

REPUBLIC OF SLOVENIA¹

**National Procedures for Mutual Legal Assistance on laundering,
search, seizure and confiscation of proceeds of crime (ETS 141)**

Updated 03/12/2020

Procedure for search (asset-tracing) and seizure

The Central Authority 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@gov.si
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If different from the Central Authority, the authority to which the request should be sent:	/
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Channels of communication for the request for mutual legal assistance: (directly or other)	Through the Ministry of Finance, Office of Money Laundering Prevention. With reference to Article 24 of the Convention in urgent cases, direct communication or communication through the Interpol is applicable.
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Means of communication: (eg. by post, fax, e-mail ²)	By post, fax or e-mail.
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Language requirements:	With reference to the 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.
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¹ Please indicate your state.

² Please indicate if encryption or electronic signature is required.

Double criminality requirement, if applicable:	With reference to the national law the requests for search and seizure require dual criminality.
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Other requirements: (e.g. 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.
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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, duration of preservation of bank data, etc.:	<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 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 the 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.</p> <p>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 the 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 authority specified in the order.</p> <p>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 the issuing, managing or operating a virtual currency, to monitor on an ongoing basis the financial transactions of the suspect, the accused person and</p>
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	<p>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 the confidential information on the financial or other transactions carried out, or intended to be carried out, by the said the 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 the electronic money company, or the branch or agent providing payment services or distributing electronic money for them, or a company authorised for the issuing, managing or operating a virtual currency must transmit the information.</p> <p>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.</p> <p>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 uncovering 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 the 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 condition 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 from the 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 the issuing, managing or operating a virtual currency, to transmit 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 condition of the suspect or the balance of deposits and account balance and transactions.</p> <p>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 the issuing, managing or operating a virtual currency may not disclose to its customer or a third party that it has, or will, transmit the information and documentation to the investigating judge, state prosecutor or the police (the 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.</p>
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<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</p>
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	requesting party for investigations or proceedings other than those specified in the request.
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<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 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, alienate, destroy or otherwise dispose of it in order to prevent or render its confiscation considerably difficult after the concluded criminal proceedings, the court shall order, on a motion of the state prosecutor, a temporary measure securing a claim for the confiscation of proceeds.</p> <p>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 proceeds was gained, or that such proceeds was gained for or transferred to another person.</p> <p>The securing may be ordered against the accused person or suspect, against the recipient of the proceeds or against other persons to whom it was transferred, provided it can be confiscated as laid down by the provisions of the Criminal Code.</p> <p>According to Article 502.a of the Criminal Procedure Act, 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.</p> <p>With reference to Article 502.b of the Criminal Procedure Act 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 and its duration. The ruling shall be reasoned.</p> <p>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 volume and significance of the property that is the subject of the temporary measure securing the claim.</p> <p>In the pre-trial procedure, as well as after the ruling on the opening of 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.</p> <p>The period referred to in the preceding paragraph may be extended for the same periods of time. The total length of the</p>
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	<p>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.</p> <p>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.</p> <p>According to Article 502. č o court must be particularly expeditious in rendering a decision on the motion for ordering, extension, modification or abolition 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 with a expedition and the criminal proceedings shall be considered as a priority.</p>
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<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 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 master 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 the objects and assets deposited as bail.</p> <p>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 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 it the service of the summons for the purpose of providing an opinion on the owner is not possible, the court shall post the summons on the court notice board and after the lapse of eight days it shall be deemed that the service has been duly affected. 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.</p> <p>The competent state bodies, organisations with public authority, enforcement officers, companies, sole traders and financial organisations shall oversee the custody of the seized objects and bails and the temporary measure securing the claims.</p>
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Procedure for confiscation/ Recognition of foreign decisions.

Recovery of confiscated assets.

The Central Authority 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@gov.si
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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.
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Document requirements and modalities/requirements for the procedure of confiscation:	The competent Slovenian authorities – District Court must receive the MLA request and order for confiscation. With reference to the national law the requests for search and seizure require dual criminality. With reference to paragraph 4 of Article 516 of the Criminal Procedure Act, 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
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	contravention of the legislation of the Republic of Slovenia or does not prejudice its sovereignty and security.
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<p>Other requirements, if applicable: (e.g, a link between the proceeds and the criminal offence.)</p> <p>In case of money laundering, what are the requirements for the predicate offence(s)</p>	<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, property equivalent 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 a sum of money equivalent to this property benefit. 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 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.</p> <p>When a property benefit gained through or owing to the committing of a criminal offence has been transferred to close relatives 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, this property must be confiscated from them unless they can demonstrate that they paid its actual value.</p> <p>Regarding the money laundering and predicate offences Article 245 of the Criminal Code (and 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>
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	<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>
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<p>Procedure /possibilities to trace assets/proceeds when a (foreign) confiscation order is already given:</p>	<p>According to Article 503 Criminal Procedure Act 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.</p> <p>According to 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>
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<p>Procedure for sharing of assets, if applicable:</p>	<p>The Article 25, Paragraph 3 of the Convention ETS No. 141 enabling the agreements on assets sharing for each concrete case. Since the Convention ETS No. 141 was ratified by Republic of Slovenia, it may be used directly between state parties to the Convention.</p>
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<p>Where applicable, limitations to the possibility for the requesting state to serve judicial documents directly to the persons concerned:</p>	
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Other particularly relevant information on special types of assistance

<p>Non Conviction Based Confiscation:</p>	<p>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.</p>
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<p>MLA regarding liability of legal persons: (criminal, civil or administrative)</p>	<p>With reference to 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,</p>
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	<p>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 in the Republic of Slovenia or the provisions of the Criminal Procedure Act on mutual legal assistance are relevant.</p>
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<p>Other information:</p> <p>(for example, extended confiscation, confiscation for the purpose of victims)</p>	<p>Article 77.a of the Criminal Code regulates the extended confiscation of property acquired through crime committed by a criminal organisation.</p> <p>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.</p>
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<p>Links to national legislation, national guides on procedure:</p>	<p>Ministry of Justice:</p> <p>https://www.gov.si teme/mednarodno-sodelovanje-v-pravosodju/</p> <p>Supreme Court:</p> <p>http://www.sodisce.si/vsrs/</p> <p>Constitutional Court:</p> <p>http://www.us-rs.si/</p>
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