču.

(3) O zavrnitvi prevzema kazenskega pregona in o pravnomočni odločbi, izdani v kazenskem postopku, se obvesti tuja država, ki je poslala zahtevo.

XXXI. poglavje
POSTOPEK ZA IZROČITEV OBDOLŽENCEV IN OBSOJENCEV

521. člen
(delno se preneha uporabljati)

Če ni v mednarodni pogodbi določeno drugače, se zahteva in opravlja izročitev obdolžencev in obsojencev po določbah tega zakona.

522. člen

in paragraph two of this Article may only transfer the criminal file to another country if they have previously determined that the country concerned has adequate legislation referring to the confiscation of proceeds and the transfer of criminal files to a foreign country, and if they have taken into account the value of the temporarily secured assets.

(6) **(Deleted)**.

Article 520
(Ceased to apply in part)

(1) The request of a foreign country that the Republic of Slovenia should assume the prosecution of a citizen of the Republic of Slovenia or a person with permanent residence in the Republic of Slovenia for a criminal offence committed abroad shall be submitted, together with the files, to the competent state prosecutor in whose territory that person has permanent residence.

(2) Pecuniary claims filed with the competent authority of a foreign country shall be treated as if they were filed with the competent court.

(3) The refusal to assume criminal prosecution and the final decision rendered in criminal proceedings shall be notified to the foreign country that submitted the request in question.

Chapter XXXI
PROCEEDINGS FOR THE EXTRADITION OF ACCUSED AND CONVICTED PERSONS

Article 521
(Ceased to apply in part)

Unless provided otherwise by an international treaty, the extradition of accused and convicted persons shall be requested and carried out pursuant to the provisions of this Act.

Article 522

(delno se preneha uporabljati)

(1) Pogoji za izročitev so:

1. da tisti, katerega izročitev se zahteva, ni državljan Republike Slovenije,
2. da dejanje, zaradi katerega se zahteva izročitev, ni bilo storjeno na ozemlju Republike Slovenije, zoper njo ali njenega državljana;
3. da je dejanje, zaradi katerega se zahteva izročitev, kaznivo dejanje tako po domačem zakonu, kakor po zakonu države, v kateri je bilo storjeno;
4. da se v primeru, da gre za izročitev zaradi kazenskega pregona, za kaznivo dejanje po pravu obeh držav lahko izreče kazen enega ali več let zapora ali varnostni ukrep v trajanju več kot enega leta;
5. da v primeru, da gre za izročitev zaradi izvršitve pravnomočno izrečene kazni ali varnostnega ukrepa, znaša kazen ali varnosti ukrep oziroma njun ostanek, ki ga je potrebno izvršiti, najmanj 4 mesece;
6. da po domačem zakonu ni zastaral kazenski pregon ali ni zastarala izvršitev kazni, preden je bila oseba priprta ali zaslišana kot obdolženec;
7. da tisti, katerega izročitev se zahteva, ni bil zaradi istega dejanja že pravnomočno oproščen ali obsojen v Republiki Sloveniji ali tuji državi, pod pogojem, da je v primeru izrečene kazni kazen že prestal ali jo prestaja ali se po zakonodaji države, ki je kazen izrekla, kazen ne more več izvršiti ali je bil kazenski postopek zoper njega pravnomočno ustavljen ali je bila obtožba zoper njega pravnomočno zavrnjena; ali da ni zoper tujca v Republiki Sloveniji zaradi istega proti Republiki Sloveniji storjenega dejanja uveden kazenski postopek, če pa je uveden postopek zaradi dejanja, storjenega proti državljanu Republike Slovenije, da je dano zavarovanje za uveljavitev premoženjskopravnega zahtevka oškodovanca;
8. da zoper osebo, katere izročitev se zahteva, v državi prosilki ne teče postopek pred izrednim sodiščem, če gre za prošnjo za izročitev zaradi izvedbe postopka, oziroma da ni takšno sodišče izreklo kazenske sankcije, če gre za prošnjo za izročitev zaradi izvršitve kazni;

(Ceased to apply in part)

(1) The requirements for extradition shall be as follows:

1. that the person whose extradition is requested is not a Slovenian citizen;
2. that the offence for which the extradition is requested was not committed in the territory of the Republic of Slovenia, against the Republic of Slovenia or against a Slovenian citizen;
3. that the offence for which the extradition is requested is a criminal offence both under domestic law and the law of the country in which the offence was committed;
4. that in the event of extradition for the purpose of criminal prosecution, a sentence of imprisonment of one year or more or a precautionary measure lasting over a year may be imposed for the criminal offence under the law of both states;
5. that in the event of extradition for the purpose of enforcing a final sentence or a precautionary measure, the length of the sentence or the precautionary measure or remainder thereof that must be enforced is at least four months;
6. that under a domestic Act, the criminal prosecution or the enforcement of punishment had not become statute-barred before the person was detained or interrogated as an accused person;
7. that the person whose extradition is requested was not acquitted or convicted by a final judgment in the Republic of Slovenia or a foreign country for the same offence, under the condition that in the case of an already imposed sentence, he or she already served the sentence or has been serving the sentence, or that according to the law of the state that imposed the sentence, the sentence is no longer enforceable, or that the criminal proceedings against such person were discontinued by a final decision, or that the indictment against that person was dismissed by a final decision; or that criminal proceedings have not been instituted against the alien in the Republic of Slovenia for the same offence committed against the Republic of Slovenia, and in the event that criminal proceedings have been instituted for an offence committed against a Slovenian citizen, that the pecuniary claim of the injured party has been secured;
8. that against the person whose extradition is sought, no procedure before an extraordinary court is pending in the requesting state, if a request for extradition for the purpose of implementing the proceedings is involved, and/or that such court did not impose a criminal sanction if a request for extradition for the purpose of

9. da država prosilka poda ustrezna zagotovila, da smrtna kazen ne bo izrečena oziroma izvršena, če se izročitev zahteva zaradi kaznivega dejanja, za katero je v državi prosilki predpisana smrtna kazen;
10. da v primeru, ko gre za izvršitev kazenske sankcije, ki je bila izrečena s pravnomočno sodbo v sodnem postopku v nenavzočnosti osebe, katere izročitev se zahteva, država prosilka predloži ustrezna dokazila, da je bila oseba osebno vabljena ali ji je bil čas in kraj postopka sporočen prek zastopnika, pooblaščenega v skladu s pravom države, ki je sodbo izdala, zaradi česar je bila sodba izdana v nenavzočnosti, ali je ta oseba pristojnemu organu izjavila, da ne izpodbija odločbe; ali zagotovi, da bo kazenski postopek po izročitvi znova opravljen v navzočnosti izročene osebe;
11. da zahteva za izročitev ni podana zaradi kaznivega dejanja, ki ga je storila zahtevana oseba, ko še ni bila stara 14 let;
12. da je ugotovljena istovetnost tistega, katerega izročitev se zahteva;
13. da je dovolj dokazov za utemeljenost suma, da je tujec, katerega izročitev se zahteva, storil določeno kaznivo dejanje, ali da obstaja o tem pravnomočna sodba;
14. da ne obstaja verjetnost, da bi bila oseba, katere izročitev se zahteva, v državi prosilki mučena, da bi se z njo nečloveško ali ponižujoče ravnalo oziroma bi se jo na ta način kaznovalo.

(2) Če se prošnja za izročitev nanaša na več kaznivih dejanj, ki se tako po zakonu države prosilke kot tudi po pravu Republike Slovenije kaznujejo s kaznijo odvzema prostosti ali varnostnim ukrepom, pa nekatera izmed njih glede višine predpisane kazni ne dosegajo praga predpisane kazni, določenega v 4. in 5. točki prejšnjega odstavka, se izročitev lahko dovoli tudi za ta kazniva dejanja, če je dovoljena za ostala kazniva dejanja.

523. člen
(delno se preneha uporabljati)

enforcing the sentence is involved;
9. that the requesting state submits the relevant assurances that the death penalty will not be imposed and/or carried out if extradition is requested for a criminal offence punishable by the death penalty in the requesting state;
10. that in cases involving the enforcement of a criminal sanction imposed by a final judgment in the court proceedings in the absence of the person whose extradition is requested, the requesting party submits the necessary evidence that the person was personally summoned or that he or she was notified of the time and venue of the proceedings through a representative authorised in compliance with the law of the state that rendered the judgment, which is the reason why the judgment was issued in the person's absence, or that the person concerned made a statement to the competent authority that he or she did not object to the decision; or that the requesting state grants that the criminal proceedings after the extradition will be repeated in the presence of the extradited person;
11. that the request for extradition is not submitted for a criminal offence committed by the requested person when he or she was not yet 14 years old;
12. that the identity of the person whose extradition is requested has been established;
13. that there is sufficient evidence to justify the suspicion that the alien whose extradition is requested has committed a particular criminal offence, or that a final judgment has been rendered thereon;
14. that there is no risk that the person whose extradition is requested would be subjected to torture or other inhuman or degrading treatment or punishment in the requesting state.

(2) If the request for extradition refers to more than one criminal offence punishable by a sentence of deprivation of liberty or a precautionary measure under both the law of the requesting state and the law of the Republic of Slovenia, but some of them, in terms of the severity of the prescribed punishment, do not reach the threshold of the prescribed sentence set out in points 4 and 5 of the preceding paragraph, the extradition may also be allowed for these criminal offences, provided it is allowed for the remaining criminal offences.

Article 523
(Ceased to apply in part)

(1) Postopek za izročitev obdolženega ali obsojenega tujca se uvede na prošnjo tuje države.

(2) Prošnja za izročitev se poda po diplomatski poti.

(3) Prošnji za izročitev se morajo priložiti:
1) sredstva za ugotovitev istovetnosti obdolženca oziroma obsojenca (natančen opis, fotografije, prstni odtisi in podobno);
2) potrdilo ali drugi podatki o tujčevem državljanstvu;
3) obtožnica ali sodba ali odločba o priporu ali kakšen drug akt, ki je enak tej odločbi, v izvirniku ali overjenem prepisu. V njih mora biti navedeno: ime in priimek tistega, katerega izročitev se zahteva, in drugi podatki, ki so potrebni za ugotovitev njegove istovetnosti, opis dejanja, zakonska označba kaznivega dejanja in dokazi za utemeljenost suma;
4) izpisek iz besedila kazenskega zakona tuje države, ki naj se uporabi ali ki je bil uporabljen proti obdolžencu zaradi dejanja, ki je povod za zahtevano izročitev; če je bilo dejanje storjeno na območju kakšne tretje države, pa tudi izpisek iz besedila kazenskega zakona te države.

(4) Če so prošnja in priloge sestavljene v tujem jeziku, mora biti priložen tudi overjen prevod v slovenskem jeziku.

524. člen
(delno se preneha uporabljati)

(1) Ministrstvo, pristojno za zunanje zadeve, pošlje prošnjo za izročitev tujca po ministrstvu, pristojnem za pravosodje, preiskovalnemu sodniku sodišča, na katerega območju tujec prebiva ali na katerega območju se najde.

(2) Če se ne ve za stalno ali začasno prebivališče tujca, katerega izročitev se zahteva, se najprej ugotovi njegovo prebivališče po ministrstvu, pristojnem za notranje zadeve.

(3) Če prošnja ustrezna pogojem iz prejšnjega člena in so dani razlogi za pripor iz 201. člena tega zakona, izda preiskovalni

(1) Proceedings for the extradition of an accused or convicted alien shall be instituted on the request of a foreign country.

(2) The request for extradition shall be submitted through diplomatic channels.

(3) A request for extradition must be accompanied by:
1) the means for establishing the identity of the accused or convicted person (a detailed description, photographs, fingerprints and similar);
2) a certificate or other information about the alien's citizenship;
3) an indictment or judgment or a ruling on detention, or another equivalent document, in the original or a certified copy. They must contain: the name and surname of the person whose extradition is requested and other data necessary to establish his or her identity, a description of the act, the statutory qualification of the criminal offence, and the evidence justifying the suspicion;
4) an extract from the criminal law of the foreign country which is to be applied, or which was applied, against the accused person for the offence that prompted the request for extradition; if the offence was committed in the territory of a third country, also an extract from the criminal law of that country.

(4) If the request and enclosures were drawn up in a foreign language, a certified translation into Slovenian must be enclosed as well.

Article 524
(Ceased to apply in part)

(1) The ministry responsible for foreign affairs shall transmit a request for the extradition of an alien through the ministry responsible for justice to the investigating judge of the court in whose territory the alien resides or in whose territory he or she is to be found.

(2) If the permanent or temporary residence of the alien whose extradition is requested is not known, his or her residence shall first be established through the ministry responsible for internal affairs.

(3) If the request complies with the requirements referred to in the preceding Article and if the reasons for detention referred to in Article

sodnik nalog, da se tujec pripre, oziroma stori druge ukrepe, da se zagotovi njegova navzočnost, razen če je že iz same prošnje očitno, da izročitev ni dopustna.

(4) Glede pripora v postopku izročitve se smiselno uporabljajo določbe drugega odstavka 200., 202., 203. člena in 209. do 213.d ter 420. in 421. člena tega zakona.

(5) Ne glede na določbo 205. člena tega zakona lahko pripor v postopku izročitve po prejemu prošnje za izročitev brez posebnih odločb o podaljševanju traja do izročitve tuji državi oziroma do odločitve ministra za pravosodje, s katero se izročitev zavrne, vendar skupno trajanje pripora, odrejenega pred prejemom prošnje za izročitev in po njenem prejemu, ne sme preseči 30 mesecev.

(6) Ne glede na prejšnji odstavek je pripor potrebno odpraviti takoj, ko čas trajanja preseže oziroma doseže izrečeno kazensko sankcijo tuje države oziroma maksimum predpisane kazni, ki jo pravo države prosilke predpisuje za kaznivo dejanje, za katero se zahteva izročitev.

(7) Ko preiskovalni sodnik ugotovi tujčevo istovetnost, mu brez odlašanja naznani, zakaj in na podlagi katerih dokazov se zahteva njegova izročitev in ga pouči, da se ni dolžan zagovarjati, lahko pa navede, kar ima povedati v svoj zagovor.

(8) O zaslišanju in zagovoru se napravi zapisnik. Preiskovalni sodnik pouči tujca, da si sme vzeti zagovornika, ali mu ga postavi po uradni dolžnosti, če gre za kaznivo dejanje, za katero je obramba po tem zakonu obvezna, ali če je zoper tujca odrejen pripor.

525. člen
(delno se preneha uporabljati)

(1) V nujnih primerih, ko je nevarno, da bi tujec pobegnil ali se skril, sme policija na prošnjo pristojnega tujega organa, ne glede

201 of this Act exist, the investigating judge shall issue an order that the alien be detained, and/or shall take other measures to secure his or her presence, unless it is clear from the request itself that extradition is not admissible.

(4) The provisions of paragraph two of Article 200, Articles 202, 203, 209 to 213, and Articles 420 and 421 of this Act shall apply *mutatis mutandis* to detention in the extradition procedure.

(5) Notwithstanding the provision of Article 205 of this Act, detention in an extradition procedure after receipt of the request for extradition without special decisions on the extension may last until the extradition to a foreign country is effected, and/or until the decision of the minister responsible for justice refusing the extradition, but the total duration of detention ordered before the receipt of the request for extradition and after its receipt may not exceed 30 months.

(6) Notwithstanding the preceding paragraph, detention shall be lifted as soon as its duration meets or exceeds the criminal sanction imposed by a foreign country, and/or the maximum sentence prescribed by the law of the requesting state for the criminal offence for which extradition is requested.

(7) When the investigating judge establishes the identity of the alien concerned, he or she shall inform the alien without delay why and on the basis of what evidence extradition is requested, and instruct him or her that he or she is under no obligation to plead his or her case, but can state what he or she has to say in his or her defence.

(8) The hearing of the alien and his or her defence shall be entered in the record. The investigating judge shall instruct the alien that he or she may retain a defence counsel, or shall appoint one for him or her *ex officio* if a criminal offence subject to mandatory defence under this Act is involved, or if detention against the alien has been ordered.

Article 525
(Ceased to apply in part)

(1) In urgent cases where there is a risk that the alien might flee or go into hiding, the police shall be allowed to deprive him or her of liberty

na to, na kakšen način je poslana, tujcu vzeti prostost. V prošnji je treba navesti podatke za ugotovitev tujčeve istovetnosti, naravo in označbo kaznivega dejanja, številko odločbe ter datum, kraj in naslov tujega organa, ki je odredil pripor in izjavo, da bo izročitev zaprošena po redni poti.

(2) Policija mora tujca, kateremu je vzela prostost, brez odlašanja odpeljati k preiskovalnemu sodniku pristojnega sodišča, da ga zasliši. Če preiskovalni sodnik zoper tujca odredi pripor, poroča o tem ministrstvu, pristojnemu za zunanje zadeve.

(3) Preiskovalni sodnik izpusti tujca, če mu je priznana mednarodna zaščita, če prenehajo razlogi za pripor ali če se ne poda prošnja za izročitev v roku, ki ga je on določil, upoštevajoč pri tem oddaljenost države, ki zahteva izročitev; ta rok ne sme biti daljši kot tri mesece od dneva, ko je bil tujec priprt. Ta rok se sporoči tuji državi. Na prošnjo tuje države sme senat pristojnega sodišča v opravičenih primerih podaljšati rok največ za dva meseca.

(4) Če se predpisana prošnja poda v danem roku, ravna preiskovalni sodnik po tretjem in četrtem odstavku prejšnjega člena.

526. člen
(delno se preneha uporabljati)

(1) Po zaslišanju državnega tožilca in zagovornika opravi preiskovalni sodnik po potrebi še druga poizvedovalna dejanja, da se ugotovi, ali so podani pogoji za izročitev tujca oziroma za izročitev predmetov, na katerih ali s katerimi je storil kaznivo dejanje, če so mu bili vzeti.

(2) Po opravljenem poizvedovanju pošlje preiskovalni sodnik morebitne pridobljene dokaze skupaj s svojim mnenjem tujcu, njegovemu zagovorniku, če ga ima, in državnemu tožilcu, da se v roku, ki ne sme biti krajši od osmih dni, o njem izjavijo. Po izteku roka

upon the request of a foreign competent authority, irrespective of the manner in which the request is submitted. The request shall contain the data necessary to establish the alien's identity, the type and designation of the criminal offence, the number of the decision and the date, place and address of the foreign authority that ordered detention, and a statement that extradition will be requested through the regular channel.

(2) The police must bring the alien deprived of liberty before the investigating judge of the competent court for interrogation without delay. If the investigating judge orders detention against the alien, the investigating judge shall notify the ministry responsible for foreign affairs thereof.

(3) The investigating judge shall release the alien if he or she is granted international protection, if the reasons for detention cease to exist or if the request for extradition is not submitted within the time limit set by the investigating judge, taking into account the distance of the requesting state; such time limit may not exceed three months from the day when the alien was detained. The foreign country shall be notified of the aforementioned time limit. Upon the request of the foreign country, the panel of the court of jurisdiction may extend this time limit by a maximum of two months in justified cases.

(4) If the prescribed request is submitted within the set time limit, the investigating judge shall proceed in accordance with paragraphs three and four of the preceding Article.

Article 526
(Ceased to apply in part)

(1) After hearing the state prosecutor and defence counsel, the investigating judge shall perform other investigative acts if necessary, in order to determine whether the conditions for the extradition of the alien and/or the delivery of the objects on which or by means of which the criminal offence was committed, are met, if such objects were seized from the alien.

(2) After completion of the inquiry, the investigating judge shall send any evidence obtained, together with his or her opinion, to the alien, his or her defence counsel if he or she has one, and to the state prosecutor, so that they may make a statement on the opinion within a

pošlje preiskovalni sodnik poizvedovalne spise s svojim mnenjem in izjavo tujca ter državnega tožilca, če sta jo podala, senatu (šesti odstavek 25. člena).

(3) Če teče zoper tujca, katerega izročitev se zahteva, pri domačem sodišču kazenski postopek zaradi istega ali kakšnega drugega kaznivega dejanja, navede preiskovalni sodnik to v spisih.

527. člen
(delno se preneha uporabljati)

(1) Če senat okrožnega sodišča spozna, da niso izpolnjeni zakonski pogoji za izročitev, izda sklep, da se prošnja za izročitev zavrne. Ta sklep pošlje to sodišče po uradni dolžnosti sodišču druge stopnje, ki po zaslišanju državnega tožilca sklep potrdi, razveljavi ali spremeni.

(2) Če je tujec priprt, sme senat sodišča prve stopnje odločiti, da ostane v priporu do pravnomočnosti sklepa o zavrnitvi izročitve.

(3) Pravnomočni sklep, s katerim se zavrne izročitev, se pošlje po ministrstvu, pristojnem za pravosodje, ministrstvu, pristojnemu za zunanje zadeve, ki obvesti o tem tujo državo.

(4) V primeru, da se izročitev zavrne, ker je oseba državljan Republike Slovenije, se izročitvena dokumentacija preda pristojnemu državnemu tožilstvu zaradi morebitne uvedbe kazenskega pregona v Republiki Sloveniji.

528. člen
(delno se preneha uporabljati)

Če senat okrožnega sodišča spozna, da so izpolnjeni zakonski pogoji za izročitev (522. člen), oziroma, da so podani pogoji za odložitev izročitve iz 530. člena tega zakona, ugotovi to s sklepom. Zoper ta sklep ima tujec pravico pritožbe na sodišče druge stopnje.

period of not less than eight days. After the expiry of this time limit, the investigating judge shall send the files on the inquiry, together with his or her opinion and the statement of the alien and the state prosecutor, if any, to the panel (paragraph six of Article 25).

(3) If criminal proceedings for the same or any other criminal offence are pending before a domestic court against an alien whose extradition is requested, the investigating judge shall indicate this in the files.

Article 527
(Ceased to apply in part)

(1) If the district court's panel establishes that the legal requirements for extradition have not been fulfilled, it shall render a ruling that the request for extradition should be rejected. The court shall submit this ruling *ex officio* to the court of second instance which, after hearing the state prosecutor, may uphold, set aside or change the ruling.

(2) If an alien is in detention, the panel of the first instance court may decide that he or she remain in detention until the ruling rejecting the extradition becomes final.

(3) The final ruling rejecting extradition shall be transmitted through the ministry responsible for justice to the ministry responsible for foreign affairs, which shall notify the foreign country thereof.

(4) In the event that extradition is rejected because the person is a Slovenian citizen, the extradition documents shall be handed over to the competent state prosecutor's office for the purpose of possibly instituting a criminal prosecution in the Republic of Slovenia.

Article 528
(Ceased to apply in part)

Should the district court's panel find that the legal requirements for extradition (Article 522) have been met, or that the requirements for the deferral of extradition pursuant to Article 530 of this Act have been complied with, it shall confirm such finding by a ruling. The alien shall have

the right to lodge an appeal against this ruling with the court of second instance.

529. člen
(delno se preneha uporabljati)

Če sodišče druge stopnje ob pritožbi spozna, da so izpolnjeni zakonski pogoji za izročitev tujca, oziroma če zoper tak sklep sodišča prve stopnje ni vložena pritožba, se zadeva pošlje ministru, pristojnemu za pravosodje, ki nato odloči o izročitvi.

Article 529
(Ceased to apply in part)

If the court of second instance finds upon appeal that the legal requirements for the extradition of the alien have been met, or if no appeal against such ruling of the court of first instance has been filed, it shall refer the case to the minister responsible for justice, who shall decide on extradition.

529.a člen
(delno se preneha uporabljati)

(1) Izročitev tujca se lahko dovoli na prošnjo pristojnega tujega organa za izročitev ali za začasen odvzem prostosti z namenom izročitve brez izvedbe postopka po določbah 526. do 529. člena tega zakona, če tujec po pravnem pouku preiskovalnega sodnika izjavi, da soglaša z izročitvijo.

(2) V primeru iz prejšnjega odstavka se lahko tujec po pravnem pouku preiskovalnega sodnika odpove uporabi pogojev iz 531. člena tega zakona.

(3) Preiskovalni sodnik tujca ob zaslišanju seznani z možnostjo soglašanja z izročitvijo, pouči ga, da je soglasje z izročitvijo prostovoljno ter ga opozori, da bo v primeru njegovega soglasja o izročitvi odločeno po skrajšanem postopku. Preiskovalni sodnik zahtevano osebo pouči tudi o pomenu in vsebini načela specialnosti, posledicah odpovedi načelu specialnosti ter o tem, da je odpoved prostovoljna in nepreklicna. Na zaslišanju sta lahko navzoča zagovornik in pristojni državni tožilec. Pouk iz prvega in drugega odstavka, soglasje iz prvega odstavka in odpoved iz drugega odstavka tega člena ter izjava tujca, da sta bila soglasje in odpoved dana prostovoljno in v navzočnosti zagovornika, se zapišejo v zapisnik.

Article 529a
(Ceased to apply in part)

(1) The extradition of an alien may be permitted on the request of the competent foreign authority for extradition or for temporary deprivation of liberty for the purpose of extradition without undertaking the procedure specified under the provisions of Articles 526 to 529 of this Act, provided that the alien, after receiving the legal instruction from the investigating judge, consents to his or her extradition by a statement.

(2) In the case referred to in the preceding paragraph, the alien may, after receiving the legal instruction from the investigating judge, waive his or her right to apply the conditions referred to in Article 531 of this Act.

(3) In hearing an alien, the investigating judge shall inform him or her of the possibility of consenting to extradition, caution him or her that his or her consent to extradition is voluntary and that, should he or she consent to extradition, the decision will be taken in a summary procedure. The investigating judge shall also inform the requested person of the meaning and content of the rule of specialty, the consequences of waiving the benefit of the rule of specialty and of the fact that the waiver is voluntary and irrevocable. The defence counsel and the competent state prosecutor may be present at the hearing. The instruction referred to in paragraphs one and two, the consent referred to in paragraph one and the waiver referred to in paragraph two of this Article, as well as the alien's statement that his or her consent and waiver were given voluntarily and in

(4) Preiskovalni sodnik po preizkusu pogojev iz 1. do 12. in 14. točke prvega odstavka 522. člena tega zakona s sklepom odloči o izročitvi. Sklep se vroči osebi, katere izročitev se zahteva, zagovorniku in državnemu tožilcu. Zoper sklep je v 24 urah možna pritožba na senat okrožnega sodišča (šesti odstavek 25. člena), ki mora o njej odločiti v 48 urah.

(5) Preiskovalni sodnik po pravnomočnosti sklepa odločitev sporoči ministru, pristojnemu za pravosodje, ki o odločitvi sodišča takoj obvesti državo prosilko. Če kateri izmed pogojev iz 1. do 12. in 14. točke prvega odstavka 522. člena ni izpolnjen ali če tujec ne soglaša z izročitvijo, se izvede redni postopek izročitve.

530. člen
(delno se preneha uporabljati)

(1) Minister, pristojen za pravosodje, izda odločbo, s katero izročitev dovoli ali ne dovoli. Lahko izda tudi odločbo, da se izročitev odloži zaradi tega, ker teče zoper tujca, katerega izročitev se zahteva, pri domačem sodišču kazenski postopek zaradi kakšnega drugega kaznivega dejanja ali ker prestaja tujec kazen v Republiki Sloveniji.

(2) Če bi zaradi odložitve izročitve iz prvega odstavka v državi prosilki kazenski pregon zastaral ali bi bil njegov potek resno oviran, se sme na utemeljeno prošnjo države prosilke dovoliti začasna izročitev zaradi kazenskega postopka. O dovoljenosti začasne izročitve odloča minister za pravosodje, po predhodnem mnenju organa, pred katerim poteka kazenski postopek oziroma v čigar pristojnosti je izvrševanje kazenskih sankcij. Začasna izročitev se sme dovoliti, če se s tem ne ogroža potek kazenskega postopka, ki zoper osebo poteka v Republiki Sloveniji in če je zaprošena država zagotovila, da bo oseba v proseči državi vseskozi v priporu kot tudi, da jo bo v roku, določenem s strani Republike Slovenije vrnila v Republiko Slovenijo.

the presence of the defence counsel, shall be entered in the record.

(4) After examining the requirements referred to in points 1 to 12 and 14 of paragraph one of Article 522 of this Act, the investigating judge shall decide on the extradition by a ruling. The ruling shall be served on the person whose extradition is requested, on his or her defence counsel and the state prosecutor. An appeal against the ruling may be lodged within 24 hours with the district court's panel (paragraph six of Article 25), which must decide on it within 48 hours.

(5) After the ruling has become final, the investigating judge shall communicate his or her decision to the minister responsible for justice, who shall immediately notify the requesting state of the court's decision. If any of the requirements referred to in points 1 to 12 and 14 of paragraph one of Article 522 of this Act is not fulfilled or if the alien does not consent to the extradition, the regular extradition procedure shall take place.

Article 530
(Ceased to apply in part)

(1) The minister responsible for justice shall issue a decision granting or rejecting extradition. He or she may also issue a decision to suspend the extradition because proceedings for another criminal offence are pending before a domestic court against the alien whose extradition is requested, or because the alien is serving a sentence in the Republic of Slovenia.

(2) Should the suspension of extradition referred to in paragraph one cause the criminal prosecution in the requesting state to become statute-barred or severely hindered, temporary extradition for the purpose of criminal procedure may be granted on a reasoned request of the requesting state. The minister responsible for justice shall decide on the admissibility of temporary extradition after seeking a preliminary opinion of the authority before which the criminal proceedings are pending and which is responsible for the enforcement of criminal sanctions. Temporary extradition may be granted provided it does not threaten the course of criminal proceedings conducted against the person in the Republic of Slovenia and if the requested state has ensured that the person in the requesting state will be in detention throughout the period in question, and

(3) Minister, pristojen za pravosodje, ne dovoli izročitve tujca, če mu je priznana mednarodna zaščita ali če gre za politično ali vojaško kaznivo dejanje.

530.a člen

(1) Zoper odločbo ministra za pravosodje, s katero je bilo odločeno o izročitvi tujca, katerega izročitev se zahteva, je mogoče vložiti tožbo na upravno sodišče. Tožba se vloži v 15 dneh od vročitve odločbe.

(2) Upravno sodišče o tožbi zoper odločbo o izročitvi odloči v 60 dneh, če je zoper tujca odrejen pripor po 524. členu tega zakona, pa v 30 dneh od vložitve tožbe.

(3) V postopku sodnega varstva zoper odločbo ministra za pravosodje o izročitvi se uporablja zakon, ki ureja upravni spor, če s tem zakonom ni drugače določeno.

531. člen
(delno se preneha uporabljati)

(1) V odločbi, s katero dovoli izročitev tujca, navede minister, pristojen za pravosodje:

1) da se tujec ne sme preganjati zaradi kakšnega drugega kaznivega dejanja, storjenega pred izročitvijo;
2) da se zoper njega ne sme izvršiti kazen za kakšno drugo kaznivo dejanje, storjeno pred izročitvijo;
3) da se zoper njega ne sme uporabiti hujša kazen od tiste, na katero je obsojen;
4) da se ne sme izročiti kakšni tretji državi v pregon zaradi kaznivega dejanja, ki ga je storil, preden je bila dovoljena izročitev.

also that the person will be returned to the Republic of Slovenia within the time limit determined by the Republic of Slovenia.

(3) The minister responsible for justice shall not authorise the extradition of an alien if he or she has been granted international protection or if a political or military criminal offence is involved.

Article 530a

(1) An action against the decision of the minister of justice on the extradition of an alien whose extradiction is requested may be brought before the administrative court. The action shall be filed within 15 days of the service of the decision.

(2) The administrative court shall decide on the action against the decision on extradition within 60 days, or if detention is ordered against the alien under Article 524 of this Act, within 30 days of the filing of the action.

(3) Unless otherwise provided by this Act, the provisions of the Act governing administrative disputes shall apply to the judicial protection procedure against a decision on extradiction issued by the minister of justice.

Article 531
(Ceased to apply in part)

(1) In the decision granting the extradition of an alien, the minister responsible for justice shall state:

1) that the alien may not be prosecuted for any other criminal offence committed prior to the extradition;
2) that he or she may not be punished for any other criminal offence committed prior to the extradition;
3) that a more severe punishment than the one he or she was sentenced to may not be imposed on him or her;
4) that he or she may not be extradited to any third country to be prosecuted for a criminal offence committed before his or her extradition was granted.

(2) Pogoji iz prvega odstavka prenehajo učinkovati:

- če se jim izročena oseba odpove;
- če izročena oseba kljub opozorilu države prosilke glede morebitnih posledic ne zapusti ozemlja države prosilke v roku 45 dni po tem, ko je bila izpuščena na svobodo, če je to lahko storila;

- če oseba zapusti ozemlje države, v katero je bila izročena pa se tja prostovoljno vrne ali je tja vrnjena s strani tretje države.

(3) Poleg omenjenih pogojev lahko postavi minister, pristojen za pravosodje, za izročitev tudi druge pogoje.

532. člen
(delno se preneha uporabljati)

(1) Odločba, s katero je odločeno o izročitvi, se sporoči tuji državi po diplomatski poti.

(2) Odločba, s katero se dovoli izročitev, se pošlje ministrstvu, pristojnemu za notranje zadeve, ki odredi, da se tujec odpelje do meje, kjer se na dogovorjenem kraju izroči organom tuje države, ki je zahtevala izročitev.

532.a člen
(delno se preneha uporabljati)

(1) Na podlagi prošnje tujega pravosodnega organa ali kadar je tako določeno v domačem zakonu, se lahko v povezavi z izročitvijo tuji državi izročijo zaseženi predmeti, ki se lahko uporabijo kot dokaz ali ki so bili pridobljeni s kaznivim dejanjem in se ob prijetju najdejo pri zahtevani osebi ali se pozneje odkrijejo.

(2) Predmeti iz prvega odstavka tega člena se izročijo tudi, ko se izročitev zaradi smrti ali pobega zahtevane osebe ne more izvršiti.

(2) The requirements referred to in paragraph one shall cease to apply if:

- the extradited person has waived them;
- the extradited person, despite the warning of the requesting state about the possible consequences, does not leave the territory of the requesting state within 45 days of being released to liberty, provided he or she could have done that;
- the person leaves the territory of the state to which he or she was extradited but returns there voluntarily or is returned there by a third country.

(3) In addition to the aforementioned requirements, the minister responsible for justice may also impose other requirements for extradition.

Article 532
(Ceased to apply in part)

(1) A decision regarding extradition shall be communicated to the foreign state concerned through diplomatic channels.

(2) A decision granting extradition shall be submitted to the ministry responsible for internal affairs, which shall order that the alien be transported to the state border where, at the agreed place, he or she shall be surrendered to the bodies of the foreign state that requested extradition.

Article 532a
(Ceased to apply in part)

(1) On the request of a foreign judicial authority or where so provided by a domestic Act, in the context of extradition seized objects that may be used as evidence, or objects obtained through a criminal offence and found on the requested person during the arrest, or discovered subsequently, may be turned over to the foreign country in question.

(2) The objects referred to in paragraph one of this Article shall also be turned over when extradition may not be carried out due to the death or escape of the requested person.

(3) Če je domače sodišče predmete zaseglo v kazenskem postopku, ki je v teku, predmete zadrži ali jih začasno izroči proseči državi, pod pogojem, da jih ta vrne.

(3) If a domestic court seized objects in pending criminal proceedings, it shall retain them or temporarily hand them over to the requesting state under the condition that they will be returned.

533. člen
(delno se preneha uporabljati)

(1) Če zahteva izročitev iste osebe več tujih držav zaradi istega kaznivega dejanja, se da prednost prošnji države, katere državljan je ta oseba; če ta država ne zahteva izročitve, prošnji države, na katerem ozemlju je bilo kaznivo dejanje storjeno; če je bilo dejanje storjeno na ozemlju več držav ali če se ne ve, kje je bilo storjeno, pa prošnji države, ki je prva zahtevala izročitev.

(2) Če zahteva izročitev iste osebe več tujih držav zaradi raznih kaznivih dejanj, se da prednost prošnji tiste države, katere državljan je ta oseba; če ta država ne zahteva izročitve, prošnji države, na katere ozemlju je bilo storjeno najhujše kaznivo dejanje; če so dejanja enako huda, pa prošnji države, ki je prva zahtevala izročitev.

Article 533
(Ceased to apply in part)

(1) Where more than one foreign country requests the extradition of the same person for the same criminal offence, priority shall be given to the request of the country of which that person is a citizen; if this country does not request extradition, then priority shall be given to the request of the country in whose territory the criminal offence was committed; if the offence was committed in the territories of more than one country or if it is not known were it was committed, then priority shall be given to the request of the country that first requested extradition.

(2) Where more than one foreign country requests the extradition of the same person for different criminal offences, priority shall be given to the request of the country of which that person is a citizen; if this country does not request extradition, then priority shall be given to the request of the country in whose territory the gravest criminal offence was committed; if, however, the criminal offences are of equal gravity, priority shall be given to the request of the country that first requested extradition.

533.a člen
(delno se preneha uporabljati)

(1) O prošnji tujega pravosodnega organa za soglasje, da osebo, ki jo je izročila Republika Slovenija, lahko preganja ali zoper njo izvrši kazen ali izroči tretji državi zaradi drugega kaznivega dejanja, ki ga je storila pred izročitvijo, odloča minister za pravosodje na podlagi odločbe senata iz šestega odstavka 25. člena tega zakona sodišča, ki je odločalo o izpolnjevanju pogojev za izročitev.

(2) Senat iz šestega odstavka 25. člena, na podlagi dokumentacije, ki jo je posredovala tuja država, preuči ali so

Article 533a
(Ceased to apply in part)

(1) The minister responsible for justice shall decide on a request of a foreign judicial authority for consent to the prosecution of a person extradited by the Republic of Slovenia or to the enforcement of a sentence against such a person, or to the extradition of this person to a third country due to another criminal offence committed before the extradition, pursuant to the decision of the court's panel referred to in paragraph six of Article 25 of this Act that decided whether the requirements for extradition were complied with.

(2) The panel referred to in paragraph six of Article 25 shall examine whether the requirements referred to in Article 522 of this Act

izpolnjeni pogoji iz 522. člena tega zakona. Če senat ugotovi, da niso izpolnjeni zakonski pogoji za izročitev, izda sklep, da se prošnja za soglasje za kazenski pregon, izvršitev kazni ali izročitev tretji državi zavrne. Ta sklep pošlje sodišče po uradni dolžnosti sodišču druge stopnje, ki po zaslišanju državnega tožilca sklep potrdi, razveljavi ali spremeni. Če pa senat iz šestega odstavka 25. člena spozna, da so izpolnjeni zakonski pogoji za soglasje za kazenski pregon, izvršitev kazni ali izročitev ali predajo tretji državi, ugotovi to s sklepom. Zoper ta sklep ima tujec pravico pritožbe na sodišče druge stopnje. Pravnomočni sklep se pošlje ministru za pravosodje, ki skladno z določbo drugega odstavka 530. člena tega zakona odloči o prošnji oziroma obvesti drugo državo, da niso izpolnjeni pogoji za soglasje.

(3) Odločitev se posreduje na način, določen v prvem odstavku 532. člena tega zakona.

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.

535. člen
(delno se preneha uporabljati)

(1) Če je nevarnost, da bi tisti, katerega izročitev se zahteva, pobegnil ali se skril, lahko zahteva minister, pristojen za pravosodje, še preden ravna po prejšnjem členu, naj se zoper njega ukrene, kar je potrebno, da se pripre.

have been met on the basis of the documents submitted by the foreign country. Should the panel establish that the legal requirements for extradition have not been complied with, it shall issue a ruling refusing the request for consent to criminal prosecution, the enforcement of a sentence or extradition to a third country. The court shall send this ruling *ex officio* to the court of second instance which, after hearing the opinion of the state prosecutor, may confirm, set aside or change the ruling. Should the panel referred to in paragraph six of Article 25 establish that the legal requirements for granting consent to criminal prosecution, the enforcement of a sentence or extradition or surrender to a third country have been met, it shall issue a ruling to that effect. The alien shall have the right to lodge an appeal against this ruling with the court of second instance. The final ruling shall be sent to the minister responsible for justice, who shall, in accordance with the provision of paragraph two of Article 530 of this Act, decide on the request or notify the other country that the requirements for granting consent have not been met.

(3) The decision shall be forwarded in the manner laid down in paragraph one of Article 532 of this Act.

Article 534
(Ceased to apply in part)

(1) 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.

(2) The request shall be sent to the foreign country concerned through diplomatic channels, together with the documents and data referred to in Article 523 of this Act.

Article 535
(Ceased to apply in part)

(1) If there is a risk that the person whose extradition is requested might flee or go into hiding, the minister responsible for justice may request, before taking the action referred to in the preceding Article, that the necessary measures be taken for his or her detention.

(2) V prošnji za začasen pripor je treba posebej navesti podatke o istovetnosti zahtevane osebe, naravo in označbo kaznivega dejanja, številko odločbe ter datum, kraj in naslov organa, ki je odredil pripor, oziroma podatke o pravnomočnosti sodbe in pa izjavo, da bo izročitev zahtevana po redni poti.

536. člen
(delno se preneha uporabljati)

(1) Oseba, ki je bila izročena Republiki Sloveniji, se ne sme kazensko preganjati, jo obsoditi ali pripreti, da bi izvršili obsodbo ali priporni nalog za katerokoli drugo kaznivo dejanje, storjeno pred njeno izročitvijo, niti se je ne sme izročiti ali predati drugi državi brez soglasja države, ki je osebo izročila. Predlog za podajo prošnje za izdajo soglasja za pregon za druga kazniva dejanja oziroma za izvršitev kazni ali izročitev ali predajo tretji državi poda pristojno sodišče, pred katerim teče postopek oziroma je zadolženo za izvršitev kazni. Predlogu morajo biti priložene listine iz 523. člena tega zakona.

(2) Ne glede na prvi odstavek tega člena se sme oseba kazensko preganjati oziroma se sme zoper njo izvršiti kazen tudi za druga kazniva dejanja, storjena pred izročitvijo, če:

1. oseba, ki je imela možnost oditi z ozemlja Republike Slovenije, tega ne stori v petinštiridesetih dneh po svoji dokončni izpustitvi ali se v Republiko Slovenijo po odhodu znova vrne;
2. je za drugo dejanje, ki ga je oseba storila pred izročitvijo, predpisana le denarna kazen;
3. se je oseba pred izročitvijo izrecno odpovedala načelu specialnosti;
4. država, ki je osebo izročila, soglaša s pregonom, izvršitvijo kazni ali izročitvijo tretji državi, zaradi drugega kaznivega dejanja, ki ga je oseba storila pred izročitvijo.

(2) The request for provisional detention should specifically state the data on the identity of the requested person, the nature and designation of the criminal offence, the number and date of the issued ruling on detention, the place and address of the body that ordered detention, and/or information about the final judgment, as well as a statement that the extradition will be requested through regular channels.

Article 536
(Ceased to apply in part)

(1) A person who has been extradited to the Republic of Slovenia may not be subject to criminal prosecution, be sentenced or detained in order to enforce a conviction or detention order for any other criminal offence committed prior to his or her extradition, nor may he or she be extradited or surrendered to another country without the consent of the state that extradited the person. A motion for the submission of a request for consent to prosecute the person for other criminal offences or to enforce a sentence or to extradite or surrender the person to a third country shall be submitted by the competent court before which proceedings are pending or which is in charge of enforcing the sentence. The documents referred to in Article 523 of this Act shall be enclosed with the motion.

(2) Notwithstanding paragraph one of this Article, a person may be subject to criminal prosecution, or a sentence may be enforced against such person also for other criminal offences committed prior to his or her extradition in the following cases:

1. when the person who had an opportunity to leave the territory of the Republic of Slovenia does not leave within 45 days of his or her final release, or returns to the Republic of Slovenia after leaving it;
2. where only a fine is prescribed for the criminal offence committed by the person before extradition;
3. where the person has expressly waived the benefit of the rule of specialty before extradition;
4. where the state that extradited the person consents to the prosecution, the enforcement of a sentence or extradition to a third country for another criminal offence committed by this person before the extradition.

(3) Če je bila taka oseba pravnomočno obsojena od domačega sodišča tudi za druga pred izročitvijo storjena kazniva dejanja, za katera izročitev ni bila dovoljena, se smiselno uporabijo določbe 407. člena tega zakona.

(4) Če je izročitev dovoljena z določenimi pogoji glede vrste ali višine kazni, ki se sme izreči oziroma izvršiti, in s temi pogoji sprejeta, je sodišče pri izrekanju kazni vezano na te pogoje. Če pa gre za izvršitev že izrečene kazni, spremeni sodišče, ki je sodilo na zadnji stopnji, sodbo in prilagodi izrečeno kazen pogojem izročitve.

(5) Če je bila izročena oseba v tuji državi priprta zaradi kaznivega dejanja, zaradi katerega je bila izročena, se ji čas, ki ga je prebila v priporu, všteje v kazen.

537. člen
(delno se preneha uporabljati)

(1) Če zahteva izročitev tuja država od druge tuje države, zahtevano osebo pa bi bilo treba prepeljati čez ozemlje Republike Slovenije, sme na prošnjo prizadete tuje države to dovoliti minister, pristojen za pravosodje, s pogojem, da ne gre za državljana Republike Slovenije in ne za izročitev zaradi političnega ali vojaškega kaznivega dejanja.

(2) Prošnja za prevoz osebe čez ozemlje Republike Slovenije mora obsegati vse podatke iz 523. člena tega zakona.

(3) Če velja vzajemnost, obremenjujejo stroški za prevoz osebe čez ozemlje Republike Slovenije proračun.

XXXII. poglavje
POSTOPEK ZA POVRNITEV ŠKODE, REHABILITACIJO IN UVELJAVITEV DRUGIH PRAVIC OSEB, KI SO BILE NEUPRAVIČENO OBSOJENE ALI JIM JE BILA NEUTEMELJENO

(3) If such person was also convicted by a final judgment of a domestic court for other criminal offences committed before the extradition for which extradition was not granted, the provisions of Article 407 of this Act shall apply *mutatis mutandis.*

(4) If the extradition is granted and accepted subject to specific requirements regarding the type or extent of punishment that may be imposed or enforced, the court shall be bound by these requirements in imposing the punishment. If the enforcement of an already imposed sentence is involved, the court which adjudicated at the last instance shall change the judgment and adapt the sentence imposed to the extradition requirements.

(5) If the extradited person was in detention in a foreign country for the criminal offence for which she or he was extradited, the time spent in detention shall be counted as part of the sentence imposed.

Article 537
(Ceased to apply in part)

(1) If a foreign country requests extradition from another foreign country and the person to be extradited is to be transported through the territory of the Republic of Slovenia, the minister responsible for justice may grant transit on the request of the country concerned, provided that the person concerned is not a citizen of the Republic of Slovenia and that the extradition does not take place for a political or military offence.

(2) The request for transit through the territory of the Republic of Slovenia shall contain all data referred to in Article 523 of this Act.

(3) If reciprocity applies, the costs of transportation of such person through the territory of the Republic of Slovenia shall be borne by the budget.

Chapter XXXII
PROCEDURES FOR THE COMPENSATION OF DAMAGE, REHABILITATION AND THE EXERCISE OF OTHER RIGHTS OF WRONGFULLY CONVICTED PERSONS OR PERSONS

538. člen

(1) Pravico do povrnitve škode zaradi neupravičene obsodbe ima tisti, ki mu je bila pravnomočno izrečena kazenska sankcija ali je bil spoznan za krivega, pa mu je bila odpuščena kazen, pozneje pa je bil v zvezi z izrednim pravnim sredstvom novi postopek pravnomočno ustavljen ali je bil s pravnomočno sodbo oproščen obtožbe ali je bila obtožba zoper njega zavrnjena ali je bila s pravnomočnim sklepom obtožnica zavržena, razen v primerih:

1) če je bil postopek ustavljen ali sodba, s katero je bila obtožba zavrnjena, izrečena zaradi tega, ker pregon ni več dopusten zaradi zastaranja po krivdi obsojenca ali ker je v novem postopku oškodovanec kot tožilec oziroma zasebni tožilec odstopil od pregona ali ker je oškodovanec umaknil predlog, do odstopa oziroma umika pa je prišlo po sporazumu z obdolžencem;

2) če je bila s sklepom v novem postopku obtožnica zavržena zaradi tega, ker sodišče ni bilo pristojno, upravičeni tožilec pa je začel pregon pred pristojnim sodiščem.

(2) Obsojenec nima pravice do povrnitve škode, če je s svojim krivim priznanjem ali kako drugače namenoma povzročil svojo obsodbo, razen če je bil v to prisiljen.

(3) Pri obsodbi za kazniva dejanja v steku se pravica do povrnitve škode lahko nanaša tudi na posamezna kazniva dejanja, glede katerih so izpolnjeni pogoji za priznanje odškodnine.

539. člen

(1) Pravica do povrnitve škode zastara v treh letih od pravnomočnosti sodbe, s katero je bil obdolženec na prvi stopnji oproščen obtožbe ali s katero je bila obtožba zavrnjena, oziroma v treh letih od pravnomočnosti sklepa, s katerim je bila obtožnica

Article 538

(1) The right to compensation for damage arising from a wrongful conviction shall be enjoyed by a person who was convicted by a final decision or found guilty but his or her sentence was remitted, and new proceedings involving an extraordinary legal remedy were discontinued by a final decision, or he or she was acquitted of the charge by a final judgment, or the charge against him or her was rejected, or the indictment was dismissed by a final ruling, except in the following cases:

1) where the proceedings were discontinued or a judgment rejecting the charge was rendered because the prosecution was no longer admissible as it became statute-barred through the fault of the convicted person, or because in the new proceedings the injured party acting as prosecutor or the private prosecutor relinquished prosecution, or because the injured party withdrew the motion, and the relinquishing and/or withdrawal was due to an agreement with the accused person;
2) where in new proceedings, the indictment was dismissed by a ruling for lack of jurisdiction of the court, whereupon the authorised prosecutor initiated prosecution before the court of jurisdiction.

(2) The convicted person shall not be entitled to compensation for damage if by a false confession or in some other way he or she deliberately brought about his or her conviction, unless he or she was forced to do so.

(3) If a sentence has been imposed for concurrent criminal offences, the right to compensation for damage may also apply to individual criminal offences in respect of which the conditions for the awarding of damages are fulfilled.

Article 539

(1) The right to seek compensation for damage shall become statute-barred after a lapse of three years from the day when the judgment acquitting the accused person of the charge at first instance or rejecting the charge became final, or after a lapse of three years from the day when

zavržena ali postopek na prvi stopnji ustavljen; če je na pritožbo odločalo višje sodišče, pa v treh letih od prejema njegove odločbe.

(2) Preden vloži pri sodišču tožbo za povrnitev škode, se mora upravičenec iz prejšnjega člena s svojo zahtevo obrniti na državno odvetništvo, da se z njim sporazume o obstoju škode ter o vrsti in višini odškodnine, v skladu z določbami o predhodnem postopku iz zakona, ki ureja državno odvetništvo.

(3) V primeru iz 2. točke prvega odstavka prejšnjega člena je mogoče odločiti o zahtevi le, če upravičeni tožilec ni začel pregona pred pristojnim sodiščem v treh mesecih od prejema pravnomočnega sklepa. Če začne upravičeni tožilec pregon pred pristojnim sodiščem po preteku tega roka, se postopek za povrnitev škode prekine, dokler se ne konča kazenski postopek.

540. člen

(1) Če zahtevi za povrnitev škode ni ugodeno ali če državno odvetništvo in upravičenec iz 538. člena tega zakona ne dosežeta sporazuma v treh mesecih od njene vložitve, sme vložiti upravičenec iz 538. člena tega zakona pri pristojnem sodišču tožbo za povrnitev škode. Če je bil dosežen sporazum le glede dela zahtevka, sme vložiti tožbo glede ostanka.

(2) Tožba za povrnitev škode se vloži zoper Republiko Slovenijo.

541. člen

(1) Dediči podedujejo samo pravico do povrnitve premoženjske škode. Če je upravičenec iz 538. člena tega zakona že vložil zahtevek, morejo dediči nadaljevati postopek le v mejah njegovega prejšnjega odškodninskega zahtevka.

the ruling dismissing the indictment or discontinuing the proceedings at first instance became final; if the appeal was decided by a higher court, the statute of limitations shall apply after a lapse of three years from the receipt of this court's decision.

(2) Before filing an action for compensation with the court, the person entitled to lodge it referred to in the preceding Article must address the State Attorney's Office with his or her claim in order to reach an agreement on the existence of damage and on the type and amount of compensation, in accordance with the provisions on the preliminary procedure referred to in the Act governing the State Attorney's Office.

(3) In the case referred to in point 2 of paragraph one of the preceding Article, the request may only be decided if the authorised prosecutor did not initiate prosecution before the court of jurisdiction within three months of receipt of the final ruling. If the authorised prosecutor initiates prosecution before the court of jurisdiction after the expiry of this time limit, the procedure for the compensation of damages shall be suspended until the criminal proceedings are concluded.

Article 540

(1) If the claim for compensation of damage is not granted or if the State Attorneys Office and the person entitled referred to in Article 538 of this Act fail to reach an agreement within three months of its filing, the person entitled referred to in Article 538 of this Act may file an action for the compensation of damage with the court of jurisdiction. If the agreement reached only refers to a part of the claim, the person entitled may bring an action for the outstanding part of the claim.

(2) A claim for compensation shall be filed against the Republic of Slovenia.

Article 541

(1) Heirs shall only succeed to the right to compensation of damage. If the person entitled referred to in Article 538 of this Act already filed a claim, the heirs may only continue the proceedings within the limits of his or her compensation claim.

(2) Dediči upravičenca iz 538. člena tega zakona lahko po njegovi smrti nadaljujejo postopek za povrnitev škode oziroma lahko začno postopek, če je upravičenec iz 538. člena tega zakona umrl, preden je potekel zastaralni rok, ne da bi se bil zahtevku odpovedal.

542. člen

(1) Pravico do povrnitve škode ima tudi:

1) kdor je bil v priporu, ni pa bil uveden zoper njega kazenski postopek ali je bila s pravnomočnim sklepom obtožnica zavržena, ali pa je bil postopek ustavljen, ali je bil s pravnomočno sodbo oproščen obtožbe, ali je bila obtožba zavrnjena;
2) kdor je prestajal prostostno kazen, v zvezi z obnovo kazenskega postopka ali z zahtevo za varstvo zakonitosti pa mu je bila izrečena krajša prostostna kazen, kot jo je že prestal, ali mu je bila izrečena kazenska sankcija, ki ni bila v odvzemu prostosti, ali je bil spoznan za krivega, pa mu je bila odpuščena kazen;

3) komur je bila zaradi napake ali nezakonitega dela organa neutemeljeno vzeta prostost ali je bil dalj pridržan v priporu ali v zavodu za prestajanje kazni ali ukrepa;
4) kdor je prebil v priporu dalj časa, kot traja zapor, na katerega je bil obsojen.

(2) Tisti, ki mu je bila brez zakonskega razloga vzeta prostost po 157. členu tega zakona, ima pravico do povrnitve škode, če zoper njega ni bil odrejen pripor in mu čas, kolikor mu je bila vzeta prostost, ni bil vštet v kazen, izrečeno za kaznivo dejanje ali za prekršek.

(3) Do povrnitve škode nima pravice, kdor je s svojim nedovoljenim ravnanjem povzročil, da mu je bila vzeta prostost. V primerih iz 1. ali 2. točke prvega odstavka tega člena je izključena pravica do povrnitve škode tudi, če so bile podane okoliščine iz 1. ali 2. točke prvega odstavka 538. člena.

(2) The heirs of the person entitled referred to in Article 538 of this Act may, after his or her death, continue the proceedings for the compensation of damage, or may initiate such proceedings, if the person entitled referred to in Article 538 of this Act had died before the limitation period expired without waiving the right to claim damages.

Article 542

(1) The right to compensation of damages shall also be enjoyed by:

1) whoever was in detention but criminal proceedings were not instituted against him or her, or the indictment was dismissed by a final ruling, or the proceedings were discontinued, or he or she was acquitted of the charge by a final judgment, or the charge was rejected;
2) whoever served a sentence of imprisonment and on whom, by reason of reopening of criminal proceedings or a request for the protection of legality, a shorter sentence of imprisonment was imposed than the one he or she had already served, or on whom a criminal sanction not involving the deprivation of liberty was imposed, or who was found guilty and then his or her sentence was remitted;
3) whoever, by reason of an error or unlawful act of an official body, was unfoundedly deprived of liberty or was held in detention or in a prison or correctional institution for a lengthy period of time;
4) whoever was held in pre-trial detention for a longer period of time than the length of the prison term he or she was sentenced to.

(2) Whoever was deprived of liberty without a legitimate reason pursuant to Article 157 of this Act shall be entitled to compensation for damage if detention was not ordered against him or her and if the time he or she spent in custody was not counted as a part of the sentence imposed for the criminal offence or minor offence.

(3) Whoever caused by his or her unlawful conduct their own deprivation of liberty shall not be entitled to compensation for damage. In the cases referred to in points 1 or 2 of paragraph one of this Article, the right to compensation for damage shall be precluded even if the circumstances referred to in points 1 or 2 of paragraph one of Article 538 exist.

(4) V postopku za povrnitev škode v primerih iz prvega in drugega odstavka tega člena se smiselno uporabljajo določbe tega poglavja.

543. člen

(1) Če je bil primer, na katerega se nanaša neupravičena obsodba ali neutemeljen odvzem prostosti neke osebe, prikazan v sredstvu javnega obveščanja in je bilo s tem prizadeto njeno dobro ime, objavi sodišče na njeno zahtevo v časniku ali drugem sredstvu javnega obveščanja sporočilo o odločbi, iz katere izhaja neupravičenost prejšnje obsodbe oziroma neutemeljenost odvzema prostosti. Če primer ni bil prikazan v sredstvu javnega obveščanja, pošlje na zahtevo te osebe tako sporočilo njenemu delodajalcu. Po obsojenčevi smrti imajo to pravico njegov zakonec oziroma oseba, s katero je živel v zunajzakonski skupnosti, otroci, starši, bratje in sestre.

(2) Zahteva iz prejšnjega odstavka je dopustna, tudi če ni bila zahtevana povrnitev škode.

(3) Neodvisno od pogojev, ki so določeni v 538. členu tega zakona, je zahteva iz prvega odstavka tega člena dopustna tudi v primeru, ko je bila v zvezi z izrednim pravnim sredstvom spremenjena pravna kvalifikacija dejanja, če je bilo zaradi pravne kvalifikacije v prejšnji sodbi huje prizadejano dobro ime obsojenca.

(4) Zahtevo iz prvega, drugega in tretjega odstavka tega člena je treba podati v šestih mesecih (prvi odstavek 539. člena) pri sodišču, ki je v kazenskem postopku sodilo na prvi stopnji. O njej odloča senat (šesti odstavek 25. člena). Pri odločanju o zahtevi se smiselno uporabljajo drugi in tretji odstavek 538. člena in tretji odstavek 542. člena tega zakona.

544. člen

(4) In proceedings for the compensation of damage in the cases referred to in paragraphs one and two of this Article, the provisions of this Chapter shall apply *mutatis mutandis.*

Article 543

(1) If a case concerning the wrongful conviction or unfounded deprivation of liberty of a person was shown in the media and harmed the reputation of that person, the court shall, upon the request of that person, publish in a newspaper or other media a notice on the decision evidencing the wrongfulness of the previous conviction or that the deprivation of liberty was unfounded. If the case was not shown in the media, the court shall, upon the request of that person, send such a notice to his or her employer. After the death of the convicted person, this right shall be held by his or her spouse or the person with whom he or she had lived in extra-marital cohabitation, his or her children, parents, and brothers and sisters.

(2) The request referred to in the preceding paragraph shall be admissible even if compensation for damage was not sought.

(3) Notwithstanding the conditions laid down in Article 538 of this Act, the request referred to in paragraph one of this Article shall also be admissible if the legal qualification of the offence has been modified in consequence of applying an extraordinary legal remedy, provided that the reputation of the convicted person was seriously harmed as a result of the legal qualification in the previous judgment.

(4) The request referred to in paragraphs one, two and three of this Article shall be submitted within six months (paragraph one of Article 539) to the court that adjudicated in the criminal proceedings at first instance. The request shall be determined by the panel (paragraph six of Article 25). In deciding on the request, paragraphs two and three of Article 538 and paragraph three of Article 542 of this Act shall apply *mutatis mutandis.*

Article 544

Sodišče, ki je v kazenskem postopku sodilo na prvi stopnji, izda po uradni dolžnosti sklep, s katerim razveljavi vpis neupravičene obsodbe v kazenski evidenci. Sklep pošlje ministrstvu, pristojnemu za pravosodje. O razveljavljenem vpisu se ne smejo nikomur dajati podatki iz kazenske evidence.

The court that adjudicated in the criminal proceedings at first instance shall, *ex officio*, render a ruling annulling the entry of a wrongful conviction in the criminal records. The ruling shall be sent to the ministry responsible for justice. No one shall be given information on the annulled entry in the criminal record.

545. člen

Oseba, kateri je bil dovoljen pregled in prepis spisov (128. člen), ki se nanašajo na neupravičeno obsodbo ali na neutemeljen odvzem prostosti, ne sme uporabiti podatkov iz teh spisov na tak način, da bi bilo to škodljivo za rehabilitacijo tistega, proti kateremu je tekel kazenski postopek. Predsednik sodišča je dolžan na to opozoriti osebo, ki je dobila dovoljenje za pregled, in se to proti njenemu podpisu zaznamuje na spisu.

Article 545

A person who has been authorised to inspect and copy the files (Article 128) relating to wrongful conviction or unfounded deprivation of liberty, may not use the data from these files in a manner that would prejudice the rehabilitation of the person against whom the criminal proceedings were held. The president of the court shall be obliged to inform the person who has been authorised for inspection accordingly and a note to that effect shall be recorded in the file with the signature of that person.

546. člen

(1) Osebi, ki ji je zaradi neopravičene obsodbe ali neutemeljenega odvzema prostosti prenehalo delovno razmerje ali lastnost zavarovanca socialnega zavarovanja ali ji je bila onemogočena oziroma odložena zaposlitev, do katere bi sicer prišlo, se prizna delovna oziroma zavarovalna doba, kot da bi bila delala tisti čas, ki ga je zaradi neopravičene obsodbe ali neutemeljenega odvzema prostosti izgubila. V to dobo se všteje tudi čas nezaposlenosti, do katere je prišlo zaradi neupravičene obsodbe ali neutemeljenega odvzema prostosti, če se to ni zgodilo po njeni krivdi.

Article 546

(1) A person who, as a result of wrongful conviction or unfounded deprivation of liberty, has lost his or her employment or the status of a beneficiary of the social security system, or who was prevented from or delayed in obtaining employment which he or she would otherwise have obtained, shall be entitled to have the employment and insurance periods counted as if he or she had worked during the time lost in consequence of the wrongful conviction or unfounded deprivation of liberty. The period of unemployment resulting from the wrongful conviction or unfounded deprivation of liberty shall also be counted as part of the aforementioned period, if such unemployment was not his or her fault.

(2) Pri vsakem odločanju o pravici, na katero vpliva dolžina delovne oziroma zavarovalne dobe, upošteva pristojni organ dobo, priznano po prejšnjem odstavku.

(2) In determining any right arising from the length of service or insurance period, the competent authority shall take into account the period recognised in accordance with the preceding paragraph.

(3) Če pristojni organ ne upošteva dobe, priznane po prvem odstavku tega člena, lahko upravičenec iz prvega odstavka tega člena zahteva, naj sodišče (prvi odstavek 540. člena) ugotovi, da mu je ta čas po zakonu priznan. Tožba se vloži zoper organ, ki ne

(3) If the competent authority does not take into account the period recognised under paragraph one of this Article, the beneficiary referred to in paragraph one of this Article may request that the court (paragraph one of Article 540) determine that this period be recognised

priznava priznane dobe in zoper Republiko Slovenijo.

(4) Na zahtevo organa, pri katerem se pravica iz drugega odstavka tega člena uveljavlja, se izplača iz proračunskih sredstev Republike Slovenije predpisani prispevek za čas, za katerega je bila po prvem odstavku tega člena doba priznana.

(5) Zavarovalna doba, priznana po prvem odstavku tega člena, se v celoti všteva v pokojninsko dobo.

XXXIII. poglavje
POSTOPEK ZA IZDAJO TIRALICE IN RAZGLASA

547. člen

Če se ne ve za stalno ali začasno prebivališče obdolženca, kadar je to po določbah tega zakona nujno, zahteva sodišče od policije, naj obdolženca poišče in sporoči sodišču njegov naslov.

548. člen

(1) Tiralica se sme odrediti, če je obdolženec, zoper katerega je uveden kazenski postopek zaradi kaznivega dejanja, za katero se storilec preganja po uradni dolžnosti in za katero je v zakonu predpisana kazen zapora dveh ali več let, na begu in če je izdana odredba, da se obdolženec privede, ali sklep, da se pripre.

(2) Tiralico odredi sodišče, pred katerim teče kazenski postopek.

(3) Tiralica se odredi tudi v primeru, če obdolženec pobegne iz zavoda, v katerem prestaja kazen, ne glede na njeno višino, ali če pobegne iz zavoda, v katerem prestaja zavodski ukrep, ki je zvezan z odvzemom prostosti. Odredbo izda v takem primeru

under the law. Such claim shall be filed both against the authority that refuses to recognise the period in question, and against the Republic of Slovenia.

(4) On the request of the authority before which the right referred to in paragraph two of this Article is claimed, the contributions prescribed for the period recognised under paragraph one of this Article shall be paid from the budget of the Republic of Slovenia.

(5) The insurance period recognised under paragraph one of this Article shall be fully counted in the pensionable service.

Chapter XXXIII
PROCEDURE FOR ISSUING ARREST WARRANTS AND ALERT NOTICES

Article 547

If the accused person's permanent or temporary residence is not known, the court shall, wherever so required by the provisions of this Act, request the police to locate the accused person and inform the court of his or her address.

Article 548

(1) An arrest warrant may be ordered if the accused person against whom criminal proceedings have been instituted for an offence prosecutable *ex officio* and punishable by two or more years of imprisonment prescribed by an Act is in flight, and if an order for bringing him or her in forcibly, or an order for his or her detention, has been issued.

(2) An arrest warrant shall be ordered by the court conducting the criminal proceedings.

(3) An arrest warrant shall also be ordered if the accused person escapes from the prison in which he or she has been serving a sentence, irrespective of its extent, or if he or she escapes from the correctional institution in which he or she is kept in custody in accordance

direktor zavoda.

(4) Odredba za tiralico, ki jo izda sodišče ali direktor zavoda, se pošlje policiji v izvršitev.

(5) Policija vodi evidenco izdanih tiralic. Podatki o osebah, zoper katere je bila odrejena tiralica, se iz evidence zbrišejo, brž ko pristojni organ tiralico prekliče.

549. člen

(1) Če so potrebni podatki o posameznih predmetih, ki so v zvezi s kaznivim dejanjem, ali če je treba take predmete najti, posebno pa, če je to potrebno, da se ugotovi istovetnost najdenega neznanega trupla, se odredi razpis razglasa, v katerem se zahteva, naj se podatki ali sporočila pošljejo organu, ki vodi postopek.

(2) Policija sme objavljati tudi fotografije trupel in pogrešanih, če so razlogi za sum, da je smrt oziroma izginotje posledica kaznivega dejanja.

550. člen

Organ, ki je odredil tiralico ali razglas, ju mora takoj preklicati, ko se izsledi iskana oseba ali najde predmet, ko zastara kazenski pregon ali izvršitev kazni ali ko se pokažejo drugi razlogi, zaradi katerih tiralica oziroma razglas nista več potrebna.

551. člen

(1) Tiralico in razglas razpiše policija.

(2) Za obveščanje javnosti o tiralici ali razglasu se smejo

with the imposed sanction. In this case the order shall be issued by the director of the prison or the correctional institution.

(4) The order on the arrest warrant issued by the court or the director of the prison or the correctional institution shall be sent to the police for enforcement.

(5) The police shall keep records of arrest warrants issued. Data about the persons against whom arrest warrants have been issued shall be deleted from the records as soon as the competent authority cancels the arrest warrant.

Article 549

(1) If information about particular objects associated with a criminal offence is required or if such objects need to be found, and, in particular, where this is necessary to establish the identity of an unidentified corpse, the issuing of an alert notice shall be ordered, requesting that such information and reports be sent to the authority conducting the proceedings.

(2) The police may also publish photographs of corpses and missing persons if there are grounds to suspect that the death or disappearance is the result of a criminal offence.

Article 550

The authority that ordered the issuing of an arrest warrant or alert notice must cancel it as soon as the person or the object sought is found, as soon as the criminal prosecution or the enforcement of the sentence becomes statute-barred, or as soon as other reasons arise indicating that the arrest warrant or alert notice is no longer required.

Article 551

(1) Arrest warrants and alert notices shall be issued by the police.

(2) The mass media may also be used to inform the public of an

uporabljati tudi sredstva javnega obveščanja.

(3) Če je verjetno, da je tisti, za katerim je odrejena tiralica, v tujini, sme ministrstvo, pristojno za notranje zadeve, razpisati tudi mednarodno tiralico.

(4) Na prošnjo tujega organa sme ministrstvo, pristojno za notranje zadeve, razpisati tiralico tudi za nekoga, za katerega se sumi, da je v Republiki Sloveniji, če da tuji organ v prošnji izjavo, da bo zahteval njegovo izročitev, če bo najden.

(5) Če je zoper državljana Republike Slovenije s strani tujega organa razpisana tiralica, policija tiralico skupaj z vso razpoložljivo dokumentacijo predloži pristojnemu državnemu tožilcu, ki se na podlagi tega odloči, ali bo zahteval uvedbo pregona, oziroma, če gre za tiralico zaradi izvršitve kazenske sankcije, ali bo pristojnemu sodišču predlagal izvršitev kazenske sankcije.

(6) Določbe tega člena se smiselno uporabljajo tudi za primere, ko policija razpiše iskanje oseb ali stvari.

XXXIV. poglavje
PREHODNE IN KONČNE DOLOČBE

552. člen

(1) Za kazniva dejanja, za katera se storilec preganja po določilih kazenskega zakonika na predlog, začne rok iz prvega odstavka 52. člena tega zakona teči od dneva uveljavitve tega zakona.

(2) Kazenski postopek za kazniva dejanja, ki so se pred uveljavitvijo tega zakona preganjala po uradni dolžnosti ali na zasebno tožbo, po uveljavitvi tega zakona pa na predlog, se vodi po predpisih, ki so se uporabljali pred uveljavitvijo zakona, če je bila do dneva uveljavitve vložena obtožba.

arrest warrant and alert notice issued.

(3) Where it is probable that the person against whom an arrest warrant is ordered is abroad, the ministry responsible for internal affairs may also issue an international arrest warrant.

(4) Upon the request of a foreign authority, the ministry responsible for internal affairs may also issue an arrest warrant for a person suspected of staying in the Republic of Slovenia, provided the foreign authority states in the request that it will request his or her extradition if the person is found.

(5) If an arrest warrant is issued against a Slovenian citizen by a foreign authority, the police shall submit the arrest warrant, including all the available documents, to the competent state prosecutor, who shall decide on the basis thereof whether to request the institution of prosecution or, if the arrest warrant is issued for the purpose of enforcing a criminal sanction, whether he or she will request the enforcement of a criminal sanction before the competent court.

(6) The provisions of this Article shall apply *mutatis mutandis* to the instances where the police announce a search for persons or objects.

Chapter XXXIV
TRANSITIONAL AND FINAL PROVISIONS

Article 552

(1) For criminal offences prosecuted upon a motion pursuant to the provisions of the Criminal Code, the time limit referred to in paragraph one of Article 52 of this Act shall start to run from the day this Act enters into force.

(2) Criminal proceedings for offences which prior to the entry into force of this Act were prosecutable *ex officio* or upon a private action and which after the entry of this Act into force will be prosecuted upon a motion, shall be conducted according to the provisions applicable before the entry into force of this Act if the charge had been filed by the date of its enactment.

(3) Če se po uveljavitvi tega zakona v zvezi z rednim ali izrednim pravnim sredstvom razveljavi sodba ali dovoli obnova kazenskega postopka za kaznivo dejanje, ki se po uveljavitvi zakona preganja na predlog, velja zasebna tožba za predlog upravičenca, za nadaljevanje postopka za kaznivo dejanje, ki se je pred uveljavitvijo zakona preganjalo po uradni dolžnosti, pa je potreben predlog. Rok za podajo predloga teče od dneva, ko je bil upravičenec obveščen o razveljavitvi sodbe oziroma dovolitvi obnove kazenskega postopka.

(3) If after the entry into force of this Act, a judgment relating to an ordinary or extraordinary legal remedy is set aside, or if the reopening of criminal proceedings for a criminal offence which after the entry into force of this Act should be prosecuted upon a motion is allowed, a private action shall be considered as the motion of the entitled person, whereas the continuation of proceedings for a criminal offence which prior to the entry into force of this Act was prosecutable *ex officio* shall require that a motion be made. The time limit for the submission of a motion shall run from the day when the entitled person has been informed that the judgment was set aside or that the reopening of criminal proceedings was allowed.

553. člen

Predpise o povrnitvi stroškov kazenskega postopka iz 99. člena ter predpise o vodenju kazenske evidence in evidence izrečenih vzgojnih ukrepov mladoletnikom iz 135. člena tega zakona, izda minister, pristojen za pravosodje, v treh mesecih po uveljavitvi tega zakona.

Article 553

The regulations on refunding the costs of criminal proceedings referred to in Article 99, and the regulations on the keeping of criminal records and the records of corrective measures imposed on minors pursuant to Article 135 of this Act, shall be issued by the minister responsible for justice within three months of the entry into force of this Act.

554. člen

Ministrstvo, pristojno za pravosodje, v roku šestih mesecev po uveljavitvi tega zakona iz kazenske evidence izbriše vse obsodbe, za katere so izpolnjeni pogoji za zakonsko rehabilitacijo (508. člen).

Article 554

The ministry responsible for justice shall, within six months of the entry into force of this Act, remove from the criminal records all the convictions regarding which the conditions for statutory rehabilitation have been fulfilled (Article 508).

555. člen

Ministrstvo, pristojno za pravosodje, prevzame od ministrstva, pristojnega za notranje zadeve, kazensko evidenco v roku dveh mesecev po uveljavitvi tega zakona.

Article 555

The ministry responsible for justice shall take over the criminal records from the ministry responsible for internal affairs within two months of the entry into force of this Act.

556. člen

(1) O zahtevi za obnovo kazenskega postopka zoper

Article 556

(1) A request for the reopening of criminal proceedings against

sodbo vojaškega sodišča, ki je bilo pristojno za območje Republike Slovenije, ki je postala pravnomočna pred 25. junijem 1991, odloča sodišče prve stopnje, ki bi bilo po določbah tega zakona pristojno za sojenje na prvi stopnji.

(2) Ne glede na določbo prejšnjega odstavka, o zahtevi za obnovo kazenskega postopka zoper sodbo vojaškega sodišča, ki je bilo pristojno za območje katerekoli izmed republik bivše Jugoslavije, ki je postala pravnomočna pred 25. junijem 1991, odloča Okrožno sodišče v Ljubljani. Pravico do zahteve za obnovo kazenskega postopka po taki sodbi imajo obsojenci, ki so ali so kadarkoli bili slovenski državljani po predpisih, ki so veljali do 25. junija 1991.

(3) Določba prejšnjega odstavka se smiselno uporablja tudi glede postopkov, predpisanih v XXIX. in XXXII. poglavju tega zakona.

557. člen

Za odločanje o obnovi kazenskega postopka v zadevah, v katerih je pred 1. januarjem 1954 na prvi stopnji sodilo Vrhovno sodišče LR Slovenije, je pristojno sodišče, ki bi bilo po določbah tega zakona pristojno za sojenje na prvi stopnji.

558. člen

Za obsojenca, ki je bil do uveljavitve tega zakona pravnomočno obsojen v nenavzočnosti na podlagi določbe tretjega in četrtega odstavka 300. člena zakona o kazenskem postopku (Uradni list SFRJ, št. 4/77, 14/85, 74/87, 57/89 in 3/90), se lahko kazenski postopek obnovi pod pogoji določenimi v 410. členu navedenega zakona.

559. člen

a judgment of the military court with jurisdiction in the territory of the Republic of Slovenia that became final before 25 June 1991, shall be decided by the court of first instance which, under the provisions of this Act, would be competent to adjudicate at first instance.

(2) Notwithstanding the provision of the preceding paragraph, a request for the reopening of criminal proceedings against a judgment of a military court with jurisdiction in the territory of any of the republics of the former Yugoslavia that became final before 25 June 1991, shall be decided by the Ljubljana District Court. Convicted persons who are, or at any time were, Slovenian citizens under the regulations in force up until 25 June 1991, shall be entitled to request the reopening of criminal proceedings against such judgments.

(3) The provision referred to in the preceding paragraph shall apply *mutatis mutandis* to the proceedings defined in Chapters XXIX and XXXII of this Act.

Article 557

The court that under the provisions of this Act would be competent to adjudicate at first instance shall be the court competent to decide on the reopening of criminal proceedings in cases which prior to 1 January 1954 were adjudicated at first instance by the Supreme Court of the People's Republic of Slovenia.

Article 558

With regard to convicted persons who, prior to the entry into force of this Act, were sentenced by a final judgment in absentia pursuant to the provisions of paragraphs three and four of Article 300 of the Criminal Procedure Act (Official Gazette of the Socialist Federative Republic of Yugoslavia *[Uradni list SFRJ],* Nos. 4/77, 14/85, 74/87, 57/89 and 3/90), criminal proceedings may be reopened under the conditions specified in Article 410 of the aforementioned Act.

Article 559

Ne glede na rok iz tretjega odstavka. 421. člena tega zakona smejo obsojenec, zagovornik in osebe iz drugega odstavka 367. člena tega zakona zoper sodno odločbo, ki je postala pravnomočna pred uveljavitvijo tega zakona, in zoper sodni postopek, ki je tekel pred tako pravnomočno odločbo, vložiti zahtevo za varstvo zakonitosti v roku dveh let po uveljavitvi tega zakona.

Notwithstanding the time limit specified in paragraph three of Article 421 of this Act, the convicted person, defence counsel and the persons referred to in paragraph two of Article 367 of this Act shall be entitled, within two years of the entry into force of this Act, to file requests for the protection of legality against court decisions that became final before the entry into force of this Act, and against judicial proceedings conducted before such final decisions.

560. člen

Article 560

(1) Zoper sodbo vojaškega sodišča, ki je bilo pristojno za območje Republike Slovenije, ki, je postala pravnomočna pred 25. junijem 1991, se sme, po določbah tega zakona, vložiti zahteva za varstvo zakonitosti in zahteva za izredno omilitev kazni.

(1) In accordance with the provisions of this Act, requests for the protection of legality and requests for the extraordinary mitigation of sentences may be lodged against the judgments of the military court with jurisdiction in the territory of the Republic of Slovenia that became final prior to 25 June 1991.

(2) Ne glede na določbo prejšnjega odstavka se sme zoper sodbo vojaškega sodišča, ki je bilo pristojno za območje katerekoli republike bivše Jugoslavije, ki je postala pravnomočna pred 25. junijem 1991, po določbah tega zakona vložiti zahteva za varstvo zakonitosti in zahteva za izredno omilitev kazni, če je ali je bil obsojenec slovenski državljan še po predpisih, ki so veljali do 25. junija 1991.

(2) Notwithstanding the provision of the preceding paragraph, requests for the protection of legality and requests for the extraordinary mitigation of sentences may be lodged against the judgments of a military court with jurisdiction in the territory of any of the republics of the former Yugoslavia that became final before 25 June 1991, provided that the convicted person is or was a Slovenian citizen under the regulations in force until 25 June 1991.

561. člen

Article 561

Če do uveljavitve tega zakona ni bilo odločeno o obsojenčevi zahtevi za izreden preizkus pravnomočne sodbe, se o tej zahtevi odloči po določbah tega zakona o zahtevi za varstvo zakonitosti.

If a convicted person's request for extraordinary review of the final judgment was not determined prior to the entry into force of this Act, such request shall be decided on in accordance with the provisions of this Act regarding requests for the protection of legality.

562. člen

Article 562

Osebam, ki so bile neupravičeno obsojene pred 1. januarjem 1954 in katere, zaradi preteka roka iz prvega odstavka 539. člena tega zakona ne bi mogle uveljavljati pravice do povrnitve škode, ta pravica zastara v treh letih od dneva, ko začne veljati ta

Persons who were wrongfully convicted prior to 1 January 1954 and who would not able to exercise their right to claim compensation for damages due to the expiry of the time limit referred to in paragraph one of Article 539 of this Act, may exercise this right within three years of the day

zakon.

563. člen

Pravico do povrnitve škode po 538. členu tega zakona ima tudi tisti, ki je prestajal prostostno kazen v zvezi z zahtevo za izreden preizkus pravnomočne sodbe, pa mu je bila izrečena krajša prostostna kazen, kot jo je že prestal, ali mu je bila izrečena kazenska sankcija, ki ni bila v odvzemu prostosti, ali je bil spoznan za krivega, pa mu je bila odpuščena kazen.

564. člen

Pravice in dolžnosti, ki jih ima po tem zakonu predsednik okrožnega sodišča, razen po 191. in 213.d členu tega zakona, ima glede kaznivih dejanj iz pristojnosti okrajnega sodišča predsednik tega sodišča.

565. člen

Z dnem, ko začne veljati ta zakon, se v Republiki Sloveniji preneha -uporabljati zakon o kazenskem postopku (Uradni list SFRJ, št. 4/77, 14/85, 74/87, 57/89 in 3/90).

566. člen

Ta zakon začne veljati 1. januarja 1995.

Priloga 1: Obvestilo o pravicah osebe, ki ji je odvzeta prostost

this Act enters into force.

Article 563

The right to compensation of damage referred to in Article 538 of this Act shall also be granted to a person who served his or her sentence of imprisonment and on whom, in consequence of a request for extraordinary review of the final judgment, a shorter sentence of imprisonment than the one he or she had already served was imposed, or a criminal sanction that did not involve imprisonment was imposed, or who had been found guilty but his or her sentence was remitted.

Article 564

The rights and duties vested in the president of a district court under this Act, except those referred to in Articles 191 and 213d hereof, shall be vested in the president of a local court as regards the criminal offences falling under the jurisdiction of the local court.

Article 565

As of the entry into force of this Act, the Criminal Procedure Act (Official Gazette of the Socialist Federative Republic of Yugoslavia *[Uradni list SFRJ],* Nos 4/77, 14/85, 74/87, 57/89 and 3/90) shall cease to apply.

Article 566

This Act shall enter into force on 1 January 1995.

Annex 1: Information on the rights of persons deprived of their liberty

EN-2020-01-1450-199
4-01-2168-npb36-p1.c