

Minor Offences Act

Author:
Miha Dvojmoč



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Abstract An important part of the penal legal system of the Republic of Slovenia is also the Minor offences Act. This governs the rules that define minor offences and determine the procedures and sanctions for them. The fundamental law in this area in Slovenia is the Minor Offences Act from 2003 ("Minor offences Act (ZP-1)", 2003). In the Slovenian legal order, a minor offence is defined as an act that constitutes a violation of the law, a government regulation or a decree of local community. In case of violation of these actions, the minor offence act determines the sanctions - the main sanction for the minor offence is a fine. The script is designed on the basis of a systematic and comprehensive review of minor offence act, which basically consists of two subgroups - substantive and procedural law about minor offences. By reading and studying the script, students will develop the general competence of learning about the fundamental legal institutes of the law on a minor offence, learning about the Slovenian procedural law, they will master the essential institutes of substantive law and develop the ability to analyze, synthesize and anticipate solutions to legal problems. The script is designed to develop the ability to argue one's own points of view and to use knowledge from the field of law on minor offences act in practice.

Keywords: • Minor offence • Minor Offences Act • Substantive law about minor offence • Procedural law about minor offence • sanctions

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Introduction

Minor offences law regulates rules that define minor offence (also now as misdemeanors) and determine procedures and sanctions for them. It is part of the penal system in the Republic of Slovenia. The fundamental law governing this area is the Minor offences Act ("Minor offences Act (ZP-1)", 2003).

We must distinguish between minor offences and felonies. A minor offence is defined as an act that violates a law, a government regulation, or a municipal, decree, where the intensity of the attack on the property itself is less than in the case of a criminal act, in which we are talking about guilt and not just responsibility as in misdemeanor law.

The text is the result of work in practice and teaching in the course "Minor offences Act" at the Faculty of Government and European Studies, New University, and related courses at other faculties and universities.

The essence of the course itself is to acquaint faculty students with the minor offences act itself, understanding the general and fundamental concepts of the law on minor offences, regulation of minor offences, and sanctions for them. The goal is for students to understand that minor offences law includes elements of criminal law and administrative law and to train them for both theoretical and practical work in this field, especially for work in administrative and other state judicial bodies, companies, etc.

With this text, we want to acquaint the students with the concepts of minor offences law, their placement in the historical, legal-systematic, comparative, and European legal context, as well as familiarize them with the fundamental substantive law institutes (for example the expedited minor offences procedure, and with the regular minor offences procedure). The special protection of juveniles in the minor offences procedure itself is also mentioned and explained. Students must develop a critical view of the relationship between the effectiveness of minor offences prosecution and the protection of rights in procedures, applicable legislation, and case law through interpretation.

Miha Dvojmoč, PhD, Ass. Prof.

The Basic Concept of the Minor Offences Act

1 Minor Offence

The fundamental law governing this area is the Minor offences Act ("Minor offences Act (ZP-1)", 2003), which determines:

- general conditions for prescribing offenses and sanctions for them;
- general conditions for liability for minor offences, for the imposition and enforcement of sanctions for minor offences;
- minor offences procedure and
- authorities responsible for deciding on minor offences.

ZP-1 (»ZP-1«, 2003) regulates the comprehensive field of law on minor offences, therefore it has the character of a systemic law.

In Slovenia, a minor offence is an act that constitutes a violation of a law, a government regulation, or a municipal decree, which is defined as a minor offence and for which a sanction for minor offences is prescribed (»ZP-1«, 2003). In addition to criminal law, the law on minor offences is part of the penal legal system of the Republic of Slovenia and one of the components of statehood.

Minor offences as an administrative criminal category are recognized by the theory and jurisprudence of the European Court of Human Rights as criminal cases - cases for which it is necessary to provide standards and guarantees. This is particularly covered by Article 6 of the European Convention for the Protection of Human Rights.

The definition of a minor offences includes three objective elements: formal illegality, specificity, and sanctions. Formal illegality means that an activity or action is considered a minor offence only in certain time and place definitions, which means the physical realization of an individual's decision and will. The action must be carried out as an independent and conscious decision of the individual. Specificity means that minor offence can only be determined by law, regulation of the Government of the Republic of Slovenia, by a municipal decree, and for violation of the provisions of EU legal acts that are directly applicable in the Republic of Slovenia, but not in other legal acts. The third element is the sanctions stipulated by ZP-1 ("ZP-1", 2003). The sanction for each minor offence must be prescribed in the individual regulation that defines the minor offences.

In addition to the objective elements, it is also necessary to take into account the subjective element. There is responsibility for guilt, which must necessarily be given for a sanction to be imposed.

In the act of the minor offence, we do not use the guilt but only speak of responsibility for the minor offence. For someone to be sanctioned for an offence committed, all conditions must be met - and all conditions must be met cumulatively.

2 Dichotomy

Dichotomy means that in our legal system, individual criminal acts can be felonies or minor offences. In the Slovenian legal system, a minor offence can be converted to a criminal offense, but a criminal offense can never be a minor offence. They are classified under criminal or minor offences law according to the nature and gravity of the violation, depending on quantitative and qualitative criteria.

If the perpetrator is legally punished for a minor offence that overlaps with a specific criminal offense, criminal proceedings are no longer allowed. Because of that, authorized officials must be careful when deciding on minor offences, and – in case of ambiguities they must suspend the procedure until confirmation of the suspicion of a criminal act has been committed.

Minor offences are a lighter form of criminal conduct, for which no punishment is imposed. For a minor offence, you can only get a sanction that has a criminal nature (fine, etc.). A minor offence, unlike criminal acts, does not have an element of danger or the necessity of protecting legal values. It is formally defined as a criminal act, that the regulations designate as a minor offence and for which a minor offence sanction is prescribed.

3 Standards and guarantees according to the European Convention on Human Rights

Article 6 of the European Convention on Human Rights - The right to a fair trial says defines:

- In the determination of his civil rights and obligations or any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interests of morals, public order, or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.

- Everyone charged with a criminal offence shall be presumed innocent until proven guilty according to law.
- Everyone charged with a criminal offence has the following minimum rights: (a) to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him; (b) to have adequate time and facilities for the preparation of his defense; (c) to defend himself in person or through legal assistance of his choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require; (d) to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him; (e) to have the free assistance of an interpreter if he cannot understand or speak the language used in court.

Article 7 of ZP-1 ("ZP-1", 2003) states that whoever is accused of a minor offence is considered innocent until his responsibility is established by a final decision.

4 "Analogia legis" in minor offences act

Although ZP-1 ("ZP-1", 2003) is the fundamental minor offences law, "analogia legis" means the meaningful application of other laws in minor offences law if the fundamental law does not regulate these matters itself.

In minor offences proceedings, analogia legis applies as 1) a meaningful application of the principles of criminal and administrative regulation in minor offences, 2) meaningful use of the categories of the Criminal Code ("Criminal Code (KZ-1)", 2008) in minor offences proceedings, 3) a meaningful application of the General Administrative Procedure ("General Administrative Procedure Act (ZUP)", 2006) in expedited misdemeanor proceedings, 4) meaningful use of regular court procedure in expedited minor offences proceedings and 5) meaningful use of the Criminal Procedure Act ("Criminal Procedure Act (ZKP)", 2012) in regular court proceedings.

5 Application of »analogia legis« the principles of administrative and criminal law in expedited minor offences proceedings

- The principle of legality ('lex certa') means that offenses can only be determined by law or regulation based on law. A sanction for a minor offence may only be imposed for an act that was determined in advance as a minor offence and for which a sanction was determined. In addition to the law, minor offences are regulated by municipal decrees;
- The principle of material truth is limited to probability, as the minor offence authorities do not carry out the evidentiary procedure to the same extent as the courts;
- Use of a milder regulation means that regardless of changes in the provisions of the law or regulation that defines the offense, the law or regulation that was in force at

the time when the offense was committed is used, or the one that is milder for the offender is used;

- The principle of presumption of innocence means that everyone is considered innocent until proven guilty by a final verdict;
- The principle of questioning the accused – this has to be used to the extent that ensures the accused person declares the offense in an expedited procedure and states the facts and evidence in his favor;
- The principle "ex officio" or the principle of proposal is limited, since proceedings on a minor offence before a minor offence authority can be initiated ex officio as well as on a written proposal,
- The principle of "one bis in idem" means the prohibition of re-trial on the same matter;
- The principle of speeding up the process (economy);
- The principle of prohibition of abuse of rights;
- The principle of using one's language;
- The principle of mutual legal assistance between authorities.

6 Peculiarities of the applications of principles in regular court proceedings

The same principles apply in regular court proceedings as in expedited proceedings. Their main purpose is that, on the one hand, they enable the systematization of regulations and contribute to a better understanding of them, and are a kind of aid for the interpretation of procedural regulations.

In the regular procedure, the following principles apply additionally, differently and in more detail:

- The principle of legality, which means that there is no offense if there is no prescribed sanction. The sanction applied for the first time should be the lowest if prescribed in the range.
- The principle of material truth has four levels:
 - Certainty – complete conformity of the subjective idea with the existing facts
 - Conviction - no experienced person doubts the reality of a certain fact
 - Probability - when the reasons that speak for the existence of a certain fact are stronger than the reasons that speak against its existence,
 - Doubt – the reasons that speak for the existence of a fact are in balance with the reasons that speak against it.
- The principle of free assessment of evidence applies only to courts and not to minor offences authorities. It is important to note that the system of free evaluation of evidence applies in Slovenia, and otherwise it is such that the court creates a subjective picture of the objective facts about the offense committed in the past. The court is not bound by evidentiary standards.

- The principle of presumption of innocence means that everyone is considered innocent until proven guilty by a final verdict
- Use of a milder regulation means that regardless of changes in the provisions of the law or regulation that defines the offense, the law or regulation that was in force at the time when the offense was committed is used, or the one that is milder for the offender is used;
- The principle of helping an uneducated party means that the ignorance and uneducation of the defendant and other participants must not harm their rights in the minor offences procedure – they need to be warned about the right to appeal.
- The principle of questioning the accused means that he has the right to defend himself in court proceedings.
- The propositional principle is necessary. The regular procedure is started only at the proposal of the authorized proposer and not "ex officio". The court alone cannot introduce it.
- The principle of unity of procedure means that, if the defendant has committed several minor offences with one or more actions, for which a judgment has not yet been issued, but the same court has jurisdiction over all minor offences, only one proceeding will be conducted and one judgment will be issued.
- Principle of publicity – procedural principle in court (exception for juveniles)
- The principle of immediacy means that the verdict is valid only on the evidence and facts that were established and implemented in the minor offences procedure.
- The principle "in dubio pro reo" means that when the court decides on an equally decisive question regardless of whether the fact is given or not, it must always decide in favor of the accused.
- The "ne bis in idem" principle
- The principle of expediting the procedure and the prohibition of abuse of procedural rights
- The principle of using one's language in the procedure
- The principle of uniformity of procedure
- The principle of mutual legal assistance

The substantive law on minor offences determines general rules for minor offences, the rights, and obligations of minor offence authority, and those liable for them. The formal law on minor offences (procedural) regulates authorities' powers and procedures. Procedural or procedural administrative law is dynamic. It precisely defines all the actions of minor offence authorities, courts, and the rights and duties of those liable for minor offences.

Substantive Law About Minor Offences

1 Fundamental provisions

Minor offences can be determined by law, regulation of the Government of the Republic of Slovenia, or by a municipal decree. By a regulation of the Government of the Republic of Slovenia, minor offences and their sanctions may be determined only for violations of the provisions of the regulation and for violations of the provisions of legal acts of the European Union, which are directly applicable in the Republic of Slovenia. By municipal decree offenses and fines may be determined for them only in a certain amount, and only for violations of regulations that they issue within their jurisdiction, and if they are not yet sanctioned by law or regulation.

If, after committing the minor offence, the substantive legal provisions of the law defining the minor offence are changed one or more times, the law that is milder for the offender shall be applied.

An insignificant minor offence is an offence that was committed under circumstances that make it particularly light and in which no harmful consequence has occurred or will not occur. Two conditions must be met, namely, there must be circumstances that make the offence particularly light and that the harmful consequence of the act has not occurred or is not expected to occur.

The main sanction for a minor offence is fine, which can also be replaced by a warning. Side sanctions are:

- penalty points in road traffic with the termination of the validity of the driver's license;
- prohibition on using a driver's license;
- prohibition on driving a motor vehicle;
- expelling a foreigner from the country;
- confiscation of objects;
- loss or limitation of the right to funds from the budget of the Republic of Slovenia and the budgets of the municipality;
- exclusion from public procurement procedures;
- educational measures.

In Slovenia, we also have local validity of the regulations on minor offences, which means that all minor offences that apply in the territory of the Republic of Slovenia are also used against anyone who commits a minor offence on a ship that is registered in a port in the territory of the Republic of Slovenia, or on an aircraft that is entered in the register or records in the Republic of Slovenia, even when they are located outside its territory.

Likewise, the regulations on minor offences in the area of public order and peace, weapons, defense, and the production and trafficking of illegal drugs also apply to members of the Slovenian Armed Forces, the Police, and other officials or civil servants within their framework in Slovenia or abroad.

2 Responsibility for minor offences

Article 9 of ZP-1 ("ZP-1", 2003) defines that the offender who committed the offence negligently or intentionally is responsible for the offence. Likewise, the minor offence regulation may stipulate that the offender is only liable if the offence was committed with intent.

3 Minor offence offender

The offender may be ("ZP-1", 2003):

- Person is any adult in the territory of the Republic of Slovenia (including foreigners), regardless of personal characteristics. He must have legal and business capacity. An integral part of the business capacity is also culpability. Special rules apply to juvenile offenders (they go straight to court).
- Legal entity: any legal entity in the territory of the Republic of Slovenia (including foreign legal entities and their representative offices). It is usually entered in the court or business register, whereby the municipality and the state can commit an offence, but the responsible person for legal entities is responsible for it. The Republic of Slovenia and self-governing local communities are not responsible for a minor offence, but the law may stipulate that the responsible person in a state authority or a self-governing local community is responsible for a minor offence.
- The responsibility of a legal entity is determined by Article 14 of ZP-1 ("ZP-1", 2003):
- A legal entity is responsible for a minor offence committed by an offender in its name or on its account or for its benefit or with its funds in the course of its activity.
- If the perpetrator of the offence cannot be detected or if he is not responsible for the offence, the legal entity is responsible for the offence.
- A legal entity is not responsible for a minor offence if it proves that the minor offence was committed to harm this legal entity, or by knowingly violating the contract based on which the offender performs work or services for a legal entity, or by violating

the instructions or rules of a legal entity that, within the framework of the duty of supervision, has taken all measures necessary to prevent the offense promptly.

Depending on the level of sanctions, ZP-1 uses the nomenclature of companies according to the Companies Act ("Companies Act (ZGD-1)", 2006):

- micro company: up to 10 employees, up to EUR 2 million turnovers, assets up to EUR 2 million,
- small company: up to 50 employees, up to EUR 8.8 million in turnover, EUR 4.4 million in assets,
- medium-sized company: up to 250 employees, up to EUR 35 million turnovers, assets EUR 17.5 million,
- a large company: anything more than medium.

Fines for companies depending on the size of the company.

The responsible person of a legal entity is a person who is authorized to perform work on behalf of, at the expense of, or with the funds of a legal entity, a self-employed individual or an individual performing an activity independently, a state body or a body of a self-governing local community. The person who is previously authorized to carry out mandatory supervision at the aforementioned entity, which can be used to prevent an offence, is also responsible. If the management or supervisory body has several members, each member is individually responsible for the performance of mandatory supervision, unless it can be proven that this responsibility was imposed by a legal act only on individual members or a narrower group of members.

A self-employed person is an individual who performs an activity independently and is responsible for a minor offence committed by the offender while performing their activity under the same conditions as a legal entity. Individuals who carry out an activity (and are not self-employees): detectives and journalists.

4 Stack

If the perpetrator has committed several offenses with one act (ideal stack) or with several actions (real stack) on which a decision or judgment has not yet been issued, and the proceedings are ongoing before the same authority or court, the sanction is first determined for each offence, then, however, all sanctions determined in this way are pronounced as a single sanction.

If sanctions of the same type are determined for minor offences committed in a row, a single sanction is imposed, which is equal to their sum, but the single sanction may not exceed twice the maximum amount of each type of sanction according to ZP-1 ("ZP-1", 2003).

If the circumstances justify it, for the same type of minor offence in a row, for which a single minor offence decision has been issued, a single sanction may be imposed on the offender, which does not reach the sum of the specified sanctions or does not exceed the maximum amount of each type of sanction according to ZP-1 ("ZP- 1", 2003).

The ideal and real stack can also be apparent. This means that there is such a mutual relationship between two or more legal descriptions that it is not a question of several offences, but only one is given. Here, the mutual relationship is specialty subsidiarity (one minor offence is only a preliminary phase of another) or consummation (the more severe form of the minor offence also includes all its milder forms).

There are three rules for imposing sanctions for actions in the stack:

- absorption rule
- asperation rule and
- principle of cumulation

According to the law, the perpetrator can be either a violator or an accomplice.

5 Manner, place, and time of the commission of the minor offence

Manner: The offense may be committed by commission or by omission. *Delicta commissiva v. delicta omissiva*.

Place: employment theory - where the perpetrator worked and ubiquity theory - where the prohibited consequence occurred.

Timing: Which minor offence law applies, taking into account the rule that it is milder to the offender

6 Application of substantive criminal law in minor offences proceedings

ZP-1 ("ZP-1", 2003) summarizes the fundamental institutes of criminal law from KZ-1 ("KZ-1", 2008) and determines the meaningful use of only this, thereby avoiding the duple definitions of the fundamental institutes.

As a criminal act, a minor offence also consists of three basic elements:

- Willingness to act,
- Illegality of conduct,
- Responsibility of conduct.

7 The legality of minor offences

The rule "Nullum crimen nulla poena sine lege praevia" does not apply to minor offences in the same way as in criminal law. Prohibited conduct is not necessarily written in the law ("Lex certa"), it can also be regulated in government regulation or municipal decree (extended meaning of "Lex certa"), but it must necessarily be enshrined in regulation and must contain a sanction for the offense.

The following criminal law rules apply to misdemeanors:

- Lex scripta – minor offence can only be determined by law, regulation of the Government of the Republic of Slovenia, or a municipal decree;
- Lex stricta – descriptions of offenses must be unambiguous;
- Lex certa – the requirement that the offense is specified in the law, Government regulation, or local community decree. The decision on the misdemeanor must be subsequently verifiable based on and with the help of the regulation by which the misdemeanor is determined;
- Lex praveia – prohibition of retroactive validity of a regulation establishing an offence.

Two conditions must be met for the offender to be responsible for the offence - accountability and his attitude towards the act.

8 Willingness to act

8.1 Intention

A) Direct intent (*dolus directus*) is given when the perpetrator is aware of his actions and wants to do it

- Certain intention - *dolus determinatus* - we are dealing with a consequence in exactly the form that the perpetrator intended.
- General intention - *dolus generalis* - the consequence is covered by the intention, but is not precisely defined in terms of form.
- Premeditated intent - *dolus praemeditatus* - the perpetrator deliberately planned, prepared, and executed the offence.
- Impetuous intent - *dolus repentinus* - is given when the perpetrator reacts impetuously and on the spur of the moment, in an instant, and impulsively.
- Colored intent - *dolus coloratus* - when the law requires direct intent for certain conduct, as eventual intent is not sufficient.

B) Eventual intent (*dolus eventualis*) is given when the offender was aware that his conduct could lead to a prohibited consequence, and he consented to it.

8.2 Negligence

Negligence is given when the offender does not act with the necessary care, with which, according to circumstances and personal characteristics, he must and can do something or leave it alone.

- Conscious negligence (*negligentia*) is given when the perpetrator can expect a prohibited consequence but does not consent to it, and the consequence then arises because the perpetrator does not avert it in time out of recklessness (»*Magna negligentia culpa est; Magna culpa dolus est*«).
- Unconscious negligence (*culpa*) is given if the perpetrator, despite the necessary care, causes a prohibited consequence that could have been expected.

8.3 Exclusion of responsibility (unaccountability, error, and illegality)

- Unaccountability is the personal inability of the perpetrator to be responsible (mental illness, mental disorder, retardation); significantly reduced accountability – the offender's ability to understand his actions is reduced due to mental illness/disorder. If the offender causes this condition himself (with alcohol, or drugs), »*actiones liberae in causa*« applies (this means that you made yourself unaccountable. If this is found, you are punished as if you were in a normal state).
- Error means that the offender has no idea or has a wrong idea about a legally relevant fact (factual error) or a legally relevant regulation (legal error)
- Illegality that excludes responsibility can occur in cases of force defense, extreme force, or compulsion.

8.3.1 Force defense

Forced defense is that defense that is unavoidably necessary for the perpetrator to repel a simultaneous and illegal attack from himself or someone else. It is only possible where force is used. The attack must be: real and true, illegal and simultaneous with the defense. The defense must be: simultaneous with the attack, aimed at the attacker, and inevitable to repel the attack.

Exceeding the force barrier is given if all the signs of the force barrier are given, but the offender has exceeded the limits of proportionality between attack and defense.

8.3.2 Extreme force

Extreme force is given when the perpetrator otherwise commits an act with all the signs of a minor offence, to ward off from himself or another a simultaneous uncurved danger to life and bodily integrity, personal freedom, or property, necessary for survival.

In this case, the perpetrator is not guilty if the danger could not be averted otherwise.

8.3.3 Compulsion

Absolute compulsion is a force that cannot be controlled. It occurs when someone uses another as a tool in the service of an offense, with the others will completely disabled. Compulsive compulsion (threats, extortion) is the force that occurs if the offense was committed under the influence (for example, threats) that could have been voluntarily resisted. The act was forced (usually with a threat, but also with the abuse of drugs, hypnosis, etc.)

8.4 Error

An error means that the perpetrator has no idea or has a wrong idea about a legally relevant fact, which is a factual mistake/error, or about a legally relevant regulation, which is a legal mistake/error.

8.5 Sanctions for minor offences

A sanction is given within the limits set by the regulation for the offense committed. Sanction depends on the gravity of the offense itself and the offender's negligence or intent. In doing so, all the circumstances that affect the sanction (lower or higher, depending on mitigating or aggravating circumstances), must be taken into account. Above all, we have to take into account the degree of responsibility of the offender for the offense, the inclinations from which he committed the offense, and the degree of endangerment or violation. The offender's condition and behavior after the offense was committed should also be considered while defining the right sanction. When assessing the fine itself, other conditions of the offender are also taken into account, such as financial situation, salary, other income, property, and family obligations. When it comes to minor offence in the field of taxes, the ratio of the amount of the fine to the amount of the reduced duty must also be taken into account.

Sanctions imposed for a previously committed minor offence cannot be considered an aggravating circumstance. This applies if more than three years have passed from the day the decision or judgment on the minor offence became final (until the commission of the new minor offence of course).

We know four types of sanctions.

8.5.1 A fine

A fine is the main sanction for a minor offence, which may vary from minor offence to minor offence depending on the status of the offender, but is always a monetary amount. The deadline for paying the fine is no less than 8 days (after 8 days it becomes final and cannot be appealed, but +8 days for paying half the fine also applies) and more than 3 months. It is also important to understand that a fine is not the same as a money penalty,

as this is prescribed by other regulations, such as the Criminal Code. Therefore, a fine is an actual payment for a minor offence, which, unlike a monetary penalty, has the property of paying ½ of the fine within 8 days after the decision becomes final. Also, the fine can be prescribed in a fixed amount or a range, and its amount depends on the legal status of the offender. Since 2016, it is also possible to get community service and alternative imprisonment.

8.5.2 Alternative sanctions - warning/alternative imprisonment/ community service

Community service

Community service is given to a worker who, due to his financial situation, cannot pay the fine and the costs of the procedure in the amount of at least 300 euros. Thus, he can propose that the payment of the fine and the costs of the procedure be replaced by work for the general good until (community service). The court approves the replacement of the payment of the fine and the costs of the proceedings with community service for an offender, who would be entitled to regular free legal aid. The scope of community service is determined by the court by determining one hour of work for every 10 euros of fines and costs of the procedure initiated, whereby the ordered work can last a minimum of 30 and a maximum of 400 hours. The deadline by which the work has to be completed must not be longer than six months. If the offender completes the set number of hours of community service in full, the imposed fine and the costs of the procedure are not recovered and the fine is thereby »paid«.

Alternative imprisonment

If the amount of an individual fine or the sum of two or more fines imposed on the offender is at least 1,000 euros, and the fine or fines cannot be recovered, the court shall enforce the sanction of alternative imprisonment by determining one day of imprisonment for every 100 euros of the fine imposed, and the imprisonment may not be longer than 90 days. Only fines imposed by individual payment orders, decisions, and judgments in the amount of at least 300 euros are included in the sum of fines.

If more fines in the amount of less than 300 euros are imposed on the offender and the sum of these fines amounts is at least 1,000 euros, the court shall enforce the sanction by determining one day of imprisonment for every 100 euros of the fine, and the imprisonment may not exceed 30 days.

When the offender serves the alternative imprisonment, the claim from the unpaid fine, which is covered by the decision on the alternative imprisonment, expires. Substitute imprisonment can be enforced until the fine expires.

Warning

A warning is a sanction and not a warning from the minor offence authority or the court may issue for an offence committed under such extenuating circumstances as to make it particularly light. A warning may also be issued if the prescribed obligation was not fulfilled, or damage was caused by the minor offence.

8.5.3 Side sanctions

We have the following side sanctions:

- penalty points in road traffic; in the amount of 1 to 18 points for an offence against the safety of road traffic, with which the risk of serious consequences is caused, or the act causes a harmful consequence,
- termination of the validity of the driver's license and prohibition of the use of the driver's license; if the driver reaches or exceeds 18 penalty points within two years, the court orders the driver's license to expire for all categories of motor vehicles for which he had a license,
- prohibition on driving a motor vehicle;
- expelling a foreigner from the country; the court can order the expulsion of a foreigner if the act has caused a danger of serious consequences or a harmful consequence has occurred -expulsion may be imposed for a period of six months to five years;
- confiscation of objects; items that were used or intended for a misdemeanor may be confiscated, or that resulted from a misdemeanor, loss or limitation of the right to funds from the budget
- loss or limitation of the right to funds from the budget of the Republic of Slovenia and the budgets of a municipality;
- exclusion from public procurement procedures; the court can impose the sanction of exclusion if the perpetrator has committed an offence in the field of public procurement and this sanction is specified in the law, and the main purpose of this sanction is to prevent corruption in public procurement;
- educational measures.

8.5.4 Withdrawal of the property benefit obtained through a minor offence

No one can keep the property benefit obtained by or as a result of an offence. Confiscation of property benefits includes the confiscation of money, objects, and any other property benefit that was obtained through or as a result of an offence. If this is not possible, the offender is ordered to pay a monetary amount corresponding to the acquired property benefit. The property benefit is confiscated according to its value at the time the offence was committed, and the provisions of the Criminal Code apply to the confiscation of the property benefit obtained by other persons through the offence.

8.6 Educational measures and sanctions for juveniles

The educational measures aim to ensure their education and proper development through advice and warnings, protection and assistance to juvenile offenders, and by developing their responsibility. The purpose of other sanctions for juveniles is also to influence juvenile offenders so that they do not repeat offenses, as well as other juveniles so that offenses do not occur at all.

Proceedings for minor offences and sanctions for them may not be conducted against a juvenile who was not yet 14 years old at the time of committing the minor offence and is treated as a child. If an act has all the signs of a minor offence and is committed by a child, the minor offence authority informs the person who is the child's parent, guardian, or the person who is obliged to take care of him. Only educational measures may be imposed on a juvenile who was already 14 years old at the time the offense was committed, but has not yet turned 16 and is treated as a younger juvenile. A minor who was already 16 years old at the time of the commission of the offense, but has not yet turned 18 and is treated as an older juvenile, may only be given educational measures, and exceptionally may be given a fine. In addition to an educational measure or a fine, juveniles may also be given the additional sanctions of confiscation of objects and penalty points in road traffic with the termination of the validity of the driver's license and the prohibition on the use of the driver's license.

The following educational measures may be imposed on a juvenile offender:

- reprimand;
- instructions and prohibitions;
- supervision.

Only one of the measures may be imposed on a juvenile offender. When choosing an educational measure, it is necessary to take into account the juvenile's age, mental development, psychological characteristics, inclinations, the inclinations from which he committed the offense, his previous upbringing, the environment and conditions in which he lived, the gravity of the offense, whether he has already been sentenced to an educational measure or a fine and all other circumstances that affect the achievement of the purpose of the educational measure.

8.6.1 Reprimand

A reprimand is given to a juvenile who does not need to be given another educational measure, especially if he committed an offense due to recklessness. When a reprimand is issued, the juvenile is shown the harmfulness of his behavior and is warned not to commit offenses in the future.

8.6.2 Instructions and prohibitions

The court may issue the following instructions and prohibitions to a juvenile:

- must attend school regularly;
- perform work for the benefit of humanitarian organizations or municipalities;
- take a knowledge test of traffic regulations;
- prohibition of driving a motor vehicle under the conditions under which this sanction can be imposed on adults;
- attend an institution that provides educational, psychological, or other psychosocial assistance;
- personally apologize to the victim;
- settle with the injured party so that the juvenile compensates for the damage caused by the offense by paying from his funds, through work, or in some other way;
- train for a profession or accept a job that corresponds to his knowledge, abilities, and inclination;
- receive treatment in an appropriate health institution;
- participate in social training programs.

All instructions and prohibitions may last for a maximum of six months.

8.6.3 Supervision of Center for social welfare (CSD)

If a juvenile needs professional help and supervision, and it is necessary to have a more permanent influence on his upbringing, re-education, and proper development, the court orders him to be supervised by a social welfare authority. The competent social welfare authority appoints a counselor for the juvenile, who supervises the juvenile, and above all takes care of his schooling, employment, and exclusion from the environment. They also provide necessary treatment and regulation of the conditions in which he lives.

In addition to the supervision of the social welfare authority, the following instructions may be given to the juvenile:

- prohibition on approaching the victim or any other person;
- prohibition of socializing with certain persons;
- prohibition of access/entry to individual places.

The supervision of the social welfare authority may last no longer than one year.

8.7 Imposing educational measures on adult offenders who committed minor offences as juveniles

An educational measure, apart from a supervision measure, can also be imposed on an adult offender for a minor offence they committed as a juvenile if this would be expedient given the nature of the minor offence, his characteristics, and other circumstances. In addition, fines and alternative sanctions may also be imposed.

When assessing the sanction, it is necessary to take into account the principle of individualization as well as mitigating and aggravating circumstances, such as the degree of the offender's responsibility, the degree of endangerment or violation of the insured property, the circumstances in which the offense was committed, and it is also necessary to take into account the previous life of the offender, his circumstances, his behavior after the offense and other circumstances relevant to the assessment of the fine.

8.8 Responsibility of legal entities

We know the following responsibilities of legal entities:

- Joint responsibility of legal entities
- Exclusion of responsibility of a known perpetrator
- Independent responsibility of a legal entity
- Responsibility of the management and supervisory body
- Exculpatory reasons of the legal entity
- Intent to harm a legal entity
- Willful infringement
- Violations of the instructions or rules of the legal entity

9 Statute of limitation for sanction of minor offences

The statute of limitations is an institute of legal security that causes the authority's right to impose a minor offence sanction and/or its execution to expire according to the law. The statute of limitations is the reason for extinguishing the sanction for a minor offence. The authorities must observe the statute of limitations »ex officio«. The statute of limitations begins »ex lege« when the absolute statute of limitations expires.

9.1 Statute of limitation for prosecution of minor offences

Proceedings on minor offence are not admissible if two years have passed since the day when the minor offence was committed.

9.2 Limitation of execution of the sanction

Sanctions for a minor offence may not begin to be enforced if two years have passed from the day when the decision by which the sanction was imposed became final.

Procedural Law About Minor Offences

We know two types of procedures - expedited procedures and regular court procedures, which differ from each other in terms of legal remedies, the procedures themselves, sanctions, decisions, competent authorities and representative bodies, and more.

1 General

General Administrative Procedure Act (»ZUP«, 2006) applies to minor offences regarding jurisdiction, exclusion of officials, language in the procedure, deadlines and hearings, applications, examination of files, decisions and service, etc. It is used directly when determining the authority for minor offences, otherwise, it is used meaningfully.

The ZKP (»ZKP«, 2012) is used in the regular procedure in minor offences regarding the language of the procedure, pleadings and minutes, deadlines, hearings of the accused and witnesses, expert testimony, house, and personal search, seizure, and search of electronic devices and e-data carriers, seizure, and confiscation of objects, storage, and management of confiscated objects, the main hearing and the transfer of local jurisdiction.

The bodies that make decisions on minor offences are:

- Minor offences authorities:
 - Authorized officials with V. level of education
 - Authorized officials with VI. level of education
- District court – court I. level
 - District Judge
- Higher courts – court II. level
 - Penal of three-panel judges

The liable parties and some other participants in the minor offences proceedings are: 1) the violator, who is the person against whom the minor offence proceedings have been initiated before the minor offence authority, 2) the defendant, who is the person against whom an indictment has been filed before the court, 3) the offender, which is a general term for the violator, the defendant and the person who was sanctioned for the minor offence, 4) the injured party, who is the one whose property or personal right was violated or threatened by the minor offence, 5) the petitioner, who is the injured party, state a

prosecutor or a state authority, a holder of public authority or a municipal, and 6) a witness, who is a natural person who detected an offense through personal perception. Decisions in the minor offence procedure are made by minor offence authorities and courts. Offence authorities make decisions regarding decisions (various forms), notices of offences, conclusions, warnings, and the discretionary right (official note). Courts make decisions in judgments (of various forms) and decisions.

2 Regular legal means

As a rule, regular legal means are devolutionary (a higher authority will decide) and suspensive (suspend enforcement).

The regular legal means specified by ZP-1 ("ZP-1", 2003) are:

- Request for judicial protection / expedited procedure
- Announcement of request for judicial protection / expedited procedure
- Objection / expedited procedure
- Proposal to the supervisory authority of the minor offence authority to file an indictment / expedited procedure
- Complaint / regular court procedure

3 Jurisdiction of minor offence authorities

We know real (material), local (territorial), and personal jurisdiction. In jurisdiction, we know the jurisdiction dispute (competence dispute), which can be positive or negative. The body that decides on disputes is determined by law.

4 Expedited procedure – general rules

4.1 Elimination

An authorized official may not make decisions or perform individual actions in the procedure. He must not be a client, co-beneficiary, witness, expert, proxy, or legal representative of the client. Likewise, the party or its legal representative or authorized representative must not be related or have already participated in the procedure at the first instance or participated in decision-making.

4.2 Representation

By law we define:

- Procedural capacity – the full capacity to perform actions
- An adult partially limited in the limits of business capacity
- Juvenile – within the limits of recognized business capacity
- A foreigner - if he has legal capacity according to the regulations of the Republic of Slovenia - he performs actions in the Republic of Slovenia

A legal representative represents a party who does not have the procedural capacity and is determined by law. It performs all procedural actions in the client's name.

A temporary representative represents a client who is procedurally incompetent and does not have a legal representative or is a person who does not have a place of residence in Slovenia and does not have an attorney, but the matter is urgent and the procedure is necessary. A temporary representative represents the client only for the act or matter for which he is designated and for as long as there are reasons, and he also has all the powers of a legal representative.

A joint representative represents persons in cases where two or more persons are involved in the same case. They appoint a joint representative among themselves.

An authorized representative is a person authorized by the customer or a legal representative. He is authorized for all actions except for client statements. The authorized person has a business capacity, he can also be a lawyer or a law firm in which the authorization is given to all lawyers of the company. Is a physical or legal person who performs an activity related to the case. He must be able to work and represent and warn his clients of the harmful consequences.

The professional assistant is not a classic representative and helps the customer by answering professional questions. However, he must be able to do the job, and the official person communicates with the customer.

4.3 Language in procedure

The language of the entire procedure is Slovenian, but in the areas of ethnic communities, it can also be Italian or Hungarian, if the person submits a request in that language or if he requests it.

4.4 Applications

The application must be addressed to the authority in writing, it can also be in electronic form with a secure electronic signature with a qualified certificate, or it can also be in

physical form or verbally on the record. It is addressed to the authority responsible for admission, which must immediately transfer the application to the competent authority. Applications can be submitted every working day during office hours, and electronic applications can be submitted at any time. Written or oral applications are accepted on the record by the authority competent to receive them. If the person is not competent, he must inform the applicant that they are not competent for him and later dismiss this with a decision.

The content of the application must be complete and understandable, it must contain all the information required by special regulations. If the application is incomplete, it is not discarded, but the client is informed of the deficiency. Within 5 working days, a request is issued to supplement the application within the deadline set by the authority. When the application is completed, its filing is considered from the day when the deficiencies were corrected.

If the application is not filed within the specified period, the application is rejected.

4.5 Written record

A written record is taken during hearings, statements of a party, es, and other important actions in the procedure. Official notes are official observations, findings, instructions, notices and circumstances related to the body's work. The written record is dictated by an official and written by the recorder. The content of record itself includes the authority, time and place, every one present, an accurate and brief description and the content of the official act, important statements, the interpreter, and the language into which it was translated.

A written record must be written legibly and correctly. The written record must be read to the parties in the proceedings, or they can read, review and make comments themselves. All comments are entered briefly, the signature of the party and, at the end, of the responsible person is also required. The record is a public document, proof of the course, and the content of the action.

4.6 Serving

Documents can be served by mail, e-mail, through an official person, or a service person or the person can also be invited to the authority if the nature or meaning of the document requires it. Service is carried out electronically when the client communicates his desire for this during the procedure itself or when the authority finds a secure electronic box, otherwise personal service is required. Service is carried out in the person's home or workplace or at a lawyer's office. Service may also take place outside of all these premises if the addressee is willing to accept the document or if he does not have premises where service is possible. Legal entities are served with the document at the registered office.

Personal service is carried out when it is necessary to serve decisions, conclusions, or writings that determine a deadline for a client. It must be delivered personally to the person to whom the mentioned documents are intended. If the documents cannot be served personally, a notice is left in the post drawer, apartment or business premises stating where the person can collect them. Then the person has 15 days to collect them. If it is not collected within 15 days, the 16th day is considered served and the document is left in the house drawer.

Service to a legal representative or authorized representative is carried out in the same way as personal service. Documents are served on the authorized person for service when the client authorizes a certain person to do so. The client must immediately inform the competent authority about the authorized representative, who must immediately send each document to the customer.

When there is a change in the address for service, this must be reported immediately to the authority in charge of the procedure. The document is served to the person at the address for service, exceptionally also at another address, if it is likely that he lives there. The day on which the document or writing was served is considered the day of service. In case of loss of service, service can also be proved by other means.

4.7 Deadline

Expiry of the preclusion period means loss of right (statutory time limits set for parties). The expiration of the instruction deadline has no consequences, but it is possible to request the performance of the action (deadlines set for authorities).

The deadline set by an official or, if so, determined by law, can be extended at the client's request if there are reasons for this. However, some deadlines cannot be extended and are called non-extendable deadlines.

There are also daily deadlines that start the day after service. This deadline cannot be broken, the only exception is when the last day of the deadline falls on a Sunday or a holiday, a work day off, or any other day when there is no work at the competent authority- then the expiration of the deadline is postponed to the next working day. For monthly and annual deadlines, the day that matches the day of service is counted. This day is considered the last day of the month and, as with the daily deadline, there is no possibility of interruption of the deadline. The end of the deadline can also be marked with a date.

4.8 Hearing

A hearing for an oral or video conference hearing is mandatory according to the ZUP ("ZUP", 2006). At least 8 days before the tender, it is necessary to invite the attending parties, who, in addition to the invitation, also receive an application explaining the reason

for the procedure. It is also important to inform customers about the consequences of unexcused absences. The hearing takes place in the body's building, but it can also be held elsewhere, depending on the economy of the procedure, it is also possible to postpone it, but this requires timely notification.

4.9 »Restitutio in integrum«

Restitution is an institute that allows the client to return to a state in which he can perform an action that he did not have. The reason for this is justified. Due to ignorance, the client may send or files the document with an unauthorized authority or misses the deadline by mistake. In such a case, the client must state the circumstances and attach the application whose deadline he missed. The subjective term is 8 days from the end of the reason for the delay or from the day when the reason was stated. The objective deadline is 3 months from the date of the delay.

5 Special rules

The expedited procedure is conducted by the minor offence authority and not by the court. Offense authorities are administrative authorities, other state authorities, holders of public authority that supervise the enforcement of laws and regulations that define minor offences, and bodies of municipalities that are authorized by special regulations to decide on a minor offence.

The law does not specify when the minor offence procedure begins *ex officio*, however, the action of the minor offence authority must be individualized to the extent that it refers to a specific offender and a specific act. The minor offence procedure can also be started in an expedited procedure with the submission of a written proposal by eligible applicants. These can be the injured party, the state prosecutor or state body, the holder of public powers, or the m, municipal.

The expedited procedure begins »*ex officio*«, when the minor offence authority, within the scope of its powers, performs an action within the framework of the procedure for this purpose. The procedure begins with the filing of a written proposal, which must include information about the offender, a description of the act, and a statement of evidence and facts. If a non-competent authority receives the application, it transfers it to the competent authority and informs the proposer thereof.

The procedure of the minor offence authority continues with the collection of additional notifications and evidence of the minor offence. If the minor offence authority determines that the legal conditions are met, the procedure continues *ex officio*.

An expedited procedure is not possible if there are estimated conditions for the imposition of a side sanction according to ZP-1 ("ZP-1", 2003) are met.

5.1 Discretionary right (of an authorized official – official note)

Instead of issuing a decision or filing an indictment, the minor offence authority stops the proceedings by making a note in the file, if it follows from the collected facts and evidence that 1) the act is not a minor offence, or, if it has not been proven that the minor offence was committed by the offender, 2) if the prosecution is out of date, or other reasons are given that exclude prosecution and, 3) if it is an offense of insignificant importance, special circumstances, a low level of responsibility or the perpetrator's circumstances indicate that the procedure would not be expedient.

6 Expedited procedure - exceptions

As a rule, an expedited procedure is conducted, and exceptions are determined by ZP-1 ("ZP-1", 2003). The offense authority imposes a certain fine, or the minimum prescribed in unless otherwise provided by substantive law. However, the regulation does not allow the imposition of fines in the range.

It is also important to quickly and easily find enough facts and evidence to decide on an expedited procedure. Before the decision is issued, the offender must be instructed about the Miranda rights. However, he must state all the facts and evidence in his favor, otherwise, he, will no longer be able to assert them later in the procedure (preclusion of evidence).

7 Order in an expedited procedure

A decision in an expedited procedure is a concrete legal action that can only be issued by an authorized official with VI. level of education and completed procedure tests. It is issued in cases where, in addition to the fine, the regulation defining the offense prescribes the requirements defined in paragraph 17 of the article of the law ("ZP-1", 2003) and in other cases where the conditions for issuing a payment order are not specified.

The decision consists of an introduction, a sentence that is an essential part of the decision, legal instruction, number, date, the signature of an authorized official, and the official seal of the authority.

In the introduction, the name of the authority, the personal names of the official, the offender, and the defender, or the name of the company, the name, and seat of the legal entity, and the description of the offense are written. The statement contains the personal data of the offender, a brief description of the act itself (place, time, method of service, and decisive circumstances), and a statement that the offender has indeed committed an offence. The sentence also contains the legal definition of the offence, in which the regulation defining the offence, the number of the article, the amount of the fine, and the deadline for its payment are given. Side sanctions, confiscation of pecuniary benefits, and only payment of the costs of the procedure are also defined. Warnings are also mentioned, namely the right to pay the fine and the costs of the proceedings in installments, to replace

the fine with the performance of certain tasks for the general benefit or the benefit of local communities, about forced recovery and, if recovery is not possible, the fine is executed with alternative imprisonment. The justification contains a brief statement of the offender, facts about the actual situation that is the basis for the decision, and evidence that confirms the facts. The legal lesson explains the right to announce a request for judicial protection or a request for judicial protection. The deadline and method of filing an indication of the offense authority to which it can be filed are also specified.

The special features of the decision are the possibility of paying half of the imposed fine, namely 8 days after the expiry of the notification of the request for judicial protection or if the notification is not filed, it is part of the lesson on the legal means. If the offender pays before the end of the notice period, the request for judicial protection is not allowed, unless the infringer was required to pay immediately. This does not apply to offenses in the field of competition protection. Likewise, the service of the decision according to the ZUP ("ZUP", 2006) is possible to the offender, the legal representative, or the defender.

7.1 Payment warrant

A payment warrants according to ZP-1 ("ZP-1", 2003) can be issued by an authorized official with the V. level of education and a passed knowledge test, as a result of personal perception and finding of an offense with a technical means or device. The payment warrant is issued at the place of the offence, and the evidence for it.

In the case of a payment warrant according to ZP-1 ("ZP-1", 2003), the authorized official determines the offence based on notifications and evidence collected directly at the place where the offense was committed. The warrant contains a description of the offense and also a summary of the offender's statement.

The warrant is valid as an order, and it also consists of similar components, they differ only in the legal definition of the offense, the description of the factual situation, and the justification of the decision. When it is not possible to issue and serve a payment warrant locally, it is only sent by post.

7.2 Notice about minor offence

The notice is issued in connection with regulations on stopping and parking vehicles, and when the offender cannot be notified of the minor offense on the spot. The notification contains the place and time of the minor offence, the vehicle registration number, the legal definition of the offence, the amount of the prescribed fine for the offense, and instructions, namely the right to pay half of the fine within eight days from the date of the notification, timely payment of the fine, no procedural costs, no registration on a minor offence, the procedure is over, and that any non-payment of the fine has no legal consequences and the procedure continues with the issuance of a payment warrant.

The special payment warrants according to ZP-1 ("ZP-1", 2003) are used for violations of regulations on stopping and parking vehicles in road traffic. An objection procedure is possible, in which the objection is considered as a declaration of a minor offence and a decision on the minor offence is issued.

7.3 Admonition

It is issued instead of imposing a sanction in the case when a minor offense is insignificant and the authorized official assesses that, given the significance of the act, the admonition is a sufficient measure. A minor offense is committed under circumstances that make it particularly light and in which no harmful consequence has occurred or will not occur. It is pronounced orally or in writing, with a description of the offense and an admonition. The record of admonition does not contain personal data of persons who have been warned, but only the violation, place, and time of the offence.

The difference between an admonition and a warning:

- A warning is a sanction according to ZP-1 ("ZP-1", 2003), an admonition is not a sanction.
- An admonition can be given instead of all sanctions for minor offences, and a warning can only be given instead of a fine.
- A decision must be issued for a warning, but not for an admonition.

8 Regular court procedure

The conditions for regular court procedure are set out in Article 52 of ZP-1 ("ZP-1", 2003). Regular court proceedings are initiated upon the indictment proposal of the minor offence authority, the authority that supervises the work of the minor offence authority, or upon the proposal of the state prosecutor.

Before the court conducts regular court proceedings, it must check whether 1) the act described in the indictment is determined to be a minor offence, 2) there may be circumstances that exclude responsibility for the minor offence, 3) the prosecution for the minor offence may be time-barred, 4) it is an offense of minor importance, 5) special circumstances, a low level of responsibility or the offender's circumstances indicate that the procedure would not be expedient, and 5) no other reason is given, due to which it is not possible to initiate an offense procedure according to the law.

The indictment is in writing. An adequate number of copies must be printed for the court and the persons against whom the indictment is filed. The indictment procedure begins when the court assesses the conditions for the introduction. If it is proposed by an incompetent person, only this person shall be rejected by a decision, which shall be served on the competent proposer. If the indictment is incomplete or incomprehensible, it can be supplemented or corrected within 15 days. If this does not happen, it is dismissed by

decision. When the conditions are given, the process is executed. If the conditions are not given, a rejection by judgment occurs.

8.1 Invitation

The court invites the defendant to the hearing with an invitation. The invitation to the defendant must state which authority is inviting and who and why is being invited. The court may order that the invitation state that the offender must appear in person or that he may present his defense in writing. When the court states that the offender must appear in person, it must at the same time inform the defendant of the consequences if he does not respond to the invitation and does not excuse his absence - thus, the court can decide to order the forced bringing or to issue a judgment without hearing him.

8.2 Forced bringing

Forced bringing can only be ordered if the court finds that the presence of the offender is necessary for a correct decision and if the offender did not respond to the invitation and did not excuse his absence, or if it was not possible to serve him the invitation. For the arraignment to be carried out, the offender must be informed in the invitation of the consequences that will occur if he does not respond to the court's invitation and does not excuse his absence. An arrest warrant issued by a court gives the police the authority to enter the apartment or other closed space even against their will.

8.3 Bail

The difference between bail and execution insurance is that bail is not set ex officio, but exclusively at the offender's request. Before a decision on bail is made, the accused must be heard. Bail is always set in a monetary amount, while in the case of execution insurance, various measures can be imposed on the offender. The court may grant the offender's proposal to post bail if the offender does not have a permanent residence in the Republic of Slovenia and would like to leave the Republic of Slovenia before the end of the proceedings, or if the defendant is temporarily residing abroad, as well when there is suspicion that he could escape responsibility for the offense.

8.4 Execution insurance

Execution insurance includes the temporary confiscation of certain documents, such as travel documents, driver's licenses, vehicle documents, securities, and the like. This measure does not interfere with the constitutionally protected human right, therefore this measure is more appropriate from the point of view of the protection of human rights to ensure the offender's presence in the procedure for a minor offence.

8.5 Detention

Article 108 of ZP-1 states that detention is ordered if there is reasonable suspicion that the offender has committed a minor offense, if it is not possible to establish his identity, or if he does not have a place of residence in the Republic of Slovenia, or if there is a justified suspicion that the offender will flee or avoid responsibility for a more serious minor offense by staying abroad.

Immediately after detention, the offender must be instructed on Miranda. Detention may last a maximum of 24 hours from the time the offender was detained. During this time, he must be heard and a judgment of minor offence issued or he must be released.

The court and the police may order the detention of an offender who is under the influence of alcohol or other psychoactive substances and is caught committing a minor offence. Article 109 stipulates that an offender is detained by order of a judge or a police officer if there is a likelihood that he will continue to commit minor offences. He can keep it until he sobers up or controls his behavior, but no more than 12 hours.

Article 110 stipulates that police officers can bring a person who has been caught committing a minor offense even without a judge's order. They may do so when it is not possible to establish his identity if he does not have a residence, if they could avoid responsibility for the minor offense by going abroad, or if there is a likelihood that the offender will continue to commit the offense or repeat it, and also if there is a possibility, that the offender will hide, destroy or throw away the evidence of the minor offence.

The time during which the offender was detained shall be counted towards the fine imposed for the offence. Detention that lasted up to 12 hours is included in the fine as 20 euros. Detention lasting more than 12 hours is considered to be 40 euros. When it comes to detention or house arrest, one day is considered 40 euros.

8.6 Costs of the procedure

Costs of the procedure ("ZP-1", 2003) arise in or because of the procedure. They are expenses incurred for the procedure.

The costs of the procedure are paid by the person who was sanctioned for the minor offence. If the procedure was conducted for several minor offences, the person to whom the sanction was imposed does not suffer the costs of those minor offences for which the procedure was stopped. When several offenders are sanctioned by the same decision, it is determined how much part of the costs each of them pays. If this is not possible, all offenders shall pay an undivided payment of the costs of the proceedings. The payment of the court fee is determined for each individual.

9 Execution of the decision

The decision becomes final when it can no longer be challenged with a request for judicial protection. If a legal means has been filed against the decision, the decision becomes final on the day it is sent to the applicant. If the offender has filed a request for judicial protection or a complaint, this deadline is counted from the announcement of the authority's decision.

10 Legal means

Regular legal means in the expedited procedure are 1) an objection as a special legal means, 2) an announcement of a request for judicial protection, 3) a request for judicial protection and 4) an appeal against a judgment in a regular judicial procedure. Extraordinary legal means are a request for the protection of legality and a proposal to change or cancel the decision of the minor offence authority.

There are several reasons for filing legal means. The most common are the following two. A significant violation of the provisions is given if an official who should have been expelled participated in the procedure. A violation of the material provisions of ZP-1 ("ZP-1", 2003) or a regulation that defines a minor offence is given if the violation is given about the question of whether the act for which proceedings against the offender are initiated is a minor offence, or the circumstances are given, which exclude responsibility for a minor offence.

11 Validity

Validity is a situation when a decision has been made on a certain matter and the legislator has not (anymore) foreseen any regular legal means against such a decision. The decision becomes final when all regular legal means have been exhausted, as well as when the deadline for filing a legal means has expired. ZP-1 stipulates that the decision of the authority that decides on a minor offence becomes final when it can no longer be contented with a request for judicial protection or with a complaint, or there is no legal means against it. The case has been decided and the same procedure can no longer take place about it (not bis in idem).

12 Enforceability

The decision issued in the minor offence procedure is enforced when it becomes final and when there are no legal obstacles to enforcement, unless ZP-1 stipulates otherwise. The enforceability of the decision means that the authority has not only the right, but also the duty to use all legally defined means for the execution of the decision.

Questions and Answers

- What is a minor offence?

It is an act that constitutes a violation of the law, government regulation, municipal decree, which is defined as a minor offence and for which a sanction is prescribed for the minor offence.

- How is a minor offence defined from the social danger point of view?

A minor offence does not have an element of social danger, but is only formally defined as an offence for which a minor offence sanction is prescribed.

- What is a dichotomy?

This means that in the law of the Republic of Slovenia, individual actions can be either criminal acts or minor offences.

- What is 'analogia legis' in minor offences act?

This means the meaningful application of other laws in minor offences substantive law and minor offences procedure.

- What does the subjective responsibility in minor offences act mean?

This means that guilty offenders and as well as legal entities are responsible for minor offences.

- How is an attempted minor offence punishable?

The attempt for minor offence is never punishable.

- Which sanction for minor offence is the main one?

Fine.

- Which sanction for minor offences are alternative?

Warning, community service and alternative imprisonment.

- According to the »analogia legis« with ZGD-1, which legal entity does ZP-1 place among medium-sized companies.

The company has up to 250 employees and a turnover of up to EUR 35 million.

- Why is it necessary to separate legal entities according to size in minor offences act?

The separation is necessary because of the prescribed fine, which is higher for larger companies.

- How do we understand the principle of legality in minor offences act?
Minor offences can be prescribed by laws, government regulations and municipal decrees.

- Which part of the principle of legality is covered in the statement: » The decision on a minor offence must subsequently verifiable on the basis of the regulation by which the minor offence was determinate«.

Lex certa.

- What subtype of direct intent is it, if the prohibited consequence is included in the intent, but is not precisely defined in terms of form?

Dolus generalis.

- What form of guilt is given, if the illegal consequence could not be expected, but nevertheless occurs?

It is a coincidence that excludes guilt.

- What is force defense in minor offences act?

Forced defense is that defense that is unavoidably necessary for the perpetrator to repel a simultaneous and illegal attack from himself or someone else. It is only possible where force is used. The attack must be: real and true, illegal and simultaneous with the defense. The defense must be: simultaneous with the attack, aimed at the attacker, and inevitable to repel the attack.

- Legally qualify the case of minor offence act: » The driver rapidly drives under the influence of alcohol and is stopped by the minor offence authority. «

Real stack.

- Legally qualify the case of minor offence act: »The driver is driving under the influence of alcohol and drugs at the same time. The minor offence authority stops him and starts a minor offence expedited procedure. «

Ideal stack.

- Which bodies make decisions according to the expedited minor offence procedure?
Minor offences authorities – authorized officials with V and VI level of education.

- What regulators determine personal jurisdiction?
Minor offences act and Government of the Republic of Slovenia.

- What does a violation of substantive jurisdiction mean in minor offence proceedings?

This is a substantial violation that results in the invalidity of the minor offence act.

- What does a violation of personal jurisdiction mean in minor offence proceedings?
This is a substantial violation that results in the invalidity of the minor offence act.

- What does a violation of territorial jurisdiction mean in minor offence proceedings?
This is a substantial violation that results in the invalidity of the minor offence act.

- When is the exclusion of an official in the minor offence procedure absolutely necessary?

When one of the reasons listed in the ZUP is met.

- Who can represent the offender in the expedited minor offence procedure?
Any representative who has legal capacity.

- When is an application considered to have been submitted in time if it is submitted by a person who is serving a prison sentence in a closed ward?

When the application is submitted to the administration of the prison.

- How does personal service the place in the expedited minor offence procedure?
According to ZUP with fiction of service.

- What is the deadline that means the offender loses the rights?
Preclusive.

- What is the statutory deadline of 5 working days for the authority to issue a request to supplement the offender's incomplete application?

Procedural deadline.

- When does the decision on a minor offence in the expedited procedure become final, if it is served to the client on 1.12 and if we do not take into account the days of the week?

In 8 days, 9.12.

- What is a hearing?

A hearing for an oral or video conference hearing is mandatory according to the ZUP ("ZUP", 2006).

- What is a deadline for 'restitutio in integrum'?

The subjective deadline is 8 days, the objective deadline is 3 months.

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Thesis Topics and Projects

1 Thesis topics

- Analysis of the sanctioning of misdemeanors in municipalities in Slovenia (Analiza sankcioniranja prekrškov v mestnih občinah v Sloveniji)
- Municipal policing of municipalities - Grosuplje, Ig, Ljubljana, Murska Sobota, etc. (Medobčinsko redarstvo občin - Grosuplje, Ig, Ljubljana, Murska Sobota ipd.)
- Municipal inspectorate and municipal police - Grosuplje, Ig, Ljubljana, Murska Sobota, etc. (Medobčinski inšpektorat in redarstvo občin - Grosuplje, Ig, Ljubljana, Murska Sobota ipd.)
- Municipal police in Slovenia (Občinska redarstva v Sloveniji)

2 Projects

- Project CRP: An effective complaint mechanism for the work of municipal wardens, security guards and detectives (Učinkovit pritožbeni mehanizem nad delom občinskih redarjev, varnostnikov in detektivov)
- Project CRP: Police and other security stakeholders - aspects of plural police activity in local communities (Policija in drugi deležniki zagotavljanja varnosti- vidiki pluralne policijske dejavnosti v lokalnih skupnostih)
- Project Detective activity in the Republic of Slovenia - analysis of the current situation, direction of future development and changes in the normative-legal regulation (Detektivska dejavnost v Republiki Sloveniji- analiza trenutnega stanja, smeri prihodnjega razvoja in spremembe normativno-pravne ureditve)
- Project PKP: Detective activity and justification for monitoring employees (Detektivska dejavnost in upravičenost nadzorovanja zaposlenih)
- Project PKP: Providing and ordering private security in the Republic of Slovenia (Zagotavljanje in naročanje zasebne varnosti v Republiki Sloveniji)
- Project CRP: A comparison of the regulation of the activities of private security entities in Slovenia and the members of the European Union (Primerjava ureditve dejavnosti zasebno varnostnih subjektov v Sloveniji in članicah Evropske unije)
- Project CRP: Security in schools - Ensuring security in educational institutions in a changing security political environment (Varnost v šolah - Zagotavljanje varnosti v izobraževalnih institucijah v spreminjajočem se varnostno političnem okolju)



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