

Slovenia – national procedures for mutual legal assistance on laundering,
search, seizure and confiscation of proceeds of crime (ETS No. 141)
Updated 02/03/2017

The information contained in this table should be updated on a yearly basis.

Procedure for search (asset-tracing) and seizure	
The Central Authority (name of the institution, address, telephone, fax and e-mail where available) responsible for mutual legal assistance (including freezing and seizure):	Ministry of Finance Office of Money Laundering Prevention Cankarjeva 5, p. p. 1696 SI-1001 Ljubljana Slovenia P: +386 1 425 41 89 F: +386 1 425 20 87 E: mf.uppd@mf-rs.si
If different from the Central Authority, the authority to which the request should be sent (name of the institution, address, telephone, fax and e-mail where available):	
Channels of communication for the request for mutual legal assistance (directly, or other):	Over Ministry of Finance, Office of Money Laundering Prevention. With reference to Article 24 of the Convention in urgent cases, direct communication or communication over the Interpol is applicable.

Means of communication (e.g. by post, fax, e-mail ¹):	By post, fax or e-mail.
Language requirements:	With reference to third paragraph of Article 25, the Republic of Slovenia reserved the right to require that requests and supporting documents shall be translated into Slovenian or English language.
Double criminality requirement, if applicable:	With reference to the national law the requests for search and seizure require dual criminality.
Other requirements: for example a link between the proceeds and the criminal offence, or that a request for the confiscation judgment or measure will be made later, or that leave is given by a judge for the seizure of assets/goods:	With reference to paragraph 4 of Article 516 of the Criminal Procedure Act, the permissibility of the act requested by a foreign authority and the manner of its implementation shall be decided on by the competent national authority pursuant to national regulations and international agreements. The request for international criminal assistance may be granted if the implementation of the act of assistance is not in conflict with the legal order of the Republic of Slovenia and does not prejudice its sovereignty and security.
Modalities/requirements for the execution of MLA requests for investigative assistance (search, tracing, special investigative techniques), existence of a central register of real estate/ bank accounts,	<p>Republic of Slovenia has a central bank account register. In order to provisionally secure the bank account, the Slovenian Court shall receive information regarding the bank account number and all the details of the bank account holder.</p> <p>Republic of Slovenia has a central register of real estate. For the purpose of the execution of the request for seizure of real estate, the estate should be specified.</p> <p>According to Article 156 of the Criminal Procedure Act, the investigating</p>

¹ Please indicate if encryption or electronic signature is required.

<p>duration of preservation of bank data, etc.:</p>	<p>judge may upon a properly reasoned request of the public prosecutor order a bank, savings bank, payment institution or an electronic money company to disclose to him information and send documentation on the deposits, statement of account and account transactions or other transactions by the suspect, the accused and other persons who may reasonably be presumed to have been implicated in the financial transactions or deals of the suspect or the accused, if such data might represent evidence in criminal proceedings or are necessary for the confiscation of objects or the securing of a request for the confiscation of proceeds or property in the value of proceeds.</p> <p>The bank, savings bank, payment institution or an electronic money company shall immediately send to the investigating judge the information and documentation referred to above.</p> <p>The investigating judge may upon a properly reasoned request by the public prosecutor order a bank, savings bank, payment institution or an electronic money company to keep track of financial transactions of the suspect, the accused and other persons reasonably presumed to have been implicated in financial transactions or deals of the suspect or the accused, and to disclose to him the confidential information about the transactions or deals the aforesaid persons are carrying out or intend to carry out at these institutions or services. In the order, the investigating judge shall set the time period within which the bank, savings bank, payment institution or an electronic money company shall provide him with the information.</p> <p>The above mentioned measure may be applied for <u>three months</u> at most, but the term may for weighty reasons, upon request of the public prosecutor, be extended to <u>six months</u> at most.</p> <p>If there are reasonable grounds for suspecting that the criminal offence for which a perpetrator is being prosecuted <i>ex officio</i> has been committed or is being prepared, and in order to uncover this criminal offence or the perpetrator thereof it is necessary to obtain information on the holder or the authorised person of a certain payment account, savings account or cash deposit, on the renter or the authorised person of a safety deposit box and on the period in which they were or are being used, the police may, by a written request, order the bank, savings bank, payment institution or the electronic money company to furnish them without delay such information even without the consent of the person to whom these information refers.</p> <p><u>The bank, savings bank, payment institution or an electronic money company may not disclose to their clients or third persons that they have sent, or will send, the information and documents to the investigating judge.</u></p>
<p>Limitation of use of evidence obtained:</p>	<p>With reference to second paragraph of Article 32 of the Convention the Republic of Slovenia reserved the right that the information or evidence obtained may not without its prior consent, be used or transmitted by the authorities of the requesting party for investigations or proceedings other than those specified in the request.</p>

<p>Modalities/requirements related to the execution of provisional measures (freezing, prejudgment seizing) including lifting of these measures (possibilities to seize (im)movable properties) and applicable time limits, if any:</p>	<p>With reference to Article 502 of the Criminal Procedure Act, when the confiscation of proceeds is taken into consideration in the criminal procedure and there is a danger that the accused alone or through other persons should use these proceeds for a further criminal activity or to conceal, alienate, destroy or otherwise dispose of it in order to prevent or render substantially difficult their confiscation after the completed criminal procedure, the court shall order, on a motion of the public prosecutor, a provisional securing of the request for the confiscation of proceeds.</p> <p>The court may also order such provisional securing in the pre-trial procedure if there are reasonable grounds for suspicion that a criminal offence has been committed by means of which or for which the proceeds were acquired or such proceeds were acquired for another person or transferred to another person.</p> <p>The securing may be ordered against the accused or suspect, against the recipient of the proceeds or against another person to whom they were transferred provided they can be confiscated as laid down in the provisions of the Criminal Code.</p> <p>According to Article 502.a of the Criminal Procedure Act, the provisional securing of the request 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 charge sheet is filed, the ruling out of the main hearing shall be issued by the presiding judge, while at the main hearing it shall be issued by the panel.</p> <p><u>In the ruling ordering provisional securing, the court shall specify the property which is the subject to the provisional securing, the manner of securing and the duration of the measure. The ruling shall include an explanation.</u></p> <p>With reference to Article 502.b of the Criminal Procedure Act in the pre-trial procedure and after the issue of the ruling on the introduction of investigation, the provisional securing may take <u>three months</u>. After the charge sheet has been filed, the duration of the provisional securing shall not be longer than <u>six months</u>.</p> <p>The period mentioned above may be extended by the same periods. The total duration of the provisional securing prior to the introduction of the investigation or, if an investigation was not introduced, prior to the filing of the charge sheet, shall not be longer than <u>one year</u>. In the investigation, the total duration of provisional securing shall not be longer than <u>two years</u>. After the filing of the charge sheet until the pronouncement of the judgment by the court of first instance, the total duration of provisional securing shall not</p>
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	<p>exceed <u>three years</u>.</p> <p>Until the execution of the final court decision on the confiscation of proceeds, the total provisional securing may not last longer than <u>ten years</u>.</p> <p>With reference to Article 502.č of the Criminal Procedure Act, the court must take a decision on the motion for ordering, extension, amendment or abolition of provisional securing particularly speedily. If provisional securing was ordered, the authorities in the pre-trial procedure must proceed in with particular speed, and the criminal procedure shall be considered preferential.</p> <p>Regarding the Article 502.č of the Criminal Procedure Act, the court shall notify <i>ex officio</i> the competent tax authority by a copy of its decision on the ordering, changing and cancellation of temporary securing the forfeiture of proceeds.</p>
<p>Available asset management system including preservative measures, ,(for example prejudgment selling), concerning the seized goods:</p>	<p>With reference to Article 506.a of the Criminal Procedure Act, the court which ordered the storage of confiscated objects or the provisional securing of a request for the confiscation of proceeds or property in the value of the proceeds, shall proceed with particular speed in such instances. It shall act as a good manager with respect to the confiscated objects and property serving as provisional security, as well as to objects and property given as bail.</p> <p>If the storage of the confiscated objects or the provisional securing of a request from the preceding paragraph involves disproportionate costs or if the value of the property or the objects is decreasing, the court may order that such property or objects be sold, destroyed or donated for the public benefit. Prior to taking a decision on this, the court must obtain the opinion of the owner of the property or objects. If the owner is not known or it is not possible to service the owner with the summons to give an opinion, the court shall post the summons on the bulletin board of the court and after eight days it shall be deemed that the service has taken place. If the owner does not give an opinion within eight days after the service of the summons, it shall be deemed that he has consented to the property or objects being sold, destroyed or donated.</p> <p>The storage of the confiscated objects and bail and of the provisional securing is in the competence of the relevant state bodies, organisations with public authorisation, executors and financial organisations.</p>

Procedure for confiscation/ Recognition of foreign decisions. Recovery of confiscated assets.	
The Central Authority (name of the institution, address, telephone, fax and e-mail where available) responsible for Confiscation/ recognition of foreign judgments/decisions/ measures:	Ministry of Finance Office of Money Laundering Prevention Cankarjeva 5, p. p. 1696 SI-1001 Ljubljana Slovenia P: +386 1 425 41 89 F: +386 1 425 20 87 E: mf.uppd@mf-rs.si
If different from the Central Authority, the authority to which the request should be sent (name of the institution, address, telephone, fax and e-mail where available):	
Channels of communication for the request for mutual legal assistance (directly, or other):	Over the Ministry of Finance, Office of Money Laundering Prevention. With reference to Article 24 of the Convention in urgent cases, direct communication or communication over the Interpol is applicable.
Means of communication (e.g. by post, fax, e-mail ²):	By post, fax or e-mail.

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Language requirements:	With reference to third paragraph of Article 25, the Republic of Slovenia reserved the right to require that requests and supporting documents shall be translated into Slovenian or English language.
Document requirements and modalities/requirements for the procedure of confiscation:	<p>The competent Slovenian authorities – District Court must receive the MLA request and order for confiscation.</p> <p>With reference to the national law the requests for search and seizure require dual criminality.</p> <p>With reference to paragraph 4 of Article 516 of the Criminal Procedure Act, the permissibility of the act requested by a foreign authority and the manner of its implementation shall be decided on by the competent national authority pursuant to national regulations and international agreements. The request for international criminal assistance may be granted if the implementation of the act of assistance is not in conflict with the legal order of the Republic of Slovenia and does not prejudice its sovereignty and security.</p>
Other requirements, if applicable: For example: a link between the proceeds and the criminal offence. In case of money laundering, what are the requirements for the predicate offence(s):	<p>Article 74 of the Criminal Code determines that nobody shall retain the property gained through or owing to the committing of a criminal offence. Gained property is confiscated by a judgment on criminal offence.</p> <p>According to Article 75 of the Criminal Code money, valuables and any other property benefit gained through or owing to the committing of a criminal offence is confiscated from the perpetrator or recipient; if confiscation cannot be carried out, <u>property equivalent</u> to the property benefit is confiscated from them.</p> <p>When the property benefit or property equivalent to the property benefit cannot be confiscated from the perpetrator or other recipient, he/she is obliged to pay <u>a sum of money equivalent to this property benefit</u>. In justified instances, the court may allow the sum of money equivalent to the property benefit to be paid by instalments, whereby the period of payment may not exceed two years.</p> <p>Property benefit gained through or owing to the committing of a criminal offence <u>may also be confiscated from persons, to which it was transferred free of charge or for a sum of money that does not correspond to its actual value, if such persons knew or could have known that this property had been gained through or owing to the committing of a criminal offence.</u></p> <p>When a property benefit gained through or owing to the committing of a criminal offence has been transferred <u>to close relatives</u> of the perpetrator of the criminal offence or when, for reason of the prevention of confiscation of property benefits, any other property has been transferred to such persons, <u>this property must be confiscated from them unless they can demonstrate that they paid its actual value.</u></p>

	<p>Regarding the money laundering and predicate offences Article 245 of the Criminal Code incriminates the “all-crime model”. For the judgment of guilt (and confiscation of proceeds), the judgment of guilt for predicate offence is not needed; the objective factual circumstances that the money derives from a criminal offence is enough.</p> <p>For the confiscation in cases of money laundering also the Article 498.a of the Criminal Procedure Act is important. Except in instances where criminal proceedings are concluded with a judgement by which the accused is found guilty, money or property of unlawful origin referred to in Article 245 of the Criminal Code (criminal offence of money laundering) and illegally given or accepted bribes referred to in Articles 151, 157, 241, 242, 261, 262, 263 and 264 of the Criminal Code (corruption offences) must also be confiscated on following conditions:</p> <p>1) if those elements of criminal offence of money laundering which indicate that money or property originate from criminal offences are proven, or</p> <p>2) if those elements of criminal offences of corruption which indicate that a reward, gift, bribe or any other form of a material benefit was given or accepted are proven.</p> <p>The panel issues a special ruling on this at the reasoned motion of the state prosecutor; prior to this, the investigating judge must, at the request of the panel, collect data and investigate all the circumstances of importance for the determination of unlawful origin of money or property or illegally given or received bribes.</p>
Procedure /possibilities to trace assets/proceeds when a (foreign) confiscation order is already given:	<p>According to Article 503 of the Criminal Code, the court should (in the operative part of the judgement or ruling) specify which object must be confiscated or the sum of money, which must be confiscated.</p> <p>Article 131 of the Criminal Procedure Act a judgement concerning confiscation of proceeds is enforced upon a motion of the court issuing the judgement, by a competent tax authority according to the provisions of the law regulating confiscation of taxes.</p>
Procedure for sharing of assets, if applicable:	The Article 15 of the Convention enables the agreements on assets sharing for each concrete case. Since the Convention was ratified by Republic of Slovenia, it may be used directly between state parties to the Convention.
Where applicable, limitations to the possibility for the requesting state to serve judicial	

documents directly to the persons concerned:	
Other particularly relevant information on special types of assistance	
Non Conviction Based Confiscation:	Since May 2012 competent authorities of the Republic of Slovenia apply the Forfeiture of Assets of Illegal Origin Act, which implements the non-conviction based asset forfeiture. This law determines also the international cooperation for the purposes of the procedure for NCB.
MLA regarding liability of legal persons (criminal, civil or administrative):	<p>Article 42 of the Slovenian Criminal Code, criminal liability shall be imposed on a legal person for criminal offences, which the perpetrator commits in his name, on his behalf or in his favour, providing that the statute, which regulates liability of legal persons for criminal offences, determines that the legal person is liable for the criminal offence in question.</p> <p>Criminal liability of legal persons shall not exclude liability of natural persons as perpetrators, instigators or aides in the same criminal offence.</p> <p>The law, which regulates liability of legal persons for criminal offences, shall determine the conditions for criminal liability of legal persons, sentences, admonitory sanctions or safety measures, and legal consequences of the conviction for legal persons.</p> <p>With reference to the above mentioned provision of the Criminal Code, the Liability of Legal Persons for Criminal Offences Act was enacted in 1999. The Act does not regulate international cooperation; therefore, in accordance with its Article 42 ("Unless otherwise specified in this Act the provisions of the Criminal Procedure Act shall, <i>mutatis mutandis</i>, apply in criminal proceedings against a legal person even if proceedings are only being brought against a legal person.") the provisions of international agreements or the European Union's legal acts which are directly applicable in the Republic of Slovenia or the provisions of the Criminal Procedure Act on mutual legal assistance are relevant.</p>
Other information (for example,	Article 77.a of the Criminal Code regulates the extended confiscation of property acquired through crime committed by a criminal organisation.

extended confiscation, confiscation for the purpose of victims):	Proceeds or property from crime or related to crime that a criminal organisation has acquired or has at its disposal must be confiscated. The property of an offender who has committed a criminal offence in a criminal organisation for which the court establishes that is derived from criminal activities in that criminal organisation must also be confiscated as proceeds from crime.
Links to national legislation, national guides on procedure:	<p>Ministry of Justice:</p> <p>http://www.mp.gov.si/si/delovna_podrocja/zakonodaja_s_podrocja_pravosodja/mednarodna_pravna_pomoc/</p> <p>Supreme Court:</p> <p>http://www.sodisce.si/vsrs/</p> <p>Constitutional Court:</p> <p>http://www.us-rs.si/</p>