



**International Convention for
the Protection of All Persons
from Enforced Disappearance**

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Committee on Enforced Disappearances

**Report submitted by Slovenia under article 29 (1)
of the Convention, due in 2024***

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* The present document is being issued without formal editing.



Abbreviations

DKP (DMC)	Diplomatic mission or consulate Diplomatsko predstavništvo ali konzulat
DPM	State Preventive Mechanism Državni preventivni mehanizem
DZ (FC)	Family Code Družinski zakonik
INTERPOL	The International Criminal Police Organisation Mednarodna organizacija kriminalistične policije
KZ-1 (CC)	Criminal Code Kazenski zakonik
NGO(s)	Non-governmental organisation(s) Nevladne organizacije
POTC	Peace Operations Training Centre Center za izobraževanje in usposabljanje za sodelovanje v mirovnih operacijah in misijah
URSIKS (PARS)	The Prison Administration of the Republic of Slovenia Uprava Republike Slovenije za izvrševanje kazenskih sankcij
ZDru-1 (SA)	Societies Act Zakon o društvih
ZDZdr (MHA)	Mental Health Act Zakon o duševnem zdravju
ZKP (CPA)	Criminal Procedure Act Zakon o kazenskem postopku
ZNPPol (PTPA)	Police Tasks and Powers Act Zakon o nalogah in pooblastilih policije
ZN-1 (NCCPA)	Non-Contentious Civil Procedure Act Zakon o nepravdnem postopku
ZObr (DA)	Defence Act Zakon o obrambi
ZODPol (OWPA)	The Organisation and Work of the Police Act Zakon o organiziranosti in delu v policiji
ZOZKD (CCVA)	Compensation to Crime Victims Act Zakon o odškodnini žrtvam kaznivih dejanj
ZOZKD-B (AA-CCVA)	Act Amending the Compensation to Crime Victims Act Zakon o spremembah in dopolnitvah Zakona o odškodnini žrtvam kaznivih dejanj
ZPLD-1 (TDA)	The Travel Documents Act Zakon o potnih listinah
ZSKZDČEU-1	Cooperation in Criminal Matters with the Member States of the European Union Act
(CCMMSEUA)	Zakon o sodelovanju v kazenskih zadevah z državami članicami Evropske Unije

I. Introduction

1. In 2021,¹ the Republic of Slovenia (hereinafter: Slovenia) ratified the International Convention for the Protection of All Persons from Enforced Disappearance (hereinafter: the Convention) and made a declaration recognizing the competence of the Committee on Enforced Disappearances under Articles 31 and 32 of the Convention. The Convention entered into force for Slovenia on 14 January 2022. In accordance with paragraph one of Article 29 of the Convention, the State Party is required to submit to the Committee on Enforced Disappearances, two years after the entry into force of the Convention, a report on the measures it has received to comply with its obligations under the Convention.

2. In accordance with the Guidelines for Reporting under the International Convention for the Protection of All Persons from Enforced Disappearance,² Slovenia reports below on the implementation of Articles 1 to 25 of the Convention.

3. The competent ministries and agencies, coordinated by the Ministry of Justice were involved in the preparation of Slovenia's First Report on the implementation of the Convention. The draft report was published online and made available for review, comment and amendment to the Ombudsman of the Republic of Slovenia and non-governmental organisations (NGOs). It was approved by the Inter-Ministerial Commission on Human Rights. It was adopted by the Government on 21st November 2024.

Position of the Convention in the legal order of the Republic of Slovenia

4. Pursuant to Article 8 of the Constitution of the Republic of Slovenia,³ laws and other regulations must comply with generally accepted principles of international law and with international treaties that are binding on Slovenia. Ratified and published treaties are directly applicable.

5. As regards the conformity of legal acts, Article 153 of the Constitution of the Republic of Slovenia lays down that laws, regulations and other general acts must be in conformity with the Constitution of the Republic of Slovenia. Laws must be in conformity with generally accepted principles of international law and with valid international treaties ratified by the National Assembly of the Republic of Slovenia, whereas regulations and other general acts must also be in conformity with other ratified international treaties. Particular acts and actions of state authorities, local community authorities, and bearers of public authority must be based on a law or regulation adopted pursuant to law.

II. Implementation of the articles

6. Under the general provisions of the Constitution of the Republic of Slovenia, Slovenia is a democratic republic, a state governed by the rule of law and a social state. In its own territory, Slovenia shall protect human rights and fundamental freedoms.

7. Article 19 (Protection of personal liberty) of the Constitution of the Republic of Slovenia provides that everyone has the right to personal liberty. No one may be deprived of his or her liberty except in such cases and pursuant to such procedures as are provided by law. Anyone deprived of his or her liberty must be immediately informed in his or her mother tongue, or in a language which he or she understands, of the reasons for being deprived of his or her liberty. Within the shortest possible time thereafter, he or she must also be informed

¹ Act ratifying the International Convention for the Protection of All Persons from Enforced Disappearance, (Official Gazette of the Republic of Slovenia [*Uradni list RS*] – International Treaties No 14/21, (Official Gazette of the Republic of Slovenia [*Uradni list RS*] No 173/21)).

² Reporting under the International Convention for the Protection of All Persons from Enforced Disappearance, available at: ced-guide-reporting-part1-web.pdf (ohchr.org).

³ Constitution of the Republic of Slovenia (Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos 33/91-I, 42/97 – UZS68, 66/00 – UZ80, 24/03 – UZ3a, 47, 68, 69/04 – UZ14, 69/04 – UZ43, 69/04 – UZ50, 68/06 – UZ121,140,143, 47/13 – UZ148, 47/13 – UZ90,97,99, 75/16 – UZ70a and 92/21 – UZ62a, available at: <https://pisrs.si/pregledPredpisa?id=USTA1>.

in writing of the reasons why he or she has been deprived of his or her liberty. He or she must be instructed immediately that he or she is not obliged to make any statement, that he or she has the right to immediate legal representation of his or her own free choice and that the competent authority must, on his or her request, notify his or her relatives or those close to him of the deprivation of his or her liberty.

8. The relevant detailed procedural regulation of the substantive area covered by the Convention is set out in the Criminal Procedure Act⁴ (ZKP), while the Criminal Code⁵ (KZ-1) defines the criminal act of “enforced disappearance” as part of crimes against humanity, as well as outside this chapter (as it will be explained in detail below).

Article 1

9. The Constitution of the Republic of Slovenia does not provide for the possibility of derogating from human rights and fundamental freedoms, with the exception of those (similar rights and freedoms) already permitted under the European Convention for the Protection of Human Rights and Fundamental Freedoms (see Article 16 of the Constitution of the Republic of Slovenia).

10. As it will be explained below, the Criminal Code (KZ-1) defines the criminal offence of “enforced disappearance” both as part of “crimes against humanity” (acts that are part of a larger systematic attack against a civilian population) and war crimes (deprivation of a fair trial of a prisoner of war or other protected person, unlawful detention, hostage-taking), and also in the context of the chapter defining offences against human rights and freedoms.

Articles 2 to 6

11. The criminal offence of “enforced disappearance”, as defined in the Convention, is for the first time defined in the Slovenian Criminal Code (KZ-1) as a criminal offence in the context of the criminal offence of “crime against humanity”. Article 101 of the Criminal Code (KZ-1) provides that whoever, inter alia, orders or carries out an enforced disappearance which is part of a larger systematic attack against a civilian population, and which the perpetrator is aware of, shall be sentenced to imprisonment for at least fifteen years.

12. “Enforced disappearance of persons, is defined as the arrest, detention, abduction or any other form of deprivation of liberty of persons by or with the authorisation, support or acquiescence of a State or a political organisation followed by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of those persons, thus removing them from the protection of the law.

13. Some of the circumstances of the criminal offence of “war crimes” may also correspond to particular aspects of enforced disappearance. Article 102 of the Criminal Code (KZ-1) provides that whoever orders or commits war crimes, especially if they are committed as part of an integral plan or policy, or as part of the extensive commission of such criminal offences, namely the following: (1) Grave violations of the Geneva Conventions of 12 August 1949⁶, namely, any of the following acts against persons or property protected under the provisions of the relevant Geneva Convention, among other things:

⁴ Criminal Procedure Act (Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos 176/21 – official consolidated version, 96/22 – Constitutional Court Decision, 2/23 – Constitutional Court Decision and 89/23– Constitutional Court Decision and 53/24 – Constitutional Court Decision, available at: <https://pisrs.si/pregledPredpisa?id=ZAKO362>.

⁵ Criminal Code, Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos 50/12 – official consolidated version, 54/15, 6/16 – corr., 38/16, 27/17, 23/20, 91/20, 95/21, 186/21, 105/22 – ZZNSPP and 16/23, available at: <https://pisrs.si/pregledPredpisa?id=ZAKO5050>.

⁶ Act Notifying Succession to Conventions of the Council of Europe, Geneva Conventions and Additional Protocols on the Protection of War Victims and International Treaties from the Area of Armament Control Whose Depositories Are the Three Major Nuclear Powers, (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No 14/1992).

- (a) Wilfully depriving a prisoner of war or other protected person of the right to a fair and regular trial;
- (b) Unlawful deportation or transfer or unlawful confinement;
- (c) Taking hostages;

shall be sentenced to imprisonment for at least fifteen years.

14. Article 134 of the Criminal Code (KZ-1) defines the criminal offence of “abduction and enforced disappearance” as a criminal offence against human rights and fundamental freedoms without the conditions of a “major systematic attack against the civilian population” or “committed as part of an integral plan or policy, or as part of the extensive commission of such criminal offences”), namely the following:

(a) Whoever abducts another in order to compel him or her or any other person to perform an act or to omit to perform an act or to suffer any harm shall be sentenced to imprisonment for between six months and five years;

(b) Whoever commits an act referred to in the preceding indent against a minor or threatens the abducted person with murder or serious bodily harm shall be sentenced to imprisonment for between one and ten years;

(c) Whoever arrests, detains, abducts or deprives a person of liberty in any other way by or with the authorisation, support or acquiescence of a State or a political organisation followed by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of this person, thus removing him or her from the protection of the law, shall be sentenced to imprisonment between one and eight years;

(d) A perpetrator of an act referred to in indent one or two of this Article who releases the abducted person before the demand that was the motive for abducting the person is satisfied may be sentenced more leniently or his or her sentence may be remitted.

15. The criminal offence in connection with “liability of military commanders and other superiors” is defined in Article 104 of the Criminal Code (KZ-1) as follows:

“(1) A military commander shall be sentenced to imprisonment for between one and eight years for a criminal offence referred to in Articles 100 to 103 or paragraph three of Article 134 of this Code committed by units under his or her actual command and control, for not having correctly performed control over these units and not carrying out all appropriate and required measures within his or her competences to prevent or stop such a criminal offence or for failing to submit the matter to the competent authorities for investigation and prosecution, even though he or she knew his or her units committed or could have committed such a criminal offence in the given circumstances.

(2) Any person who actually acts as a military commander or who actually exercises management authority or supervision in a civilian organisation or company shall be sentenced in the same manner for the actions referred to in the preceding paragraph.

(3) A military commander or person who actually acts as a military commander or who actually performs management duties or supervision in a civilian organisation or company, who should or would have to know that his or her units or other inferiors committed or would commit under the given circumstances criminal offences referred to in Articles 100 to 103 or paragraph three of Article 134 of this Code, shall be sentenced to imprisonment of between six months and five years for the actions referred to in paragraphs one and two of this Article.”.

16. Some aspects of enforced disappearance can also be defined as the criminal offence of “unlawful deprivation of liberty” under Article 133 of the Criminal Code (KZ-1), which also contains a qualifying form for the case where such an act is committed by an official person abusing his or her position or official powers, or where someone is unlawfully deprived of his or her liberty for a period of more than one week, or if he or she does so in a horrific manner.

17. The absolute protection of the right to life under Article 17 of the Constitution of the Republic of Slovenia is clarified by precedent in the decision of the Constitutional Court of the Republic of Slovenia, No up-679/12 of 16 October 2014.⁷

Article 7

18. The penalties for the relevant criminal offences are set out above.

19. Article 49 of the General Part of the Criminal Code (KZ-1) sets out the general rules for determination of sentences applicable to all offences under the Special Part of the Criminal Code (KZ-1). A perpetrator of a criminal offence shall be sentenced within the limits determined for such act by an Act and with regard to the gravity of his or her act and guilt.

20. In determining the sentence, the court takes into consideration all the circumstances that influence the grading of the sentence (mitigating and aggravating circumstances), in particular (open list): the degree of the perpetrator's guilt; the motives for which the act was committed; the intensity of the danger or injury caused to the protected legal value; the circumstances in which the criminal act was committed; the perpetrator's past behaviour; his or her personal and financial circumstances; his or her conduct after committing the act and especially whether he or she provided compensation for the damage caused by the criminal offence; and other circumstances relating to the perpetrator's personality and to the expected effect of the punishment on the perpetrator's future life in the social environment.

21. If the motive for committing the criminal offence was the victim's nationality, race, religion or ethnicity, sex, skin colour, descent, material standing, education, social status, political or other beliefs, disability, sexual orientation or any other personal circumstance, this shall always be taken into account as a mandatory aggravating circumstance. This is how the so-called "hate crime" is transposed into Slovenian criminal law.

22. According to the rules of the general part of the Criminal Code (KZ-1) on mitigation, court may determine a sentence below the prescribed limit or may impose a less severe sentence the offender if the possibility of a mitigated sentence is determined by an Act or if the court ascertains the existence of special mitigating circumstances that justify the imposition of a mitigated sentence.

Article 8

23. Pursuant to Article 95 of the Criminal Code (KZ-1), criminal prosecution and execution of a sentence are not time-barred, inter alia, for the offences referred to in Articles 100 to 105 of the Criminal Code (KZ-1).

24. In accordance with the prescribed sentence for the criminal offence referred to in paragraph three of Article 134 of the Criminal Code (KZ-1), the limitation period for criminal prosecution is twenty years from the commission of the offence.

25. The Criminal Procedure Act (ZKP) provides that anyone may report a criminal offence which is prosecutable *ex officio*, and all state authorities and organisations having public authority shall be obliged to report criminal offences which are prosecutable *ex officio* if they have been informed of them or if they have been brought to their notice in any other way.

26. If grounds for suspicion exist that a criminal offence prosecutable *ex officio* has been committed by an official employed with the police, in the competent authority designated by an act within the ministry competent for defence and vested with police powers in pre-trial proceedings, or by an official vested with police powers in pre-trial proceedings and seconded to a mission abroad, or an official of the Slovene Intelligence and Security Agency or the Intelligence and Security Service of the ministry competent for defence, police officers of the Section for the Investigation and Prosecution of Official Persons Having Special

⁷ Official Gazette of the Republic of Slovenia [Uradni list RS], No 81/14 and OdlUS XX, 39.

Authority (hereinafter: the Special Section) shall be vested with police powers in pre-trial proceedings provided by this Act, and all the powers that may be exercised by the officials referred to in paragraph one of Article 158 of this Act. The police officers of the Special Section shall also exercise these powers in respect of persons who, at the time they committed a specific criminal offence, had the status of an official, but whose status was subsequently terminated. The purpose of establishing the Special Section was to ensure independent, unbiased, timely, transparent, thorough and efficient investigation of the above-mentioned criminal offences, in particular in compliance with the obligation of the State to systematically prevent interference with freedom from torture or cruel, inhuman or degrading treatment or punishment referred to in Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

27. In accordance with Article 158 of the Criminal Procedure Act (ZKP), the powers of the police in pre-trial proceedings shall be vested in the military police "If there are grounds for suspicion that criminal offence in the Slovenian Armed Forces or in the ministry responsible for defence was committed by a military or civilian person employed with the Slovenian Armed Forces or another employee in the defence field, or a person seconded to a mission abroad."

Article 9

28. The rules on territorial jurisdiction in the General Part of the Criminal Code (KZ-1) stipulate that the Criminal Code (KZ-1) shall apply to:

- (a) Any person who commits a criminal offence in the territory of Slovenia;
- (b) Anyone who commits a criminal offence on a domestic vessel regardless of its location at the time of the commission of the act;
- (c) To anyone who commits a criminal offence on a domestic civil aircraft in flight or on a domestic military aircraft regardless of its location at the time of the commission of the act.

29. The Criminal Code (KZ-1) shall apply to any citizen of the Republic of Slovenia who commits a criminal offence abroad. The Criminal Code (KZ-1) shall apply to any foreign citizen who, in a foreign country, commits a criminal offence against the Republic of Slovenia or any of its citizens.

30. The Criminal Code (KZ-1) shall also apply to any foreign citizen who, in a foreign country, commits a criminal offence against a third country or any of its citizens if he or she has been apprehended in the territory of the Republic of Slovenia but has not been extradited to the foreign country. In such cases, the court shall not impose a sentence on the perpetrator that is more severe than the sentence prescribed by the relevant Act of the country in which the offence was committed.

31. The Criminal Code (KZ-1) shall also apply to anyone who commits a criminal offence abroad that, under the relevant international agreements or general legal principles recognised by the international community, is subject to prosecution, regardless of the location where it was committed.

Article 10

32. Article 192 of the Criminal Procedure Act (ZKP) sets out the measures which may be used to ensure the accused person's appearance, eliminate the risk of recidivism and to successfully conduct criminal proceedings. These measures include summons, forced appearance, the accused person's promise not to leave his or her place of residence, restraining orders prohibiting him or her from approaching a specific place or person, reporting to the police station, bail, pre-trial house detention and detention.

33. In deciding which measures referred to in the preceding paragraph should be applied, the court must take into account the conditions defined for individual measures. In selecting the measure, it must also ensure that it does not apply a more stringent measure if the same

purpose can be achieved with a more lenient measure. These measures shall be lifted *ex officio* if the reasons that dictated them cease to exist or if they are replaced by more lenient measures should the relevant conditions arise.

34. If a reasonable grounds for suspicion exist that a particular person has committed a criminal offence, detention against such person may be ordered:

(a) If the person is in hiding, if his or her identity cannot be established or if other circumstances exist indicating the risk of his or her flight;

(b) If reasonable fear exists that he or she may destroy the traces of a crime or if specific circumstances indicate that she or he will impede the course of criminal proceedings by influencing witnesses, accomplices or concealers;

(c) If the gravity of the offence, or the manner or circumstances in which the criminal offence was committed and the person's personal characteristics, his or her former life, the environment and conditions in which he or she lives or some other special circumstances indicate the risk that he or she might repeat the criminal offence, complete an attempted criminal offence or commit a criminal offence.

35. The investigating judge must immediately instruct the person who has been deprived of liberty and has been brought before him or her of his or her rights as a detainee. If the detainee is a foreign citizen, the investigating judge must also inform him or her that the competent body is obliged to notify the consulate of his or her country of his or her deprivation of liberty upon the request of the detainee. The instruction by the investigating judge and the statement of the person deprived of liberty shall be entered in the record. If necessary, the investigating judge shall assist detainee to hire a defence counsel.

36. Detention in surrender or extradition proceedings is also regulated in accordance with the above.

Article 11

37. In connection with paragraph one of Article 11 of the Convention, a relevant clarification is made regarding Article 9.

38. The provisions of the Criminal Code (KZ-1) and the Criminal Procedure Act (ZKP) apply to all offences and to all suspects, regardless of whether they are citizens of Slovenia or foreigners. Article 13 of the Constitution of the Republic of Slovenia provides that in accordance with treaties, foreigners in Slovenia enjoy all the rights guaranteed by this Constitution and laws, except for those rights that pursuant to this Constitution or law only citizens of Slovenia enjoy.

39. In Slovenia everyone shall be guaranteed equal human rights and fundamental freedoms irrespective of national origin, race, sex, language, religion, political, or other conviction, material standing, birth, education, social status, disability, or any other personal circumstance. All are equal before the law (Article 14 of the Constitution of the Republic of Slovenia).

40. The provision of Article 21 of the Constitution of the Republic of Slovenia guarantees respect for human personality and dignity during criminal and all other proceedings and during deprivation of liberty and enforcement of punitive sanctions for all. More specifically, Article 22 guarantees equal protection of rights in all proceedings before the courts (and before other state authorities, local community authorities, and bearers of public authority) that decide on his or her rights, duties, or legal interests.

41. Everyone has the right to have any decision regarding his or her rights, duties, and any charges brought against him or her made without undue delay by an independent, impartial court constituted by law. Only a judge duly appointed pursuant to rules previously established by law and by judicial regulations may judge such an individual (Article 23 of the Constitution of the Republic of Slovenia).

42. In accordance with the provisions of the Constitution of the Republic of Slovenia on the judiciary, the organisation and jurisdiction of courts are determined by law. Extraordinary courts may not be established, nor may military courts be established in peacetime.

43. The Criminal Procedure Act (ZKP) lays down rules to ensure that no person who is innocent shall be convicted and that criminal sanctions shall be imposed on the perpetrator of a criminal offence under the conditions defined in the Criminal Code (KZ-1) and based on due process. Before a final judgment is issued, the liberty and rights of the accused person may only be restricted under the conditions laid down by the Criminal Procedure Act (ZKP). A criminal sanction may only be imposed on the perpetrator of a criminal offence by the competent court constituted by an Act in a procedure to be instituted and implemented in accordance with the Criminal Procedure Act (ZKP).

44. In accordance with the fundamental principles of the Criminal Code (KZ-1), criminal liability in the Republic of Slovenia may be imposed while respecting the human rights and fundamental freedoms constitutionally guaranteed in a democratic order and the principles of the rule of law.

Article 12

45. All of the above-mentioned criminal offences referred to in the Criminal Code (KZ-1), which are relevant for the implementation of the Convention, shall be prosecuted *ex officio*. As mentioned above, the Criminal Procedure Act (ZKP) provides that anyone may report a criminal offence which is prosecutable *ex officio*, and all state authorities and organisations with public authority shall be obliged to report criminal offences which are prosecutable *ex officio* if they have been informed of them or if they have been brought to their notice in any other way.

46. The Explanation in regarding Article 8 also contains the meaning and competences of the Special Section within the Specialised State Prosecutor's Office.

47. The Criminal Procedure Act (ZKP) lays down, inter alia, the necessary powers and means for the effective conduct of investigations, including access to documentation and other information relevant to the investigation.

48. Obstruction of judicial and other state authorities is a criminal offence under Article 286 of the Criminal Code (KZ-1), punishable by imprisonment for up to five years.

49. Slovenia ensures the implementation of the provision of Article 12 of the Convention through the Police Tasks and Powers Act⁸ (ZNPPol). The police shall search for people who are missing and, considering the relevant circumstances, in respect of whom it is possible to assume that they need assistance. The police shall also search for other people when so provided by other laws. When searching for persons, police officers may use service dogs, technical means for photography, video and audio recording, thermal imaging cameras and night vision devices. The police may obtain information on the missing person's communications, surveillance video if the circumstances suggest that the missing person was in a particular area, inspect personal belongings, premises and means of transport used by the missing person for residence or living, inspect data stored on the missing person's computer or other information technology media, obtain the missing person's data on payment transactions from a bank, and issue a missing person alert. The police may access the data stored on the missing person's computer or other information technology medium, obtain the missing person's data on payment transactions from a bank and, in cases where a person close to the missing person does not live in the same household as the missing person, do so on the basis of an order from the investigating judge, if it is necessary to clarify the circumstances of the disappearance and to trace the missing person. The investigating judge shall decide on the measure no later than within 24 hours. Once the person has been found, he or she shall take note of the information gathered. The information gathered may not be

⁸ Police Tasks and Powers Act (Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos 15/13, 23/15 – corr., 10/17, 46/19 – Constitutional Court Decision, 47/19 and 153/21 – Constitutional Court Decision, available at: <https://pisrs.si/pregledPredpisa?id=ZAKO6314>.

used for other purposes. The method of searching for people shall be determined by the Director General of the Police through an internal act.

Article 13

50. The extradition procedure is regulated by the Criminal Procedure Act (ZKP), as well as by bilateral and multilateral international treaties (e.g. the European Convention on Extradition of 13 December 1957 with its four Additional Protocols). The principle of subsidiary application of the law allows the direct application of an international treaty if it deals with certain issues differently from the law. Slovenia does not make extradition conditional on the existence of an international treaty and recognises the offence of enforced disappearance as an extraditable criminal offence.

51. Cooperation in Criminal Matters with the Member States of the European Union Act⁹ (ZSKZDČEU-1) regulates the procedure for surrendering a person to another EU Member State on the basis of a European Arrest Warrant and surrender pursuant to the Council Framework Decision of 13 June 2002 on the European Arrest Warrant and the surrender procedures between Member States.

52. Articles 521 to 536 of the Criminal Procedure Act (ZKP) regulate in detail the conditions for extradition and the extradition procedure. Extradition cases are dealt with as a matter of priority, as they are often cases in which extradition detention is ordered. The Ministry of Justice, as the central authority, forwards the extradition request and extradition documentation to the competent court for decision on the same day it receives it.

53. The extradition procedure is divided into a judicial phase (competent courts) and an administrative phase (minister of justice) and is consequently two-stage. In the first stage, the investigating judge, in the presence of the defence counsel and the public prosecutor, shall hear the requested person and perform, if necessary, other investigative acts to determine if conditions for the extradition of the alien or the conditions for the suspension of the extradition have been met. The conditions for extradition are based on international treaties, the Constitution of the Republic of Slovenia, the Act on Cooperation in Criminal Matters with the Member States of the European Union and the Criminal Procedure Act (ZKP). The judicial part of the extradition procedure is a two-stage procedure, as any appeal against the decision of the court of first instance is decided by the court of second instance. The final decision of the courts that the conditions for extradition are met is followed by proceedings before the Ministry of Justice. Like the judicial part of extradition proceedings, this part of the proceedings is adversarial, as the alien has the right to be heard and to propose evidence to prove his or her allegations. The Minister of Justice does not authorise the extradition if the alien has been granted international protection or if the alien has been convicted or prosecuted of a political or military criminal offence. An extradition request shall also be refused where there is a likelihood that the person whose extradition is sought would be subjected to torture or inhuman or degrading treatment or punishment in the requesting State. The likelihood of the existence of other conventionally or constitutionally protected human rights of the alien in the requesting State may also be a ground for refusing extradition. An alien shall also not be extradited to the Requesting State if there are reasonable grounds for believing that the request has been made with the intention of persecuting or punishing a person because of his or her gender, race, religion, nationality, ethnic origin, political opinion or membership of a particular social group, or if granting the request would be prejudicial to that person for any of those reasons.

54. The Criminal Procedure Act (ZKP) regulates provisional detention and extradition detention, as well as alternative forms of ensuring the presence of the alien during extradition proceedings, such as house detention, bail, reporting to a police station, etc.

55. The Constitution of the Republic of Slovenia prohibits the extradition of its own citizens to third countries. The surrender of Slovenian citizens is possible to other EU

⁹ Cooperation in Criminal Matters with the Member States of the European Union Act, (Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos 48/13, 37/15, 22/18 and 94/21, available at: <https://pisrs.si/pregledPredpisa?id=ZAKO6513>).

Member States on the basis of the Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States and to the International Criminal Court on the basis of the Rome Statute of the International Criminal Court.

56. The Criminal Procedure Act (ZKP) also provides for the possibility of ancillary extradition and a simplified extradition procedure based on the consent of the alien. The Criminal Procedure Act (ZKP) also regulates the seizure of objects which may be used as evidence, or which have been obtained through a criminal offence and which are found in the possession of the requested person at the time of arrest or are subsequently discovered.

57. The Minister of Justice has the power to request extradition or detention from the competent foreign authority if the person is the subject of criminal proceedings or enforcement of the sentence before a domestic court. The request shall be made only at the request of the competent court, which shall also be responsible for the preparation of extradition documents. If extradition to the Republic of Slovenia is granted, it is normally limited by the rule of speciality. The Criminal Procedure Act (ZKP) also regulates the procedure for waiving the right to the rule of speciality, as well as the procedure for obtaining the consent of a foreign State to consent to the criminal prosecution of an alien for other offences or to the enforcement of a sentence or to extradition or surrender to a third State.

Article 14

58. International legal assistance is regulated in Slovenia by the Criminal Procedure Act (ZKP), as well as by bilateral and multilateral international treaties (e.g. the European Convention on Mutual Legal Assistance in Criminal Matters of 20 April 1959, with its two protocols). The provisions of the Criminal Procedure Act (ZKP) are applied in accordance with the principle of subsidiarity, i.e. only in cases where there is no international treaty, or where an international treaty does not regulate certain issues.

59. The Act amending the Cooperation in Criminal Matters with the Member States of the European Union Act (ZSKZDČEU-1) regulates the procedure for international legal assistance between the Member States of the European Union, implementing European legal instruments in domestic law.

60. The central authority for receiving requests for international legal assistance is the Ministry of Justice, and Slovenia is also a State Party to several international treaties that allow direct communication between judicial authorities. The competent authorities for issuing requests for international legal assistance are courts and prosecutor's offices. These judicial authorities are also competent to execute foreign requests for international legal assistance. The competence to execute foreign requests is divided between courts and prosecutor's offices on the basis of their competence in domestic criminal proceedings in accordance with the Criminal Procedure Act (ZKP).

61. The permissibility of the act requested by a foreign authority and the manner of its implementation shall be decided on by the competent national authority in accordance with the international treaty and the law. The request for international legal assistance may be granted if the implementation of the act of assistance is not in contravention to the legislation of the Republic of Slovenia or not prejudicial to its sovereignty and security. The act of assistance may, on the request of the requesting state, be implemented in the manner laid down by the law of that state, if such manner of implementing the act is in compliance with the fundamental principles of domestic criminal procedure.

62. The Criminal Procedure Act (ZKP) also regulates specific forms of international legal assistance, such as referring and resuming criminal prosecution, transfer of execution of sentences, spontaneous exchange of information, etc.

Article 15

63. Slovenia implements Article 15 of the Convention through a number of laws regulating cooperation between Slovenian judicial and police authorities, international courts

and organisations, and the implementation of measures in the Schengen Information System. The Organisation and Work of the Police Act (ZODPol)¹⁰ provides that the Slovenian police cooperate with foreign security authorities and international organisations on the basis of international obligations binding on Slovenia. The police may also cooperate abroad in the performance of police or other non-military tasks at the request of international organisations or on the basis of intergovernmental agreements. The Criminal Procedure Act (ZKP) lays down that requests for legal assistance in criminal matters shall be sent to foreign authorities through diplomatic channels or directly between domestic and foreign authorities if reciprocity applies or if an international treaty so provides. In practice, this means that the Slovenian police cooperate with international authorities in the search for missing persons on the basis of international agreements, conventions and laws that allow for the exchange of information, the secondment of staff and the implementation of measures such as arrest warrants and detentions.

Article 16

64. Extradition of the requested person shall not be granted if there are reasonable grounds to believe that the person would be in danger of being subjected to enforced disappearance in the requesting state. The existence of such grounds is assessed both at the judicial stage of the extradition proceedings and at the administrative stage, when the minister of justice decides whether to allow extradition, on the basis of credible sources concerning respect for human rights in the requesting state, including case law of international and national courts and reports of NGOs.

65. Insofar as a person has lodged an application for international protection in the Republic of Slovenia, he/she may not be deported, refouled, surrendered or extradited to another state until a final decision on his/her application has been taken. A recognised right to international protection, whether in the Republic of Slovenia or in a foreign country, is an obstacle to the extradition of the person to the requesting country.

Articles 17 and 18

66. Slovenia implements a provision of Article 17 of the Convention by ensuring that any detention or deprivation of liberty must be based on legal grounds established by law which ensure that all the provisions of Article 17 of the Convention are respected. The Constitution of the Republic of Slovenia, in its chapter on human rights and fundamental freedoms, provides for the protection of personal liberty. No one may be deprived of his liberty except in such cases and pursuant to such procedures as are provided by law. A person, deprived of his or her liberty must be immediately informed in his or her mother tongue, or in a language which he or she understands, of the reasons for being deprived of his or her liberty, including the right to legal aid and notification of his relatives or those close to him. The Corrigendum to the Police Tasks and Powers Act (ZNPPol) provides that immediately upon the imposition of detention, the person in question shall immediately be informed of the grounds for detention, and advised of his or her rights, including the right to legal assistance by an attorney and to inform his or her closest relatives. Other conditions for arrest and detention of persons are derived from the provisions of the Criminal Procedure Act (ZKP). Legislation on criminal procedure and on cooperation with international organisations in the field of criminal matters stipulates that if the person deprived of his or her liberty so requests, the police or the court must inform his or her family, a person close to him or her or employer within 24 hours of the deprivation of liberty. The competent social security authority must also be informed if action is needed to provide for children and other family members. The arrest warrant shall be reasoned and shall contain the necessary information to establish the

¹⁰ Organisation and Work of the Police Act (Official Gazette of the Republic of Slovenia [Uradni list RS], Nos 15/13, 11/14, 86/15, 77/16, 77/17, 36/19, 66/19 – National Assembly Act (ZDZ), 200/20, 172/21, 105/22 – Act Reducing Inequalities and Harmful Policy Interventions and Ensuring Respect for the Rule of Law (ZZNŠPP) and 141/22 available at: <https://pisrs.si/pregledPredpisa?id=ZAKO6315>.

identity of the person. Long-term deprivation of liberty can only be ordered by a court, and the police can only detain a person for up to 48 hours, after which he or she must be released or brought before an investigating judge. After 6 hours of detention, the police must issue a decision on detention. An appeal against the mentioned decision may be filed with a court during the detention and within three days after the end of the detention.

67. Article 19 (Protection of personal liberty) of the Constitution of the Republic of Slovenia provides that everyone has the right to personal liberty. No one may be deprived of his or her liberty except in such cases and pursuant to such procedures as are provided by law. Anyone deprived of his or her liberty must be immediately informed in his or her mother tongue, or in a language which he or she understands, of the reasons for being deprived of his or her liberty. Within the shortest possible time thereafter, he or she must also be informed in writing of the reasons why he or she has been deprived of his or her liberty. He or she must be instructed immediately that he or she is not obliged to make any statement, that he or she has the right to immediate legal representation of his or her own free choice and that the competent authority must, on his or her request, notify his or her relatives or those close to him of the deprivation of his or her liberty.

68. As regards the regulation of detention in the Criminal Procedure Act (ZKP), explanations are given above, under Article 10 of the Convention.

69. In addition, detention must be ordered by the investigating judge of the competent court upon the motion of the state prosecutor. Motions for ordering and extending detention must be duly reasoned.

70. Detention shall be ordered by a written ruling in which the investigating judge must state the specific grounds for the reasonable suspicion that the person committed the criminal offence in question, explain the relevant facts and indicate why the ordering of detention in the specific case is indispensable to ensure the safety of people or the conduct of the proceedings.

71. The ruling on detention shall be served on the person to whom it refers at the time when such person is deprived of liberty, and in any case within forty-eight hours of his or her deprivation of liberty or of the time when the person was brought before the investigating judge (paragraphs one and five of Article 157). The file must indicate the hour when the person was deprived of liberty and the hour when the order was delivered to him or her.

72. In addition, the Criminal Procedure Act (ZKP) also lays down provisions on the execution of detention. In pre-trial criminal proceedings, the detainee's personality and dignity must not be interfered with. The detainee must be treated in a humane manner and his or her physical and mental health must be protected. Only such restrictions as are necessary to prevent the flight of the detainee or contacts that could adversely affect the successful implementation of the proceedings may be used against the detainee.

73. A detainee may be admitted to a facility in which detention is served only on the basis of a written ruling of the court ordering his or her detention.

74. The Prison Administration of the Republic of Slovenia maintains, for the purpose of lawful and correct enforcement of pre-trial detention and the protection of human rights and fundamental freedoms of detainees, and the notification of victims of the release and escape of detainees, databases on detainees and injured parties for each particular prison facility and process the personal data contained therein.

75. All criminal offences referred to in the Civil Code (KZ-1), which are relevant for the implementation of the Convention, are prosecuted *ex officio*. Under the provisions of the Criminal Procedure Act (ZKP), any person may report an offence that is being prosecuted *ex officio*.

76. The Ombudsman of the Republic of Slovenia (*inter alia*) also deals with individual cases (initiatives) relating to all forms of deprivation of liberty, to police proceedings and the work of the courts, and other proceedings. The Ombudsman of the Republic of Slovenia also reports on its work each year in an annual report, which is submitted to the National Assembly of the Republic of Slovenia for its consideration and published on the Ombudsman's website.

Articles 19 and 20

77. As regards the purpose of the collection of personal data, explanations are given above, under Articles 17 and 18 of the Convention.

78. Pursuant to the Criminal Procedure Act (ZKP), a detainee shall be admitted to a facility in which detention is served on the basis of a written ruling on detention. A person deprived of liberty under Article 203 of the Criminal Procedure Act (ZKP) may be admitted to a detention facility only on the basis of a written ruling. After forty-eight hours have elapsed, the detained person shall be released if the court has not ordered detention. The competent court shall be notified of the release by the detention facility.

79. In accordance paragraph two of with Article 210 of the Criminal Procedure Act (ZKP), the detention facility may also admit a detainee without a written ruling, but the competent court shall be obliged to send to the facility a written ruling on detention within twenty-four hours of the detainee's arrival at the facility. In such a case, the responsible employee of the detention facility must make an official note indicating the competent court that requested the admission, and the date and time of the detainee's admission to the facility. In this respect, Article 9 of the Rules on the Execution of Detention¹¹ provides in detail that in the case referred to in paragraph two of Article 210 of the Criminal Procedure Act (ZKP), where the investigating judge is unable to issue a ruling on detention within the prescribed time limit due to a delay in bringing the person before him or her, the detainee shall be admitted to a detention facility without a written ruling on detention, and the investigating judge shall send the ruling on detention to the facility as soon as it is issued.

80. In addition, paragraph three of Article 157 of the Criminal Procedure Act (ZKP) (deprivation of liberty without a court decision) and paragraph one of Article 203 of the Criminal Procedure Act (ZKP) (ordered detention) provide that a person deprived of liberty who is a foreign national must also be informed that the competent authority is obliged, at his or her request, to inform the diplomatic mission or consulate of his or her country of his or her deprivation of liberty. In the latter case, the instruction by the investigating judge and the statement of the person deprived of liberty shall be entered in the record. This is particularly important if the diplomatic mission or consulate asks the Prison Administration of the Republic of Slovenia (URSIKS) for information on detainees who are their nationals and are being held in one of the facilities.

81. Point 4 of Article 213b of the Criminal Procedure Act (ZKP) defines that detainee shall be allowed to correspond or have other contacts with persons outside the prison. If so required by the reasons for which detention was ordered, the investigating judge may, upon the motion of the state prosecutor, order the surveillance of letters and other postal items, as well as of other contacts of the detainee with persons outside the prison, by a written ruling. The investigating judge may prohibit the detainee from sending and receiving letters and other postal items or establishing contacts which might impair the proceedings but may not prohibit him or her from sending a request or a complaint. An appeal against this ruling shall not stay its execution.

82. Article 51 of the Rules on the Execution of Detention provides that the detainee may use the detention facility's telephone at his own expense to contact persons outside the facility. The house rules of the detention facility shall determine the times during which the telephone may be used and the duration of the telephone conversation. If the investigating judge orders control of a detainee's telephone conversations, the investigating judge shall also define the method and extent of the control. A detainee must be informed in advance about the method and extent of the telephone and conversation control.

83. As a rule, close relatives may visit a detainee once a week. The house rules of the detention facility may provide for more frequent visits by close relatives of the detainee, but not more than three visits a week. Close relatives are a spouse or partner in cohabitation, direct blood relative, adoptive parent, adoptive child, brother, sister, foster parent and

¹¹ Rules on the Execution of Detention, (Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos 36/99, 39/02, 114/04, 127/06, 7/07, 112/07, 62/08, 16/09 and 41/17, available at: <https://pisrs.si/pregledPredpisa?id=PRAV1028>.

guardian. At the request of the detainee, the competent court may also allow other persons to visit. No more than three visitors may visit the detainee at the same time, unless spatial conditions of the premises allow for a greater number of visitors.

84. For the purpose of lawful and correct enforcement of detention and in order to ensure safety in detention, the protection of human rights and fundamental freedoms, the notification of victims of the release and escape of detainees, supervisions, enforcement of court decisions and cooperation with the police and state prosecutor's offices in compliance with the law, the Prison Administration of the Republic of Slovenia (URSIKS) manages the Central Records of Detainees of the Republic of Slovenia for all prisons and processes the data therein. Article 211 of the Criminal Procedure Act (ZKP) defines that the Prison Administration of the Republic of Slovenia shall manage databases on detainees and injured persons for each particular prison facility and process the personal data contained therein. The database shall comprise:

- (a) Information concerning the identity of the detainee and his or her psycho-physical condition (including information on his/her general state of health at the time of admission to detention and any disability);
- (b) Information concerning the ruling on detention;
- (c) Information on the work performed during the detention period;
- (d) Information on the minor's involvement in educational, training or other programmes;
- (e) Information on admission to detention and the duration, extension and/or lifting of detention (date and time of admission to detention; time of service of the ruling on the detainee; information on the ruling on the extension of detention; information on the ruling on the termination of detention; date and time of release from detention);
- (f) Information on the behaviour of the detainee and on any disciplinary measures taken;
- (g) Information on the persons with whom the detainee is allowed to have contact (personal name and permanent or temporary residence address of these persons and telephone numbers);
- (h) Information on the injured party that requested notification of the release and escape of the detainee.

85. Article 17 of the Rules on the Execution of Detention provides that the database on detainees shall comprise a Register, a personal file and the Central Records. Only the data covered by the new identity shall be recorded in connection with the protected person in respect of whom a change of identity measure has been imposed under the law governing the protection of witnesses. The Prison Administration of the Republic of Slovenia (URSIKS) shall collect personal data for the databases on detainees directly from the detainee to whom they refer and shall collect such data from other persons only subject to the detainee's written consent. Notwithstanding the provision of the preceding sentence, data on detainees shall, wherever possible, be collected from judicial bodies, the police and other state bodies and public institutions. The Prison Administration of the Republic of Slovenia (URSIKS) shall collect personal data referred to in points 1 to 6 of paragraph two of Article 211 of the Criminal Procedure Act (ZKP) directly from the detainee to whom they refer and shall collect such data from other persons only subject to the detainee's written consent. Notwithstanding the provisions of the preceding sentence, data on detainees shall, wherever possible, be collected from judicial bodies, the police and other state bodies and public institutions. For the databases on persons referred to in point 7, the Prison Administration of the Republic of Slovenia (URSIKS) shall collect personal data from the detainee or directly from the persons to whom the data relate, and for the databases on the injured party referred to in point 8, the data shall be collected from the police, the state prosecution service, social work centres and courts (paragraph four of Article 65a), or directly from the injured party.

86. The data contained in the database shall be processed for as long as the detention lasts; after the detention is lifted, the data shall be archived and stored for 10 years at the Prison Administration of the Republic of Slovenia (URSIKS), after which they shall be deleted. The

Prison Administration of the Republic of Slovenia (URSIKS) as the operator of the database on detainees and injured parties referred to in paragraph two of Article 65a the Criminal Procedure Act (ZKP) shall transmit the data from this database to users who, in compliance with the law, need such data in order to make decisions in proceedings, or subject to the written consent or request of the person to whom such data refer. The records shall be managed using information technology. Data on detainees who serve a prison sentence or a sentence of juvenile imprisonment after their detention shall continue to be stored and processed in a database in accordance with the Enforcement of Criminal Sanctions Act regulating the storage and processing of data on convicted persons serving a prison sentence and persons serving a sentence of juvenile imprisonment. On the proposal of the Director-General of the Prison Administration of the Republic of Slovenia (URSIKS), the minister responsible for justice shall prescribe detailed rules on the management and processing of the data contained in the Central Records of Detainees of the Republic of Slovenia.

Article 21

87. In accordance with Article 20 of the Constitution of the Republic of Slovenia, a person reasonably suspected of having committed a criminal offence may be detained only on the basis of a court order when this is absolutely necessary for the course of criminal proceedings or for reasons of public safety.

88. Upon detention, but no later than twenty-four hours thereafter, the person detained must be handed the written court order with a statement of reasons. The person detained has the right to appeal against the court order, and such appeal must be decided by a court within forty-eight hours. Detention may last only as long as there are legal reasons for such, but no longer than three months from the day of the deprivation of liberty. The Supreme Court may extend the detention for a further three months. If no charges are brought by the end of these terms, the suspected person shall be released.

89. The Criminal Procedure Act (ZKP) also provides for appropriate judicial review and the extension of detention on the basis of a court decision, if the conditions for this are met.

90. For additional explanations, see also the explanations to Articles 10, 17 and 18 of this Convention.

91. Detention shall last the shortest possible time. Paragraph three of Article 200 of the Criminal Procedure Act (ZKP) provides that detention shall be lifted at any time during the proceedings as soon as the reasons for detention cease to exist. Paragraph four of the same Article determines that an appeal against the ruling on detention, extension or termination of detention shall be filed within three days of the service of the ruling, except where otherwise provided by the provisions on detention.

92. The investigating judge may lift detention during the investigation in agreement with the state prosecutor, if the proceedings are conducted at his or her request, unless he or she is lifting detention due to the expiry of the period allowed for detention or because the state prosecutor has discontinued the prosecution. If the investigating judge and the state prosecutor cannot reach an agreement, the investigating judge shall request that the panel decide on the matter, and the panel must take the relevant decision within forty-eight hours (Article 206 of the Criminal Procedure Act (ZKP)).

93. The panel shall decide on detention during the period from the filing of the indictment until the issuing of the judgment by the court of first instance (Article 207 of the Criminal Procedure Act (ZKP)), unless the accused person is in detention and an extension of detention is not requested at the time of the filing of the indictment. In this case, the president of the panel shall decide and issue a ruling lifting the detention without delay (paragraph three of Article 272 of the Criminal Procedure Act (ZKP)).

94. After the pronouncement of the judgment, the panel shall decide on detention, always lifting detention and ordering that the defendant be released if the state prosecutor did not request the extension of detention before the pronouncement of the judgment, if the defendant was acquitted of the charge or if he or she was found guilty but his or her sentence was remitted, if he or she was only sentenced to a fine or a judicial admonition or suspended

sentence was imposed, or if due to the deduction of the time spent in detention, the sentence was already served, or if the charge was rejected or the indictment was dismissed.

95. After the proclamation of the judgment and until the judgment becomes final, or until the sentence starts to be served, the panel of the first instance court shall decide on the ordering or lifting of detention, whereby detention shall be lifted *ex officio* or on the motion of the parties after hearing the opinion of the state prosecutor, if the proceedings were initiated at his or her request (Article 361 of the Criminal Procedure Act (ZKP)).

96. The release of a detainee is also governed by the Rules on the Execution of Detention, which state in Article 65 that a prison may release a detainee only on the basis of a written ruling lifting the detention. The detainee must be released immediately upon receipt of the ruling lifting the detention. The prison shall inform the authority that issued the ruling lifting the detention of the time of the detainee's release. The following shall be entered in the detainees' register under the appropriate heading: the court which issued the order lifting the detention, the number, date and time, and the month and year of the detainee's release. In addition to the authority referred to in the preceding paragraph, the prison shall inform the unit of the time of release of the protected person.

97. Exceptionally, a detainee may be released on the basis of a telephone order from the competent court. Such a telephone order must be verified by the prison before the detainee is released therefrom. An official record of the release of the detainee from the prison shall be drawn up by an authorised employee of the prison. In the latter case, the competent court shall deliver the ruling lifting the detention to the prison within 24 hours.

Article 22

98. Article 22 of the Constitution of the Republic of Slovenia provides that everyone shall be guaranteed equal protection of rights in any proceedings before a court and before other state authorities, local community authorities and holders of public authority that decide on their rights, duties or legal interests.

99. The court may not base its decision on evidence obtained in violation of human rights and basic freedoms guaranteed by the Constitution, nor on evidence obtained in violation of the provisions of the criminal procedure and which under this Act may not serve as the basis for a court decision, or which has been obtained on the basis of such inadmissible evidence (Article 18 of the Criminal Procedure Act (ZKP)).

100. Substantial violations of the provisions of criminal procedure are also determined in Article 371 of the Criminal Procedure Act (ZKP).

101. On an appeal against a judgment of the court of first instance, the court of second instance shall examine that part of the judgment which is challenged by the appeal. The court of second instance shall by a ruling grant an appeal and set aside the judgment of the court of first instance, or set it aside *ex officio* and remand the case for a new trial if it finds that there exists a substantive violation of the criminal procedure provisions, or if it considers that a new main hearing before the court of first instance should be held because of the erroneous or incomplete determination of the facts of the case. The court of second instance shall, by a ruling, set aside the judgment of the court of first instance even though the judgment is not challenged on the grounds of erroneous or incomplete determination of the facts, if, in determining the appeal, serious doubts arise about the veracity of the relevant facts determined in the judgment, wherefrom the court infers that the facts of the case were erroneously or incompletely determined to the prejudice of the defendant.

102. The abuse of office or official duties is a criminal offence pursuant to Article 257 of the Criminal Code (KZ-1). An official or public employee who, with the intention of procuring any non-material benefit for him- or herself or another person, or of causing damage to another person, abuses his or her office or exceeds the limits of his or her official duties or fails to perform his or her official duties, shall be sentenced to imprisonment for up to two years. An official or public employee who, with the intention of procuring illegal proceeds for him- or herself or for another person, abuses his or her office or exceeds the

limits of his or her official duties or fails to perform his or her official duties, shall be sentenced to imprisonment for between three months and five years.

103. Pursuant to Article 258 of the Criminal Code (KZ-1), the criminal offence of unconscientious performance of work is committed by an official or public employee who consciously violates Acts and other regulations or fails to exercise due supervision or otherwise performs his or her duties in an unconscientious manner, even though he or she understood or should and could have understood that such conduct might result in a serious violation of the rights of another person or in major damage to public goods or in major damage to property, and such a violation or damage actually occurs, shall be punished by a fine or imprisonment for up to three years.

Article 23

104. Slovenia ensures the implementation of Article 23 of the Convention through the provisions of the Constitution of the Republic of Slovenia, which guarantee the protection of personal liberty (as explained above, under Articles 17 and 18 of the Convention).

105. All police officers must be familiar with the Notice and Order of the Director General of Police, No. 561-5/2021/8 of 13 May 2022, which is published and accessible to all police officers on the Police intranet.

106. The Notice and Order covers a range of criminal offences derived from the Convention and transposed into the Criminal Code (KZ-1), which may include conduct by police officers, the prohibition on giving orders or instructions ordering, permitting or encouraging enforced disappearance, and a reference to Article 5 of the Act Amending the Police Tasks and Powers Act (ZNPPol-B), which provides that a police officer must refuse to carry out an order or warrant if it is obvious that by doing, he or she so would commit a criminal offence. The police officer shall immediately inform the internal organisational unit of the police responsible for internal security or another competent state authority of the refusal. A police officer who refuses to comply with such an order or warrant shall not be punished in any way.

107. The content has also been made known to police officer candidates as part of their regular studies for the police officer profession. The text of the Convention is included in the training, i.e. in the lectures on substantive criminal law, during the presentation of international criminal law, in the part relating to criminal offences that the police are confronted with in dealing with international crime. The said subject of the protection of human rights and fundamental freedoms in police procedures is also a compulsory subject of the training and advanced training that police officers are required to attend periodically (regularly).

108. In Slovenia, restrictions on the right to movement in the healthcare area are only permissible in specially supervised wards in psychiatric hospitals in accordance with the Mental Health Act¹² (ZDZdr) and following a procedure before a court which verifies compliance with the conditions laid down in that Act. Article 61 of the Mental Health Act (ZDZdr) provides that the court shall initiate the procedure for involuntary admission when it receives the relevant notification from the director of the psychiatric hospital or when it is informed thereof in another way. This means that all involuntary detentions in wards under special supervision of a psychiatric hospital are decided by the court.

109. On the basis of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Slovenia also has in place a system of regular (preventive) visits by independent international and national bodies to places where people are deprived of their liberty, with a view to preventing torture and other cruel, inhuman or degrading treatment or punishment. The Ombudsman of the

¹² Mental Health Act, Official Gazette of the Republic of Slovenia [*Uradni list RS*] No 77/08, 46/15 – Constitutional Court Decision, 44/19 – Constitutional Court Decision, 109/23 and 136/23 – ZIUZDS, available at: <https://pisrs.si/pregledPredpisa?id=ZAKO2157>.

Republic of Slovenia performs the tasks of the State Preventive Mechanism (hereinafter: DPM) in Slovenia. In his or her capacity as DPM, the Ombudsman visits all places of deprivation of liberty (designated as such by the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment) in Slovenia in order to verify the treatment of persons deprived of their liberty, with a view to strengthening protection against torture and other cruel, inhuman or degrading treatment or punishment and compliance with the provisions of the Mental Health Act (ZDZdr), as well as with other international obligations. The DPM makes recommendations to the competent authorities, taking into account the legal norms, to improve the situation and treatment of persons and to prevent torture and other cruel, inhuman, degrading treatment or punishment. In this regard, it also makes suggestions and comments on laws in force or those proposed, as provided for in the Optional Protocol. The broad powers of the Ombudsman in the role of the State Preventive Mechanism were also recognised in the Concluding Observations of the UN Committee against Torture in 2023. In 2023, the DPM thus visited 87 places of deprivation of liberty. All (but two of the) visits were unannounced, and eight were monitoring visits (during which the DPM mainly checked on the implementation of recommendations from previous visits). The DPM also reports on its work each year in an annual report, which is submitted to the National Assembly of the Republic of Slovenia for its consideration and published on the Ombudsman's website.

110. The prohibition of giving orders or instructions which order, authorise or encourage enforced disappearance is guaranteed by Article 4 of the Defence Act¹³ (ZObr) and Article 315 of the Service Rules of the Slovenian Armed Forces¹⁴ (hereinafter: the Service Rules), which stipulate that all forms of defence shall be based on and carried out in accordance with accepted international obligations. At the same time, Article 43 of the Defence Act (ZObr) prohibits giving a command, if it is evident that this would constitute the commission of a criminal offence or a violation of the provisions of international law of armed conflict. Enforced disappearance, as a criminal offence defined in Article 101 of the Criminal Code (KZ-1), also constitutes a serious violation of military discipline, in accordance with Article 57 of the Defence Act (ZObr). Pursuant to Article 32 of the Defence Act (ZObr), in conjunction with Article 158 of the Criminal Procedure Act (ZKP), enforced disappearances related to the activities of the Slovenian Armed Forces would be investigated by the Intelligence and Security Service.

111. In accordance with Article 35 of the Service Rules, commanders have an obligation to protect the dignity of persons with whom members of the Slovenian Armed Forces come into contact in the performance of their duties. Pursuant to Article 43 of the Defence Act (ZObr) and points 65 and 320 of the Service Rules, a military person may not execute a command which would result in the enforced disappearance of a person if it is evident that by doing so, that person would commit a criminal offence. In accordance with point 65 of the Service Rules, a command to a military person commanding, permitting or encouraging enforced disappearance shall be notified to the superior of the military person who issued the command. The senior superior must inform the superior command thereof, i.e. the General Staff of the Slovenian Armed Forces.

112. In the treatment of persons deprived of their liberty, the Slovenian Armed Forces shall operate in accordance with the Standard Operating Procedure No 12-0004: Treatment of Captured Persons, Material and Documents, which is consistent with the provisions of the International Convention for the Protection of All Persons from Enforced Disappearance.

113. The training of members who may be involved in the detention or treatment of any person deprived of liberty shall be provided through regular training in the following individual military skills relating to the treatment of persons deprived of liberty:

- (a) Knowledge of the Geneva and Hague Conventions (SVV-1-01-002), for all members;

¹³ The Defence Act (Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos 103/04 – official consolidated text, 95/15 and 139/20, available at: <https://pisrs.si/pregledPredpisa?id=ZAKO532>.

¹⁴ Official Gazette of the Republic of Slovenia [*Uradni list RS*] Nos 68/07, 58/08 – ZSPJS-I, 121/21 and 40/23.

(b) Conduct of combat operations under international military law (SVV-2-01-003), for unit leaders;

(c) Control of military unit during the conduct of procedures involving captured enemy personnel and their equipment (SVV-3-17-001), for commanders of units and platoons of the Slovenian Armed Forces.

114. In 2023, in cooperation with the Peace Operations Training Centre (POTC), a two-day interactive training on international humanitarian law was also conducted. The training, which also included topics on the treatment of prisoners of war, was aimed at the trainees of strategic, operational and tactical levels in the Slovenian Armed Forces.

115. Through various education courses and training sessions, officials of the Intelligence and Security Agency are familiarised with their responsibilities based on the Slovene Intelligence and Security Agency Act (Article 40a)¹⁵ and other legislation, with an emphasis on the protection of human rights and freedoms. These topics are also covered extensively for the purposes of the examination concerning the exercise of duties and powers, which Agency officials are required to pass upon employment with the Agency. The Agency plans to incorporate the provisions of the Convention in its future training courses, as this will further contribute to the performance of lawful, professional, and quality work by its officials.

Article 24

116. In accordance with the Criminal Procedure Act (ZKP), the “injured party”, (i.e. the victim), which means a man or a woman, is a person whose personal or property rights have been violated or threatened as a result of a criminal offence. Where a direct consequence of the crime is the death of a person, the spouse or the person with whom he or she lived in extra-marital cohabitation, blood relatives in direct line, his or her adopted child or adoptive parent, his or her brothers or sisters and the persons that he or she supported or was obliged to support shall also be considered injured persons pursuant to this Act. “A person with a special need for protection”, which means an injured person with special needs for protection, means the injured person whose personal or property right has been significantly violated by the criminal offence, but who, owing to his or her personal characteristics or vulnerability, is in need of special protection due to the nature, gravity or circumstances of the crime or the conduct of the accused person or the injured party in pre-trial or criminal proceedings and outside them, in order to protect his or her personal integrity during individual acts in pre-criminal and criminal proceedings. In criminal proceedings conducted for crimes of enslavement and trafficking in human beings, an injured party who is a minor must have, throughout the criminal proceedings, a counsel to ensure his or her rights, particularly regarding the protection of the victim’s integrity during the hearing before the court and the enforcement of pecuniary claims.

117. During the first contact, the competent authority in the pre-trial or criminal proceedings must inform the victim of the manner of providing information on:

- (a) The free medical, psychological and other assistance and support;
- (b) The assistance and measures pursuant to the Act governing the prevention of domestic violence;
- (c) The protective and other measures for ensuring personal safety under the Criminal Procedure Act (ZKP) and the Act governing the protection of witnesses;
- (d) The rights under Article 65 of the Criminal Procedure Act (ZKP) and the right to free legal aid in accordance with the Act regulating free legal aid;
- (e) The prospects of redress in accordance with this Act and the Act regulating crime victims compensation;

¹⁵ Slovene Intelligence and Security Agency Act, Official Gazette of the Republic of Slovenia [*Uradni list RS*] No 81/06 – official consolidated text available at: <https://pisrs.si/pregledPredpisa?id=ZAKO1884>.

- (f) The payment and reimbursement of costs incurred by the injured party in accordance with Article 92 of the Criminal Procedure Act (ZKP);
- (g) The right to interpretation and translation in accordance with this Act;
- (h) The possibility of concealing information on address and residence;
- (i) Contact person of the competent authority for communications about his or her case;
- (j) Any other rights and benefits of importance to the injured party.

118. In order to establish the existence of special protection needs, the police officer shall ask the victim, at the first contact, a number of questions relevant for taking further measures to ensure his or her safety, in order to assess the level of threat, and may also obtain the opinion of the competent social work centre. In cooperation with NGOs, a leaflet was produced presenting all the rights granted to victims of crime under the current legislation. The publication is available in several languages and is accessible online¹⁶.

119. The Compensation to Crime Victims Act (ZOZKD)¹⁷ regulates the right to compensation for victims of intentional acts of violence and their relatives, the procedure for exercising these rights and the bodies that decide and participate in the decision-making process on these rights. In this context, it is important to highlight that by the entry into force of the Act Amending the Compensation to Crime Victims Act (ZOZKD-B) on 27 July 2023, Article 5 of the Compensation to Crime Victims Act (ZOZKD) was deleted, thereby removing the formal condition that victims of crime must be citizens of the Republic of Slovenia or another EU Member State in order to be eligible for compensation. This amendment broadens the eligibility for compensation, which is no longer dependent on the nationality of the victim.

120. Social assistance rights in the Republic of Slovenia include services and measures designed to prevent and eliminate social hardship and problems of individuals, families and population groups. Social assistance services provided by social work centres as public social security institutions are accessible to anyone in social need and in need of help and support and are provided under the conditions set out in the relevant national legislation. Participation in the service is voluntary.

121. The Ministry of Labour, Family, Social Affairs and Equal Opportunities also regularly co-finances various social assistance programmes implemented (mainly) by NGOs, which also provide professional assistance and support to the specific target groups which the social assistance programmes are intended for.

122. The right to freely associate or form associations is governed by the Societies Act¹⁸ (ZDru-1), according to which a society is an autonomous and not-for-profit union initiated by its creators in accordance with this Act, for the purpose of pursuing common interests. Under the Societies Act (ZDru-1), therefore, societies may be established that endeavour to determine the circumstances of enforced disappearances and the fate of disappeared persons, facilitate participation in them and assist the victims of enforced disappearances.

123. In accordance with the provisions of the Convention, Slovenia has set up special commissions to investigate historical events in order to determine the circumstances of enforced disappearances and to clarify the fate of missing persons.

124. On 12 July 2016, a Government Commission for resolving issues of concealed gravesites was appointed, in accordance with the Concealed War¹⁹ Gravesites and Burial of

¹⁶ <https://www.gov.si/teme/pravice-zrtev-kaznivih-dejanj/>.

¹⁷ Compensation to Crime Victims Act (Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos 101/05, 114/06 – ZUE, 86/10 and 76/23, available at: <https://pisrs.si/pregledPredpisa?id=ZAKO4264>.

¹⁸ Societies Act, (Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos 64/11 – official consolidated text and 21/18 – ZNOrg, available at: <https://pisrs.si/pregledPredpisa?id=ZAKO4242>.

¹⁹ Referred to Second World War and the immediate post-war period.

Victims Act²⁰, which regulates the protection and detection of clandestine war gravesites, their marking and registration in the Register of War Gravesites, and the final dignified burial of all victims of war and post-war violence in the territory of the Republic of Slovenia. Each year, the Government adopts the Work Programme of the Government Commission for resolving issues of concealed gravesites and the Financial Work Plan.

125. In accordance with Article 93 of the Constitution of the Republic of Slovenia, the National Assembly may order an investigation into matters of public importance. At its session of 19 June 2024, the National Assembly adopted a decision on the composition and appointment of the Chairperson, Vice-Chairperson, members, and deputy members of the *Commission of Inquiry determining and assessing the factual situation concerning cases of stolen children*, which allegedly occurred in maternity hospitals in the territory of Slovenia between 1965 and 1991.

Article 25

126. As regards compliance with Article 25 of the Convention, the Constitution of the Republic of Slovenia is the guardian against enforced disappearances. It guarantees the protection of personal liberty. No one may be deprived of his liberty except in such cases and pursuant to such procedures as are provided by law. Anyone deprived of his liberty must be immediately informed in his mother tongue, or in a language which he understands, of the reasons for being deprived of his liberty, including the right to legal aid and notification of his relatives or those close to him. In the case of deprivation of liberty of the father, mother or legal guardian, the competent social security authority shall be informed if action is necessary to provide for the children or other members of the family. The Constitution of the Republic of Slovenia provides that parents have the right and the duty to maintain, educate and raise their children, which may be restricted only for such reasons as are provided by law in order to protect the child's interests. Children enjoy special protection and care governed by law and, in the event that parents do not care for their children or if the children are without proper family care, they enjoy the special protection of the State. The Criminal Procedure Act (ZKP) provides that the police or the court must inform the family or some other person close to the person deprived of the liberty of the deprivation of liberty within 24 hours, if the person concerned requests so. The competent social security authority must also be informed if action is needed to provide for children and other family members.

127. The Travel Documents Act (ZPLD-1)²¹ and the Personal Identity Card Act²² provide for the issuance of a passport and an identity card, which have the nature of an identification and travel document for a child as well. The application shall be made by the legal representative and, in order to prevent the alienation of the child by one of the parents, the consent of both parents shall be required, except in cases where it is presumed that this is not necessary or not possible from the point of view of the protection of the best interests of the child (the child resides at an address identical to that of both parents; the application is made by the parent to whom the child has been entrusted for care and upbringing; the residence of one of the parents is unknown; one of the parents has been deprived of parental responsibility; one of the parents is prevented from exercising parental responsibility). The official is obliged to verify the identity of both the child and the legal representative. Articles 26, 27 and 28 of the Travel Documents Act (ZPLD-1) regulate the refusal of an application for a travel document. This may happen if "criminal proceedings have been initiated against the citizen applying for the travel document, or there are open proceedings in matrimonial disputes and disputes between parents and children, as long as the proceedings are open – if so requested by the competent court; or if a citizen "was at least twice sentenced to imprisonment for the

²⁰ Concealed War Gravesites and Burial of Victims Act, (Official Gazette of the Republic of Slovenia [Uradni list RS], Nos 55/15 and 92/21.

²¹ Travel Documents Act (Official Gazette of the Republic of Slovenia [Uradni list RS], No 29/11, available at: <https://pisrs.si/pregledPredpisa?id=ZAKO1598>.

²² Personal Identity Card Act (Official Gazette of the Republic of Slovenia [Uradni list RS], Nos 35/11, 41/21 and 199/21, available at: <https://pisrs.si/pregledPredpisa?id=ZAKO5758>.

criminal offences of /.../, trafficking in human beings, /.../, conscripting of mercenaries and persons under the age of eighteen years, /.../.”

128. The aforementioned Acts stipulate that a citizen shall not give, sell or lend an identity card to another person. No one shall take, purchase, or use another person’s identity card as his or her own. At the same time, the Act determines that a citizen shall not pledge an identity card or a travel document in order to secure benefits or rights. Other persons shall not take another person’s document in order to secure benefits or rights. According to the Act, data on an identity card or a travel document may not be altered, added to, or deleted. Actions contrary to the above constitute offences punishable by fines.

129. Article 308 of the Criminal Code (KZ-1) regulates the prosecution and punishment of the perpetrator of the criminal offence of supplying any person with forged documents. Its Article 113, referring to the punishment for trafficking in human beings, provides that prosecution and punishment shall also be imposed on anyone who, for the purpose of “exploiting prostitution or other forms of sexual abuse, forced labour, begging, slavery or a relationship similar thereto, servitude, committing criminal offences of trafficking in organs, human tissues /... /” (including minors), keeps, seizes, hides, damages, or destroys an official document proving the identity of victims of trafficking in human beings. Article 259 of the Criminal Code (KZ-1) provides for a penalty for an official who destroys, hides, substantially damages or otherwise renders useless an official document, such as an identity document.

130. Slovenia is also bound by Council Regulation (EU) 2019/1111 of 25 June 2019 on jurisdiction, the recognition and enforcement of decisions in matrimonial matters and the matters of parental responsibility, and on international child abduction (recast).

131. Since 22 March 1994, Slovenia has been a party to the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction. The Convention entered into force on 1 June 1994. The implementing national or domestic legislation is the Act Ratifying the Convention on the Civil Aspects of International Child Abduction.

132. In addition, Slovenia has been a party to the Hague Convention of 19 October 1996 on Protection of Children since 13 May 2004. The Convention entered into force on 1 February 2005. The implementing national or domestic legislation for this Convention is the Act Ratifying the Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children.

133. Slovenia has also ratified the Third Optional Protocol to the Convention on the Rights of the Child, which gives children the right to submit individual complaints to the Committee on the Rights of the Child, which is also useful from the point of view of the implementation of procedures for searching of children who have been unlawfully removed and children who have been subject to enforced disappearance, and seeking solutions for them. This legal framework allows for the physical and legal protection of children *ex durante* and *ex post* in cases of wrongful removal or retention, and provides for legal assistance, including the search, identification and tracing of children who have been subject to enforced disappearance, or children born in captivity to a mother who has been subject to enforced disappearance.

134. As stated above, the international legal framework allows for the widest possible international mutual legal assistance, particularly in the search, identification and tracing of children who have been unlawfully removed or who have been victims of enforced disappearance, or who have been born in the captivity to a mother who has been subjected to enforced disappearance. Searching for missing or removed children is also part of police cooperation in the framework of systems such as SIS II, and at global level in the framework of INTERPOL (The International Criminal Police Organisation).

135. The main legal source in the field of adoption is the Family Code²³ (DZ), which provides only for a full adoption, thus establishing the same relationship between the adoptive

²³ Family Code (DZ) (Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos 15/17, 21/18 – ZNOrg, 22/19, 67/19 – ZMatR-C, 200/20 – ZOOMTVI, 94/22 – Constitutional Court Decision, 94/22 – Constitutional Court Decision, 5/23 in 34/24 – Constitutional Court Decision, available at: <https://pisrs.si/pregledPredpisa?id=ZAKO7556>.

parents and the child as between the parents and their children. The Family Code (DZ) provides that only a child may be adopted (Article 212) - that is, a person under the age of 18, unless he or she has obtained full capacity to contract before that age (Article 5 of the Family Code (DZ)). An adoption cannot be revoked, and the adopters are entered in the civil register as the child's parents. District courts have subject-matter jurisdiction in adoption proceedings.

136. The conditions for adoption and the relationships created by adoption are laid down in in Articles 212 to 222 of the Family Code: Adoption of a child (Article 212), Adoptive parent (Article 213), Prohibition on adopting a relative or a ward (Article 214), Age of adoptive parent and statement of child (Article 215), Eligibility to adopt (Article 216), Adoption by foreign nationals (Article 217), Conditions for adoption of a child (Article 218), Relations between child and adoptive parent (Article 219), Legal consequences of adoption (Article 220), Revocation of adoption (Article 221), and Entering personal data of biological parents and of the adopted child and access to them (Article 222).

137. The procedure for determining the conditions for adoption, which is laid down in the provisions of Articles 223 to 225 of the Family Code (DZ), is an administrative procedure in which the social work centre assesses the eligibility of the applicant(s) (hereinafter: the applicant), i.e. the fulfilment of the conditions for adoption provided in Articles 213, 214 and 215 of the Family Code (DZ), the motives for the adoption and other relevant circumstances that are adoption-related. On the basis of these findings, the social work centre prepares an expert opinion on the applicant, who is assessed before the adoption. The process of assessment of eligibility shall not last for more than one year from the date the application was lodged, as laid down by Article 224 of the Family Code (DZ). After the completion of the assessment procedure, the social work centre issues a decision pursuant to Article 225 of the Family Code (DZ): if it finds that the applicant is suitable to adopt, it grants him/her the status of candidate adopter and shall enter them in the central database of candidate adopters; if it finds that the applicant is not suitable to adopt, the social work centre shall issue a decision refusing them the status of candidate adopter. The applicant may appeal against the decision.

138. For a child in need of adoption, in accordance with Article 226 of the Family Code (DZ), the social work centre selects the most suitable candidate from among all possible candidates and lodges a proposal for adoption with the court. In the selection, the social work centre takes into account the child's characteristics and needs, the candidate's wishes, the expert opinion of the social work centre, the wishes of the biological parents concerning future adoptive parents, and the time of entry in the central database of candidate adopters. The time of entry shall not necessarily be considered when adoption by a certain candidate is in the best interests of the child.

139. The decision on the adoption of a child is a matter for the district courts. In accordance with the Non-Contentious Civil Procedure Act²⁴ (ZNP-1), the procedure for adoption starts on the proposal of a social work centre. In the procedure, the court determines the best interests of the child, including with regard to the selection of the most suitable candidate adopter. In accordance with the provisions of the Family Code (DZ), the court may decide that the child shall spend a certain time in the future adoptive parent's family before taking the decision on adoption in order to establish whether the child and the future adoptive parent will be able to adapt to the new situation and whether the adoption will be in the best interests of the child (placement for the purpose of adoption). If the court establishes that the conditions laid down for adoption are fulfilled, and in particular that the adoption is in the best interests of the child, it issues an adoption decision. If the court establishes that the conditions laid down are not fulfilled or that the adoption would not be in the best interest of the child, it rejects the motion.

140. This procedure does not apply to a unilateral adoption, i.e. if the spouse or civil partner of one of the child's parents wishes to adopt the child; in such a case, the applicant himself

²⁴ Non-Contentious Civil Procedure Act (Official Gazette of the Republic of Slovenia [*Uradni list RS*] No 16/19, available at: <https://pisrs.si/pregledPredpisa?id=ZAKO7879>).

or herself makes an application to the court. In decision-making, the court takes into account the opinion of the social work centre.

141. Judicial legal protection is guaranteed against a court decision within the framework of regular and extraordinary legal remedies.

142. Challenging adoption: Article 230 of the Family Code (DZ) determines that adoption is invalid if the conditions referred to in Articles 212 to 218 of the Family Code (DZ) are not fulfilled.

143. In the field of intercountry adoption: The Republic of Slovenia is a party to the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (Official Gazette of the Republic of Slovenia [*Uradni list RS*] No 14/99 - MP, hereinafter: the Hague Adoption Convention), which establishes minimum standards in the field of intercountry adoption. The central authority within the meaning of Article 6 of the aforementioned Convention in the Republic of Slovenia is the Ministry of Labour, Family, Social Affairs and Equal Opportunities. The objects of the Hague Adoption Convention are:

(a) To establish safeguards to ensure that intercountry adoptions take place in the best interests of the child and with respect for his or her fundamental rights as recognised in international law;

(b) To establish a system of co-operation amongst Contracting States to ensure that those safeguards are respected and thereby prevent the abduction, the sale of, or traffic in children;

(c) To secure the recognition in Contracting States of adoptions made in accordance with the Convention.

144. Since 2008, cooperation between the Republic of Slovenia and the Republic of North Macedonia has also been established in the field of intercountry adoptions, when the Agreement between the Government of the Republic of Slovenia and the Government of the Republic of Macedonia on intercountry adoptions entered into force.²⁵ The central authority in the Republic of Slovenia is the Ministry of Labour, Family, Social Affairs and Equal Opportunities. The objectives of the Agreement are:

(a) To determine conditions and the manner of implementation of intercountry adoptions ensuring that such inter-country adoption is for the benefit of a child and that the adoption procedure respects his or her fundamental rights recognised by national legislation and international acts ratified by the Parties.

(b) To establish a system of co-operation between the Parties to ensure that protective safeguards are respected and thereby prevent the abduction, the sale of, or traffic in children.

145. The principle of the best interests of the child is already defined in the Constitution of the Republic of Slovenia, which states that children shall enjoy special protection and care. The state shall provide protection to children whenever their healthy development is threatened or whenever this is required for their other benefits. Among other things, the Family Code (DZ) regulates relations between parents and their children, measures to protect the best interests of the child and maintenance obligations, adoption, granting of parental responsibility to a relative, foster care and guardianship for children and other adult persons requiring special protection.

146. In its introductory provisions, it also defines the principle of the best interests of the child, which stipulates that parents shall in all their actions concerning children consider the best interests of the child. They shall raise children in respect of their person, individuality, and dignity. Parents shall have priority over any other person concerning responsibility and actions in the best interests of the child. Parents act in the best interests of a child if, considering the child's personality, their age, level of development and aspirations, they adequately satisfy their material, emotional and psycho-social needs, through conduct which demonstrates their concern and responsibility for the child, and provide them with adequate

²⁵ (Official Gazette of the Republic of Slovenia) [*Uradni list RS*], No 15/07 – MP.

guidance and support for their development. In their activities and proceedings, national authorities and public authority holders, local authorities and other natural and legal persons shall act in the best interests of the child. The state shall provide the conditions for the operation of non-governmental organisations and professional institutions for developing positive parenthood (Article 7 of the Family Code (DZ)).

147. In the provisions referring to the measures to protect the child's best interests (the provisions from Article 153 to Article 182), the Family Code (DZ) provides that parents shall have priority over any other person concerning the right and obligation to protect a child's rights and interests; consequently, the State shall adopt measures to protect a child's rights and interests only in cases where parents fail to exercise this right and obligation or exercise them contrary to the child's best interests. Unless otherwise provided by this Code, measures to protect a child's best interests may be implemented until the child gains full capacity to contract. Measures to protect a child's best interests shall be issued by the courts. In deciding on a measure to protect the child's best interests, two restrictions shall be considered:

(a) If the adopted measure is able to provide adequate protection of the child's best interests, such measure should be the least restrictive for the parents in the exercise of their parental responsibility;

(b) If the adopted measure is able to provide adequate protection of the child's best interests, such measure should not seek to take the child away from their parents.

148. A court shall adopt a measure to protect the child's best interests where it establishes that the child is endangered. A child is endangered when they suffer or are very likely to suffer damage, or where the damage or the likelihood of damage is the consequence of action or lack of action of parents or the consequence of the child's psychosocial problems that manifest themselves as behavioural, learning and other difficulties in growing up. The damage shall include damage to the child's physical and mental health and development, and to the child's property.

149. Measures to protect the child's best interests shall be interim injunctions, emergency removal of a child and measures of a more permanent nature. Emergency removal is carried out by the social work centre, while interim injunctions and measures of a more permanent nature are decided by the courts; in the first instance, district courts have jurisdiction. The provisions in Chapter 7.4. of the Family Code (DZ) set out measures of a more permanent nature (provisions from Article 171 to Article 176).

150. In addition, the Family Code (DZ) also regulates general relations between parents and children. In this context, it regulates the substance of parental responsibility, the care and upbringing of the child if the parents no longer live together, contact with the parents, contact with other persons and maintenance of the children. These matters are to be agreed between the child's parents. If parents cannot reach an agreement, a social work centre or, at their request, a mediator, shall assist them to conclude an agreement. If the parents do reach an agreement on these matters, they may propose that a court pass a decree in a non-litigious civil procedure. If the court finds that the agreement is not in the child's best interests, it shall reject the motion. If the parents fail to agree on contacts, the matter shall be decided by a court (the provisions of Articles 138, 140, 141 and 142 of the Family Code (DZ)).

151. In accordance with Article 143 of the Family Act (DZ), in deciding on custody, upbringing and maintenance of a child, contacts, exercise of parental responsibility and attribution of parental responsibility to a relative, a court shall also take into account the child's opinion if it has been expressed by the child or by a person the child trusts and was chosen by the child, provided that the child is capable of understanding its meaning and consequences. In deciding on custody, upbringing and maintenance of a child, contacts, exercise of parental responsibility and attribution of parental responsibility to a relative in the best interests of the child, the court shall consider the opinion of a social work centre, where it is obtained in compliance with the provisions of the Act governing non-contentious proceedings.

152. The rules of court procedure for deciding on the above matters are regulated by the Non-Contentious Civil Procedure Act (ZNP-1), Section 7: *Proceedings for the protection of the best interests of a child* (these are proceedings - on the care and upbringing of a child, the

maintenance of a child, contacts between children and their parents, issues concerning the exercise of parental responsibility which significantly affect the child's development, measures on the protection of the best interests of a child, the placement of a child under guardianship, the placement of a child in foster care, the attribution of parental responsibility to a relative, the adoption and the annulment of adoption of a child).

153. Concerning the obtaining of opinion, Article 96 of the Non-Contentious Civil Procedure Act (ZNP-1) determines that the court shall invite the social work centre to inform, in an appropriate manner, a child who is capable of understanding the meaning of the procedure and the consequences of the decision, of the initiation of proceedings and on their right to express their opinion. Where the child wishes to express their opinion, they can do so at the social work centre or in an interview with the child's advocate who has been assigned to the child in accordance with the Act governing the human rights ombudsman or, with regard to the age and other circumstances, in an informal interview with a judge, which can also take place in cooperation with professionally qualified persons, but always in the absence of the parents. The court shall serve on the child who has already reached the age of fifteen and has expressed their opinion in the proceedings a ruling, against which they may lodge an appeal.

154. Article 182 of the Family Code (DZ) defines the child's right to advocate and states that an advocate shall protect the best interests of the child in procedures and activities that concern the child where the best interests of the child cannot be protected in other, more appropriate ways. Child advocacy is regulated in the Human Rights Ombudsman Act²⁶, according to which the Ombudsman organises and ensures child advocacy. Children's advocacy shall be carried out by children's advocates, who shall form part of a volunteer network ensuring each child equal access to an advocate. The advocate provides professional assistance to a child enabling him or her to express his or her opinion in all procedures and cases the child is involved in and to communicate the child's opinion to the competent authorities and institutions that decide on his or her rights and best interests. Professional assistance consists of psychosocial support provided to the child, conversations about his or her wishes, feelings and opinion, providing information to the child as to procedures and activities in a child-appropriate manner, seeking the best solution together with the child, and accompanying the child before authorities and institutions deciding on his or her rights and best interests. The appointment of an advocate may be proposed by anyone who believes that a child cannot exercise the right to express his or her opinion. If the Ombudsman considers the proposal to be justified, he or she shall obtain the consent of both parents or statutory representative and shall appoint an advocate from the list of advocates. It is not required to obtain the consent of a parent who has been deprived of parental responsibility or who is permanently incapable of expressing his or her will. The consent of parents or statutory representatives shall not be required if a child who has reached the age of 15 consents to the appointment of an advocate. If parents or statutory representatives refuse to give their consent to the appointment of an advocate or if they subsequently withdraw it, the Ombudsman shall send a proposal for the appointment of an advocate to the competent social work centre or court, which shall then appoint one from the list of advocates if it considers that this is in the child's best interest in the procedure before the social work centre or court.

155. As regards the taking into account the child's views, it should be highlighted that Slovenia is a signatory of the Convention on the Rights of the Child, which grants children the right to express their views freely in all matters affecting them and to have their views given due weight in accordance with their age and maturity. In Slovenia, as in other EU Member States, the mechanisms for implementing children's right to participation have been in the process of being put in place in recent years. Between 2021 and 2023, the Ministry of Labour, Family, Social Affairs and Equal Opportunities, under the guidance of the Council of Europe and other participating countries, joined the CP4EUROPE project - Strengthening National Child Participation Frameworks and Action in Europe - as a partner in a European consortium. The main objective of the project was to strengthen opportunities for children's participation in the Council of Europe Member States and to support national activities

²⁶ Human Rights Ombudsman Act (Official Gazette of the Republic of Slovenia) [*Uradni list RS*], No 69/17 – official consolidated text available at: <https://pisrs.si/pregledPredpisa?id=ZAKO300>.

through pan-European action and visibility. The project promoted the use of the Child Participation Toolkit in a wide range of areas and the Handbook on children's participation "Listen – Act – Change", in order to support and develop new models of children's participation at national level.

156. The activities carried out in Slovenia in the framework of the project are:

(a) Strengthening the knowledge and skills of professionals working with children to enable their participation in decision-making processes. Focus groups with professionals working with children, in particular with representatives of NGOs, were set up in the framework of the project;

(b) Strengthening the participation skills of vulnerable groups of children. Focus groups of children were set up in the framework of the subject groups in order to hear children's opinions and to take them into account in the preparation of guidelines for working with children in the field of participation of children in the Slovenian context;

(c) The project's task was also to draft national recommendations for children's participation or cooperation in a wide range of processes.

157. In order to strengthen the principle of children's participation in the field of social protection, the Ministry of Labour, Family, Social Affairs and Equal Opportunities, together with the Social Protection Institute of the Republic of Slovenia, will implement the measure *Establishing and evaluating a system of children's participation in the context of providing additional competences for professionals* in the period between 2024 and 2030. The aim of the measure is to inform children about their right to participation and to ensure their voice in all procedures that directly concern them, as well as to create a supportive environment and to train all those working with children in this area.

158. The following activities will be carried out within the framework of the action:

(a) Carrying out consultations with children to improve their situation, and access to and the quality of services for them;

(b) Carrying out consultations with children with the experience of undergoing proceedings by a social work centre;

(c) Conducting consultations with professional workers on their needs in the area of child participation;

(d) Preparation of a training module and didactic materials/training manuals on child participation for professionals working with and for children;

(e) Conducting training for professionals on children's rights and methods of cooperation with children;

(f) Holding a final consultation at the end of the project;

(g) Formulating public policy proposals on child participation.

III. Conclusion

159. Slovenia is committed to the effective implementation of the Convention, whose objective is to prevent and combat enforced disappearances. We will work constructively with the Committee on Enforced Disappearances in providing further information on the implementation of the Convention as the review mechanism continues.
