PERMANENT MISSION OF THE REPUBLIC OF SLOVENIA

No. MGE – 138/2013

The Permanent Mission of the Republic of Slovenia to the United Nations Office and other International Organisations in Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights and has, with reference to the latter's Note No. G/SO218/2, dated 17 June 2013, the honor to enclose herewith a reply by the Republic of Slovenia to the questionnaire of the Working Group on Arbitrary Detention related to the right of anyone deprived of his or her liberty by arrest or detention to bring proceedings before court, in order that the court may decide without delay on the lawfulness of his or her detention.

The Permanent Mission of the Republic of Slovenia to the United Nations Office and other International Organisations in Geneva avails itself of this opportunity to renew to the Office of the United Nations High Commissioner for Human Rights the assurances of its highest consideration.

Geneva, 16 October 2013

REPUBLIKA SLOVENIJA
STALNO PREDSTAVNIŠTVO REPUBLIKE SLOVENIJE PRI UNOVI IN DRUGIH MEDNARODNIH ORGANIZACIJAH
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Office of the United Nations
High Commissioner for Human Rights

GENEVA

REPUBLIC OF SLOVENIA
MINISTRY OF FOREIGN AFFAIRS
OF THE REPUBLIC OF SLOVENIA

DIRECTORATE FOR GLOBAL ISSUES
AND MULTILATERAL POLITICAL RELATIONS

Human Rights Department

Ljubljana, 16.10.2013

QUESTIONAIRE RELATED TO THE RIGHT OF ANYONE DEPRIVED OF IS OR HER LIBERTY BY ARREST OR DETENTION TO BRING PROCEEDINGS BEFORE COURT, IN ORDER THAT THE COURT MAY DECIDE WITHOUT DELAY ON THE LAWFULNESS OF HIS OR HER DETENTION AND ORDER HIS OR HER RELEASE IF THE DETENTION IS NOT LAWFUL – ANSWERS OF THE REPUBLIC OF SLOVENIA

1.
a) If your State is a party to the International Covenant on Civil and Political Rights, how is Article 9 (4) of the Covenant incorporated into your domestic legislation? Please provide reference to the specific provisions, including their wording and date of adoption.

The Republic of Slovenia has been a party to the ICCPR since July 1992. Provisions of article 9(4) of the ICCPR are incorporated in article 19 (3) of the Constitution (adopted on 23rd December 1991):

Art. 19 of the Constitution

(Protection of Personal Liberty)

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

Art. 20 of the Constitution

(Orders for and Duration of Detention)

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.

Upon detention, but not 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 a further three months.

If no charges are brought by the end of these terms, the suspected person shall be released.

Above mentioned constitutional provisions are further elaborated in Criminal Procedure Act (CPA), Mental Health Act, Aliens Act and Asylum Act:

a) <u>Arrest procedure</u>, Art. 157 of the CPA, see particularly paras 2, 5 and 7:

Article 157

(1) Police officers may deprive a person of freedom provided any of the reasons for detention referred to in the first paragraph of Article 201 or the first paragraph of Article 432 of this Act exists, but shall take him to the investigating judge without any delay. On bringing the person before the investigating judge the police officer shall inform the judge why and where that person was deprived of freedom. The investigating judge shall have delivered to him on that occasion a copy of the crime report together with the record of the interrogation of the suspect and other enclosures, except for the official notes about the information the police has gathered from the suspect before the latter was instructed according to the fourth paragraph of Article 148 of this Act. The police shall send these official notes together with the crime report to the public prosecutor.

(2) Exceptionally, police officers may deprive a person of freedom and detain him if reasonable grounds exist for suspicion that he has committed a criminal offence for which the perpetrator is prosecuted *ex officio*, if detention is necessary for identification, the checking of an alibi, the collecting of information and items of evidence for the criminal offence in question, and if reasons for detention as per points 1 and 3 of the first paragraph of Article 201 of this Act and points 1 and 2 of the first paragraph of Article 432 of this Act exist; as for detention under point 2 of the first paragraph of Article 201 of this Act, it shall only be allowed if there is good reason to fear that the person might destroy traces of the crime.

(3) The person deprived of freedom without a court decision shall in his capacity as suspect be immediately informed as provided by the provisions of the first paragraph of Article 4 and the fourth paragraph of Article 148 of this Act. When the person who has been deprived of freedom is a foreign citizen, the person shall be informed that, on the basis of his request, the body responsible must notify the consulate of the country in question about the person's deprivation of freedom.

(4) If the suspect states that he wants to retain counsel, the police shall adjourn interrogating him as well as other acts of investigation, except those which it would be unsafe to delay, until the arrival of the counsel, but no longer than two hours after the suspect was granted the opportunity to inform the counsel. The police shall at the request of the suspect help him to retain counsel. The interrogation of the suspect shall be conducted in the presence of the defence counsel, in accordance with the provisions of Article 148.a of this Act. If the suspect states that he will not retain counsel or the chosen counsel does not arrive within two hours, the police shall act in accordance with paragraph 6 of Article 148 of this Act.

(5) Detention under the second paragraph of this Article may last forty-eight hours at the longest. After that period has expired police officers shall be bound to release the detainee or to act as provided in the first paragraph of this Article. If a detained person who is on mission abroad may not be brought without delay before the investigating judge competent in compliance with the first paragraph of Article 29 of this Act for reasons of distance or other extraordinary objective reasons, the person deprived of freedom and the state prosecutor shall be informed forthwith, and when the person is brought before the judge, the delay shall be justified in writing.

(6) If detention under the second paragraph of this Article lasts more than six hours, police officers shall be bound to inform the detainee by a written decision of the grounds on which he has been deprived of freedom.

(7) The person deprived of freedom shall, while detention is pending, have the right to appeal against the decision from the preceding paragraph of this Article. The appeal shall not stay the measure whereby the person is detained. The appeal must be heard within forty-eight hours by a panel of judges at the court holding jurisdiction (sixth paragraph of Article 25).

(8) The police shall immediately inform the public prosecutor of each arrest and he may give them instructions as to further measures (Article 160.a). The police shall abide by those instructions.:

b) <u>Detention procedure</u>; CPA provides for remedy in art. 203, particularly para 4:

Article 203

(1) As soon as a person has been apprehended and brought to the investigating judge, the latter shall instruct the apprehended person according to Article 4 of this Act. In the case of a foreign citizen, the investigating judge must also inform the arrestee that the competent body shall, at the request by the arrestee, be obliged to notify the consulate of the relevant country about the apprehension. The instruction by the investigating judge and the statement of the arrestee thereon shall be entered in the record. The investigating judge shall, if necessary, help the arrestee find a counsel.

(2) The investigating judge shall question arrested persons without delay, and no later than within forty-eight hours of such person being brought to the judge.

(3) If the arrestee fails to retain counsel within twenty-four hours of being instructed of this right or declares that he will not retain counsel, the court shall appoint defence counsel for him *ex officio*.

(4) In instances referred to in the preceding paragraph, the investigating judge shall, by an order, order detention for the time necessary, but for no longer than forty-eight hours after the hour when the arrestee was brought to the judge. The provisions of the seventh paragraph of Article 157 of this Act shall apply *mutatis mutandis* to appeals against such an order.

(5) Detention under the preceding paragraph shall be executed in detention facilities.

c) Involuntary hospitalization is regulated in Mental Health Act[1], specifically in Art. 12 and 13 and 14

The Court decides on the restrictions of the right to free movement. The Court issues a decision on the proposal of the director of the psychiatric hospital or social care institution.

Before taking the decision the court hears the person, except if that is not possible because of his state of health. Decision, including the reasons, nature and duration of restrictions must be be served to the applicant, the person's lawyer, the legal representative, to the closest person and to the representative.

Against the Court's decision all these (as well as psychiatric hospital and or social welfare institution) can appeal within three days of notification of the ruling. An appeal does not suspend the decision.

d) Restriction of movement for aliens is regulated in Aliens Act specifically in Art. 76 and 78[2]:

The police may restrict the movement of illegal aliens. Restriction can last as long as it is neccesary to evict alien from territory of the state but not longer than 6 months.

Appeal can be lodged in 8 days after decision was served. Ministry of the interior decides on the complaint. This decision can be contested before the court.

e) Restriction of movement for asylum seekers is regulated in Asylum Act, specifically in Art. 27[3]

Movement of the asylum seekers can be restricted for specific reasons (determination of identity, quarantene, etc.) by the Ministry of the interior. This decision can be appealed in three days, with a complaint lodged at the administrative court.

2.
Does this mechanism apply to all forms of deprivation of liberty, such as administrative detention, including detention for security reasons, involuntary hospitalization, immigration detention, or any other reason?

Yes. For specific provisions see answer 1).

If yes, please provide the list of the forms of detention to which the mechanism is applicable.

The remedy against decision on deprivation of liberty is applicable in situations elaborated in our answer to question no. 1 (see above), namely in cases of:
- arrest;
- detention;
- involuntary hospitalization;
- immigration (asylum, illegal aliens)

3.
Is the right of anyone deprived of his or her liberty by arrest or detention to bring proceedings before court available for individuals subjected to preventive detention measures?

Yes

4.
Does this mechanism provide for any particular remedies? In particular, does the mechanism provide for the release and compensation for unlawful detention?

Yes

If yes, please state and explain the relevant remedies.

For particular procedures see answer above (1).

Remedy is provided for in Art. 538 and 542 CPA

Article 538

(1) The right to seek the recovery of damages inflicted by an unjustified judgement of conviction shall be enjoyed by a person who was convicted by a final decision or found guilty and then acquitted and the subsequent proceedings of extraordinary judicial review were discontinued by a final decision, or he was acquitted of charge by a final decision, or the charge against him was rejected, or the charge sheet was dismissed by a final decision, except in the following instances:

1) where proceedings were discontinued or a judgement rejecting the charge was passed because in new proceedings the injured party acting as prosecutor or the private prosecutor refrained from prosecution or the injured party withdrew the motion and the refrain and withdrawal were effected in agreement with the accused;

2) where in reopened proceedings the charge sheet was dismissed by a ruling for lack of jurisdiction of the court, whereupon the authorised prosecutor started prosecution before the court of jurisdiction.

(2) The convicted person shall not be entitled to seek recovery of damages if by a false confession or in some other way he deliberately brought about his conviction, unless he was forced into it.

(3) Where the sentence for concurrent offences is involved, the right to seek recovery of damages may also refer to individual criminal offences in respect of which conditions for recognition of indemnification have been fulfilled.

Article 542

(1) The right to compensation shall also be enjoyed by:

1) a person who was held in remand and criminal proceedings against him were not instituted or the charge sheet was dismissed by a final ruling or proceedings were discontinued or he was acquitted of charge by a final judgement or the charge was rejected;

2) a person who served sentence in a correctional institution and on whom, by reason of the reopening of criminal proceedings or a request for the protection of legality, a shorter sentence was pronounced than the one he has already served or on whom a criminal sanction not involving arrest was pronounced, or who was found guilty and then acquitted;

3) a person who by reason of an error or unlawful act of a body was unjustifiably arrested or held for some time in remand or in a penal institution;

4) a person who was held in remand longer than the prison term to which he was sentenced.

(2) A person who without statutory grounds was arrested under Article 157 of this Act shall be entitled to compensation if detention was not ordered against him and the time he spent under arrest was not counted in the punishment imposed on him for a criminal offence or an infraction.

(3) The right to compensation shall not be enjoyed by the person whose arrest was caused by his own reprehensible conduct. In instances referred to in points 1 or 2 of the first paragraph of this

Article, the right to compensation shall be excluded if circumstances exist as specified in points 2 or 3 of the first paragraph of Article 538.

(4) In proceedings for compensation under the first and second paragraphs of this Article provisions of this chapter shall apply *mutatis mutandis*.

5.

Are there persons other than the detainee who can initiate the procedure on behalf of the detainee under your country's domestic law?

Only detainee and public prosecutor may appeal decision on detention.

6.

What are the formal requirements and procedures for a detainee to invoke the right to bring the proceedings before court, in order that the court may decide without delay on the lawfulness of the detention? Please cite relevant domestic legislation.

Formal requirements in arrest procedure are listed in Art. 157/7.

Art. 157/7 CPA:

(7) The person deprived of freedom shall, while detention is pending, have the right to appeal against the decision from the preceding paragraph of this Article. The appeal shall not stay the measure whereby the person is detained. The appeal must be heard within forty-eight hours by a panel of judges at the court holding jurisdiction (sixth paragraph of Article 25).

Formal requirements in detention procedure are listed in Art. 202/4[4]:

Art. 202/4 CPA

(4) The detainee may, within twenty-four hours of being served with the detention order, lodge an appeal against the order with the court panel (sixth paragraph of Article 25). If the first interrogation of the detainee takes place after the expiry of that period, the detainee may lodge an appeal during this interrogation. The appeal, a copy of the record of interrogation if an interrogation took place, and the detention order shall be sent to the panel forthwith. The appeal shall not stay the execution of the order.

The Court has to decide in 48 hours (202/6).

If no decision on detention was issued (and therefore, detainee could not appeal on the basis of 202/4), detainee has a direct appeal in the administrative dispute on the basis of the art. 157 of the Const.

7.
Does the legislation provide for a time limit for submitting such application to the court? If so, please indicate what is the maximum time in the number of:

Days

Arrest on the basis of Art. 157: detainee can submit appeal while police detention is pending (157/7 CPA).

Detention on the basis of 202/4 CPA: The detainee may, within twenty-four hours of being served with the detention order, lodge an appeal against the order with the court.

If no decision on detention was issued (and therefore, detainee could not appeal on the basis of 202/4), detainee can lodge an appeal in the administrative dispute on the basis of the art. 157. of the Const.

8.

Are there any major decisions of your country's Constitutional or Supreme Courts concerning the right of anyone deprived of his or her liberty by arrest or detention to bring proceedings before court?

No

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[1]Translation is not available. Following is the Slovenian wording of the relevant articles (12, 13 and 14) of the Mental Health Act:
12. člen
(1) Osebi se v času obravnave v oddelku pod posebnim nadzorom, v varovanem oddelku in v nadzorovani obravnavi zagotavlja spoštovanje človekovih pravic in temeljnih svoboščin, zlasti njene osebnosti, dostojanstva ter duševne in telesne celovitosti.
(2) Pravice, ki se zagotavljajo osebi v oddelku pod posebnim nadzorom in varovanem oddelku, so:
- pravica do dopisovanja in uporabe elektronske pošte,
- pravica do pošiljanja in sprejemanja pošiljk,
- pravica do sprejemanja obiskov,
- pravica do uporabe telefona,
- pravica do gibanja,
- pravica do zastopnika.
(3) Pravici, ki se zagotavljata osebi v nadzorovani obravnavi, sta:
- pravica do gibanja,
- pravica do zastopnika.

13. člen
(1) Omejitev pravic iz prejšnjega člena, razen pravice do zastopnika, je dopustna, če je to nujno potrebno, ker oseba ogroža svoje življenje ali življenje drugih ali huje ogroža svoje zdravje ali zdravje drugih ali povzroča hudo premoženjsko škodo sebi ali drugim. Pravica se lahko omeji le v tistem obsegu, ki je nujno potreben za dosego namena, zaradi katerega se pravica omejuje. Pri omejevanju pravic se uporabi najmilejši ukrep, ki se izvaja najkrajši možni čas.
(2) O omejitvi pravic na predlog direktorja psihiatrične bolnišnice oziroma socialno varstvenega zavoda v dveh dneh od prejema predloga s sklepom v nepravdnem postopku odloči sodišče, na območju katerega je psihiatrična bolnišnica oziroma socialno varstveni zavod. Pred izdajo sklepa sodišče zasliši osebo, razen če to glede na njeno zdravstveno stanje ni mogoče. Sklep, ki vsebuje razloge, vrsto in trajanje omejitev, se vroči predlagatelju, osebi, odvetniku, zakonitemu zastopniku, najbližji osebi in zastopniku.

14. člen
Zoper sklep iz prejšnjega člena se lahko posamezniki iz drugega odstavka prejšnjega člena in psihiatrična bolnišnica oziroma socialno varstveni zavod pritožijo v treh dneh od vročitve sklepa sodišča. Pritožba ne zadrži izvršitve sklepa.

[2] Translation is not available. Following is the Slovenian wording of the relevant articles (67, 76 and 78) of the Aliens Act:
67. člen
(1) Policija lahko z odločbo o vrnitvi določi rok, v katerem mora tujec prostovoljno zapustiti državo, ki ne sme biti krajši od sedmih in ne daljši od tridesetih dni. Za čas, v katerem mora tujec prostovoljno zapustiti državo, mu policija lahko določi kraj bivanja v Republiki Sloveniji. Tujec lahko državo zapusti tudi prej kot v sedmih dneh.
(2) Rok v katerem mora tujec zapustiti državo, ki ga določi pristojni organ na podlagi tretjega odstavka 60. člena tega zakona, se šteje kot rok za prostovoljno zapustitev države.
(3) Policija lahko z odločbo o vrnitvi, v kateri je tujcu določen rok za prostovoljno zapustitev države, tujcu omeji gibanje na kraj bivanja v Republiki Sloveniji in mu določi obveznost rednega javljanja najbližji policijski postaji.
(4) Če obstajajo objektivne okoliščine, zaradi katerih se tujec ne more prostovoljno vrniti v določenem roku, lahko policija na prošnjo tujca, ki jo mora vložiti pred potekom roka za prostovoljno vrnitev, ob upoštevanju okoliščin posameznega primera, rok za prostovoljno vrnitev z odločbo podaljša. Minister, pristojen za notranje zadeve, predpiše okoliščine zaradi katerih se tujcu rok za prostovoljno vrnitev lahko podaljša.
(5) Rok za prostovoljno vrnitev se praviloma ne določi tujcu, pri katerem obstaja nevarnost pobega, in tujcu, katerega bivanje v Republiki Sloveniji pomeni nevarnost za javni red, javno varnost ali državno varnost. Če obstajajo milejše oblike okoliščin, ki kažejo na nevarnost pobega, se tujcu lahko določi rok za prostovoljno vrnitev.

76. člen
(1) Za tujca, pri katerem obstaja nevarnost pobega ali ni zapustil države v določenem roku in ga iz kakršnih koli razlogov ni mogoče takoj odstraniti, odredi policija do njegove odstranitve iz države omejitev gibanja in nastanitev v centru ali nastanitev izven centra največ za šest mesecev.
(2) Določba prejšnjega odstavka se uporablja tudi v primerih, ko ni znana istovetnost tujca.
(3) Omejitev gibanja žensk, družin, otrok, mladoletnikov brez spremstva, ostarelih, huje bolnih in drugih ranljivih oseb, se zagotovi ločeno, da je zagotovljena ustrezna zasebnost. Minister, pristojen za notranje zadeve, določi postopek za nastanitev tujcev v centru.
(4) Omejitev gibanja lahko traja le toliko časa, kolikor je potrebno, da se izvede odstranitev tujca iz države, vendar ne dlje kot za šest mesecev.

(5) Tujca iz prvega odstavka tega člena, ki ga zaradi posebnih razlogov ali potreb ni mogoče nastaniti v centru, se v soglasju s socialnovarstvenim zavodom, na stroške centra, nastani v socialnovarstvenem zavodu ali zagotovi drugo ustrezno institucionalno varstvo.
(6) Tujec iz prvega in drugega odstavka tega člena ima enak obseg pravic kot tujec, ki mu je dovoljeno zadrževanje. Osnovna oskrba tujca se v tem primeru zagotavlja v centru in ne na način, kot je določeno v drugem odstavku 75. člena tega zakona.

78. člen
(1) Nastanitev tujca v center ali izven centra in bivanje pod strožjim policijskim nadzorom odredi policija z odločbo. Zoper odločbo o nastanitvi in odločbo o odreditvi bivanja pod strožjim policijskim nadzorom se tujec lahko pritoži v osmih dneh od vročitve odločbe. O pritožbi odloči ministrstvo, pristojno za notranje zadeve, v osmih dneh.
(2) Pritožba ne zadrži izvršitve odločbe.
(3) Zoper odločitev o pritožbi je dopusten upravni spor. O tožbi mora upravno sodišče odločiti v osmih dneh.
(4) Tujcu, ki mu je omejeno gibanje v centru, se omogoči vzpostaviti stik z zakonitim zastopnikom, družinskimi člani, skrbnikom in pristojnimi konzularnimi organi.

[3] Translation is not available. Following is the Slovenian wording of the relevant Article (27) of the Asylum Act:
27. člen
(1) Prosilcu za azil se lahko začasno omeji gibanje, če je to potrebno zaradi:
– ugotavljanja istovetnosti prosilca za azil ali
– preprečevanja širjenja nalezljivih bolezni ali
– suma zavajanja ali zlorabe postopka v smislu 36. člena tega zakona ali
– zaradi razlogov ogrožanja življenja drugih ali premoženja.
(2) Gibanje se lahko omeji:
– s prepovedjo gibanja izven določenega območja ali
– s prepovedjo gibanja izven azilnega doma oziroma njegove izpostave ali
– s prepovedjo gibanja izven mejnega prehoda, če tam obstajajo možnosti za nastanitev.
(3) Omejitev gibanja izven azilnega doma oziroma njegove izpostave se izvaja v za to namenjenem objektu azilnega doma ali v drugih ustreznih objektih ministrstva, pristojnega za notranje zadeve.
(4) Omejitev gibanja iz razloga druge alinee prvega odstavka tega člena se izvaja v objektu azilnega doma, namenjenem izolaciji oseb.
(5) Omejitev gibanja odredi ministrstvo, pristojno za notranje zadeve, s sklepom. Pisni odpravek sklepa pristojni organ izda najkasneje v roku 48 ur od ustnega izreka sklepa. Omejitev gibanja lahko traja do prenehanja razlogov, vendar najdalj tri mesece. Če so razlogi za omejitev gibanja po tem času še vedno podani, se omejitev lahko podaljša še za en mesec. Omejitev gibanja iz razlogov preprečevanja širjenja nalezljivih bolezni traja, dokler so za to podani razlogi.
(6) Zoper sklep o omejitvi gibanja ima prosilec za azil pravico do tožbe na upravno sodišče v treh dneh po njegovi vročitvi. Sodišče mora po predhodnem ustnem zaslišanju o tožbi odločiti v treh dneh.

[4] Article 202 of the CPA
(1) Detention shall be ordered by the investigating judge of the court of jurisdiction upon the motion of the public prosecutor. Motions for ordering and extension of remand shall state the reasons on which they are based

(2) Detention shall be ordered through a written order containing: the name and surname of the apprehended person; the criminal offence of which he is accused; the legal grounds for detention; instructions on the right to appeal; explanation of all decisive facts which dictated detention, wherein the investigating judge shall state the specific grounds for a reasonable suspicion that the person committed a criminal offence, explain the decisive facts from points 1 to 3 of the first paragraph of the preceding Article, and indicate why the ordering of detention in the specific case is unavoidably necessary for the safety of people or for the progress of the procedure.

(3) The detention order shall be served on the person it concerns at the time of apprehension and no later than forty-eight hours after the time of apprehension or after the time the person was brought to the investigating judge (paragraphs one and five of Article 157). The hour of apprehension and the hour of service of the order shall be indicated in the case file.

(4) The detainee may, within twenty-four hours of being served with the detention order, lodge an appeal against the order with the court panel (sixth paragraph of Article 25). If the first interrogation of the detainee takes place after the expiry of that period, the detainee may lodge an appeal during this interrogation. The appeal, a copy of the record of interrogation if an interrogation took place, and the detention order shall be sent to the panel forthwith. The appeal shall not stay the execution of the order.

(5) If the investigating judge disagrees with the motion of the public prosecutor for detention to be ordered, the matter shall be decided by the panel (sixth paragraph of Article 25). The detained person may appeal the order by which the panel has ordered detention, but the appeal shall not stay execution. As regards the serving of the order and the filing of an appeal, the provisions of paragraphs three and four of this Article shall apply.

(6) In the instances referred to in the fourth and fifth paragraphs of this Article, the panel shall decide the appeal within forty-eight hours.

(7) In instances referred to in the fifth paragraph of this Article, in the event of a request that the panel decide on the public prosecutor's motion for the ordering of detention, the investigating judge may in all cases order any of the substitute measures from this Chapter.