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THE EUROPEAN UNION

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GENVAL 41

DECLASSIFIED

EVALUATION REPORT ON THE
FIFTH ROUND OF MUTUAL EVALUATIONS
"FINANCIAL CRIME AND FINANCIAL INVESTIGATIONS"

REPORT ON SLOVENIA

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1. INTRODUCTION

At the meeting of the Multidisciplinary Group on Organised Crime (MDG)[1] on 26 February 2008, the Presidency proposed three possible topics for the fifth round of mutual evaluations[2], two of which received substantial support. At the MDG meeting on 6 May 2008, the majority of delegations were in favour of selecting financial crime and financial investigations. On 7 June 2008, the Group decided that the subject of the fifth round was to be "financial crime and financial investigations". The scope of the evaluation covers numerous legal acts relevant to countering financial crime. However, it was also agreed that the evaluation should go beyond simply examining the transposition of relevant EU legislation and take a wider look at the subject matter[3], seeking to establish an overall picture of a given national system. On 1 December 2008 a detailed questionnaire was adopted by the MDG[4].

The importance of the evaluation was emphasised by the Czech Presidency when the judicial reaction to the financial crisis was being discussed[5]. The significance of the exercise was once again underlined by the Council when establishing the EU's priorities for the fight against organised crime based on OCTA 2009 and ROCTA[6].

Topics relating to the evaluation, in particular the improvement of the operational framework for confiscating and seizing the proceeds of crime, were mentioned by the Commission in its Communication on an area of freedom, security and justice serving the citizen[7].

Experts with substantial practical knowledge in the field of financial crime and financial investigation were nominated by Member States pursuant to a written request to delegations made by the Chairman of the MDG.

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[1] Since 1 July 2010 the responsibilities for this process have been transferred to the Working Party on General Affairs and Evaluations (GENVAL).
[2] 6546/08 CRIMORG 34.
[3] 10540/08 CRIMORG 89.
[4] 16710/08 CRIMORG 210.
[5] 9767/09 JAI 293 ECOFIN 360.
[6] 8301/2/09 REV 3 CRIMORG 54.
[7] 11060/09 JAI 404.

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At its meeting on 17 March 2009 the MDG discussed and approved the revised sequence for the mutual evaluation[1] visits. Slovenia was the twenty-sixth Member State to be evaluated during this round of evaluations.

The experts charged with undertaking this evaluation were António Folgado (Portugal), Světlana Kloučková (the Czech Republic) and Rafał Woźniak (Poland). Two observers were also present: Stefan de Moor (Commission, OLAF) and Burkhard Mühl (Europol), together with Mr Peter Bröms and Mr Guy Stessens from the General Secretariat of the Council.

This report was prepared by the expert team with the assistance of the Council Secretariat, based on findings arising from the evaluation visit that took place in Ljubljana between 28 November and 1 December 2011, and on Slovenia's detailed replies to the evaluation questionnaire[2] together with their detailed answers to ensuing follow-up questions.

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1 5046/1/09 REV 1 CRIMORG 1.
2 SN 4016/10 RESTREINT UE.

2. NATIONAL SYSTEM AND CRIMINAL POLICY

2.1. Specialized units

2.1.1. Investigative authorities

2.1.1.1. Police

The police service comes under the Ministry of the Interior. The Ministry of Interior establishes police development, organisation and personnel policies and the other basic parameters of police work, and is responsible for financing of the police and investment. The Ministry also coordinates and harmonises the police information and telecommunication system with the systems of other State authorities and oversees and monitors the performance of police tasks.

The police perform their tasks at three levels: State level, regional level and local level. As regards its organisation, the police service comprises the General Police Directorate, Police Directorates and police stations. The headquarters are in Ljubljana. The service is headed by the Director General of the Police who also supervises the work of the General Police Directorate.

In Slovenia, criminal activities are broadly categorized as economic crime, common crime and organised crime. There is streamlined organisation of tasks in each of these three fields – the same service structure is used at State level and at regional level. The Economic Crime Division coordinates, supervises and oversees the investigation of economic crime. The majority of cases of economic crime are investigated at regional level by the Economic Crime Sections within the Police Directorates.

The police moved from 11 to 8 police directorates in May 2011. There are some 8852 employees in the police, 7666 of which are police officers. 154 of them are "criminalists" serving in Economic Crime Departments all across Slovenia. On the national level there are 15 criminalists. The General Police Directorate stressed that the unit holds an expert role with everyone tackling these kinds of crimes. In all of these investigations, someone from the national level will be involved. Most of the criminalists have a university degree. Both the general crime and the economic crime sections are tackling organised crime as well.

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Articles 6 and 9 of the current Police Act lay down the tasks and powers of the General Police Directorate and of the Police Directorates and the relationship between them. They provide that the General Police Directorate can take on a task or category of tasks (detection and investigation of a specific criminal offence and detection and apprehension[1] of offenders) that comes within the competence of the Police Directorate. The procedure for documenting, entering, accessing, reporting and storing data in the criminal record is laid down in more detail in the instructions of the Director General of the Police on recording crime.

Under the powers conferred on them, the Police perform the tasks laid down in Article 3 of the Police Act which defines their primary mission[2]. Those tasks are carried out by uniformed officers, criminal police officers and specialised police units organised within the General Police Directorate, police directorates at regional level and police stations at local level.

The General Police Directorate (together with its subdivisions) performs regulatory, coordinating and supervisory tasks for the police service as a whole, whereas the Police Directorates carry out these tasks at regional and local level. The Police Directorates have an organisational and functional link to the General Police Directorate. The structure of the services within each Police Directorate is aligned on the structure of the services in the General Police Directorate.

[1] Apprehension is a wider term than detention. Any restriction on the freedom of the suspect that involves forced detention shall be considered as apprehension. Detention is just temporary (police detention - maximum 48 hours) and shall be ordered through a written order.

[2] The tasks of the Police shall be:

- to protect peoples' lives, their personal safety and property;
- to prevent, detect and investigate criminal offences and misdemeanours, to detect and arrest perpetrators of criminal offences and misdemeanours and other wanted persons and to hand them over to the competent authorities; to collect evidence and investigate the circumstances leading to the identification of the proceeds of crime;
- to maintain public order;
- to supervise and direct traffic on public roads and on unclassified roads currently in use for traffic;
- to protect State borders and perform border control;
- to carry out tasks laid down in the legislation on aliens;
- to protect particular individuals, bodies, buildings and districts;
- to protect particular the work premises and classified information of State bodies unless otherwise provided by law;
- to perform the tasks laid down in this Act, other acts and implementing regulations.

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2.1.1.2. Criminal Police

The Criminal Police is a specialised division for fighting crime in accordance with the powers conferred on it by the Police Act, the Criminal Procedure Act, the Criminal Code and other legislative acts and implementing regulations. It performs the tasks of preventing and detecting criminal offences in units which are organised into three levels.

At State level, the Criminal Police Directorate is a unit within the General Police Directorate which strategically directs, plans, organises and supervises the work of the whole of the criminal police service. In accordance with Article 3 of the Police Act, it carries out police tasks, monitors, performs studies and analyses, submits reports and other relevant proposals in the decision-making process and prepares legislative acts and implementing regulations governing the work of the Criminal Police.

The central criminal police have designated police officers in all police directorates, so called "coordinators" who is responsible for financial investigations. They are part of the "financial investigation network" which is currently being created.

The principal task of the Financial Crime Groups within the Criminal Police Divisions in the eight Police Directorates is the investigation of criminal offences in the field of financial crime.

2.1.1.3. National Bureau of Investigation

On 1 January 2010 the National Bureau of Investigation (NBI) was established within the General Police Directorate for operational purposes at State level. It is a specialised, autonomous and independent criminal investigation unit for the detection and investigation of complex cases of economic and financial crime, corruption and certain other forms of organised crime (see further below).

The NBI is regulated as a special part of the police, i.e. as part of the Ministry of the Interior. Article 6a(1) of the Police Act provides that the NBI is a specialised crime investigation unit of the Criminal Police Directorate of the General Police Directorate, and was set up for the purpose of

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detecting and investigating complex criminal acts, particularly in relation to economic crime, organised crime and corruption, the investigation of which requires the involvement of highly skilled crime investigators equipped with specialised tools and organised in specific ways, or the target-oriented activities of State authorities and institutions from the taxation, customs, financial management, securities, competition protection, money laundering prevention, corruption prevention, illicit drug prevention and inspection sectors.

The law enforcement activities of the NBI are led by the NBI Director. Aside from the Director of the NBI, the following are responsible for discharging the tasks and duties of the NBI: assistant directors, heads of investigations – senior criminal police inspectors, criminal investigators – senior criminal police inspectors, and support staff. The NBI is autonomous in the discharge of its duties, at both professional and operational levels. Technical and other support shall be provided to the NBI by the Criminal Police Directorate. Nevertheless, the NBI is as an integral part of the police and is subject to the same supervisory mechanisms and protection against possible abuse of power as the rest of the police (the work of the NBI is in specific cases directed by the State prosecutor; in the investigations conducted by NBI, the orders for the realizations of investigative measures and undercover investigative measures have been issued by the investigating judges and State prosecutors on reasoned initiatives or proposals from NBI investigators).

According to the Slovenian authorities, one of a key advantage of the NBI is its organizational and professional autonomy and the team-work by highly qualified and properly paid investigators. All have economic knowledge. Moreover, the NBI Director is a prosecutor, not a police officer, with full police powers. The NBI currently employs the Director, the Deputy Director, five heads of investigation and 47 investigators (The full number should be 70 investigators at the NBI, but all vacancies have not been filled. There is a risk that the regions are "emptied" if all were to be filled.) NBI staff earn some EUR 500 per month more than other comparable staff in the police. There are about 12 people in each section, but this is flexible, they can be moved from to another one.

The joint seat of the investigative team enables optimal protection of classified information and other information relevant in the light of the course of investigations of cases. Moreover, Article 6e of the Police Act provides that, in addition to the conditions specified in this Act for the conclusion of an employment contract of the police tasks, candidates for Assistant Director of the NBI, head of the investigation or investigator must demonstrate work experience and specific knowledge in one

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or more areas of law enforcement, taxes, customs duties, financial instrument market, financial management, prevention of money laundering, corruption prevention or protection of competition.

Article 6c of the Police Act provides that the decision as to which suspected criminal offences are to be investigated by the NBI shall fall within the competence of the NBI Director. In reaching a decision, the NBI Director is required to give particular thought to the following considerations:

- the need for coordinated and targeted action in cooperation with other competent State bodies and institutions operating in the fields of taxation, customs, financial operations, securities, competition protection, the prevention of money laundering and corruption, illicit drug prevention and inspection,
- the seriousness of the crime as well as the complexity and length of the investigation,
- the cross-border dimension of the investigation,
- the suspected loss to public finances and/or the value of the criminal proceeds,
- the complexity of the investigation in terms of the need for specialised knowledge and skills in information and communications technology,
- the suspected criminal involvement of holders of public office or directors in the public sector.

The NBI launches an investigation into a suspected criminal offence either on its own initiative or following a written proposal by the Director of the Criminal Police Directorate, the Head of the Criminal Police Division within a regional Police Directorate, the Head of the Specialised State Prosecutor's Office of the Republic of Slovenia, the Head of a District State Prosecutor's Office or the head of a competent State body or institution operating in the fields of taxation, customs, financial operations, securities, competition protection, the prevention of money laundering and corruption, illicit drug prevention and inspection. The selection of cases is within the competence of the Director of NBI, however there are meetings held on a daily basis with the Director or Deputy Director of the GPD. Moreover, the NBI has daily meetings with the criminal police. In their view, the cooperation is very good, information is exchanged daily and coordination is no problem. The director of NBI is informed about all cases that are run in Slovenia and on this basis he/she may decide on a particular issue. In the event of a conflict, the Commander in Chief determines the decision, but so far there has been no problem. The NBI Director is required to provide a written statement of the grounds for any rejection of a written proposal.

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NBI investigators perform their duties in accordance with the Criminal Procedure Act as do other police officers and criminal police officers when investigating suspected criminal offences that are prosecuted *ex officio*. The responsibilities and tasks of NBI investigators are laid down in the Act amending the Act on Internal Organisation, Post Classification, Posts and Titles in the Police which established the NBI and provides, *inter alia*, that the tasks of the NBI comprise the detection and investigation of serious offences on the territory of the Republic of Slovenia that can be categorized as economic crime, corruption, organised crime, terrorism or serious crime, parallel financial investigations and securing of the proceeds of crime, operational analyses, action to prevent money laundering, cooperation with specialised investigation groups in the detection and investigation of serious criminal offences and cooperation with other competent State authorities and institutions.

The NBI has targeted 199 suspects in 65 criminal reports since 1 Jan 2010. Currently, they are investigating some 40 complex cases. EUR 14 million have been secured. There were eight referrals to the prosecutors about securing assets in 2010, and six so far in 2011. (The numbers are included in the final numbers of the criminal police.) A prosecutor can wish for someone to take a case, but not assign a case to a specific unit (read: the NBI). The specialised prosecutors office will be a privileged partner in general terms, but the NBI will also cooperate with other prosecutors.

2.1.1.4. Financial Crime and Money Laundering Section

The Financial Crime and Money Laundering Section (OFKPD) is a specialised unit responsible at State level for combating this form of crime and is part of the Economic Crime Division of the Criminal Police Directorate at the General Police Directorate. The OFKPD has five employees: the head of the section and four detective inspectors. At regional level, these tasks are carried out by Financial Crime groups in the Police Directorates.

The mission of the OFKPD and the groups at regional level is to contribute to efficient and successful detection and investigation of cases of financial crime and money laundering as well as to provide the basis for the final confiscation of proceeds. To fulfil this mission, the OFKPD performs strategic tasks at national level in relation to legislative and executive institutions and organisations and uses a variety of channels to operate within the Criminal Police which is

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responsible for investigating criminal acts in the field. The OFKPD focuses on providing tools for financial investigations, not only knowledge, e.g. online access, manuals. The investigators can turn to the coordinators who are in all the police regions.

The OFKPD oversees, coordinates, monitors, analyses, evaluates and supervises the work of the Police Directorates in the field of financial crime. It cooperates with institutions and State bodies at national level and with international institutions and organisations and foreign security bodies.

The OFKPD performs tasks:

- in the field of detection and prosecution of money laundering throughout the criminal context, i.e. regardless of the category of the predicate offence, and
- in the field of financial investigations which are the primary tool for the investigation of all criminal offences bringing financial gain, to secure and finally confiscate these assets after the end of the criminal procedure.

Moreover, the OFKPD performs tasks relating to financial crime which includes criminal acts relating to financial institutions and involving financial instruments:

- misuse relating to payment transactions,
- misuse of financial instruments,
- misuse in credit and insurance services and abuses by management and employees of banks, stock broking companies, stock exchanges and other financial institutions,
- criminal offences relating to copyright and related rights and industrial property,
- online fraud,
- organisation of money chains and illegal gambling.

The tasks of a criminal officer in the OFKPD are:

- to develop and propose systemic solutions,
- to participate in the implementation of training programmes,
- to perform complex tasks relating to the detection and investigation of criminal offences,

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- to prepare analyses and reports,
- to participate in the preparation of legislative acts and development projects,
- to give expert opinions,
- to carry out supervision,
- to participate in the planning and conduct of criminal investigations and other operational tasks,
- to carry out other tasks pursuant to Article 3 of the Police Act and tasks falling within this field of work.

2.1.1.5. ARO

The Legal Information Centre (LIC), which is the Slovenian ARO, is a special internal unit within the State Prosecutor General's Office, which provides State prosecutors with technical assistance in all cases where the temporary securing, confiscation or seizure of objects, proceeds or assets of illicit origin has been requested and/or ordered. This assistance is based on information provided *ex officio* by all State prosecutors immediately after a request, an instruction, a procedural prosecution service document or a court ruling has been issued. The State prosecutors assigned to the LIC have exclusive competence for international cooperation in criminal matters relating to the temporary securing, confiscation and seizure of objects, proceeds and assets of illicit origin (acting as the contact point).

All cases will be registered at LIC. All prosecutor offices will have the obligation to report to LIC. It will have a centralised electronic register. Its role is to provide advise to all prosecutors working in this area. Another legal obligation is that it will be responsible for all international cooperation. The ARO will probably only be one person.

When setting up the ARO, the Slovenian authorities thus chose the option from Council Decision 2007/845/JHA of 6 December 2007 about setting up a contact point, not a full ARO with full competencies. The ARO will be competent to receive requests from abroad and direct them to competent authorities in Slovenia and vice versa. It will gather data on all proposed and realised cases of temporary freezing and final confiscations, both from inside Slovenia and from international requests. The risk is that there will be no time to focus also on asset recovery considering the workload as the prosecutor offices are already overburdened by work.

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The Slovenian authorities are well aware of what are the expectations on an ARO. However, for the time being, they have opted for a contact point within the state prosecutors office. At present, no one is working on these cases and they are at the beginning of the process. They know this should have happened already in 2008. The evaluation team was informed that they had an interdepartmental group on the establishment of the ARO. The group worked for two years, but the proposals developed by this group were not accepted. The state prosecutor wanted the ARO to be multi-disciplinary, also with police, customs etc. and proposed such a model of work. The conclusions reached by this group leaned towards setting up a financial investigation ARO which was not taken onboard. The state prosecutors do not have access to police data, and they do not have access to secure communication channels, nor to SIENA. The police, however, has access to SIENA and the Prosecutor's Office is to be provided with the ability of sending requests via this application for ARO needs.

LIC will in practice acquire its new rights starting in 2012. Statistics will be collected centrally from all institutions, in electronic form and online. The prosecutor will be responsible for placing information on executions in the database. His task will embrace receiving copies of court decisions and entering information into the database.

It will not be possible for the ARO to take part in investigations. This would be part of the state prosecutors office in general. Financial investigation teams can be set up, but not within the ARO. The ARO cannot access FIU data. The FIU however can take part in a financial investigation.

According to the police, they will be very much involved in the work of the ARO. As it is set up now, in their view it is there to support international requests. The Financial Investigation and Money Laundering Unit has all the capacities needed for taking the ARO onboard if the decision is made. It is taking the part in general from strategic point of view.

The asset management function is divided between customs, police, prosecutors etc. depending on the property. The courts decide on the assignment to the designated authority. They can assign private actors to deal with the assets, also the sale of temporary seized assets, for example if value decreases or perishable goods. So, no unique AMO has been set up (and it will not according to the legal provisions).

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The state prosecutor sees that there will be some problems, with five or so agencies dealing with property, especially with an ARO with *no* authority to direct them in these cases. If a suspect is not found, the court order is published and gives eight days to react. It is not common to do this. No statistics are available.

2.1.1.6. Office for Money Laundering Prevention

The Office for Money Laundering Prevention (OMLP) is the Slovenian financial intelligence unit. It is an administrative FIU, a constituent body of the Ministry of Finance, and performs duties related to the prevention and detection of money laundering. The OMLP collects, analyzes and forwards data, information and documentation received in accordance with the provisions of the Act on the Prevention of Money Laundering and Financing of Terrorism. On 31 December 2010 there were 18 employees divided between the Head Office (5), the Suspicious Transactions Section (6), the Prevention Section (3), the Analysis Service (1), the IT service (2) and the International Cooperation Service (1). Except for two administrative staff, the minimum qualification is a university degree (B.A.).

When there are reasons to suspect money laundering activity in connection with a transaction, a person or assets, based on an STR, an analysis of the cash transaction database or on the request from a foreign FIU, the OMLP may demand from the designated entity information and documentation. The OMLP may also request from the obliged entity written information, data and documentation on the performance of duties as provided for by the LPML as well as other information which the OMLP requires for conducting supervision. The obliged entity should forward the data, information and documentation referred to above to the OMLP without delay and at the latest within 15 days of receiving the request from the OMLP. Under the same conditions the OMLP may demand from State authorities and from obliged entities with public authorization the data, information and documentation which are needed to detect money laundering. These institutions may allow the OMLP direct electronic access to certain data and information.

The OMLP may issue a written order temporarily postponing a transaction if it believes that there are well-founded reasons to suspect money laundering and it must inform the competent bodies thereof. The temporary postponement of a transaction may last no longer than 72 hours.

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According to Article 57 of the APMLFT, the order may exceptionally be issued orally, but the OMLP is obliged to submit a written order to the organisation as soon as possible or on the same day when the order was issued. The responsible person in the organisation should make a note of the receipt of an oral order and keep the note in its records in accordance with the provisions of the present Act regulating protection and retention of data.

The OMLP may, in connection with the prevention and detection of money laundering, request specific data, information and documentation from foreign authorities and international organisations. More specifically, according to Articles 65 and 66 of the APMLFT, the OMLP can request and submit data related to ML/FT to the authority of the EU Member State or of the third country responsible for the prevention of money laundering, which usually means a foreign FIU. All the requests and answers are written and sent through the Egmont Secure Web or FIU.net. In exceptional cases, when the corresponding FIU does not have access either one of them, Slovenia corresponds by fax. Telephone conversations are also quite usual but they are never used as a prime means of communication and certainly not for written requests and answers. The OMLP may forward the data, information and documentation acquired to foreign authorities at their request or upon its own initiative, under the condition of effective reciprocity. Prior to forwarding personal data to foreign authorities (users) the OMLP must obtain an assurance that the country to which the data is being forwarded has an adequate system of personal data protection and that the foreign authority (the user) may use the data solely for the purposes stipulated by the APMLFT.

If, on the basis of data, information and documentation obtained under APMLFT the OMLP considers that there is a reason to suspect money laundering in connection with a transaction or a certain person, it must notify the competent authorities in writing and submit the necessary documentation to them. The OMLP also forwards written notification to the competent authorities in cases where the OMLP considers, on the basis of data, information and documentation obtained under the LPML, that there are reasons to suspect that, in connection with a transaction or a certain person, criminal offences referred to in Art. 62 have been committed.

The OMLP also performs the following duties relating to the prevention of money laundering:

1. proposes to competent bodies changes and amendments to regulations concerning the prevention and detection of money laundering;

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2. participates in drawing up the list of indicators for identifying suspicious transactions;
3. participates in the professional training of the staff of obliged entities, State bodies, organizations with public authorization, lawyers, law firms, notaries, audit companies, independent auditors and legal or natural persons performing accountancy services or tax advisory services;
4. publishes statistical data in the field of money laundering at least once a year and informs the public about the various forms of money-laundering activity in an appropriate manner.

The OMLP submits a report on its work to the Government at least once a year. Extracts from annual reports are published on the OMLP web-page.

The OMLP makes no difference between STRs and SARs. The number of STRs is quite low; only 233 in 2010 and 238 in 2011 at the time of the visit to Slovenia. Some 170 of the cases were reported by commercial banks. The other reports are more or less evenly spread between other reporting entities. Some 70 per cent of non-money laundering STRs are about tax offences. Otherwise, abuse of trust in business, electronic banking, manufacturing drugs, embezzlement and car theft rank comparatively high.

The OMLP tries to educate supervisors and obligated institutions but has no powers to make them comply or sanctions available. These powers are held within the supervising and oversight agencies.

The OMLP argues that it is hard to establish they are facing a money laundering case. At the end it is the prosecutor who decides. The OMLP looks at all STRs they receive. It does not forward cases if money could have been earned legally and when the person has no criminal record. They use police information for the analysis. They have access to most of the police databases: e.g. the suspicion register, but not secure information of the police.

The relationship to the financial crime and money laundering section of the police works well. There is a formal basis through the Ministry of Interior but they work on an informal footing with the regional level of the Financial crime groups in the police Directorate. According to Article 61 of the APMLFT, whenever OMLP finds grounds of suspicion of money laundering or terrorist financing it notifies the competent authorities (Police) in writing and submit the necessary documentation. Besides this, according to Article 62 of the APMLFT, the OMLP should send information to competent authorities whenever it finds grounds to suspect that the following criminal offences have been committed:

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- violation of the independent decisions of voters in Article 162; acceptance of a bribe during elections in Article 168; fraud in Article 217; breach of trust in Article 220; organising "money chains" and illegal gambling in Article 234 (b); fraud in obtaining loans or related benefits in Article 235; fraud in trading securities in Article 236; forgery or destruction of business documents in Article 240; evasion of financial obligations in Article 254; acceptance of gifts for illegal intermediation in Article 269; giving of gifts for illegal intermediation in Article 269 (a); and criminal association in Article 297 all of the Criminal Code;
- other criminal offences for which the law prescribes a prison sentence of five or more years.

The OMLP can accept information from a foreign police force. However, it does not usually get information from a foreign police force, but normally from a foreign FIU. It uses the Egmont group and fiu.net. Mainly information about the predicate offence is needed for temporary freezing based on information from abroad. All crimes can be a money laundering predicate offence. There are examples of failed cases based on problems proving information about the predicate offence.

The OMLP registers a large number of cases without further action (so-called *ad acta* cases). This happens in cases where they do not see any criminal activity, and no money laundering. The cases are often dismissed because the OMLP do not receive information from abroad. A lot of the international cases are dismissed because of this. The OMLP can keep the information for 12 years when not working on it.

2.1.1.7. Customs administration

Customs Administration is a body within the Ministry of Finance. The Customs Administration is managed by the Director General of the General Customs Directorate. At the Directorate there are nine divisions in charge of different customs areas. They control and support the operation of the entire service.

Ten Customs Directorates are established at regional level. Managed by Directors, they are responsible for uniform implementation of customs policy, laws, provisions, regulations and

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procedures under the authority of customs offices located at borders and inland. In total there are 27 customs offices. There are some 1600 customs officers in Slovenia.

The main tasks of Customs include:

- customs and excise control of goods and clearance of goods;
- levying, charging and collection of import duties, export duties and other taxes and excise duties;
- customs inspections;
- prevention and detection of customs and excise offences and other punishable acts;
- control of entry, exit and transit of goods to which special measures apply on grounds of security, protection of the health and lives of people, animals and plants, and protection of the environment, cultural heritage or intellectual property;
- control of declaration of domestic and foreign currency on entry and exit;
- collection of statistical data on trade in goods between EU Member States;
- implementation of foreign-trade measures and common agricultural policy measures;
- implementation of EU customs law and international customs agreements.

A Control and Investigation Division has been established in the General Customs Directorate. Within this Division there are four sections:

- Inspection and Control Section
- Investigation Section
- Operational Affairs
- Intelligence Section

The Investigation Section is in charge of mutual assistance and coordinating the investigation activities of four investigation units, located in Customs Directorates.

The main task of the investigation units is to detect and gather evidence of punishable acts, especially in the area of tax evasion. Customs investigation is a kind of administrative investigation. Customs has no powers under the Criminal Procedure Act. Its powers are defined in the Customs Service Act. Some of the relevant powers are:

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- searching for documents or goods,
- seizure,
- investigation of bank accounts,
- search of business premises,
- search of persons,
- detention.

Customs has an intelligence unit responsible for risk assessments. The basic role of customs is risk management, customs control, inspection (audit)/investigation, and coordination and cooperation.

Customs has an MoU with the police. They also have a liaison officer at the police with full access to the customs database, and limited access to the police database. They have online exchange of data with tax administration, case by case cooperation with prosecutors office and with OLAF.

According to customs, there are no problems with the transmission of confidential tax information from customs to the police. Customs can spontaneously provide the police with information when they find a crime. The information is covered by tax secrecy. However, normally the police send a written request, and according to the police, customs answer the police only what they ask them. The police can provide customs with information on a case by case basis.

In accordance with paragraph 145 of the Criminal Procedure Act, all state bodies must report criminal offences, however it is not determined when. Customs can gather evidence on its own within a customs investigation and then hand it over to the prosecution. Customs do not have special guidelines, however cooperation with police and prosecution is based on practice formed over time.

Customs have some police powers but not all. Customs has no powers according to the Criminal Procedure Act, but conducts administrative investigations with powers defined in the Customs Service Act. Police takes over all matters concerning drugs, weapons, etc. For supervised shipments they have to ask police for help. Financial crime cases (e.g. tax evasion) are investigated by customs initially: they gather evidence and write a crime report and then send it to HQ and then to the state prosecutor. Customs usually conduct investigations into cases of tax evasion, falsification of declarations, undeclared goods – minor cases. Customs are authorised to arrest people for 2 hours, but they have to ask police for help.

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Customs would like to have the power to conduct investigations – cases are complicated by the statutory deadlines, there is the need to provide information, etc. Customs can seize assets for up to 15 days, 90 days if a customs investigation has started. According to Customs, this is usually not enough time to gather all the necessary information.

Customs are responsible for searching for money which has been hidden when crossing the border; they are responsible for cash declarations. These cases are reported immediately to the FIU in an electronic version.

Prosecutors can instruct customs, in which case customs often cooperate with the police. Organisationally, this could happen within a Special Investigation Group. A special legal basis exists,[1] but customs do not use such groups. Instead, they have (informal) meetings to discuss the cases. There is informal cooperation through different contact points throughout the country, and no problems with cooperating with the police. The prosecutor is the head of the procedure and the owner of the case at the end disregarding where it started. Customs are sometimes invited as witnesses, otherwise they have no contacts with the investigation judges.

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[1] According to the new Article 160 (a) of the Criminal Procedure Act which came into force in October 2009, the State prosecutor may, in exercising his authority, set guidelines for police work , the work of a joint investigation team and the work of other competent national authorities and institutions working in the area of taxes, customs, financial operations, securities, protection of competition, prevention of money laundering, prevention of corruption, prevention of illicit drugs and inspection concerning mandatory instructions, expert opinions and proposals for collecting information and the implementation of measures within their competence for the purpose of detecting a criminal offence and the perpetrator, or to collect information necessary for their decision concerning a criminal prosecution. If the principal of an authority or institution mentioned in the preceding paragraph is of the opinion that an obligatory instruction of the state prosecutor falls within the original jurisdiction of the authority or institution it may reject the instruction by a written explanation.

In cases of complex criminal offences, especially in the area of the economy, corruption and organised crime that are the subject of a preliminary procedure and demand longer and directed operations of a number of authorities and institutions referred to in the preceding paragraph, the head of the competent State Prosecutor's Office may, *ex officio* or upon a written initiative of the police, establish a specialised investigation team together with the heads of individual authorities or institutions referred to in the preceding paragraph.

The specialised investigation team is managed and directed by the competent state prosecutor and the members are appointed by the heads of the authorities and institutions referred to in the preceding paragraph. On establishing a specialised investigation team, its composition, tasks and method of operation are determined by the head of the competent State Prosecutor's Office by a written order after prior consent of the heads of the authorities and institutions referred to above. The operative manager and their tasks of operational management shall be laid down in the order. In 2011 two specialised investigation teams for investigating economic and organised crime were established.

Customs can ask for information through Naples II, so also ask for information for criminal case purposes. If so, they tell their partners it is for these purposes. They have no right to hear suspects. Documentary evidence can be used in court, not statements. In the case when a serious offence is identified, customs detain the person and contact the police, and they take over the case. Customs can keep cases in certain circumstances. If they believe they can deal with it with their own powers, they will do it, e.g. tax evasion on import. The prosecutor will be involved afterwards through the crime report. Larger cases are handed over directly to the prosecutor. It depends on the case.

2.1.1.8. The Tax Investigation Unit

The Tax Administration of the Republic of Slovenia performs tax investigation tasks at the General Tax Office (hereafter the GDU) and at regional tax offices. The Unit for Investigation and Analyses at the GDU is organized within the Division for Tax Supervision, International Information Exchange and Register of the GDU. Some regional tax offices have organized Investigation Units and others have tax inspectors – investigators who implement tax investigation activities.

The Tax Administration Act is the basic regulation, which defines competence for implementation of tax investigation and authorizations of inspectors for implementation of tax investigation. The Tax Procedure Act defines the basic procedural rules.

The task of investigation is to discover violations of taxation regulations. Investigators perform investigation tasks on the basis of investigation orders, which are issued when conditions are in place from Article 131 of the Tax Procedure Act, i.e. upon initiative of regional tax offices or upon proposal from the GDU. The purpose of tax investigation is investigation, discovery, checking and prevention of severe violations of taxation regulations, collection of evidence and monitoring of activities of taxpayers, who with forms of tax evasion cause damage to the state budget, Community budget and budgets of local communities and have negative influence on general tax moral.

The principle of independence is valid for authorised official persons, i.e. for inspectors in tax audit supervision or investigators in tax investigation, under provisions of the Tax Administration Act and Inspection Act, which defines that inspectors are independent within their authorisations at performing audit tasks.

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It is not permitted to instruct inspectors about management of the procedure, which evidence should be produced, which evidence is believable and about the final decision of the tax matter. They are only bound by EU regulations, acts, other regulations and general documents. Also the head of the tax authority is not permitted to instruct inspectors and investigators in detail in relation to management of the procedure and decision-making. But they may provide general instructions for operations of the authorities.

Tax investigation comprises activities and measures on the basis of the act, which governs the Tax Administration, and the act, which governs the tax procedure in cases when reasons for suspicion are in place that an act has been committed, with which taxation regulations have been violated and for provision of mutual assistance to authorities of the Community, EU Member States and third countries.

At performing tax investigation tasks tax investigators as authorised official persons have a right to execute all activities and measures under valid regulations. After the concluded tax investigation investigators prepare the final investigation report, in which they describe findings of the tax investigation and which they submit to their immediate superiors, who after examining the investigation report order implementation of necessary activities. Data and evidence, collected during tax investigation, may be used as evidence in the procedure of tax audit supervision.

Thus, the Slovenian tax administration collects information to confirm or rebut the existence of a tax offence. At the end of the fiscal audit, a final report to is sent to the competent authorities for criminal procedures. If elements of a criminal case are there, they send the report to the police. One of the criteria used is EUR 50000 of evaded tax, the threshold at which a civil procedure is transferred to a criminal procedure. So, below this, one finds minor offences which are dealt with in the civil procedure. If false documents are involved, then it does not matter the amount of money involved. The tax part will then be dealt with by the tax authority, and the police will take care of the false documents.

When it comes to undisclosed sources of income, tax units inform the police about such suspicions and the police leads such cases. It also works the other way round, where the police inform the tax services. According to the police, there are no problems when it comes to cooperation with fiscal units – the requests and answers to the requests are sent in writing.

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There is also a spontaneous exchange of information. Fiscal units inform the police or the prosecution services if there is a particular crime committed.

2.1.2. Prosecuting authorities

2.1.2.1. State Prosecutor's Office

The Office of the State Prosecutor General of the Republic of Slovenia is an independent institution within the judicial administration. The state prosecutors office is not part of the judiciary more than in a general sense but it is rather an executive body. It has the power to prosecute (investigate and incriminate) offenders of its own motion or at the victim's request. It ensures the uniformity of work of the prosecution service and, indirectly, the uniformity of work of the courts by means of request for legal certainty.

The tasks of the State prosecutor are to oversee the pre-trial procedure in order to investigate criminal offences prosecuted of its own motion, to submit requests for an investigation, to file charges, to lodge complaints and request extraordinary legal remedies. More specifically, with regard to confiscation of proceeds, their task is to submit requests to temporarily secure the confiscation and requests to confiscate proceeds of crime.

In accordance with the Confiscation of Property of Illicit Origin Act, the tasks of a prosecutor are to order and oversee financial investigations, to submit requests to temporarily secure the confiscation of property of illicit origin, to bring legal action to confiscate property in a civil procedure and to submit requests to temporarily secure the property in accordance with the Enforcement and Securing of Civil Claims Act.

The specialised State prosecutor's office (formerly the group of State prosecutors for prosecuting organised crime) and the district State prosecutors' offices, which are criminal prosecution bodies of first instance before local and district courts, oversee the work of the police and other bodies in the pre-trial criminal procedure, decide whether or not to bring criminal proceedings, file and present criminal charges, and submit requests to secure and confiscate the proceeds of crime.

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As stated in the 2010 General report on the work of State Prosecutors, despite a 16 per cent increase in the number of new cases over the past two years (up to 2010) in the middle of the year 12 fewer officials were employed than in the middle of the previous year. At the end of 2010 the prosecution service had 165 prosecutors at all levels, 26 deputy prosecutors and 39 experts (who carry out prosecution work on the substance) as well as 187 prosecution staff members without whom prosecution work could not be carried out successfully. 31 trainees also took part in the work. Today, there are 189 prosecutors in Slovenia, 10 of which at the supreme state prosecutors office. Six prosecutors in all of Slovenia work with economic (3) and organised crime (3).

According to the Slovenian legislation, there are state prosecutors in four ranks. At the lower level of first instance there are district state prosecutors and circuit state prosecutors. Both circuit and district prosecutors are state prosecutors of first instance and both work in the Circuit State Prosecution Offices.

A district state prosecutor is a prosecutor at the beginning of his/her career. According to the State Prosecutor's act, the general conditions for becoming a state prosecutor are:

- citizenship of the Republic of Slovenia
- fluent in the Slovenian language
- contractual capacity
- good general health
- at least 30 years old
- has acquires a law degree
- has passed the state law examination
- is personally suited to carry out a prosecutorial function

Special conditions, which apply to a specific state prosecutor's rank, are:

- For the district state prosecutor: three years of work experience as a legal professional after passing the state law examination
- For the circuit state prosecutor: six years of work experience as a legal professional after passing the state law examination or has performed the function of district state prosecutor for at least three years

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- For the higher state prosecutor: has performed the function of circuit state prosecutor for at least five years
- For the supreme state prosecutor: has performed the function of higher prosecutor for at least five years or the function of circuit state prosecutor for at least 10 years)
- For the State Prosecutor General: the same as supreme state prosecutor

District State prosecutors have a university degree in law, have worked as candidate judge for two years, have passed the State examination in law and have worked as legal adviser – legal secretary for three years. They can apply for the post of local State prosecutor (up to now: post of assistant to the district State prosecutor) at the age of 30 and after working successfully for three years as local State prosecutor they can be promoted to district State prosecutor. The district State prosecutor is thus a person who is at least 33 years old, holds a university degree in law and has eight years of professional experience. The district State prosecutor is not a specialist in the field of confiscation of proceeds.

According to Article 21 of the new State Prosecutor's Office Act, District state prosecutors perform his/her duties in front of the District Courts. To perform the prosecutor's duties in front of the Circuit Court, the prosecutor has to have at least a title of Circuit State Prosecutor. A district state prosecutor can perform the duties in front of the Circuit Court only with the authorisation of the Head of the Circuit State Prosecution Office in a certain case.

Higher state prosecutors perform their legal duties before the higher courts (these are courts of appeal). In appeal proceedings before higher courts in the state, higher state prosecutors represent the appeals of district and circuit state prosecutors. Supreme state prosecutors carry out their functions before the Supreme Court.

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2.1.2.2. Specialised State Prosecutor's Office

The criminal prosecution authority dealing with financial crime and financial investigations is the Specialised State Prosecutor's Office (SDT) regulated by the State Prosecutor Act which came into force on 6 November 2011. Article 192 of the State Prosecutor Act provides that the SDT deals with the most complex criminal cases the prosecution of which requires special organisation and expertise on the part of State prosecutors and maximum efficiency.

The SDT has jurisdiction to prosecute the perpetrators of the most complex criminal acts that can be categorized as economic crime for which the minimum sentence is 5 years' imprisonment or 10 years for acts committed within a criminal organisation, accepting a bribe, offering a bribe, giving a gift to secure unlawful intervention, unlawful acceptance of gifts, unlawful giving of gifts, terrorism, financing terrorism, incitement to and public glorification of terrorist activities, terrorist recruitment and training, enslavement and trafficking in human beings.

Article 193 of the State Prosecutor Act provides that the State prosecution service at the SDT is performed by State prosecutors appointed directly to the SDT and State prosecutors seconded to it. At least ten State prosecutors are appointed to the SDT, of whom at least seven have reached a grade no lower than district State prosecutor. In accordance with the provisions on secondment, at least one State prosecutor from each district State prosecutor's office is seconded to the SDT. Seconded State prosecutors deal with cases within the jurisdiction of the SDT as instructed by the head of the SDT, either at SDT headquarters or in the district State prosecutor's office to which they are appointed. In accordance with the provisions governing secondment to another State prosecutor's office, the head of the SDT can request that an additional State prosecutor from the district State prosecutor's office that would have territorial jurisdiction in a case be seconded to help solve it, or that specific tasks be carried out in that district State prosecutors' office.

The SDT is an autonomous State prosecutor's office. In accordance with Article 197 of the State Prosecutor Act, provisions that apply to the district prosecutors' office also apply to the SDT unless the Act provides otherwise. Further details of the organisation, notification procedures and operation of the SDT are laid down in the implementing regulation adopted by the minister following an opinion of the State Prosecutor General.

Article 195 of the State Prosecutor Act provides that the following be taken into account when appointing, transferring or seconding a State prosecutor to the SDT:

- length of service as a State prosecutor, especially experience in dealing with cases within the jurisdiction of the SDT;
- the final evaluation by the State prosecutor's office on their eligibility for promotion which should not date back more than one year;
- proof of professional training/experience in dealing with cases within the SDT's jurisdiction.

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Furthermore, Article 193(6) of the State Prosecutor Act provides that the SDT adheres to the principle of team work, pooling the knowledge, skills and experience of individual members in specific legal areas when working on a case to the extent necessary for the efficient conduct and investigation of criminal offences and for issuing an indictment.

As regards assigning cases and the division of powers, Article 198 of the State Prosecutor Act provides that the SDT deals with all the cases referred to in Article 192(2) and (4)[1] and is also responsible for managing, filing and presenting requests to temporarily secure and confiscate assets of illicit origin within the framework of the Act. The SDT only deals with other cases if the requirements laid down in Article 192(3) of the Act are met. The SDT has jurisdiction to prosecute the perpetrators of criminal offences which are related to the criminal offences listed if the evidence is the same (joined cases).

If the State prosecutor's office that has territorial jurisdiction is handling a case covered by Article 192(3) of the Act, the head of the SDT can make a substantiated proposal to the head of the district State prosecutor's office having territorial jurisdiction to have the case assigned to the SDT, either on his own initiative or on the initiative of the State prosecutor to whom the case had been assigned. If the head of the district State prosecutor's office that has territorial jurisdiction does not agree with the proposal, the head of the SDT can propose that the State Prosecutor General decide whether the proposal is justified.

If the State prosecutor's office that has territorial jurisdiction is handling a case covered by Article 192(4) of the Act, the head of the SDT can make a substantiated proposal to the head of the district State prosecutors' office to have the case assigned to the SDT, either on his own initiative or on the initiative of the State prosecutor to whom the case had been assigned. If the head of the SDT does not agree with the proposal, the head of the district State prosecutor's office having territorial jurisdiction can propose that the State Prosecutor General decide whether the proposal is justified.

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[1] Economic crime for which the minimum sentence is 5 years' imprisonment, with the exception of swindling, issuing bad cheques, unauthorised use of bank or credit cards, use of a false bank card, credit card or other card; crime for which the minimum sentence is 10 years' imprisonment, if the act was committed within a criminal organisation; accepting a bribe, offering a bribe, giving a gift to secure unlawful intervention, unlawful acceptance of gifts, unlawful giving of gifts, terrorism, financing terrorism, incitement to and public glorification of terrorist activities, terrorist recruitment and training, enslavement, trafficking in human beings.

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Instructions on assigning cases and on the organisation of work at the SDT are laid down in more detail in the State Prosecutor's Order. The district State prosecutor's office that would have territorial jurisdiction over a case must cooperate with the SDT in performing its tasks and must provide the necessary administrative and technical assistance and ensure a good working relationship.

Article 198 of the State Prosecutor Act also provides that the head of the SDT can assign a case within the SDT's jurisdiction to a district State prosecutor's office which has territorial jurisdiction if he/she considers that the reasons for assigning the case to the SDT are no longer valid or if on grounds of expediency. If the head of the district State prosecutor's office which has territorial jurisdiction does not agree with the assignment of the case, he/she can propose that the State Prosecutor General decide whether the proposal is justified.

There is also the possibility of cooperation between the police and the State Prosecutor's Office provided for in Article 160a of the Criminal Procedure Act. This article provides that, when executing his powers under this Act, the State prosecutor can oversee the work of the police, the members of the joint investigation team (Article 160b) and other competent State authorities and institutions dealing with taxation, customs, financial management, securities, protection of competition, prevention of money laundering, prevention of corruption, illegal drugs and inspection, by issuing mandatory instructions, giving expert opinions and putting forward proposals for intelligence gathering other measures within their competence in order to detect criminal offences and offenders or to gather the data necessary for bringing a criminal prosecution.

In some complex criminal cases, especially in the field of business crime, corruption and organised crime, which are subject to the pre-trial procedure and require long-term targeted action involving several bodies and institutions, the head of the competent State prosecutor's office, acting on his/her own initiative or on a written request from the police, can set up a specialised investigation team together with the heads of the other bodies and institutions involved. The specialised investigation team is headed and managed by the competent State prosecutor and its members are appointed by the heads of the bodies and institutions involved.

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Cooperation between the police and the State Prosecutor's Office is regulated in more detail in the *Decree on the cooperation of the State prosecution service, the police and other competent State bodies and institutions in the detection and prosecution of perpetrators of criminal offences and the operation of specialised and joint investigation teams*. As stated in Article 1, the Decree lays down the procedure, models, deadlines and modalities for cooperation between the State Prosecutor's Office and the police and other competent State authorities in the field of taxation, customs, financial management, securities, protection of competition, prevention of money laundering, prevention of corruption, illegal drugs and oversight of their tasks as well as in the framework of specialised and joint investigation teams. It also lays down the modalities for reporting and notification within the scope of the tasks provided for in the Decree.

2.2. Court involvement in the pre-trial stage

According to the Courts Act, there are 55 courts of first instance in Slovenia: 44 District Courts and 11 Circuit Courts, four Higher Courts (Courts of Appeal) and one Supreme Court. In the first instance circuit courts, cases of criminal offences carrying a sentence of fifteen or more years of imprisonment are heard by panels of two professional judges and three juror judges. Criminal offences carrying less severe sentences, and criminal offences of libel committed by the press, radio, television or other mass media are tried before circuit courts, by panels of one professional judge and two juror judges. In first instance district courts, cases of criminal offences carrying as principal penalty a fine or a prison term of up to three years are heard by a judge sitting alone.

There are 11 courts with investigation judges in Slovenia. Some 10 investigation judges in Ljubljana, 40 in total. An investigative judge is formally responsible for the conduct of an investigation. In practice, the investigative judge responds to requests from police and prosecutors.

For investigative techniques such as interrogation, eavesdropping, observation, the consent is given by the investigation judge. All electronic media can be searched, however only on based on an order from an investigating judge.

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2.2.1.1. The specialised department

The specialised department is a special unit of the judiciary dealing with Financial Crime and Financial Investigations on the basis of the Courts Act. Under Article 40a of the Courts Act, a specialised department was established to conduct the investigation and adjudicate in complex cases of organised crime, economic crime, terrorism, corruption and other similar criminal acts. The specialised department is an autonomous unit organised by the District Courts at the seats of High Courts (i.e. in Ljubljana, Maribor, Celje and Koper).

In accordance with Article 40b of the Courts Act, the required number of judges is appointed to the specialised department from among the judges of district courts located at the seats of higher courts, judges of local courts which are units of such district courts and judges of the Local Court of Ljubljana; in addition, an appropriate number of judges from other courts is assigned in accordance with the act governing the judiciary.

In accordance with Article 40a(2) of the Courts Act, cases that are within the jurisdiction of the specialised department are dealt with either by a single judge or by the chairperson and members of a panel, appointed or assigned because of their specific expertise and experience in solving complex criminal cases.

Article 40d of the Courts Act provides that the work schedule of judges appointed or assigned to the specialised department is regulated in more detail in an annual assignment schedule. It can be designed in such a way that all judges in the department try all cases within the specialised department's jurisdiction or that judges can be appointed to try cases from different legal fields or subfields. Cases are assigned to judges, appointed or assigned to the specialised department, in accordance with the Court rules, which also lay down detailed rules for assigning cases and organising the work of the specialised department.

The specialised department of the Districts Courts thus employs investigation judges and judges with competence in the field of financial investigations. They must have the experience in judging difficult economic crime cases before being nominated to this together with specialised training. Specialised training for judges is provided for within the judiciary. This is not part of the police training on financial crime.

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2.3. Other authorities

The Bank of Slovenia supervises banks, payment services and credit institutions. The Insurance Supervision Agency supervises insurance companies. The Securities Market Agency supervises UCITS[1] funds, pension funds and investment companies, and organised trading venues (of which there is only one: the Ljubljana stock exchange). The supervisory authorities are independent in conducting their tasks and responsibilities.

Supervisory bodies have, inter alia, the power to access any documents in any form, carry out onsite inspections, demand information about any person and refer matters to criminal prosecution. Supervisory bodies cannot search private premises, only the premises of a company or financial institution.

Supervisory bodies have the power to require the cessation of any practise which is contrary to legal provisions (they can also remove a CEO but then the company must be insolvent or be in breach of an earlier ruling), request freezing/sequestration of assets (the freezing of assets is not a task of the supervisory bodies unless related to capital market regulations. This is not linked to criminal offences), adopt appropriate measures to ensure compliance with the legal framework, and issue misdemeanours (which is a fast track procedure with fines up to EUR 370 000).

Insider trading is supervised by the Securities Market Agency. To the knowledge of the Ministry of Finance knowledge, no such cases have been reported. Gambling supervision is under the responsibility of the Ministry of Finance.

Finally, the role of the Corruption Commission is to prevent and fight corruption in a broader sense, not only criminal.. It is based on the 2003 UN convention against corruption, which was ratified by Slovenia in February 2008. The police has a good cooperation with the commission. They receive a large amount of information, and inform them of final conclusions of investigations. An electronic secure communication channel has been established between them.

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[1] Undertakings for Collective Investments in Transferable Securities.

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2.4. Training

The police has trained specialised financial investigators, now also organised crime and general crime investigators. According to the police, they need to be updated the most. The criminal police tries to cover all police directorates every year at least once, to provide specific and focused training on financial investigations. In 2011, there were seven big trainings sessions. Some 300 investigators in all attended the courses. Each of the courses on individual areas took one day, some with the participation of a prosecutor who also took part in the discussions. These courses dealt with general binding guidelines which every investigating unit must take into consideration. The training therefore covered the whole process of financial investigation which lies within the sphere of activity of the police, having regard to the appropriate policing methods and tactics. One of the training courses on financial investigation in 2011 was attended by the heads and staff of all the criminal investigation units in the Slovenian police, including investigators from the National Bureau of Investigation.

As of 2010, training on financial investigations is mandatory for the police in criminal investigations. As part of all four-month criminal investigation training courses for newly recruited criminal police officers, it is also obligatory to acquire knowledge in the field of financial investigations. Thus, all officers investigating criminal offences which give rise to criminal proceeds possess a basic knowledge of financial investigations. According to the police, for a normal audience (without economic background) the goal - which is not yet attained - is to have three months regarding financial investigations. Subsequently, it is also mandatory for all criminal police officers to attend training courses on financial investigations, which are organised by the OFKPD specifically for such officers. That training also constitutes a normal employment obligation. These training courses do not contain merely financial investigation basics, as financial investigation basics are already defined in the general binding guidelines that must be followed by all investigative units. In these training sessions complex aspects of financial investigations are covered. The participants are economic crime investigators as well as tax specialists and prosecutors. Given the fact that also investigators without background in economics are participating in the trainings, the content of individual courses is tailored to individual areas of criminal investigation and to a specific target group of investigators.

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Training for police officers is led by police officers from the General Police Directorate, but also provided by specialists in tax or by prosecutors. They teach "the alphabet of financial investigations" to each police officer who is working on it. Local training courses for the criminal police are obliged to take into account financial investigation aspects. The General Police Directorate also provide separate training modules for police officers on money laundering, which are mainly given by representatives of the FIU. This happened five times in 2011, and six times in 2010. These are mostly one-day training modules, on an expert level as the police already holds the basic knowledge. In addition to training, the General Police Directorate primarily focus on the development of textbooks and providing the police with the proper tools.

The requirements for all posts at the Financial Crime and Money Laundering Section is a degree in law, criminal justice and security or social science and at least three years and seven months of professional experience appropriate to the specific post. All detectives must have passed an examination in police powers and specific training for the award of the qualification of "detective". These are general requirements that must be also met by criminal officers who perform tasks relating to common crime and organised crime. Since knowledge of different economic and legal fields is also important for efficient and successful work in this field, priority is given to recruiting experienced criminal officers with a university degree in law or economics. In order to improve and extend the theoretical and practical knowledge of the various economic and legal fields that are directly or indirectly related to the area of work of the OFKPD and Financial Crime Groups, criminal officers participate in a variety of training courses, seminars and workshops. They are either organised internally, outsourced or organised by various national and international institutions and organisations.

The OFKPD constantly provides internal training courses for investigators working at regional level who investigate criminal offences bringing financial gain, including money laundering and financial crime. These courses focus on how different criminal acts are solved in practice, how financial investigations are conducted, and on discussions between the participants. Training on money laundering is largely organised in cooperation with the Office of the Republic of Slovenia for Money Laundering Prevention. The OFKPD also offers training provided by experts from the judicial authorities (i.e. the State prosecutor's office and judges) and from financial institutions and other specialist bodies, such as the Securities Market Agency, the Tax Administration, the Office for Money Laundering Prevention, etc.

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Prosecutors and judges are not provided with obligatory training in financial investigations. Optional training courses are organised in the Slovenian Judicial Training Centre on an ad hoc basis. In 2011, two specific sessions were organised dealing with asset recovery and the confiscation of assets and the new Act on Forfeiture and Confiscation on Assets of Illegal Origin. Other authorities are also entitled to participate in the seminars, including international and European institutions, such as Eurojust and OLAF.

Due to the substantial legal changes introduced, there will probably be joint training for judges and prosecutors and the police on how to cooperate in the future. A common practice for judges, prosecutors, police officers and representatives of other departments has not been introduced. This is identified by the Ministry of Justice as a need for the future.

2.5. Criminal policy

In 2010, criminal damage in Slovenia was estimated at EUR 577 million, compared to EUR 278 million in 2009, of which EUR 505 and 193 million respectively related to economic crime. According to the Annual report on the work of the police, this shows that the prosecution of economic and financial crime and corruption was one of the main police priorities in 2010. Some 13000 economic crimes were investigated, up by 41 per cent compared to year before. The proportion of overall crime they represented rose from 10.6 per cent to 14.6 per cent.

In 2006 the National Assembly of Slovenia adopted a *Resolution on the Prevention and Combating of Crime*, which covers a period of five years. A new *Resolution on the national programme for the prevention and combating of crime for 2012–2016* (hereafter the Resolution) has been drafted but has not yet been adopted by the Parliament of Slovenia owing to a vote of no confidence against the Government. All institutions were involved in its production, through intergovernmental working groups where also NGOs and universities were present.

The Resolution contains a special chapter on economic crime, which in turn contains a special section on the proceeds of crime. A strategy/programme on tracing the proceeds of crime and securing their confiscation has already been proposed. It states that:

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> the conduct of financial investigations, the securing and ultimate confiscation of unlawfully acquired proceeds and the prosecution of the crime of money laundering require, firstly, criminal investigators who are highly competent and skilled in detecting and investigating such matters; and, secondly, priority high-level consideration by the law enforcement authorities. A systematic expert approach is needed and measures for the improvement of the situation must be designed and carried out in order to ensure in the long term that all cases involving proceeds of crime will be detected and prosecuted and that such proceeds will be confiscated by court rulings at the end of criminal proceedings. Financial investigations must constitute one of the fundamental investigation tools for detecting and investigating crimes generating profit.

According to Slovenia, investigations conducted by specialised investigative teams need to be further intensified. Efforts need to be made to ensure that the more complex economic crimes are investigated by specialised investigative teams composed of experts in various domains. This requires that the heads of the competent State prosecutor's offices and other State bodies and institutions generate interest in such team work. A special chapter in the Resolution focuses on the confiscation of proceeds.

Regarding the penal policy of law enforcement authorities, Article 145 of the State Prosecutor Act stipulates that the State Prosecutor General must adopt prosecution policy on the basis of the prior reasoned opinion of the State Prosecutors' Council. The State Prosecutor General drafts the proposal for prosecution policy on the basis of the strategic work programme of the State prosecutor's office annexed to his/her application and submits it to the State Prosecutors' Council no later than four months after the appointment. The prosecution guidelines define in particular:

- the types of cases to be prioritized;
- framework guidelines for the dismissal of criminal proceedings or the application of postponement of prosecution;
- mediation;
- punitive orders;
- procedures on the basis of plea agreements or the admission of guilt or other simplified procedures;
- the initiation of judicial investigations or investigative actions or the filing of direct charges;

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- penal policy to be implemented by the State Prosecutor's Office for certain crimes and certain categories of offenders through motions for sanctions and appeals against sanctions imposed;
- indicative framework for the use of judicial remedies;
- methods of overseeing the police and other competent State bodies and institutions;
- and recommendations and guidance for the successful operation of State prosecutor's offices.

The prosecution policy is based on the established criminal and penal policies of the courts, while taking into account the necessary modifications to and development of these policies as well as the changes in case law and the particular situation in individual social fields and areas of jurisdiction.

The Ministry of the Interior has also issued *Guidelines and compulsory instructions for drafting annual work programme of the police for 2012*, which define the priority tasks of the police, strategic supervision of compliance with law and the protection of human rights, and the rational use of material and financial means in performing police tasks. The police are expected to follow these guidelines, carrying out effective investigations of economic crimes and corruption, focusing in particular on investigations of the most serious economic crimes, such as bankruptcy fraud, damage to creditors, commercial fraud, abuse of position or confidence in economic activities, money laundering and tax evasion. They should continue to strengthen cooperation with authorities active in the prevention and detection of such crimes. To this end, they should further pursue their activities relating to setting up automated information exchange, remote direct access to databases, and the exchange of information and documents from databases kept by the police or by other competent bodies.

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According to Slovenia, financial investigations are among the fundamental investigation tools for detecting and investigating crimes. The police have guidelines, formulated in 2004 and 2011 and intended for all criminal investigators, on the consistent conduct of financial investigations of crimes generating proceeds, money laundering, financing of terrorism and corruption. Financial investigations are carried out by criminal investigators, who investigate crimes generating proceeds. Other crime investigators may also be involved as financial investigators in more complex investigations.

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In response to the recommendations in the *Report of the Committee of Experts of the Council of Europe – MONEYVAL on the Fourth Assessment Visit – Anti-Money Laundering and Combating the Financing of Terrorism*, the Office for Money Laundering Prevention, formulating in cooperation with the police and other authorities, prepared an Action Plan to implement those recommendations and it has been adopted by the Government of Slovenia. The action plan defines measures for improving crime prosecution, including the conduct of financial investigations.

2.6. Conclusions

- The current situation in Slovenia is difficult to assess, because a number of changes in legal provisions have recently been introduced, or such changes are just being introduced and will come into force in 2012. This refers to, *inter alia*, confiscation, extended confiscation and international cooperation. The laws are modern, but the mere introduction of new rules will have little effect, unless the new laws are applied. It is not possible to assess the level of implementation at this stage.

- In Slovenia, some 154 criminalists work on the regional level in the financial crime area. On the national level there are 15 criminalists. These numbers are respectable. However, one may assume that not all investigators have the necessary qualifications to conduct complex financial investigations, which will put an extra strain on the limited specialised resources, in particular the ones from the national level.

- A practice worth noticing was the setting up of the NBI in 2010, a specialised unit within the police tasked to fight the most serious crimes as well as those of an international character. This unit is characterised by flexibility in their activities and selection of cases. The NBI in its action is highly multidisciplinary and among its officers there are former prosecutors, employees from the tax services, the financial market or the stock exchange. The NBI has financial instruments available to recruit valuable expertise. It can offer substantially higher salaries to its officers; up to EUR 500 per month more.

- The selection of cases in the NBI is determined by the director of the NBI, who consults his decisions with the police Commander-in-Chief. The NBI director is informed about all cases that are run in Slovenia and on this basis he takes his decisions. Such a system is there to prevent duplication of activities and also an unhealthy rivalry between different police units.

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- The Slovenian FIU, as well as the whole anti-money laundering system, is based on relevant legislation in line with EU directives, and relevant computer tools for analysis are in place.

- The OMLP tries to educate supervisors and obligated institutions but has no powers to make them comply or sanctions available. These powers are held within the supervising and oversight agencies. Considering the low numbers of STRs, it may be questioned whether they use their sanction powers enough.

- The Slovenian ARO, LIC, will become operational in 2012. The role of the ARO will be about providing support and instructions. The ARO will have the role of expert help to all prosecutors dealing with freezing, confiscation etc., not by concretely doing it, but by helping others. This is a heavy task for only one person. Moreover, statistics will be collected centrally from all institutions, in electronic form and online. The prosecutor will be responsible for placing information on executions in the database. Within this task he will receive copies of court decisions and enter this information into the database. This is a very good idea, and will help assess the effectiveness of undertakings. The functioning (or rather the planned functioning) of correlated statistics allowing to assess the effectiveness of nationwide asset recovery is worth emphasising, and disseminating throughout the EU. It remains to be seen how the planned data collection, analysis and comparison will look like in practice. At present this is not possible to assess.

- The evaluation team was informed that there had been an interdepartmental group active on the establishment of the Slovenian ARO. The group worked for two years, but its proposal to make the ARO a multidisciplinary financial investigation team was not endorsed by the relevant decision-makers. Practitioners which the evaluators met would like the ARO to be more multidisciplinary. The police suggested that if a decision on its location within police structures was taken, the ARO could be placed in the Financial Crime & Money Laundering Section.

- The decisions taken do not appear to correspond with the role and mission of an ARO, as set out in Council Decision 2007/845/JHA and established an asset recovery office and consolidated in the practice of other EU Member States. The one-person ARO appointment under the LIC of the prosecutor's office does not seem to anticipate the provision of information exchange in urgent cases (eight hours), nor does it take into account absence as a result of sickness, holidays, etc. In this setup, the ARO will merely serve as a mailbox, as was also mentioned by one respondent, which is not very different from the CARIN contact point which is already in place in Slovenia.

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- Moreover, in the current situation, the ARO does not have access to police databases. It will not be possible for the ARO to take part in investigations. In practice this can complicate the situation or simply cause delays in information sharing. Taking into account established practice, it appears that access to police databases is crucial for collaboration between AROs. Another example is the vehicle register kept by the Ministry of Transport. The police has access to this, the prosecutor's office does not. Again, this makes the efficient running of the work at the ARO difficult. Moreover, FIU information is not available to the ARO. In case of queries these may be treated as a phishing expedition. In addition, the police has access to the Europol exchange information system SIENA, which has become an essential tool for exchanging information between AROs in Europe. Slovenia should consider the secondment of a police officer to the ARO, if not the change of the location of the ARO in the institutional structure. According to the police, they will be very much involved in the work of the ARO already now. The questions remains how will they be involved exactly, considering the current setup.

- In Slovenia, the AMO function is divided between customs, police, prosecutors etc. depending on the property. The courts decide on the assignment to the designated authority. So, no unique AMO has been set up (and it will not according to the legal provisions). This setup will present problems, with five or so agencies dealing with property, especially with an ARO with no authority to direct them in these cases.

- According to customs, there are no problems with the transmission of confidential tax information from customs to the police. The police receive data from the tax administration during preliminary investigations as part of the process of collecting information on the basis of Article 148(2) of the Criminal Procedure Act, where there are grounds for suspecting that a criminal offence has been committed for which the perpetrator is automatically liable to prosecution. However, normally the police send a written request, and according to the police, customs answer the police only what they ask them. Conversely, the police can provide customs with information on a case by case basis. Judging from the statements received, it appears that information sharing will take place fairly late in an investigation. There seems to be little or no proactive information sharing to allow both agencies go for the same perpetrator in parallel. The proactive flow of information between the agencies could be improved.

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- Customs autonomously handle cases in certain circumstances, namely if they believe they can deal with it with their own powers. The prosecutor will be involved afterwards through a crime report. It depends on the case. This situation is not adequate. Clear guidelines must be there for when to hand over a case. Without such guidelines, it is not clear how the decision is made, leaving leeway for possible misjudgements and errors.

- If the Slovenian tax administration find elements of a criminal case in their work, they will send the case to the police. One of the criteria used is EUR 50000 of evaded tax above which a civil procedure is transferred to a criminal procedure. So, below this, one finds minor offences which are dealt with in the civil procedure. Interestingly, more severe penalties can be requested in civil cases than following a criminal procedure. This is matter of practise, not what is in the criminal law, but the practise should be revised.

- The Tax authority can, under Article 31 of the Tax Procedure Act relating to undisclosed sources of income, impose up to 60 per cent tax. In addition they can add a fine. The number of such cases is not known. Following the visit, it seems that knowledge about how to apply this instrument was incomplete, and that it was not applied.

- During the evaluation mission to Slovenia, the evaluation team was informed that prosecutors have on average about 200 cases a year. They do not have time to work on, in their words, important issues. As stated in the 2010 General report on the work of State Prosecutors, very often the office of the State Prosecutor General has a very heavy workload of minor offences, devoting far too much time to ruling on further appeals on minor offences, by comparison with the work on criminal offences, which should represent the major part of its work. Prosecutors have little opportunity to refuse to pursue a case. As a matter of fact, only six prosecutors in Slovenia deal with organised crime. Even if they are apparently planning to create a new unit in Ljubljana dealing with organised crime cases, resources seem to be extremely strained.

- The training carried out by the General Directorate of the Police in local police units is a recommendable practice. During such training courses, every police officer is provided with what they called it "the alphabet of financial investigations". Today, each local training effort targeted at the criminal police has to consider the financial aspects of an investigation.

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The criminal police tries to cover all police directorates every year at least once, to provide specific and focused training on financial investigations. As of 2010, training on financial investigations is mandatory for the police in criminal investigations. According to the police, for a normal audience (without economic background) some three months would be enough regarding financial investigations. This goal is far from being met.

- Recently, a large number of rules have changed in Slovenia, but common training for judges, prosecutors, police officers and representatives of other services has not been introduced. Due to the introduced legal changes, such common training should be enacted.

- In terms of criminal policy, Slovenia has definitely taken a focused and proactive approach towards financial crime. The Slovenian authorities highlight that investigations conducted by specialised investigative teams need to be intensified, and that efforts need to be made to ensure that more complex economic crimes are investigated by specialised investigative teams composed of experts in various domains. In their view, this requires that the heads of the competent State prosecutor's offices and other State bodies and institutions generate interest in such team work. Moreover, Slovenia argues that financial investigations are among the basic investigation tools for detecting and investigating crimes. In their words, efficient financial investigations are a precondition for an efficient system of proceeds confiscation. This Slovenian position is commendable. It remains to be seen how the policy will be translated into practice. At present this is not possible to assess.

- A new criminal procedure act is being prepared in Slovenia. It would represent a further step towards accusatorial/adversarial proceedings. Prosecutors will be strengthened in pre-trial investigations and investigation judges will disappear.

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3. INVESTIGATION AND PROSECUTION

3.1. Available information and databases

There is a number of new registers, databases and information collection systems currently being created in Slovenia. All agencies have access to certain parts of relevant registers described below. The General Police Directorate has access to the majority of registers necessary for conducting financial investigations led within their framework. For instance, the police has online access to the (natural person) bank account registry (without court order), the real estate registry, the company registry, the vehicle registry, and the employment registry. Access to the securities registry is being built up. This is for the criminal police directorate and regional/local police officers and everyone who conduct this kind of investigation (about cases where proceeds are generated). The Slovenian police has a computer system in place linked to all available registers. This is their own invention. It is not for analytical purposes but for investigative ones. Via one application, it is possible to obtain information from multiple databases, records and registers, to process this data and present it in a graphical form.

3.1.1. Bank accounts

Article 156 of the Criminal Procedure Act provides that the investigating judge may upon a duly substantiated request from the State prosecutor order a bank, savings bank or savings-credit service to disclose information to him and send him 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 dealings 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 to the value of the proceeds.

From 1 July 2010 the Agency of the Republic of Slovenia for Public Legal Records and Related Services (AJPES) administers, maintains and manages the Register of Transaction Accounts. AJPES is a primary source of official public and other information on business entities in Slovenia. Furthermore, as a member of European Business Register (EBR), AJPES provides direct online access to detailed and accurate European company information that is gathered from each of the member country's official register. AJPES also offers market services that are generally provided by credit rating agencies so all information on current and future business partners can be found in one place.

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AJPES provides quality information that is delivered in real-time and can be accessed 24/7. AJPES manages the Slovenian Business Register as a central public database on all business entities, their subsidiaries, and other organisation segments located in Slovenia which perform profitable or non-profitable activities. A constituent part of the business register is the court register, which includes legal entities (companies and their subsidiaries, subsidiaries of foreign companies, co-operatives, public and private institutes, public agencies and other legal entities). AIPES ensures that judges, tax authorities, Police, Customs, the OMLP and other authorities responsible for enforcement, have direct electronic access to information from the register of transaction accounts.

Banks have to report the following to AJPES:

- data about the holder of the transaction account:
  - the forenames, surnames and addresses of natural persons or the names and addresses of legal persons
  - the tax number from the Slovenian tax register,
  - an identification number if the holder does not have a Slovenian tax number
  - the unique registration number of legal persons from the Slovenian company register.
- data about the transaction account:
  - account number,
  - name of the bank,
  - type of account,
  - data about assets insufficient to cover execution,
  - data regarding closure.

The **Register of Transaction Accounts of Companies** is publicly accessible from the AJPES web page and is cost-free. For access only on-line registration is required. An estimated 300.000 entries can be found in the register.

Personal data from the **Register of Transaction Accounts of Natural Persons** may be obtained by:

- persons who, on the basis of a final decision, are eligible to propose an enforcement or insurance proceeding against the current account-holder in accordance with the Act regulating enforcement and insurance, or with another Act regulating the claims enforcement procedure,

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- courts and other authorities performing activities in the enforcement proceeding or other proceedings conducted within their competence.

Request for the provision of information from the register of transaction accounts on the account of a natural person must contain the following:

- forename and surname, or corporate name and address of the applicant and his signature,
- forename, surname and tax number of the natural person who is the holder of the transaction account,
- an indication of the legal basis for and purpose of the processing of personal data.

AJPES ensures that the courts, the tax authority, Police, Customs, the OMLP and other authorities responsible for enforcement, have direct electronic access to information from the register of transaction accounts. It is estimated that there are more than 1 000 000 entries in the Register of Transaction Accounts of Natural Persons.

The police have direct electronic access to the central register of bank accounts established in Slovenia and can therefore obtain information on account-holders easily and swiftly. However, it is not possible to obtain information from the central register on the holder on the basis of the account number. Such information must be requested in writing from the relevant bank (the bank is identified by the first digits of the account number) and it may take a few days before it is obtained. Information on the transactions on an account takes longer to obtain because of the prescribed method of issuing orders. At the initiative of the police, the public prosecutor requests the investigating judge to issue an order to the relevant bank or financial institution. The bank then provides the judge with the information, the judge sends it to the prosecutor's office and the prosecutor's office forwards it to the police; the police then use and analyse information as required by the investigation. The process takes even longer when a bank is ordered to provide a substantial amount of information; the length of the process also depends on the information management capacity of the bank concerned.

Without a court order, the police can get name, address and tax identification number (of account holder), number of account, name of bank, type of account, date of opening and closing. If a foreign police force in the EU is conducting an investigation and want the Slovenian police to identify if a person has a bank account or if an account is located in Slovenia, the Slovenian police can answer without a court order.

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The bank account registry only includes general bank accounts, that is transaction accounts. Savings accounts and deposits accounts are not included in this register (but normally linked to a transaction account). This information can be obtained through a written police request.

The central bank account register is available online. There are bank account number and tax identification number given, referring only to the main bank account number. Information on other bank accounts is not placed there. To gather information on all bank account numbers of a particular enterprise it is necessary to contact every bank. If they have only the bank account number, they need to ask the relevant bank in the form of a hardcopy request.

The competent agencies must have tax number, first name and family name to access the central bank account register. According to the OMLP, the law is inconsistent. When a person opens an account, (s)he must present a Slovenian tax number, *if (s)he has it*. There is a dispute whether it is needed or not. The spelling of names is also a difficulty. Both present difficulties when it comes to identification.

In the order to a bank it is also included how and when information should be provided. It is already now in electronic form. Simple average things take some 8-15 days. Complex requests (many banks, prior analysis needed) takes longer time.

Banking information must pass via the investigation judge and the prosecutor and then go to the police. This is the line of communication with the banks. A bank (based on an order of the investigation judge) cannot send banking information directly to the prosecutor (or the police).

3.1.2. Real estate

The database of real estate is kept by Local Courts in the form of the Land Registry (regulated by the Land Register Act).

The Surveying and Mapping Authority of the Republic of Slovenia administers, maintains and manages the **Real Estate Register**. It is a public register and contains data about plots, buildings and parts of buildings. It also contains real estate market. The Register contains the unique cadastral number of each plot, the unique number of each building or part of building, the surface area, the type of usage, data about the owner, geodetic data, etc. while the real estate market data section is an anonymous collection of real estate sales and leases.

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The Slovenian Supreme Court administers the electronic version of the **Land Register**. The Land Registry is a public book for the entry and publication of data on property rights and legal facts relating to real estate.

To maintain the land register, the competent district court:

- decides on enrolments,
- performs general ledger entries, and
- manages collections of documents.

The Land Registry records all the rights *in rem* in immovable property (e.g. property rights, mortgage, land charge usufruct, easements, building restrictions. Documents on which entries are based are: private documents, papers in the form of written notarial acts, final court decisions, final appeal rulings, decisions on succession, final orders of enforcement proceedings on property in bankruptcy, or other final court decisions or final decisions by other government agencies.

Entries of rights and legal facts in the Land Registry take effect from the time the land register court received the application, or when the land register court received the document, on which it takes enrolment decisions of its own motion, unless the Act provides otherwise. All entries in the land register are public. The general computerized public ledger is also provided via the online QA portal.

3.1.3. Companies

Under Article 3 of the Commercial Register Act (hereinafter ZSReg-UPB2), subjects to be entered in the commercial register (hereinafter subject(s) of entry) are the following legal persons established in the Republic of Slovenia:

1. unlimited companies;
2. limited partnerships;
3. private limited-liability companies;
4. public limited companies;
5. limited partnerships with share capital;
6. European public limited companies;

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7. economic interest groupings;
8. European economic interest groupings;
9. cooperatives;
10. European cooperatives;
11. institutes;
12. associations of institutes;
13. other legal persons which, in compliance with the law, are to be entered in the commercial register.

Under Article 2a of ZSReg-UPB2, the commercial register must be kept by the court. Furthermore, the database of companies is also managed by the Agency of the Republic of Slovenia for Public Legal Records and Related Services (hereinafter AJPES).

AJPES manages the Slovenian Business Register as a central public database on all business entities, their subsidiaries, and other organization segments located in Slovenia which perform profitable or non-profitable activities. A constituent part of the business register is the court register, which includes legal entities (companies and their subsidiaries, subsidiaries of foreign companies, cooperatives, public and private institutions, public agencies and other legal entities). AJPES provides the public with information from the Slovenian Business Register in the following two ways:

- Direct access to information via the ePRS application or
- Printouts of data from the Slovenian Business Register.

The ePRS application allows the user access to data on individual entries within the Slovenian Business Register performing economic activities within the territory of the Republic of Slovenia (it currently contains around 211 000 units). The units of the Slovenian Business Register are:

- companies (partnerships and corporations),
- sole proprietors,
- others and specific users of the unified charter of accounts,
- legal entities governed by private law,
- societies,

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- natural persons performing registered or regulated activities,
- subsidiaries and other divisions of business entities
- the main offices of foreign business entities, and
- other units.

Various registration data are available for each unit recorded in the Slovenian Business Register (identification number, company name, tax number, details of representatives and founders, line of business etc.). The Register of Companies is a public register.

3.1.4. Vehicles

The vehicle registry is located within the Ministry of Interior and is directly accessible to the police.

3.1.5. Boats

The database of boats is managed by the Maritime Affairs Administration of the Republic of Slovenia as a body affiliated to the Ministry of Transport.

3.2. Cooperation at national level

The General Police Directorate has an database, where operational information obtained on individuals, companies etc. is collected. If the police is interested in a person or a firm, they simply send a query to the customs officers or border guards. The court can decide on the disclosure of the data.

When sending requests or imposing other measures, the OMLP uses the contact point / authorised person designated by the bank. Depending on the order, information can be transmitted either directly from the bank to the police, or through the court to the prosecution office and then to the police. In the case of monitoring, the authorised person must make a report at least twice a day.

The contact points/designated persons at the banks are personally known. At least once a year the OMLP arrange a meeting with all of them together. They are trained by the money laundering prevention section. The designated persons in the banks are privileged to the FIU. The police have no way of establishing informal knowledge about a particular account for instance through contacts in the banks. The police argue that they not need or want this information as it would be inadmissible in court.

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3.2.1. The identification of an unknown bank account belonging to a specified person

The identification of an unknown bank account belonging to a specified person is provided for. Since June 2010, the access to the information on the account number on individual person is possible through AJPES. The information about the transaction account of legal entities, and their holders are also available trough AJPES. Before June 2010, the Register of transaction accounts was managed by the Bank of Slovenia.

Furthermore, article 156(1) of the Criminal Procedure Act provides that the investigating judge may, upon a duly substantiated request by the State prosecutor, order a bank, savings bank or savings-credit service to disclose information to him and send him 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 dealings 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 to the value of proceeds.[1]

There are no special types of criminal offences in Slovenia's criminal law for which this measure can be obtained.

The measure may be applied for three months at most, but the term may, for serious reasons, be extended to six months at most at the request of the State prosecutor. A further condition necessary to obtain the measure in addition to the above conditions is "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 to the value of the proceeds".

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[1] Article 156, paragraphs 1 and 2 of the Criminal Procedure Act have to be read in conjunction with Article 143 of the Criminal Procedure Act (authority of the criminal court to ask for all types of personal data, limited then in specific Articles for specific types of data, like telecommunications data etc.) and Article 146, paragraph 3, subparagraph 2 of the Payment Services and Systems Act (so several legal grounds do exist for efficient operation of criminal judicial proceedings or criminal judicial investigation in this case), which provides for a Register of Banking Accounts and explicitly states that courts shall receive information from that register from banking accounts, when they exercise their judicial competence. Thus, criminal courts do demand (after citing legal basis from the Act, available identity data and Reference Number of their case) from the Register of Banking Accounts specific data and do receive them, for known (identified or identifiable) persons, as well as for those exceptional cases, where the criminal courts only have a number of a bank account - then the Register of Banking Accounts also discloses to these courts the identity of the holder of a bank account.

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The authority competent to request/take the measure is, in accordance with Article 156(1) of the Criminal Procedure Act, the investigating judge who may decide, upon a duly substantiated request by the State prosecutor. Prior authorisation is not required because the proposal by the State prosecutor must be explained in writing.

The bank, savings bank or savings-credit service must immediately send the information and documentation referred to in the preceding paragraph to the investigating judge. They may not disclose to its clients or third persons that it has sent, or will send, the information and documents to the investigating judge. There is no privileged protection of professional secrecy which could impede/affect the implementation of this measure.

3.2.2. The identification of the unknown owner of a specified bank account

In accordance with Article 156 of the Criminal Procedure Act, it is not possible to identify the unknown owner of a specified bank account, via the AJPES system In this case, banks are contacted directly and provide the requested information.

The provision foreseen in Article 156 of the Criminal Procedure Act is one of so called "covert investigative measures" and means a strong interference with privacy and human rights. Because of this, this investigative measure can only be used against a certain known person. This measure can be used under certain conditions. The first of them is that there are reasonable grounds for suspicion and the second is the principle of proportionality. On this basis the investigative measure in Article 156 cannot be used against an unknown person. However, there are possibilities in pre-trial criminal procedure to identify an unknown owner of a bank account. When the police receives information about suspicious transactions on a certain bank account, then it demands from AJPES information about the owner of a bank account. AJPES has information about the owners of bank accounts but if the owner of a bank account is an unknown individual (natural person), then the police demands from the bank to provide it with all the needed information. Therefore, the police can receive information about an unknown owner of a known bank account in a pre-trial criminal procedure. Moreover, AJPES and the banks have to submit the information of an unknown owner of a known bank account to the police. However, to use afterwards the "covert investigative measures" from the Article 156 of the Criminal Procedure Act, an order from an investigating judge is needed. One of the conditions for the order of an investigating judge is also the information of a certain or determinable person (i.e. owner of a bank account) that will be investigated.

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3.2.3. The monitoring of transactions from and to a specified bank account in a specified period in the past

The monitoring of transactions from and to a specified bank account in a specified period in the past is provided for. Article 156(1) of the Criminal Procedure Act provides that the investigating judge may, upon a duly substantiated request by the State prosecutor, order a bank, savings bank or savings-credit service to disclose information to him and send him 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 dealings 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.

There are no special types of criminal offences in Slovenian criminal laws for which this measure can be obtained.

The measure referred to may be applied for three months at most, but the term may, for serious reasons, be extended to six months at most, at the request of the State prosecutor. A further condition necessary to obtain the measure in addition to the above conditions is "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 to the value of the proceeds".

The authority competent to request/take the measure is the investigating judge who may decide, upon a duly substantiated request by the State prosecutor. Prior authorisation is not required, because the proposal of the State prosecutor must be explained in writing.

The bank, savings bank or savings-credit service must immediately send the information and documentation referred to in the preceding paragraph to the investigating judge. They may not disclose to its clients or third persons that it has sent, or will send, the information and documents to the investigating judge. There is no privileged protection of professional secrecy which could impede/affect the implementation of this measure.

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3.2.4. The monitoring of operations to and from a specified bank account in the future

The monitoring of operations to and from a specified bank account in the future is provided for. Article 156(3) of the Criminal Procedure Act provides that, subject to the conditions in paragraph 1 of that Article (point a)(i)), the investigating judge may, upon a duly substantiated request by the State prosecutor, order a bank, savings bank or savings-credit service to keep track of financial transactions by the suspect, the accused and other persons reasonably presumed to have been implicated in financial transactions or dealings of the suspect or the accused, and to disclose to him confidential information about the transactions or dealings the aforesaid persons are carrying out or intend to carry out at these institutions or services. In the order, the investigating judge sets the time limit within which the bank, savings bank or savings-credit service must provide him with the information.

There are no special types of criminal offences in Slovenian criminal law for which this measure can be obtained.

The measure referred to in the preceding paragraph may be applied for three months at most, but the term may, for serious reasons, be extended to six months at most, at the request of the State prosecutor. A further condition necessary to obtain the measure in addition to the above conditions is "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 to the value of the proceeds".

The authority competent to request/take the measure is the investigating judge who may decide upon a duly substantiated request by the State prosecutor. Prior authorisation is not required, because the proposal by the State prosecutor must be explained in writing.

The bank, savings bank or savings-credit service must immediately send the information and documentation referred to in the preceding paragraph to the investigating judge. They may not disclose to its clients or third persons that it has sent, or will send, the information and documents to the investigating judge. Under the provisions of the Criminal Procedure Act, there is no privileged protection of professional secrecy which could impede/affect the implementation of this measure.

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3.2.5. Anti-money laundering and terrorism financing provisions

Following Article 54 of the APMLFT, if the OMLP considers that in respect of a transaction or a certain person there are grounds to suspect money laundering or terrorist financing, it may demand that the organisation submit the following to it:

1. data from records of customers and transactions, which organisations are required to keep pursuant to Article 83(1) of the Act;
2. data on the assets and other property of the said person with the organisation;
3. data on transactions involving the assets and property of the said person with the organisation;
4. data on other business relationships of the organisation;
5. all other data and information obtained or retained by the organisation under this Act which are required for detecting and proving money laundering and terrorist financing.

In the request, the Office must specify the data required, as well as the legal basis for submission, the purpose of processing, and the time limit within which the required data should be submitted to the Office.

Following Article 59 of the APMLFT, the OMLP may request the organisation[1] in writing to conduct ongoing monitoring of financial transactions of the person in respect of whom there are

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[1] According to Article 4 of the APMLFT, organisations are:
- banks, branches of banks from third countries and Member State banks which establish branches in the Republic of Slovenia or which are authorised to directly perform banking services in the Republic of Slovenia;
- savings banks;
- companies providing certain payment transaction services, including money transmission;
- post;
- management companies of investment funds, branches of management companies of investment funds from third countries, management companies of investment funds from Member States which establish branches in the Republic of Slovenia or are authorised to provide services of investment fund management in the Republic of Slovenia, and other persons who may provide particular services or activities of managing investment funds pursuant to the Act governing investment fund management;
- founders and managers of mutual pension funds and pension companies;
- brokerage companies, branches of brokerage companies from third countries, brokerage companies from Member States which establish branches in the Republic of Slovenia or are authorised to provide services relating to securities directly in the Republic of Slovenia, and other persons who may provide particular services relating to securities pursuant to the Act governing the securities market or the Act governing the financial instruments market;

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reasonable grounds to suspect money laundering or terrorist financing, or of another person in respect of whom there are reasonable grounds to believe that he/she has participated or has been engaged in the transactions or business of the said person, and it may request continuous data reporting on the transactions or business undertaken by the persons concerned within the organisation. In its request, the Office is obliged to set the time limit within which the organisation must forward the data requested.

The application of the measure may last no longer than three months. However, for substantiated reasons the duration may be extended each time by one month, but the total may not be more than six months.

There have been only four cases altogether of convictions of money laundering since money laundering was introduced in 1994, and the cases were quite small. The OMLP do not know of

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- insurance companies authorised to pursue life insurance business and insurance companies from Member States which establish branches in the Republic of Slovenia or which are authorised to pursue life insurance business directly in the Republic of Slovenia;
- electronic money undertakings, branches of electronic money undertakings from third countries, and electronic money undertakings from Member States which establish branches in the Republic of Slovenia or which are authorised to provide electronic money services directly in the Republic of Slovenia;
- currency exchange offices;
- auditing firms and independent auditors;
- concessionaires organising special gaming in casinos or gaming halls;
- organisers regularly offering sport wagers;
- organisers and concessionaires offering games of chance via the Internet or other telecommunications means;
- pawnbroker shops;

legal entities and natural persons conducting business relating to:

- granting credits or loans, also including consumer credits, mortgage credits, factoring and financing of commercial transactions, including forfeiting;
- financial leasing;
- issuing and management of payment instruments (such as credit cards and travellers' cheques);
- issuing of guarantees and other commitments;
- portfolio management services to third parties and related advice;
- safe custody services;
- mediation in the conclusion of loan and credit transactions;
- insurance agency services for the purpose of concluding life insurance contracts;
- insurance intermediaries in concluding life insurance contracts;
- accounting services;
- tax advisory services;
- trust and company services;
- trade in precious metals and precious stones and products made from these materials;
- trade in works of art;
- organisation and execution of auctions;
- real property transactions.

According to same Article obligated entities are organisations (listed above) plus lawyers and notaries.

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other criminal convictions. Commenting on the fact that there have been only four convictions since 1994 of money laundering, the police notes that the number of crime reports about money laundering was low before 2010. Now the number is increasing. According to the NBI, the problem is not with the police or the prosecutors but the courts. They required the proving of the predicate offence. In 2004, there was a slight change of legislation. The authorities can now investigate money laundering offences autonomously. They do not need a conviction about the predicate offence. However, they cannot presume money laundering autonomously.

In 2010, 49 reports about 63 money laundering offences involving EUR 97 million laundered were completed. The crime report were sent to the prosecutor. He decides on direct charges or continued investigations by the investigating judge. Predicate offences involved were, *inter alia*, tax evasion, abuse of position of trust in business activity, grand larceny, business fraud and embezzlement. Only 1 predicate offence in 2009 was about drugs.

Tax evasion is a predicate offence for money laundering in Slovenia. Criminal gains cannot be taxed in Slovenia. However, when a case of undisclosed sources of income is identified, the tax authority can tax up to 60 per cent of the property value. Tax do not know about the number of cases, but would say 90 per cent of cases lead to taxation.

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Money laundering is not only about intentional cases but also about negligence. Self-laundering is criminalised.

There is the offence of concealment in Slovenia. There are generally more than 1000 convictions per year. In other MS this is seen as money laundering, not in Slovenia. Focused on objects derived from or tools of crime. The focus is the hiding of the object, not concealing the origin of the assets, that is money laundering.

3.3. Cooperation at European level

Since the entry into force of the State Prosecutor Act on 7 November 2011, international legal assistance and the maintenance of the central register of measures and expert assistance to prosecutors have become the exclusive competence of the State Prosecutor General's Office. Earlier, the Prosecutor's Office has so far had no access to acts on international legal assistance, since they were handled either through the Ministry of Justice or between the competent courts directly.

Since the entry into force of the State Prosecutor Act, the system of international legal assistance is the same as it was before. Both prosecutors and investigating judges can issue rogatory letters in a pre-trial proceeding. According to Article 204 of the State Prosecutor’s Office Act the LIC shall operate as an internal organisation unit of the Supreme State Prosecutor's Office. According to Article 206, the LIC shall keep a central register of all matters and shall provide expert assistance to state prosecutors in all matters wherein temporary freezing, seizure and confiscating of items or proceeds of crime and property of illegal origin is proposed or ordered, on the basis of data that shall be submitted by all state prosecutor’s offices *ex officio* immediately after a state prosecutor has issued a motion, guidelines, a procedural act and a court decision. State prosecutors assigned to the LIC shall have as a contact point exclusive competence for international cooperation in criminal matters for the purpose of the temporary freezing, seizure and confiscation of items, the proceeds of crime and property of illegal origin.

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Slovenia has adopted and ratified the 2000 Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union and the Protocol of 2001. The Protocol to the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union entered into force in May 2005. Implementation has been done via the Slovenian Act on cooperation in criminal matters with the EU Member States.

Despite implementing Framework Decision 2003/577/JHA of 22 July 2003 on the execution in the European Union of orders freezing property or evidence it is still possible to issue a request for seizure of the property concerned on the basis of the traditional Mutual Legal Assistance regime.

In accordance with Framework Decision 2006/960/JHA on simplifying the exchange of information and intelligence between law enforcement authorities of Member States of the EU, Slovenia adopted in 2008 a Decree on simplifying the exchange of information between the Police or the Custom Administrative Office and other competent authorities in Member States of the EU. This law provides special rules for the effective exchange of information and data between the police or the Customs Administration Office of the Republic Slovenia and the competent authorities in other Member States, linked to criminal investigations or the collecting of data in criminal proceedings. The exchange of information for international cooperation in preventing, detecting and investigating crime for the police is available through the Sector for International Police Cooperation, Criminal Police Directorate of the Republic of Slovenia.

The police may, upon request, provide foreign law enforcement authorities with information on an account-holder or the account identification where there are grounds for suspicion that a crime has been committed. Information on the transactions on an account and other banking documents can only be obtained and transmitted to foreign law enforcement bodies via MLA. Important assistance in carrying out preliminary checks and establishing the capacity of individual countries to transmit such information is provided by the CARIN network, of which Slovenia is a member. For cooperation at EU level two conditions are applied: grounds for suspicion of money laundering or terrorist financing and condition of effective reciprocity.

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With regard to a mutual legal assistance request, the authorities competent to:

a) ask for the issuing of a request (in the issuing State) are the Police and the Prosecutors,
b) issue a request (in the issuing State) are the Courts, Investigating Judges and the Prosecutors,
c) receive a request (in the receiving State) are the Courts and the Prosecutors, and
d) execute the request (in the receiving State) are the Courts.

There have only been a very small number of incoming and outgoing requests so far, thus no statistics on practical problems are available.

3.4. Financial investigation and use of financial intelligence

In addition to criminal investigations regulated by the Criminal Procedure Act, financial investigations have also been introduced with the adoption of the Confiscation of Property of Illicit Origin Act (ZOPNI) in October 2011.[1] These are not part of criminal proceedings but are carried out separately and independently of criminal investigations. In accordance with ZOPNI, financial investigations cover assets of illicit origin, while the proceeds of crime are subject to criminal investigations as defined by the Criminal Procedure Act. Financial investigations can collect evidence that a crime has been committed and they make it possible to secure assets before the conclusion of the criminal proceedings.

[1] The main principle of this Act is that no one may keep illicit assets acquired through unlawful activities, where they cannot demonstrate the legal origin of their assets when confronted by the suspicion that they have committed serious crimes. Such suspicion does not take the form of criminal or penal proceedings but is rather the civil law consequence of the fact that the perpetrator or another holder has obtained the assets through an unlawful activity. The procedure for the confiscation of assets is not connected to the criminal proceedings but is directed against assets of illicit origin. The criminal proceeding only provides for the confiscation of proceeds of the crime under consideration. To this end ZOPNI stipulates that a financial investigation must be carried out where the pre-trial criminal procedure or the criminal proceedings give grounds for suspicion that the suspect has committed a relevant crime and owns, possesses, uses, enjoys or disposes of assets suspected of being of illicit origin, or that such assets have been transferred to the suspect's legal successors or to other persons or have been combined with the assets of such persons. The detection of proceeds gained through the commission of a criminal offence or by reason of the commission thereof runs concurrently with the detection and investigation of criminal offences. Therefore, confiscation of proceeds is not a separate objective of criminal investigations, but is conducted in accordance with the provisions of the Criminal Procedure Act.

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Slovenia has no specific legal framework for financial investigations as no legal act authorising the police to carry out criminal investigations directly defines the financial investigation and related activities. The legal basis for the conduct of financial investigations by the police is provided indirectly by Article 499 of the Criminal Procedure Act in conjunction with Article 507 thereof, which stipulate that evidence is to be gathered and circumstances material to the determination of proceeds are to be investigated during the pre-trial criminal procedure. The same provision also appears in Article 3 of the Police Act, which describes the above task as forming part of the police's general mission.

There is no relevant case law yet since ZOPNI was only adopted in October 2011, and no information is yet available on the use and effectiveness of financial investigations of specific crimes.

In accordance with Article 10(2) of ZOPNI, a State prosecutor may order a financial investigation under the conditions listed in point 1 of paragraph 2 against any person convicted of a relevant crime one year at the latest after the conviction became final. A State prosecutor orders a financial investigation when the following conditions are met:

1. a pre-trial criminal procedure or criminal proceedings reveal grounds for suspicion that the suspect, defendant or testator committed a relevant crime;
2. the person referred to in point 1 owns, possesses, uses, enjoys or disposes of assets for which grounds for suspicion exist that they are of illicit origin, or such assets have been transferred to his/her legal successors, or the person has transferred such assets to or combined them with the assets of other persons; and
3. the assets referred to in point 2 do not constitute proceeds acquired through or because of a relevant crime.

In Slovenia a financial investigation is thus initiated upon a prosecutor’s order subject to the conditions that there is an ongoing criminal investigation or criminal proceeding against a person and there is a suspicion that said person is in possession or has control of property derived from illegal activities. The estimated value of such property should be more than 50.000 euro. Thus, a financial investigation can only be initiated where the pre-trial criminal procedure or the criminal proceedings are already underway and there are grounds for suspicion.

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Financial investigations are thus not conducted as part of general investigations of financial crimes. They are conducted only for specific crimes, but independently of the relevant criminal investigation. In accordance with ZOPNI, a financial investigation can be initiated at the time of a pre-trial criminal procedure, where the police are still investigating the circumstances of particular conduct on the basis of instructions by a State prosecutor, provided that grounds for suspicion exist that the conduct concerned constitutes a criminal offence that is prosecuted *ex officio*. In accordance with ZOPNI, a financial investigation can also be initiated at the time of the criminal proceedings relating to a specific crime committed by a certain person where there is a reasonable ground for suspicion that a crime has been committed. In accordance with Article 15 of ZOPNI, evidence and other materials gathered in the pre-trial criminal procedure or the criminal proceedings relating to a relevant crime as well as personal data from the bases accessible to the State prosecutor's office may be used in financial investigations. Evidence and other materials gathered during a financial investigation in line with the above Act may not be used in the pre-trial criminal procedure or criminal proceedings relating to a relevant crime.

In accordance with Article 12 of ZOPNI, any measures for gathering information and evidence required for securing the request for the confiscation of proceeds of crime that are permissible under the law regulating criminal procedure can also be used in a financial investigation. The measures provided for by the Criminal Procedure Act are thus used for investigating both proceeds of crime and assets of illicit origin.

The legal framework for gathering information on financial transaction and other information on assets is provided by the Criminal Procedure Act. The measures for obtaining information on financial transactions relating to the crime of money laundering are also defined in the Prevention of Money Laundering and Terrorist Financing Act. In accordance with Article 60 of that Act, the police can submit a request for information on financial transactions to the Office for Money Laundering Prevention, provided that there are grounds for suspicion of money laundering.

Slovenian legislation does not provide for any possibility of involving private experts.
In accordance with Article 160a of the Criminal Procedure Act and the related *Decree on the cooperation of the State Prosecutor's office, the police and other competent State bodies and institutions in detecting and prosecuting the perpetrators of criminal offences and on the operation of specialised and joint investigation teams*, a specialised investigative team can be set up on the

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initiative of the police or of the Prosecutor's Office, where crimes need to be investigated comprehensively and the involvement of experts from State bodies and institutions is required. Such a group is headed and managed by a State prosecutor. The detailed conditions for its establishment and operation and the powers of its members are laid down in Articles 24 to 29 of the above Decree.

Pre-trial investigations are in the hands of the police. The State prosecutor may direct the police at this stage. That is, the prosecutor directs the police how to conduct the investigation. The prosecutor is there to find proof, the role of the investigation judge is top assess the "procedural value of proof", i.e. what stands up in court. So, the investigation is formally in the hand of an investigation judge, that is, those which can lead to up to eight years imprisonment and those which can lead to up to three years imprisonment at the local court level. In reality he reacts to proposals from the prosecutor. However, according to the Ministry of Justice, the investigation judge will disappear in the Slovenian system in the future. Criminal law experts have discussed this over the past 15 years and a new criminal act is currently being prepared.

The judge authorises house searches. The police goes to him for the warrant in most cases. For the police, the normally go to the prosecutor, not the investigation judge. The police can independently go to the investigation judge asking for an MLA. Looking into computers and all electronic devices must go through the prosecutor.

Plea bargaining will be introduced into the Slovenian system. The law has been accepted in Parliament, will be started to use middle of May. A plea bargain must be approved by a court, to accept e.g. that evidence given was not collected under duress.

Prosecutors can file a case to a national judge or a foreign judge. It does not mean a delay in execution the fact that they have to pass a national investigation judge. They use both ways, depends on the trial they are in.

If a specialised investigation group is formed under 160a of the criminal procedural code then prosecutors can use as evidence all materials collected in administrative proceedings (tax office, FIU) – i.e. banking information, records on hearing of persons. Otherwise, free evaluation of evidence is employed if certain conditions are met. The problem would be statements, especially of suspects as persons have to state the truth in administrative procedures.

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In 2010, the police conducted 152 formal financial investigations, in addition to which they were part of other criminal investigations, against 306 persons, including 50 legal persons, leading to the discovery of a total of EUR 243 million alleged criminal proceeds. In 2011, to end June, 98 financial investigations have been conducted against 210 persons, including 35 legal persons, resulting in the detection of a total of EUR 55.8 million in alleged criminal proceeds.

On the basis of the financial investigations carried out, and subject to certain conditions, the police transmitted requests to the competent Prosecutor's Office for provisional freezing orders on assets. In 2010, there were 69 such requests relating to 110 physical persons and 19 legal persons, in cases involving criminal proceeds amounting to EUR 106 million. During the first half of 2011, some 32 requests were made, relating to 69 physical persons and 8 legal persons in cases involving criminal proceeds amounting to EUR 27 million.

A financial investigation is obligatory if EUR 50,000 or more is involved, or when the police has information that confiscation might be difficult. It can be less in such situation. The police is targeting the majority of cases involving proceeds of crime, also those cases below the threshold of EUR 50000. It is mandatory when operational techniques are applied and EUR 5,000 or more is concerned, and when the same offense, even if of lower value, is committed 3 times or more. It is always obligatory when money laundering and corruption are concerned, which actually covers most financial crimes.

At the end of the investigation there are two documents: the request – the initiative - when they have sufficient evidence, and the report - when the evidence is insufficient. The reports are very comprehensive and they include criminal analysis. In 2010, some 85 reports were sent to the prosecutor's office without all elements for provisional securing. During the first half of 2011, 67 reports were provided.

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3.4.1. Financial intelligence

According to the Slovenian answer to the questionnaire, financial intelligence from the national FIU is used to initiate an investigation (both in criminal proceedings and in financial investigations under ZOPNI) in line with the jurisdiction of the Court of Auditors.

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The Court of Auditors submits a criminal complaint to the State Prosecutor's Office, which uses the information in its investigation.

A financial investigation is initiated on the basis of information gathered in the pre-trial criminal procedure or criminal proceedings. The acquisition of confidential data on accounts and deposits is regulated by Article 156 of the Criminal Procedure Act. This Article stipulates that, upon a duly substantiated proposal by the public prosecutor, the investigating judge may order a bank, savings bank or savings-credit service to disclose confidential information and send documentation on the deposits, statement of account and account transactions or other transactions by the suspect, the defendant and other persons who may reasonably be presumed to have been implicated in the financial transactions or dealings of the suspect or the defendant, if such data might represent evidence in criminal proceedings or are necessary for the seizure of objects or the securing of a request for the seizure of proceeds or the seizure of assets whose value is equivalent to the value of the proceeds. A financial investigation under ZOPNI can be initiated on the basis of information and data gathered by this covert investigation in the pre-trial criminal procedure.

The police conduct financial investigations only where there are grounds for suspicion that a crime has been committed. Pursuant to the Prevention of Money Laundering and Terrorist Financing Act, the police can also initiate a criminal investigation when it receives a notification of suspicious transactions or information from the Office for Money Laundering Prevention. The police utilises several techniques for investigating the crime of money laundering as a separate crime or in connection with a predicate crime, or another crime (when it receives information indicating that there are grounds for suspicion that other prosecutable crimes or the crime of money laundering have been committed). In addition to the usual investigation techniques (e.g. gathering of notifications, examination of documents) it also uses covert investigation measures and techniques provided for by law.

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3.5. Cooperation with Europol and Eurojust

According to the police, international cooperation works very well, and they try to do the best they can about international requests.

3.5.1. Cooperation with Europol

Slovenia is not a member of AWF Sustrans. The police consider joining as police only, but no final decision has been made yet. The Slovenian police is not part of AWF Smoke. Customs would be willing to join AWF Smoke if they could. They do not have the information to provide. It has to go via police, who already has the information. (Police is the national contact point for Europol.)

The Slovenian National Unit for Europol, which is part of the International Police Cooperation Division in the Criminal Police Directorate of the General Police Directorate, assists the police in its investigations by providing them with the findings of checks carried out by foreign security authorities, including those relating to financial investigations and confiscation of proceeds. The police also carry out checks in the area concerned at the request of foreign security authorities.

The expectations of the police relate mainly to the swift exchange of information and the appropriate analytical support provided by Europol during the investigation, including financial investigation, of crimes having an international dimension.

3.5.2. Cooperation with Eurojust

In general terms, the Slovenian authorities recognize the support and coordination by Eurojust in large multinational criminal investigations into serious and organised crime. The assistance from Eurojust on cases resulting from the application of Framework Decision 2006/783/JHA is welcomed by the Slovenian authority. The prosecutors mostly expect swift exchange of information regulated by law, which can serve as valid evidence in criminal procedures and procedures for the confiscation of proceeds. However, Eurojust has so far not been involved in any Slovenian case of investigation of financial crime.

The Prosecutor Generals Office decides on setting up (an international) JIT. The state prosecutor leads the JIT team. The agreement will also be approved by the police. Slovenia has only had one international JIT, together with Austria, Latvia and Finland. Eurojust was involved particularly with the model agreement. According to the state prosecutor, there are many legal and practical aspects making JITs difficult: legal interpretations, costs for translation, etc.

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3.6. Conclusions

- Slovenia has a central bank register on accounts of both natural and legal persons. The bank register on accounts of legal persons is public. The register on accounts of legal persons is available at the website of AJPES. This register provides for information on all bank accounts held by a specific legal person. AJPES also operates with the central bank register for natural persons. The police can access the register for natural persons via specific applications. Such access is enabled on the basis of the Agreement on direct electronic access to information about the transaction accounts of natural persons. Since 1 July 2010 access to information about specific account numbers held by specified natural persons is possible through AJPES.

- The Slovenian police can access the central register of bank accounts of natural persons when it has been established there is a suspicion of a criminal offence without the requirement of a court order. The fact that they are able to exchange this information with the police authorities and thereby avoid the need to go through mutual legal assistance requests hugely facilitates intra-EU exchange of this information. It allows police authorities of other Member States to establish in quick way whether a suspect has a bank account in Slovenia and subsequently introduce an MLA request to obtain the details of the account.

- The Slovenian police has a computer system in place linked to all available registers. This is their own creation. It is not for analytical purposes but for investigative ones. In certain ways, this seems to combine good with unfortunate practices. First, the development of a database of their own, necessary as it may be, hinders the development of a uniform model for managing information and better regulating the processing of financial intelligence. At the very least, the Slovenian police should promote its system elsewhere. Second, a database limited to investigation purposes will not allow necessary analysis of financial crime data. This will present obstacles to proactive, intelligence-led policing.

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- During the evaluation, police representatives emphasised their very good cooperation with all agencies and efficient information exchange with these agencies in their daily work. This also refers to the spontaneous exchange of information between the agencies. This applies, in particular, to cooperation with the tax services. During the visit, examples to the contrary were presented. There seem to be a certain level of suspicion and competition between the agencies, paired with complaints about information flows not running as smoothly as they should.

- The Slovenian FIU has contact points/designated persons at the banks who are personally known. The designated persons in the banks are privileged to the FIU. The police has no way of establishing informal knowledge about a particular account, for instance through contacts in the banks, as this would arguably be inadmissible in court. Following this, it appears that their take on intelligence is quite different from elsewhere. Even if the information would not be admissible as evidence, it would nevertheless be an important indicator, and quite time saving. This example also points at a general lack of informal coordination between the agencies and perhaps even proactive cooperation.

- Customs' cooperation with other services is based on a network of liaison officers and a memorandum of understanding. In their view, there are no problems in sharing information covered by tax secrecy which greatly improves this co-operation. During the evaluation, customs representatives stressed the point that they would like to have investigations powers. At present, cases are complicated by statutory deadlines and the need to provide information to the police.

- During the meeting with the tax administration, the evaluators were informed that the undisclosed sources of income can be levied with a tax of up to 60 per cent, next to the possibility of a penalty. It was, however, difficult to determine how many such cases were undertaken in 2011 and before. The evaluators assessed that knowledge of this legal instrument is limited and the legitimate opportunities are not applied.

- In Slovenia a financial investigation within the framework of a civil confiscation procedure is initiated upon a prosecutor's order. A financial investigation can only be initiated where the pre-trial criminal procedure or the criminal proceedings are already underway and there are grounds for suspicion.

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- The police has guidelines, elaborated in 2004 and 2011 respectively, which specify the circumstances under which financial investigations should be conducted. Financial investigations, according to these guidelines, should be an integral part of investigations and not merely an additional element. There are designated coordinators in local units who are responsible for financial investigations. This helps the creation of a network of coordinators who will be able to support other police officers with their expertise in this field.

- It seems that the channel of information exchange and document circulation, from the police to the prosecutor to the investigative judge, unnecessarily extends the time of the procedures applied and results in a high degree of additional bureaucracy. Some police officers pointed out that decisions should be taken either by the prosecutor or the investigative judge, and not both simultaneously within the same procedure, which would substantially simplify the procedures.

- The police has access to information from the FIU in money laundering-related matters or in cases of financing terrorism. This information may be transferred to a foreign party within the regular police-to-police cooperation setup. This is not common in the EU. It is a setup which enhances and speeds up international cooperation.

- There have been only four cases altogether of convictions of money laundering since money laundering was introduced in 1994, and the cases were quite small. A final conviction could take five or even more years. This is a very long time.

- The establishment of central statistics concerning seized items or property in a criminal (and civil) proceeding is a welcome development. It would be helpful if Slovenia made them available to both police and prosecutors.

- The Slovenian view on financial intelligence seems to be limited to be merely understood as information retrieved from STRs.

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- Slovenia is not a member of AWF Smoke or AWF Sustrans. As for AWF Smoke, customs has indicated an interest to join, but no decision has been taken by the police. As for AWF Sustrans, initially, the OMLP thought the police should be a member of it, not the OMLP. Then, the police said no. In the view of the police, the decision to join also depends on the FIU, as the police does not have legal grounds for getting this information (STRs). The police consider joining as police only, but no final decision has been made yet. Hopefully, Slovenia will join AWF Sustrans soon, and the somewhat contradictory positions between the OMLP and the police sorted out.

- Eurojust has so far not been involved in any Slovenian case of investigation of financial crime. This raises a question about the relationship between prosecutors and investigating judges in international cases. Since the entry into force of the State Prosecutor Act in November 2011, the system for international legal assistance is the same as it was before, where both prosecutors and investigating judges can issue rogatory letters in a pre-trial proceeding.

- Slovenia has implemented Framework Decision 2006/960/JHA on simplifying the exchange of information and intelligence between law enforcement authorities of Member States of the EU. Slovenia adopted in 2008 a Decree on simplifying the exchange of information between the Police or the Custom Administrative Office and other competent authorities in Member States of the EU, which provides special rules for the effective exchange of information and data between the police or the Customs Administration Office of the Republic Slovenia and the competent authorities in other Member States, linked to criminal investigations or the collecting of data in criminal proceedings.

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4. Freezing and confiscation

4.1. Freezing

4.1.1. At national level

Article 502 of the Criminal Procedure Act provides that when the confiscation of proceeds is taken into consideration in the criminal proceedings and there is a danger that the accused alone or through other persons might use these proceeds for a further criminal activity or to conceal, alienate, destroy or otherwise dispose of them in order to prevent or render their confiscation substantially difficult after completion of the criminal proceedings, the court, on a motion of the State prosecutor, orders provisional securing of the request for the confiscation of proceeds. 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.

This measure can be obtained for all criminal offences from which the offender has acquired certain assets and proceeds. Article 502 of the Criminal Procedure Act provides that this measure can be obtained only "when the confiscation of proceeds is taken into consideration in the criminal procedure".

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 the charge sheet is filed, the ruling outside of the main hearing is issued by the presiding judge, while at the main hearing it is issued by the panel. Furthermore, the court must specify the property which is subject to provisional securing and the duration of the measure. The ruling must include an explanation. In determining the duration of a measure, the court must consider the stage of criminal proceedings, the type, nature and seriousness of the criminal offence, the complexity of the case, and the volume and significance of the property subject to the provisional securing. In the pre-trial procedure and after the issue of the ruling initiating the investigation, provisional securing may take three months. After the charge sheet has been filed, the duration of the provisional securing must not be longer than six months.

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The period referred to in the preceding paragraph may be extended by the same periods. The total duration of the provisional securing prior to the initiation of the investigation or, if an investigation was not initiated, prior to the filing of the charge sheet, must not be longer than one year. In the investigation, the total duration of provisional securing must not be longer than two years. From the date of filing of the charge sheet to the date of delivery of the judgment by the court of first instance, the total duration of provisional securing must not exceed three years. Until the execution of the final court decision on the confiscation of proceeds, the total provisional securing may not last longer than ten years. On the other hand, the procedure for renewal of that measure is regulated so that the court may, by a ruling, extend the provisional securing ordered by a ruling under the first paragraph of Article 502a of that Act upon a duly substantiated motion by the State prosecutor, taking into consideration the criteria referred to in the first paragraph of Article 502 of the Act and the time limits referred to in the fourth and fifth paragraphs of Article 502b. Prior to its decision on the motion, the court must submit the motion to other participants to allow them to make a statement about it and must set a reasonable time limit for reply.

All the conditions necessary for obtaining the measure are listed in Article 502 of the Criminal Procedure Act (point (i)). Therefore, in the ruling ordering provisional securing, the court must specify the property which is subject to the provisional securing, the manner of securing[1] and the duration of the measure. The ruling must include an explanation.

The ruling must be submitted to the authority or person competent to execute it. In accordance with the Law on execution and the interim protection of claims, immediate acts of execution and the protection of claims must be performed by enforcement officers, unless otherwise prescribed by the present Law. Enforcement officers perform judicial enforcement of court decisions requiring the performance of an obligation and in matters involving the interim protection of claims. In each particular case, enforcement officers may perform acts under the first paragraph of Article 502a throughout the territory of the Republic of Slovenia. In cases prescribed by statute, enforcement officers may also perform other acts. The management procedure for objects or property which is used for temporarily securing a claim for deprivation of proceeds or property to the value of proceeds is more specifically provided for in the Decree on the management procedure for seized objects, property and securities.

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[1] See first paragraph of Article 272 and first paragraph of Article 273 of the Execution of Judgments in Civil Matters and Insurance of Claims Act.

The suspect or accused or the person against whom provisional securing is ordered may raise an objection against the ruling referred to in the first paragraph of that Article within eight days from the date of service of the ruling, and may propose that the court hold a hearing. The court must serve the objection on other participants and must fix a time limit for reply. The objection does not stop the execution of the ruling. In the objection and at the hearing, the objector and other participants must be permitted to make a statement about the measures proposed and ordered and to present their positions, statements and motions concerning all aspects of the provisional securing. When the participants at the hearing make a statement about all the issues and produce evidence, if necessary, for a decision on the objection, the court must decide on the objection. By ruling on the objection, the court may dismiss the objection or may declare it admissible and repeal or amend the ruling ordering the provisional securing, or may reject the objection. The participants have a right to make an appeal against the ruling. An appeal does not stop the execution of the ruling. The court must take a particularly speedy decision on the motion on ordering, extending, amending or abolishing the provisional securing. If provisional securing was ordered, the authorities in the pre-trial procedure must proceed with particular speed, and the criminal procedure must be considered a priority.

The court which ordered the storage of confiscated objects or the provisional securing of a request for the confiscation of proceeds or property to the value of the proceeds, shall proceed with particular speed in such instances. It must 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. 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.

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If the owner is not known or it is not possible to serve a summons on the owner to give an opinion, the court will post the summons on the bulletin board of the court and after eight days it will 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. Relevant state bodies, organisations with public authorisation, executors and financial organisations will take care of the storage of the confiscated objects and bail and of the provisional securing of requests.

The management procedure for objects or property which is used for provisional securing with a claim for deprivation of proceeds or property to the value of proceeds is more specifically provided for in the Decree on the management procedure for seized objects, property and securities. Article 2 of the Decree provides that the objects are stored by the court, unless this Decree provides otherwise. In accordance with the Law on execution and the interim protection of claims, immediate acts of execution and the protection of claims must be performed by execution officers, unless otherwise prescribed by the present Law. Execution officers perform judicial execution of court decisions providing for the performance of an obligation and in matters involving the interim protection of claims. In each particular matter of execution, execution officers may perform acts under the first paragraph of that Article throughout the entire territory of the Republic of Slovenia. In cases prescribed by statute, execution officers may also perform other acts.

In accordance with the provisions of Criminal Procedure Act and the Decree, there is no involvement of the ARO during this procedure.

The court must abolish provisional securing on a motion by the participants. The court may also abolish the provisional securing *ex officio* on expiry of the time limit or if the State prosecutor dismisses the crime report or states that he will not institute or is abandoning criminal prosecution. The State prosecutor must notify the court of his decision. If the court considers that the provisional securing is no longer necessary, it must invite the State prosecutor to make a statement within a specified time limit. If the State prosecutor does not make a statement within the time limit or if he does not oppose the termination of provisional securing, the court will terminate the provisional securing.

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A prosecutor has no authorisation to freeze assets. The police have the power to seize objects deriving from crimes. Pursuant to Article 502 of the Criminal Procedure Act, a request for the confiscation of proceeds can also be secured during a pre-trial criminal procedure, upon a court order. The court issues such an order on a motion by State prosecutor, which most frequently follows the request by the police made on the basis of grounds for suspicion that a crime has been committed and proceeds have arisen from it, and a request to secure confiscation. The substantive condition for securing is the existence of reasonable grounds for suspicion that a crime has been committed through which or because of which proceeds have been generated, even where such proceeds have been generated for or transferred to another person. When the police can demonstrate that there is a risk that such assets could not be confiscated or could only be confiscated with great difficulty after the end of the proceedings, they request the prosecutor to temporarily secure the request for the confiscation of proceeds. Where the police find no reasons for requesting provisional securing at the time of the pre-trial criminal procedure, either because the person concerned has no property, because no risk can be proven or because there are no reasonable grounds for suspicion that a crime has been committed, they submit a report to the prosecutor's office on the financial investigation of certain natural persons and/or legal entities which has been conducted.

A suspect may request the sale of assets to avoid a value decrease, but this depends on a court decision. Slovenia unfortunately has no statistics or information on how often this procedure is applied and what the actual numbers are.

The time limits applicable for temporary freezing or seizure (1 year, 3 years or 10 years) in practise put a time limit on the prosecutor to speed up the investigation. They have to be prolonged every 1, 3 or 6 months, and two appeals are possible for every new prolongation decision. If a Slovenian court has recognised a freezing order of another EU Member State, the same conditions are used as in domestic cases (1 year, 3 years or 10 years).

Assets which are frozen in a criminal investigations do not have to be released before they are moved over to civil procedure. (Art 502e of criminal procedural code.) This is similar to tax cases where the court reports a case to the tax office and where there will be no release before taxation. The temporary freezing in criminal and civil proceedings will be done by the same prosecutor.

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Article 14 of ZOPNI provides that "for performing a financial investigation, the head of the competent state prosecutor`s office may *ex officio* or on the initiative in writing of the Police, the Tax Administration, Customs Service or the Office for Money Laundering Prevention set up a financial investigation team." The competence over financial investigation via the provisions of ZOPNI will be in the hand of prosecutors in the Specialised State Prosecutor's Office (a specialised, separate State Prosecutor`s Office established by the State Prosecutor`s Office Act of 2011). On the basis of the provision from the Article 7(3) of ZOPNI, all the motions from competent state prosecutors from the Specialised State Prosecutor's Office will be sent to the District Court in Ljubljana because of its exclusive jurisdiction *ratione materiae*. Finally, ZOPNI is a later Act with respect to the Criminal Procedure Act (ZOPNI was adopted in 2011) and therefore provisions of ZOPNI apply with respect to this question. According to the new Article 502 (e) of the Criminal Procedure Act (the Amendment will enter into force in May 2012) the Court shall notify the Tax Administration of the Republic of Slovenia *ex officio* about the temporary freezing order, the change of the order or withdrawal of the order.

The OMLP takes the initiative for temporary freezing. It happened twice last year, 35 times in total. The law says transaction (which could be interpreted as an individual transaction), but the OMLP seize the whole account. The OMLP keeps statistics on what was frozen following its notifications. The OMLP was involved in all but one of the freezing ordered by a judge regarding money laundering. Some EUR 55 million are currently frozen by court order.

The prosecutor’s office complained about the difficulty in convincing the courts about the threat of asset concealment.

4.1.2. Cooperation at European level - Implementation of Framework Decision 2003/577/JHA

Slovenia has implemented Framework Decision 2003/577/JHA. This has been done through the provisions of the Act on Cooperation in Criminal Matters with EU Member States. The seizure of objects or the temporary protection of the confiscation of proceeds from crime, ordered by the competent court in the Republic of Slovenia, may be enforced in another Member State in which the objects or property are present.

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The proposal is communicated to the competent foreign authority by the court which issued the decision in the first instance. The Slovenian court communicates to the competent authority of the issuing State the decision which is to be enforced, the completed and signed certificate provided for in Annex 3 of this Act and forming an integral part of it and the translation of the certificate into the official language of the implementing State, or into any other language accepted by that State. The ministry must inform the courts as to which official languages are accepted by individual Member States.

In practise, the mechanism based on the Framework Decision 2003/577/JHA is used very scarcely. No statistics are available in this regard. There has only been a very small number of incoming and outgoing requests so far under this regime, thus no overall evaluation to the previous regime are relevant. The Slovenian authorities believe that the (freezing) form is quite complicated, so they suggest it is therefore easy to revert to a classical MLA request as the standard procedure of legal assistance according to Slovenia seems more practicable, faster and efficient. Still, Slovenia does not think that practical or legislative steps should be taken to further increase the practical efficiency of Framework Decision 2003/577/JHA. Slovenia has no experience of any practices that are specific to some Member States which contradict their understanding of how this instrument ought to function.

4.1.2.1. Experience when acting as an issuing State

The Courts and investigating judges are competent to issue a freezing order as referred to in the Framework Decision. The competent Court is mentioned in part (c) of the certificate as being the one which must be contacted by the executing authorities.

No guidance has been given on the content and format of the freezing order, as the rules for issuing national freezing orders apply. Slovenian national legislation does not require any material beyond the freezing order and the certificate. Nor are there any standards in respect of proscribed elements of the certificate. They are no further formalities and procedures as referred to in the second subparagraph of Article 5(1) of the Framework Decision which have to be observed in the executing State in order to ensure that evidence taken is valid in Slovenia.

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The majority of requests were transmitted directly to the competent executing authorities. No Central Authority has been nominated by Slovenia in connection with the Framework Decision. The SIS, Interpol and the EJN were not involved.

An unknown recipient authority may be located via the EJN Atlas, which is available to all Slovenian judicial authorities. The guidelines for the use of this tool have been provided by the Slovenian Ministry of Justice.

Slovenia has no experience of executing Member States questioning the appropriateness, the manner in which the certificate was completed, or the scope of a freezing order. Supplementary information has been requested from the issuing authorities through direct communication. However, consultations between the competent authorities of the issuing and the executing States are always possible and, if considered appropriate, the EJN can be involved in any such dialogue.

Any problems experienced so far were discussed and solved in direct contacts between the issuing and executing authorities.

Supplementary information has been requested from the issuing authorities through direct communication. However, consultations between the competent authorities of the issuing and the executing States are always possible. No information on formality or timetables is available. Any problems regarding translation or other specific problematic issues were discussed and solved in direct contacts between the issuing and executing authorities.

There is no formal mechanism for discussion of the nature of requests with executing States so as to improve coordination and therefore the efficiency of the relevant problems. However, consultations between the competent authorities of the issuing and the executing States are always possible if considered appropriate. If considered appropriate, Eurojust or the EJN can be involved in any such dialogue.

Slovenia has not experienced difficulties regarding the subsequent treatment of evidence or property which has been frozen in the executing State so far.

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4.1.2.2. Experience when acting as an executing State

Freezing orders together with certificates may be transmitted directly to the Slovenian judicial authority competent for their execution. Under Article 14 of the Slovenian Act on Cooperation in Criminal matters with the EU Member States, the issuing and enforcement judicial authorities must communicate directly as a rule. If the issuing or administering State determined a central authority in the warrant, the communication must be carried out via this authority. The Ministry keeps a list of the central authorities of the Member States. Eurojust and EJN contact points may be consulted in order to determine the competent issuing or enforcement authority. The warrant and other written material relating to the implementation of this Act will be sent in its original form, in a certified copy or in another written form via mail, fax, electronic mail or another secure technical means that protects the secrecy of the data during the transfer and allows the enforcement judicial authority to check the authenticity of the sender and the data. If there are difficulties in sending or verifying the authentic character of documentation that cannot be directly eliminated, the warrant and other written material can also be sent via the ministry. If the warrant is not drawn up in the Slovenian language or if a translation into Slovenian or English is not enclosed, the investigating judge will inform the issuing judicial authority and determine an appropriate time limit not exceeding ten days for submission of the translation into Slovenian or English. If the requested person is deprived of liberty, the investigating judge may order that the warrant be translated into Slovenian or English.

The Slovenian executing authority informs the issuing authority about the time limits under Slovenian law and the date on which the Slovenian order will expire. The issuing authority will be invited to request an execution of the order, if justified by the outcome or the state of play of the proceedings pending in the requesting Member States.

The authorities competent to decide on the execution of a freezing order are the Investigating Judges and the competent Court where the property in question is located. No central authority is involved in the process. The ARO does not play any role in the enforcement procedure.

There is no formal procedure in place in respect of the certification or verification of incoming freezing orders. However, if the certificate missing or is incomplete or manifestly incorrect, the issuing authority will be asked to provide additional information or to correct it.

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There are no examples of cases where freezing has not been authorised, solely for reasons arising from the quality of the freezing order and/or the certificate being considered by Slovenian courts, for instance translation errors, insufficiently detailed certificates (fact or law), issues surrounding authentication, missing documents or the like).

There are no examples of cases where the execution of a freezing order has not been authorised, solely because the issuing Member State has failed to respond to a request for additional information/documents. If the time limits for additional information or additional documents expire, the execution of a freezing order is not authorised.

Direct communications between the issuing and executing authorities regarding information on progress in proceedings are provided by mail or telephone.

The parties concerned are entitled to the legal remedies available under the Slovenian Criminal Procedure Act, with regard to frozen property, i.e. complaints to the Court of Appeal.
Those whose property rights and legal interests are affected and the State prosecutor may file an appeal against the order within eight days of its receipt. It is not permissible to challenge the contextual basis resulting from the decision on seizure or protection. An appeal may not suspend the execution of the order. The panel of the high court must decide on the appeal within three days. Retrial and a request for the protection of legality are not allowed.

4.2. Confiscation (including 2005/212/JHA and 2006/783/JHA)

4.2.1. At national level

Article 74 of the Criminal Code provides that nobody may retain the property gained through or owing to the commission of a criminal offence. The property will be confiscated in accordance with the judgment delivered on the criminal offence under the conditions laid down in the Code.

The confiscation of the property or property benefits gained by committing a criminal offence is possible for all types of crimes of which the offender has acquired certain property benefits (so called property crimes). Article 74 of the Criminal Code clearly provides that nobody may retain the property gained through or owing to the commission of a criminal offence.

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Property benefit gained through or owing to the commission of a criminal offence is confiscated by virtue of a judgment under the criminal procedure, based on the Criminal Procedure Act. Money, valuables and any other property benefit gained through or owing to the commission of a criminal offence will be confiscated from the perpetrator or recipient. If confiscation of the property itself cannot be carried out, property equivalent to the property benefit will be confiscated from them. When the property benefit cannot be confiscated from the perpetrator or other recipient, the perpetrator will be 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, but the period of payment may not exceed two years. On the other hand, the confiscation of the property benefit gained through or owing to the commission of a criminal offence is possible without a judgment, because objects which may or must seized pursuant to criminal law are to be seized even when criminal proceedings do not end in a guilty verdict if there is a danger that they might be used for a criminal offence or where so required by the interests of public safety or by moral considerations.[1] A special ruling thereon must be issued by the authority before which proceedings were conducted at the time when proceedings ended or were discontinued. Moreover, except in instances where criminal proceedings result in a judgment by which the accused is found guilty, money or property of unlawful origin[2] and bribes illegally given or accepted[3], will also be confiscated a) if those elements of criminal offences referred to in Article 245 of the Criminal Code which indicate that money or property from the aforementioned Article originate from criminal offences are proven, or b) if those elements of criminal offences[4] which indicate that a reward, gift, bribe or any other form of a material benefit was given or accepted are proven.

In addition to the confiscation of proceeds pursuant to the Criminal Code and the Criminal Procedure Act, the Confiscation of Property of Illicit Origin Act (ZOPNI) also provides for the confiscation of assets of illicit origin.

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[1] The term "morality" is used in Article 73 of the CC. Article 498 of the CPA sorts out the procedural aspects with regard to "moral considerations". There is no definition on morality in the Slovenian legal system. The court will decide on this on case by case basis. However, the term of "morality" in Article 73 is close connected to "public safety".

[2] Referred to in Article 245 of the Criminal Code.

[3] As referred to in Articles 151, 157, 241, 242, 261, 262, 263 and 264 of the Criminal Code.

[4] Referred to in Articles 151, 157, 241, 242, 261, 262, 263 in 264 of the Criminal Code.

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Proceedings for the confiscation of assets of illicit origin are conducted before the Ljubljana District Court at the request of the Specialised Department in the State Prosecutor General's Office. The confiscation of assets of illicit origin is the subject of civil proceedings against the owner taken by a prosecutor from the Specialised Department.

The decision on confiscation is made by the competent court, because the property must be confiscated in accordance with the judgment delivered on the criminal offence under the conditions laid down in the Criminal Code. Furthermore, the court may impose confiscation of proceeds in the judgment by which it finds the defendant guilty, in the ruling on judicial admonition or the ruling on educational measures, as well as in the ruling on security measures referred to in Articles 64 and 65 of the Criminal Code. In the operative part of the judgment or ruling, the court will specify the object and the sum confiscated. Where good grounds exist, the court will permit payment of the proceeds in instalments, fixing the time limit and the amounts thereof.

Article 503(3) of the Criminal Procedure Act provides that where the court has imposed the confiscation of proceeds on the recipient or a legal person, a certified copy of the judgment or ruling must be served on the recipient of the proceeds or the representative of a legal person, respectively. On the other hand, the service of the judgment must be made in accordance with Article 363 of the Criminal Procedure Act which provides that a certified copy of the judgment is to be served on the prosecutor; it must be served on the defendant and defence counsel in accordance with Article 120 of this Act.

Article 505 of the Criminal Procedure Act provides that the second and third paragraphs of Article 368, and Articles 376 and 380 of this Act apply *mutatis mutandis* to the appeal against the decision on confiscation of proceeds. In the event that the proceeds were confiscated by judgment, then the person concerned or convicted has the right to appeal against a decision in accordance with Article 366 of the Criminal Procedure Act, which provides that the entitled persons may lodge an appeal against judgments delivered at first instance within fifteen days of the service of the copy of the judgment. The Court may issue a separate ruling on the confiscation of objects, if the judgments by which the defendant was found guilty contain no such decision.

In accordance with the provisions of the Criminal Procedure Act and the Decree, there is no involvement of the ARO during this procedure.

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In addition to the confiscation of the property benefits gained through or owing to the commission of a criminal offence, Article 73 of the Criminal Code provides for the confiscation of objects used or intended to be used, or gained through the commission of a criminal offence if they belong to the perpetrator. Objects under the preceding paragraph may be confiscated even when they do not belong to the perpetrator if that is necessary for reasons of general security or morality and if the rights of other persons to claim damages from the perpetrator are not thereby affected. Compulsory confiscation of objects may be provided for by statute even if the objects in question do not belong to the perpetrator.

Article 498a of the criminal procedural law states that money will always be taken from a suspect even without a conviction, if a crime has been proved. (This is about corruption and money laundering). Initially the law applied to objects, but on 15 May 2012 it will be widened to third parties and civil confiscation in a set of crimes. If a legal claim is made to money the requesting party will get it, if they can prove it belongs to them. The connection to a crime only at the first level of suspicion. No requirement of conviction. The suspect have to prove the legal basis of the assets. The principle of reversed burden of proof applies.

Third party confiscation can extend quite far. It concerns all cases where assets have been acquired without payment or at an improper level. Experts establish the value. Court appraisals are regulated by law as well. Expertise has to be upgraded periodically. The criminal and civil processes can move in parallel. Evidence from financial investigations (civil) cannot be used for criminal investigations, however evidence from criminal investigations can be used for financial investigations.

According to the Slovenian authorities, there would be no problems in coordinating cases when a criminal proceeding is terminated (e.g. for lack of evidence) and the launching of a civil confiscation procedure. The first temporary seizing of the proceeds of crime and the ones illegally gained will be in the hand of the prosecutor handling the criminal case. What goes to the prosecutor handling the civil case will come from the criminal case. A civil procedure will not start before or in parallel to a criminal investigation. The release of assets in the criminal case cannot be done before a new (civil) process starts.

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4.2.2. "Pierce the corporate veil"

In Slovenia it is possible to "pierce the corporate veil" and start the direct procedure with regard to beneficial owners. It is not possible to confiscate property owned by corporations in cases where the corporation has not been prosecuted. but the court assumes the property is owned by beneficial owners.

Article 42 of the Criminal Code provides that criminal liability is imposed on a legal person for criminal offences, which the perpetrator commits in its name, on its behalf or in its 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. Criminal liability of legal persons shall not exclude liability of natural persons as perpetrators, instigators or aides in the same criminal offence. The law which regulates liability of legal persons for criminal offences determines the conditions for criminal liability of legal persons, sentences, admonitory sanctions or safety measures, and legal consequences of the conviction for legal persons. Furthermore, any property gained by a legal person through or owing to the commission of a criminal offence will be confiscated. A property benefit or property equivalent to the property benefit will also be confiscated from legal persons, when the persons referred to in paragraph 1 of Article 75 of the Criminal Code have transferred the property to the legal person free of charge or for a sum of money which does not correspond to its actual value. Therefore, Article 4 of the Liability of Legal Persons for Criminal Offences Act (ZOPOKD) provides that a legal person is liable for a criminal offence committed by the perpetrator in the name of, on behalf of or in favour of the legal person:

1. If the criminal offence committed involves carrying out an unlawful resolution, order or endorsement of its management or supervisory bodies;
2. If its management or supervisory bodies influenced the perpetrator or enabled him to commit the criminal offence;
3. If it has at its disposal unlawfully obtained property benefit or uses objects obtained through a criminal offence;
4. If its management or supervisory bodies have omitted due supervision of the legality of the actions of employees subordinate to them.

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Moreover, Article 12 of ZOPOKD provides for the types of punishment and one of the punishments that may be prescribed for the criminal offences of legal persons is confiscation of property. Half or more of the legal person's property or its entire property may be confiscated. Confiscation of property may be imposed for criminal offences which carry a punishment of five years' imprisonment or a harsher punishment.

Article 5 of ZOPOKD sets out the limits on the liability of a legal person for a criminal offence. A legal person will also be liable for a criminal offence if the perpetrator is not criminally liable for the criminal offence committed. The liability of a legal person does not preclude the criminal liability of natural persons or persons responsible for a criminal offence committed. A legal person may only be liable for criminal offences committed out of negligence under the conditions set out in point 4 of Article 4 of this Act. In this case the legal person may be given a reduced punishment. If a legal person has no other body besides the perpetrator who could lead or supervise the perpetrator, the legal person shall be liable for the criminal offence committed within the limits of the perpetrator's guilt. Based on the above, in the case of property owned by corporations where the corporation has not been prosecuted, but where the court assumes that the property is owned by beneficial owners who have been convicted, confiscation is possible only in the circumstances provided for in Article 77 of the Criminal Code which stipulates that a property benefit or property equivalent to the property benefit must also be confiscated from legal persons, when the persons referred to in paragraph 1 of Article 75 of the Criminal Code (i.e. the perpetrator or recipient) have transferred this property to the legal person free of charge or for a sum of money, which does not correspond to its actual value.

In accordance with the above-mentioned legislative options, property owned by corporations in cases where the court assumes the property is owned by beneficial owners who have not been convicted is confiscated, because a legal person will also be liable for a criminal offence if the perpetrator is not criminally liable for the criminal offence committed.

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4.2.3. At European level

Slovenia has implemented Framework Decision 2006/783/JHA. This has been done by the provisions of Articles 89 to 97 of the Act on Cooperation in Criminal Matters with the European Union Member States.

However, instead of a request in accordance with the Framework Decision, it is still possible to issue a request for confiscation of the property concerned on the basis of the traditional Mutual Legal Assistance regime.

The authorities competent to issue a confiscation order referred to the Framework Decision 2006/783/JHA are District courts and Local courts in Republic of Slovenia. The territorial jurisdiction of the court shall be determined according to the place where the property which is the subject of the enforcement, is located. If more resources or objects are indicated in the proposal concerning the property, the court with territorial jurisdiction shall be the court competent according to the first indicated means of execution. If the territorial jurisdiction can not be determined as stated, it shall be determined according to the permanent or temporary residence of the person subject to the confiscation and for a legal person, according to the registered office, and if is has a branch office, according to the place of such branch office. If the competent court can not be determined as stated, the District Court in Ljubljana shall be competent. The authorities competent to execute a confiscation order are investigation judges of competent courts.

Additional practical guidance on the issuing of confiscation order and on the use of the certificate was not considered necessary as the issuing of a confiscation order is governed by relevant provision of the Slovenian Act on Cooperation in Criminal Matters with the European Union Member States, and the certificate is considered to be self-explanatory.

Slovenia has not received or issued a confiscation order, so Slovenia has not much practical experience in the use of the new regime so far.

Slovenia can recognise a confiscation order even if they cannot enforce it. This is formally done by the investigation judge. A confiscation order is recognised under article 101 of the criminal procedural law and a new statement following article 102. In practise, they would not recognise it if they cannot enforce it.

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4.3. Conclusions

- Slovenia has implemented Framework Decision 2003/577/JHA. This has been done through the provisions of the Act on Cooperation in Criminal Matters with EU Member States. In practise, the mechanism based on Framework Decision 2003/577/JHA is used very scarcely, as the standard procedure of legal assistance according to Slovenia seems more practicable, faster and efficient. Perhaps this is so because in the Slovenian system rogatory letters in pre-trial proceedings can be issued both by prosecutors and investigation judges, whereas freezing orders can only be issued by judges. There has only been a very small number of incoming and outgoing requests so far under this regime.

- Slovenia has implemented Framework Decision 2006/783/JHA. This has been done by the provisions of Articles 89 to 97 of the Act on Cooperation in Criminal Matters with the European Union Member States. Instead of a request in accordance with the Framework Decision, it is still possible to issue a request for confiscation of the property concerned on the basis of a traditional MLA request. Slovenia has not received or issued a confiscation order, so Slovenia has no practical experience in the use of the new regime so far.

- The initiative of collecting statistical information on assets seizures and securing, gathered nationwide, is worth mentioning as a good practice. However, exercising it can prove to be difficult. The police has an agreement with the prosecutor's office stating that they should be informed within three days whether a securing measure was undertaken or not. However, in practice this does not always happen. Prosecutors, in turn, have problems in obtaining information about court decisions on confiscations.

- The sale of confiscated property depends on a court decision. This way money obtained goes into the state budget. In case of an erroneous decision, money is paid back, including compensation for lost profits.

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- During the mission to Slovenia, the evaluation team was informed that prosecutors handle, on average, about 200 cases per year. They do not have time to work on what they see as important cases. They have little opportunity to prioritise cases. Focusing on detailed problems, the prosecutors emphasised, *inter alia*, the difficulty to convince the court that assets are connected to a crime, due to the high standard of proof, which have resulted in the rejection of a number of cases.

- In Slovenia criminal courts decide, upon request of the public prosecutor, on the issuing of a freezing order. The criminal court issues the order if there are reasonable grounds for suspicion that the person committed one or more relevant crimes, if a financial investigation revealed substantial disproportion in a person's assets and there is serious risk that the person will destroy, dispose or transfer the assets.

- In Slovenia civil courts decide on confiscation of illegal assets upon application made by the prosecutor. The new proposal establishes a legal presumption that such assets are illegal (if a person is suspected of having committed a relevant offence and there is disproportion established regarding his assets). The defendant has the possibility of challenging the presumption and to prove that assets come from legitimate activities. The court decides upon "civil burden of proof".

- Article 498 of the Slovenian Criminal Procedure Act provides that objects which may or must seized pursuant to criminal law are to be seized even when criminal proceedings do not end in a guilty verdict amongst other things if so required by moral considerations. There is no definition on morality in the Slovenian legal system. The court will decide on this on case by case basis. This provides a very wide leeway for courts to argue that moral considerations are at risk. Such a loose provision could be misused and should be accompanied by a precise definition to avoid even questions about its rightful application.

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5. PROTECTION OF THE FINANCIAL INTERESTS OF THE COMMUNITIES

When the Criminal Code was amended in 2008, a new criminal offence named "Fraud to the Detriment of the Communities" was introduced into the Slovenian legislative system. Article 229 of the Criminal Code provides that whoever avoids expenses by using or submitting false, incorrect, or incomplete statements or documents, or does not reveal data and thus misappropriates or unlawfully withholds or inappropriately uses funds of the general budget of European Communities or of the budgets managed by European Communities or managed on their behalf, will be sentenced to imprisonment for not less than three months and not more than three years. Whoever acquires funds by means of offences and from the budgets referred to above will be punished to the same extent. If the offence has resulted in a large property benefit acquired or a large loss of property, the perpetrator will be sentenced to imprisonment for not less than one and not more than eight years.

Punishments will apply to the managers of companies or other persons authorised to take decisions or carry out control in enterprises, if they render possible or do not prevent the criminal offences of perpetrators who are subordinate to and act on behalf of the company. Furthermore, Article 230 of the Criminal Code provides for "Fraud in Obtaining Loans or Benefits", stipulating that whoever, without having complied with the conditions required for obtaining a loan, investment assets, a subsidy or any other benefit intended for the performance of an economic activity, obtains such a loan or other benefit for himself or for any third person by presenting to the lender or other person whose job it is to approve such a loan or benefit, false or incomplete data concerning the balance of assets, balance sheets, profits, losses or any other fact relevant to the approval of the abovementioned loan or other benefit, or suppresses any fact, will be punished by a fine or sentenced to imprisonment for not more than three years. If the loan or any other benefit has been used for purposes other than those agreed with the lender or the person competent for granting such a benefit, the perpetrator will be punished by a fine or sentenced to imprisonment for not more than one year. In accordance with the above provisions, with the introduction of these criminal offence protects the financial interests of the Communities in the event of a loan, investment assets, a subsidy or any other benefit intended for the performance of an economic activity being obtained from European funds.

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In accordance with the provisions of the Criminal Procedure Act, the European Commission can play a role as a party to proceedings or as a plaintiff in a criminal investigation involving fraud against the financial interests of the Communities. As a result, the European Commission can have the role of an initiating or injured party . When it participates as an injured party it must, in accordance with the existing law, demonstrate its legal interest in bringing proceedings. In both cases the European Commission should actively cooperate with the law enforcement authorities. There has been no case in Slovenia where the European Commission acted as an initiating or injured party in relation to a crime.

Pursuant to the law of the Republic of Slovenia, OLAF agents can participate in criminal investigations in the pre-trial criminal procedure mostly as experts. They cannot carry out specific investigation measures. In accordance with the Criminal Procedure Act, these measures can only be carried out by the police. OLAF agents have so far not been involved in such investigations in Slovenia.

Pursuant to Article 160b of the Criminal Procedure Act, OLAF agents can take part in JITs if this is provided for in the arrangements on the operation of JITs. It is important that OLAF agents be able to carry out their powers on the territory of the Republic of Slovenia within the joint investigative team in accordance with the arrangements defining the tasks, measures, guidelines and other powers of the participants in the JIT. No joint investigative team has as yet been set up in the Republic of Slovenia pursuant to Article 160b of the Criminal Procedure Act to investigate specific crimes detrimental to the financial interests of the European Community.

The coordinating body in Slovenia for contacts with OLAF is the Budget Supervision Office of the Ministry of Finance. It cooperates with other institutions, including the police, through an inter-ministerial working group for cooperation with OLAF, appointed by the Government of the Republic of Slovenia. Members of this group are the State Prosecutor General's Office, the Ministry of Justice, the Ministry of the Interior (Criminal Police Directorate), the Ministry of Finance (Office for Money Laundering Prevention, Tax Administration, Customs Administration and Budget Supervision Office).

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The police staff, State prosecutors or other competent authorities of other States will only carry out tasks, measures, guidance and/or other powers in the territory of the Republic of Slovenia within the framework of the joint investigation team in compliance with the provisions of the agreement on the establishment and operation of the joint investigation team.

Article 61 (2) of the Act on Cooperation in Criminal Matters with the European Union Member States provides that "the Eurojust member from the Republic of Slovenia shall be authorised to obtain, through direct contacts with the competent authorities of the Republic of Slovenia, first of all with the State Prosecutor's Offices, courts and the police, such personal and other information which are subject to treatment by such authorities and are necessary for the performance or meeting of the tasks of Eurojust". Paragraph 3 of the same Article provides that "the Eurojust member from the Republic of Slovenia may forward the obtained information to bodies of the European Union, international organisations and law enforcement agencies of other Member States in accordance with their legal arrangements or legal orders". The Slovenian Eurojust national member thus has powers to receive information from OLAF. An additional (general) legal basis for the work and jurisdiction of the Eurojust member from the Republic of Slovenia is provided for in Articles 70 and 71 of the State Prosecutor`s Office Act (of 2011).

5.1. Conclusions

- OLAF is not informed about a final decision in a court case. A system for this is not in place. If they ask for it they will get it. OLAF can be part of a JIT. This is regulated in article 160b of the criminal procedural code. If the OLAF agent was part of a JIT, then he would be informed. If EU was the injured party, then they would also be informed.

- OLAF agents can be present during house searches, based on a court order in which this arrangement would be specified. This is possible also without a JIT. OLAF can request police assistance if using their powers on Slovenian grounds. For a customs investigation there could be a conflict of interests if OLAF were to be a witness in court. However, it is possible. OLAF can have access to customs investigation files, also during the investigation.

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The police leaves the decision to the prosecutor whether OLAF could have access to information from a criminal investigation.

- Slovenia has designated their Eurojust national member as judicial authority for the purpose of receiving information from OLAF.

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6. RECOMMENDATIONS

As regards financial investigations and the fight against financial crime the expert team was able to review the Slovenian system satisfactorily, expertly supported by the helpfulness of the Slovenian hosts. Overall, it seems that the working principles and legal framework of the Slovenian system are robust . However, a number of changes in legal provisions have recently been introduced, or such changes are just being introduced and will come into force in 2012, which makes it impossible to assess the level of implementation at this stage.

Based on its findings, the expert team would like to make certain recommendations to Slovenia to contribute to the further development of the system. Furthermore, based on the various good and, without doubt, even best practices of Slovenia, the team would also like to make related recommendations to the EU Member States, the EU, its institutions and agencies.

Slovenia should conduct a follow-up on the recommendations given in this report 18 months after the evaluation and report on progress to the Working Party on General Affairs, including Evaluations (GENVAL).

6.1. Recommendations to Slovenia

1. Slovenia is recommended to define and implement an integrated national criminal policy based on intelligence-led priorities including concrete measures both as regards the prevention and repression of financial crime.

2. The current system for information collection and dissemination between the police, prosecutors and investigation judges seem to be overly bureaucratic and cumbersome, leading to unnecessary delays. Slovenia is recommended to assess the association between prosecutors and investigation judges and to streamline the relationship between the two. In particular, Slovenia is recommended to consider the role of investigation judges in MLA and pre-trial proceedings in order to simplify the gathering and dissemination of information and evidence.

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3. A clear mechanism should be developed in order to facilitate gathering and analysis of statistical data on financial investigations, prosecutions and convictions, as well as on assets frozen or confiscated and on assets actually recovered. Results achieved, weaknesses of the recovery system and countermeasures undertaken by criminals should be discussed regularly by all entities involved. Also the way cases are internally handled should be improved.

4. International police cooperation is a key component of the successful fight against financial crime. Slovenia is recommended to promote the tools available for practitioners to empower them in their work. This includes, *inter alia*, knowledge and use of available EU legal instruments which are already transposed into Slovenian legislation, and such that still need practical implementation.

5. In general, awareness of existing EU legal tools, cooperation mechanisms and bodies, such as OLAF, Eurojust, the European Judicial Network and Europol, needs to be increased among practitioners, and cooperation within the framework of Europol, Eurojust and OLAF need to be enhanced. Their capabilities and potential added value for financial investigations need to be promoted and explained to practitioners, especially law enforcement officers, prosecutors and judges.

6. Slovenian authorities are recommended to systematically inform OLAF about outcomes of criminal cases related to fraud against the financial interests of the Communities, especially those where OLAF was involved.

7. The Slovenian authorities should analyse the reasons for their low numbers of money laundering convictions to increase the performance of the system. This is an essential condition to be able to use money laundering as a tool in the fight against financial crime.

8. The civil proceedings concerning the confiscation of proceeds of crime is new in Slovenia, and could well become a best practise inspiring other Member States. However, Slovenia is recommended to pay due attention to a) the establishment of a good interconnection between criminal and a civil proceedings concerning the confiscation of proceeds of crime, b) the right

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level of implementation of the law on civil confiscation into practice which means, *inter alia*, to issue bylaws (instructions of the Prosecutor General, the Police President, etc.) concerning technical and organisational details of cooperation between different levels of prosecutor's offices and the police, and c) the training of all practitioners involved in civil confiscation, inter alia specialised prosecutors.

9. The importance of financial investigations, seizure and confiscation needs to be reflected in the training of investigators, prosecutors and judges. Slovenia should establish training curricula for all practitioners involved in financial crime investigations. Training should be conducted jointly, between all bodies that have a role to play in the subject matter.

10. The Slovenian ARO in its current mode has a limited scope, not taking into account all possibilities presented in the relevant EU legislation. Considering that an ARO is arguably first of all about exchange of operational data, Slovenia is recommended to establish an ARO within the police and allow such an ARO to communicate directly with its foreign partners using SIENA. Furthermore, the Slovenian authorities should provide the ARO with sufficient operational and staff powers.

11. In Slovenia, the AMO function is divided between customs, police, prosecutors etc. depending on the property. The courts decide on the assignment to the designated authority. Sound management of seized goods, including their conversion into cash, needs to be promoted and applied more extensively. The setting up of a dedicated Asset Management Office should be considered and necessary legal provisions changed accordingly.

12. The inflow of financial intelligence needs to be increased. as a first step, awareness of reporting obligations should be raised among certain professions and entities obliged to cooperate with the FIU.

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6.2. Recommendations to the European Union and certain third parties

1. Slovenia has set up a central bank account registry. This has proven to be an efficient tool in financial investigations. Other Member States may use the Slovenian model to allow their police authorities access to the central register of bank accounts without judicial order and exchange bank data that the police can obtain through the register of banks.

2. Other Member States may use the Slovenian model to set up a highly-specialised, well-staffed prosecutor's office competent to deal with highly complicated economic crimes.

3. Other Member States may use the Slovenian model to set up a multidisciplinary highly-specialised unit competent to deal with very complicated financial crimes.

4. European authorities, namely OLAF, Eurojust and Europol, should promote and explain their potential added value for investigation and prosecution. Their analytical capabilities, information and intelligence exchange, available communication channels and means of practical assistance need to be further communicated.

5. European authorities should promote, via training and guidelines, uniform application of relevant legal tools agreed at the European level.

6. European authorities should promote, via training and guidelines, common standards and interoperability of financial crime tools. This should also involve the use of a common terminology.

7. The European Union should study the introduction of non-conviction based confiscation with a view to establish common minimum standards as regards such systems, for those who envisage them, and the recognition of non-conviction based confiscation by others.

8. The European Commission is invited to study Framework Decision 2003/577/JHA in light of the current state of use. As witnessed in the case of Slovenia, the implementation of mutual recognition of freezing orders involves more authorities than when issuing rogatory letters.

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Therefore, particular attention should be paid to the involvement of prosecutors and courts in the issuing state when it comes to requests for mutual recognition and the seizure of assets, to establish if this is the case elsewhere and propose a unison approach to address the situation.

9. The Member States are recommended to assign their Eurojust national members as a judicial authority for the purpose of receiving information from OLAF.

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Annex A: Programme for visit

Day 1 - Monday, 28 November

Arrival of group of expert in the evening

Day 2 - Tuesday, 29 November

Time:	Location:	Subject:
9:30 - 10.00	**Ministry of justice**	-Word of welcome - Presentation of evaluation group
10:00 - 12:30		- Overview of the role of Ministry of justice (General outline of the organization) - Introduction of the Slovenian justice system (Overview of the current legislation)
12:30 - 13:30		- Lunch
14:00 - 17:00	**Office of the State Prosecutor General**	- Overview of the role of State Prosecutor Office - Presentation on the Public prosecution service and financial investigation - Practical case presentation

Wednesday, 30. November

Time:	Location:	Subject:
9:00 -10:00	**Ministry of finance**	- Overview of the role of the Ministry of finance (Overview of the current legislation)
11:00 - 12:00	**Customs Administration Office**	- Overview of the role of Customs Administration Office
12:00 - 13: 00	**Tax Administration Office of the Republic of Slovenia**	- Overview of the role of the Tax Administration Office of the RS

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13:00 - 14:00	Lunch	
14:00 - 17:00	**Office for Money Laundering Prevention**	- Overview of the role of the Office for Money Laundering Prevention

Thursday, 01 December

Time:	Location:	Subject:
09: 00 - 11.00	**Police**	- Overview of the role (General outline of the organization) - Introduction of the Slovenian Police organization (Overview of the current legislation)
11:30 - 13:00	**Criminal Police Directorate**	- Overview of the role - Sector for International police Cooperation - Practical case presentation
	National Bureau of Investigation (NBI)	- Overview of the role
12:30 - 14:00	Lunch	
14:00 - 15:00	**Debriefing**	
15:30	**Departure to the airport**	

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ANNEX B: LIST OF PERSONS INTERVIEWED/MET

Ministry of justice

Andreja LANG
Peter PAVLIN
Saša JEVŠNIK KAFOL
Primož ŠTRANCAR
Helmut HARTMAN

Office of the State Prosecutor General

Mirko VRTSČNIK
Stanislav PINTAR
Matija HOSTNIK

Ministry of finance

Aleš BUTALA
Janja CINGERLA
Andrej LAMPE

Customs Administration Office

Ines VODOPIVEC
Petra JEGLIČ
Matjaž MUROVEC

Tax Administration Office

Ivo KOROŠEC
Darinka PALČAR

Office for Money Laundering Prevention

Damjan REŽEK
Leo PONGRAČIČ
Maja CVETKOVSKI

Police

Simon GOLUB
Lilijana OBREZA

National Bureau of investigation (NBI)

Maja VEBER ŠAIN

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ANNEX C: LIST OF ABBREVIATIONS/GLOSSARY OF TERMS

ACRONYM ABBREVIATION TERM	ACRONYM IN THE ORIGINAL LANGUAGE	ENGLISH TRANSLATION/EXPLANATION
AMO	-/-	Asset Management Office
ARO	-/-	Asset Recovery Office
AWF	-/-	Europol's Analysis Work Files
AWF Smoke	-/-	Europol's Analysis Work Files - Illicit Tobacco Trade
CARIN	-/-	Camden Asset Recovery Inter-Agency Network
AWF Sustrans	-/-	Europol's Analysis Work Files - Suspicious financial transactions
EJN	-/-	European Judicial Network
LIC	-/-	Legal Information Centre
EU	-/-	European Union
NBI	-/-	National Bureau of Investigation
FIU	-/-	Financial Intelligence Unit
GENVAL	-/-	Working Party on General Affairs, including Evaluations
MDG	-/-	Multidisciplinary Group on Organised Crime
MLA	-/-	Mutual Legal Assistance
AJPES	-/-	Agency of the Republic of Slovenia for Public Legal Records and Related Services

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EBR	-/-	European Business Register
OCTA	-/-	Organised Crime Threat Assessment
OLAF	Office européen de lutte anti-fraude	European Anti-Fraud Office
OMLP	-/-	Office for Money Laundering Prevention
ROCTA	-/-	Russian Organised Crime Threat Assessment
SIENA	-/-	Europol Secure Information Exchange Network
SDT	-/-	Specialised State Prosecutor's Office
ZOPNI	-/-	Confiscation of Property of Illicit Origin Act
JIT	-/-	Joint Investigation Teams
STR	-/-	Suspicious Transaction Report

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