

<p>Cypern [Det bemærkes, at det ikke er oplyst, fra hvilken lov bestemmelse er taget.]</p>	<p>"Search Warrants, Article 27</p> <p>27. When a judge is satisfied on the basis of an affidavit that there is a reasonable cause to believe that in any place there is:</p> <p>(a) anything with which or related to which a criminal offence was committed or there is a suspicion that it was committed</p> <p>(b) anything for which there is a reasonable cause to be believed that it will serve as evidence for the commission of a criminal offence or</p> <p>(c) anything for which there is a reasonable cause to be believed that is destined to be used for the purpose of committing an offence, the judge may at any time issue a warrant "called a search warrant" which authorizes the person named in it</p> <p>(i) to search that place for finding any object and confiscate and transfer it before the court which issued the search warrant or before any other court so that it will be treated under the law</p> <p>(ii) to arrest and prosecute before the court the occupant of the residence or the place the object was found, or any person found in or in the vicinity of that residence or that place, if the judge so orders in the warrant."</p>
<p>Estland</p>	<p>"Ransagningskendelser reguleres i den estiske kriminallovgivning i paragrafferne 91-92:</p> <p>§ 91. Search</p> <p>(1) The objective of a search is to find an object to be confiscated or used as physical evidence, a document, thing or</p>

person necessary for the adjudication of a criminal matter, property to be seized for the purposes of compensation for damage caused by a criminal offence or of confiscation, or a body, or to apprehend a fugitive in a building, room, vehicle or enclosed area.

[RT I 2007, 2, 7 - entry into force 01.02.2007]

(2) A search shall be conducted at the request of a prosecutor's office on the basis of an order of a preliminary investigation judge or on the basis of a court ruling, taking into account the exceptions listed in subsections (2¹) and (3) of this section.

[RT I, 23.02.2011, 1 - entry into force 01.09.2011]

(2¹) A search may be conducted on the basis of an order of a prosecutor's office, except for searches of a notary's office or advocate's law office or at the persons processing information for journalistic purposes, if there is reason to believe that:

- 1) the suspect used or uses the site or vehicle to be searched at the time of commission of a criminal act or during the pre-trial proceedings, or
- 2) a criminal offence was committed at the site or in the vehicle, or it was used in the preparation for or committing of a criminal offence.

[RT I, 14.03.2011, 3 - entry into force 01.09.2011]

(3) In cases of urgency, a search may be conducted on the basis of an order of an investigative body without the permission of a court, but in such case the prosecutor's office shall notify a preliminary investigation judge of the search or the prosecutor's office in the case specified in subsection (2¹) of this section within 24 hours, and the preliminary investigation judge or the prosecutor's office shall decide on the admissibility of the search.

[RT I, 23.02.2011, 1 - entry into force 01.09.2011]

(4) A search warrant shall set out:

- 1) the objective of the search;
- 2) the reasons for the search.

(5) [Repealed - RT I, 23.02.2011, 1 - entry into force 01.09.2011]

(6) If a search is conducted, the search warrant shall be presented for examination to the person whose premises are to be searched or to his or her adult family member or a representative of the legal person or the state or local government agency whose premises are to be searched and he or she shall sign the warrant to that effect. In the absence of the responsible person or representative, the representative of the local government shall be involved.

(7) A notary's office or an advocate's law office shall be searched in the presence of the notary or advocate. If the notary or advocate cannot be present during the search, the search shall be conducted in the presence of a person substituting for the notary or another advocate providing legal services through the same law office, or if this is impossible, another notary or advocate.

(8) If a search is conducted, the person shall be asked to hand over the object specified in the search warrant or to show where the body is hidden or the fugitive is hiding. If the proposal is not complied with or if there is reason to believe that the person complied with the proposal only partly, a search shall be conducted.

§ 91¹. Entry against possessor's will

- 1) If entry into a building, premises, vehicle or enclosed area against the will of the possessor thereof is required for performance of a procedural act, it shall be done in compliance with the procedure provided for in § 91 of this Code, except for the case this is necessary for:
 - 2) observation of a body or crime scene immediately after finding of the body or commission of the criminal offence, or

	<p>3) for detention of a person as a suspect immediately after the commission of the criminal offence.</p> <p>§ 92. Search report</p> <p>(1) A search report shall set out:</p> <ol style="list-style-type: none"> 1) a proposal to hand over the object to be found or to show where the body is hidden or the fugitive is hiding; 2) the names of the objects which were handed over voluntarily; 3) the conditions, course and results of the search; 4) the names of the objects found and the characteristics of the objects which are relevant to the adjudication of the criminal matter; 5) the personal data of the apprehended fugitive. <p>[RT I, 23.02.2011, 1 - entry into force 01.09.2011]</p> <p>(2) If physical examination is performed in the course of a search, the data listed in subsection 88 (4) of this Code may be entered in the search report. In such case a report on physical examination need not be prepared.”</p>
Grækenland	<p>“PRECONDITIONS FOR CONDUCTING AN INVESTIGATION - ARTICLE 253:</p> <p>If an inquest is conducted for a felony or misdemeanor, an investigation can be conducted when it can reasonably be assumed that the attestation of the crime, the revelation or the arrest of the perpetrators or the attestation or the restoration of the damage caused can be carried out or facilitated only through the investigation.</p> <p>NIGHT DOMICILE INVESTIGATION</p> <p>Article 254: 1) The night domicile investigation is permitted in the following causes and only to the district attorney, to the interrogator or to magistrates and if the above do not exist or if they are prevented, to the officers of the gendarmerie and the City Police. a) if it is to arrest a person who is legally prosecuted, b) if someone is being caught in act of committing, in the house, a felony or a misdemeanor, c) if in the residence there is a concentration</p>

where they play in a profession, lucky games or if the residence is used as a place in a profession of debauchery, d) if it is for places freely accessible to anyone at night.

2) The nighttime is defined from 8 p.m until 6 a.m for the period from the 1st of October until the 31st of March and from 9 p.m until 5 a.m for the period from the 1st of April until the 30th of September.

FORMALITIES FOR RESEARCH IN HOUSE

Article 255: 1) Anyone in the cases of Articles 253 and 254 acts research in house recruits and other investigators, which joins unless he is hired in accordance with Article 150. If you find the door closed and the tenant refuses to open it, may violate the presence of an interrogating officer with whom joins. 2) If the investigation acting officer or non-commissioned officer of the gendarmerie or police officer in the city as the second investigators recruited judiciary, if the place where you are going to do research differently, hired the president of the community. 3) A copy of the report of the inquiry is given free to the tenant of the residence where it was intended, by oral application.”

PATTERN

Article 256: In housing surveys should be avoided diligently any unnecessary publicity and any disturbance of the residents that are not absolutely necessary should also be paid attention to safeguard the reputation and personal secrets unrelated to the act of class as well and conducted energy with every propriety and decency. Whoever conducts the investigation should invite the occupant compartments bowel will be present when conducting. In his absence, is invited to attend a neighbor.”

<p>Italien</p> <p>[Det bemærkes, at den danske ambassade i Rom har oplyst, at der er tale om en uofficiel oversættelse udarbejdet af ambassaden.]</p>	<p>”Art. 247 Sager og former for ransagning (uddrag)</p> <p>1. Når der foreligger en begrundet mistanke om, at en person skjuler forbrydelsens genstand eller ting, der har tilknytning til det strafbare forhold, kan der gives tilladelse til personlig ransagning. Når der foreligger en begrundet mistanke om, at disse ting befinder sig på et givent sted, eller at anholdelse af den sigtede eller undvegne person kan foretages på det pågældende sted, kan der gives tilladelse til ransagning.</p> <p>1-bis. Når der er en begrundet mistanke om, at data, informationer, IT-programmer eller spor relaterede til en forbrydelse befinder sig i et IT-system eller telematisk net beskyttet af sikkerhedsforanstaltninger, kan der træffes beslutning om ransagning og tages tekniske forholdsregler med henblik på at sikre de originale data og forhindre at disse ændres.</p> <p>2. Tilladelse til ransagning udstedes ved begrundet dekret.</p> <p>...</p> <p>Dertil kommer en række bestemmelser i art. 248 Anmodning om udlevering, art. 249 Personlig ransagning, art. 250 Ransagning af sted, art. 251 Ransagning af bolig, tidsmæssige betingelser og art. 252 Ransagning med efterfølgende beslaglæggelse.”</p>
<p>Litauen</p>	<p>”Kriterierne for udstedelse af ransagningskendelser defineres af Artikel 145, 146, 149 samt 150 i den litauiske Kriminalret (Lithuanian Code of Criminal Procedure):</p> <p>Artikel 145. Ransagning</p> <p>§ 1) I tilfælde, hvor der er grund til at antage, at der på visse lokaliteter, områder eller i besiddelse hos bestemte personer er instrumenter, objekter eller værdigenstande, der er anskaffet eller erhvervet på kriminel vis, eller bestemte ting eller dokumenter, der kan være relevante for efterforskningen af en kriminel handling, har en efterforsker eller</p>

anklager ret til at udføre en ransagning med det formål at opdage eller beslaglægge disse.

- § 2) Ransagning kan også udføres med det formål at afsløre eftersøgte personer, herunder afdøde personer.
- § 3) Ransagning udføres på basis af en retskendelse udstedt af en dommer. Retskendelsen skal specificere hvilke bestemte objekter (som beskrevet i §§ 1 og 2), der søges efter.
- § 4) Ransagning skal udføres under tilstedeværelse af ejeren, lejeren eller bestyrelsen af den lejlighed, det hus eller den lokalitet, hvor ransagningen finder sted, eller af et voksent familiemedlem eller en nært beslægtet. Hvis ransagningen udføres på en virksomhed, institution eller organisation, skal en repræsentant fra denne virksomhed, institution eller organisation være til stede under ransagningen. Hvis det ikke er muligt at sikre tilstedeværelse af en af de ovenfor specificerede personer, kan ransagningen udføres under tilstedeværelse af ransagningsvidner eller en repræsentant fra en kommunal institution. Om nødvendigt kan ransagningsvidner blive indkaldt for at overvære ransagningen.
- § 5) Ransagning af land-, skov- eller vandområder udføres under tilstedeværelse af ejeren, lejeren eller bestyrelsen af det specifikke land-, skov- eller vandområde. I sådanne tilfælde er det imidlertid også muligt på et senere tidspunkt skriftligt at informere relevante personer om det ransagede område.

Artikel 149. Procedure for udførelse af ransagning og beslaglæggelse

- § 1) Når en ransagning iværksættes, skal betjenten læse retskendelsen for ransagningen op, hvorefter han skal opremse de objekter eller dokumenter, der er specificeret i retskendelsen, eller det sted, hvor den eftersøgte person formodes at opholde sig.
- § 2) Når ransagningen udføres, har betjenten ret til at tilgå ethvert aflåst sted eller opbevaringsfacilitet, også hvis han

nægtes adgang til disse. Betjenten skal undgå at påføre unødigt skade på låse, døre eller andre objekter.

- § 3) Betjenten har ret til at forbyde tilstedeværende personer, herunder personer, som ankommer til området eller lokaliteten for ransagningen, at forlade stedet samt at kommunikere med hinanden eller andre personer, mens ransagningen finder sted.
- § 4) Området eller lokaliteten, hvor ransagningen finder sted, kan være omringet af betjente.
- § 5) Det er ikke tilladt at udføre en ransagning om natten, med mindre der er tale om yderste nødstilfælde.
- § 6) Betjenten, der udfører ransagningen, skal begrænse denne til kun at omfatte de objekter og dokumenter, som har relevans for efterforskningen. Hvis der imidlertid er tale om objekter eller dokumenter, som er under ulovlig besiddelse, kan disse beslaglægges, uanset om de er relevante for efterforskningen eller ej.
- § 7) Alle beslaglagte objekter og dokumenter skal fremvises til de tilstedeværende personer og skal oplistes i rapporten for eftersøgningen eller på en liste vedlagt denne rapport (som indikerer kvantitet, vægt, særlige kendetegn og fysisk tilstand). De beslaglagte objekter og dokumenter skal nedpakkes og forsegles på stedet.
- § 8) Betjenten, der udfører ransagningen, må tage de nødvendige forholdsregler for at undgå afsløring af private omstændigheder for personer bosiddende på ransagningsstedet.
- § 9) Hvis der ikke er vidner til stede ved ransagningen, skal der udføres en lyd- og videooptagelse af denne, hvis tilstedeværende personer efterspørger det.
- § 10) Der skal udføres en rapport over ransagningen. Rapporten skal specificere de beslaglagte objekter og dokumenter og indeholde en beskrivelse af dem. Hvis ingen objekter eller dokumenter beslaglægges under ransagningen, skal dette ligeledes specificeres i rapporten. Personen, hvis bopæl er genstand for eftersøgningen, skal have en kopi

	<p>af rapporten.</p> <p>Artikel 150. Udførelse af ransagning på diplomatiske repræsentationer</p> <p>§ 1) Ransagning må kun udføres på diplomatiske repræsentationer eller lokaliteter, hvor diplomatiske repræsentanter og disses familier bor, hvis diplomatiske repræsentanter anmoder om eller giver tilladelse til dette. Den diplomatiske repræsentants samtykke til ransagningen skal anskaffes via det litauiske Udenrigsministerium.</p> <p>§ 2) Under udførelse af ransagning på lokaliteter specificeret i § 1, er tilstedeværelse af en anklager samt en repræsentant fra Udenrigsministeriet påkrævet.”</p>
<p>Malta</p>	<p>”Ransagningskendelse kan udstedes, såfremt der foreligger rimelig grund til at mistænke, at en forbrydelse har fundet - eller snarest vil finde - sted, jf. den maltesiske straffelovs art. 351-355AK:</p> <p>POWER TO STOP AND SEARCH</p> <p>351. (1) A police officer may, in a public place, or in any place to which the public is admitted, even against payment of an entrance fee, search any person or vehicle, if he has a reasonable suspicion that the search will discover the possession of things, which are prohibited, stolen or acquired as the result of any offence whatsoever, or which may be used or may have been used in the commission of an offence or which may serve in the investigation of an offence.</p> <p>(2) For the purposes of subarticle (1), the Police may stop a person or a vehicle until the search is performed and shall seize any thing discovered during the search and the possession of which is prohibited or which may be connected with an offence.</p> <p>(3) Pursuant to and for the purposes of the Convention of the 19th June, 1990 implementing the Schengen Agreement of the 14th June, 1985 an offence under this article shall be deemed to be an offence even when committed out-</p>

side Malta.

352. Where the search to be performed is required in an unattended vehicle and it is not possible to obtain the attendance of its registered owner, then a police officer may only carry out the search if he has a warrant from a superior officer not below the rank of an inspector.

353. Except in urgent cases and when a person is apprehended *in flagrante delicto* nothing in this Title authorises the search of a person by a police officer of the opposite sex, or that a search be conducted by a police officer not in uniform unless clearly identified by the production of a police identity card.

354. Anything seized as a result of a search under the preceding articles of this title shall be preserved and the Police carrying out the search shall draw up a report stating all the particulars of the search and including a detailed list of the things so seized.

ROAD CHECKS

355. The Police may organise a road check where there are reasonable grounds for believing that a check on vehicles in or passing through a locality may lead to –

(a) the arrest of a person who has committed or is reasonably suspected of having committed or of being about to commit a serious crime, not being a crime punishable under the Press Act; or

(b) the discovery of anything the possession of which is prohibited or restricted by law or which is connected in any way whatsoever with the commission of a serious crime or which is evidence of any such crime; or

(c) the arrest of any person whose arrest has been ordered by a court or any other lawful authority or who is otherwise unlawfully at large; or

(d) the ascertainment that a person is not abiding by a condition lawfully imposed on him by a court; or

(e) the ascertainment of violations of any law regarding motor vehicles or traffic regulation; or

(f) the arrest, or ascertainment of whereabouts, of a person in respect of whom an alert has been entered in the Schengen Information System; or

(g) the discovery of any property in respect of which an alert has been entered in the Schengen Information System:

Provided that for the purposes of this article "serious crime" means any crime liable to the punishment of imprisonment.

355A. (1) For the duration of the road check the Police may stop all or any vehicles passing through or in the locality where the road check is being organised.

(2) Where a vehicle has been stopped in pursuance of the provisions of this sub-title that vehicle may be searched by the Police.

355B. A road check under this sub-title may only be organized upon an authorisation in writing by a police officer not below the rank of Inspector unless the matter admits of no delay in which case such authorisation may be given orally by a police officer not below the rank of sergeant and reduced to writing as soon as practicable.

355C. Notwithstanding anything contained in the preceding articles of this sub-title, where in the course of a road check, evidence is found of the commission of an offence other than that in respect of which the road check was organised, the Police shall also be entitled to investigate such offence and where appropriate to institute proceedings for that offence.

355D. The provisions of this sub-title shall be without prejudice to any power vested in the Police by any other law to stop vehicles for purposes other than those mentioned in this sub-title.

PWERS OF ENTRY, SEARCH AND SEIZURE UNDER WARRANT

355E. (1) Saving the cases where the law provides otherwise, no police officer shall, without a warrant from a Magistrate, enter any premises, house, building or enclosure for the purpose of effecting any search therein or arresting any person who has committed or is reasonably suspected of having committed or of being about to commit any offence unless –

- (a) the offence is a crime other than a crime punishable under the Press Act and there is imminent danger that the said person may escape or that the *corpus delicti* or the means of proving the offence will be suppressed; or
- (b) the person is detected in the very act of committing a crime other than a crime punishable under the Press Act; or
- (c) the intervention of the Police is necessary in order to prevent the commission of a crime other than a crime punishable under the Press Act; or
- (d) the entry is necessary for the execution of any warrant or order issued by any other competent authority in the cases prescribed by law; or
- (e) the arrest is for the purpose of apprehending a person who is unlawfully at large after escaping from lawful arrest or detention; or
- (f) the entry is necessary for purposes of:
 - (i) executing the arrest, or ascertaining the whereabouts, of a person in respect of whom an alert has been entered in

the Schengen Information System and there is an imminent danger that the said person may escape; or

(ii) discovering any property in respect of which an alert has been entered in the Schengen Information System and there is an imminent danger that the property may be concealed, lost, damaged, altered or destroyed.

(2) The expression "enclosure" does not include any plot of land enclosed by rubble walls.

(3) A warrant may also be issued by a Magistrate as mentioned in subarticle (1) for the purpose of:

(a) effecting the arrest or ascertaining the whereabouts of a person in respect of whom an alert has been entered in the Schengen Information System; or

(b) discovering and seizing any property in respect of which an alert has been entered in the Schengen Information System.

355F. In cases where a police officer is empowered to enter into any of the places mentioned in the last preceding article, it shall be lawful for such officer to open or break any door or window, if, after giving notice of his office and object, he cannot otherwise obtain entry.

355G. (1) Any entry and search warrant issued under this Subtitle and any search or seizure made under the provisions of this Subtitle shall not extend to legal privilege or to any excluded material.

(2) An entry and search warrant issued under this Sub-title shall be deemed to have been granted to the police officer or officers executing it.

(3) Without prejudice to the right of obtaining a new warrant for the same purpose, an entry and search warrant may not be executed after the lapse of one month from the date of issue.

	<p>355H. No warrant of entry and search may be executed after sunset unless the Magistrate has otherwise authorised in the warrant, or unless the executing Police officer has reasonable cause to believe that the purpose of the entry and search will be frustrated if the execution of the warrant is delayed.</p> <p>355I. The executing officer shall hand over a copy of the warrant to the person occupying and present at the place searched or to any other person who appears to the said officer to be in charge of the same place and who happens to be present during the search. If there is no person present who appears to the executing officer to be in charge of the premises the copy of the warrant shall be left in an easily visible place on the premises.</p> <p>355J. A search under a warrant may only be a search to the extent required for the purpose for which the warrant was issued: Provided that if, in the course of the search, offences other than the offence or offences mentioned in the warrant are discovered, the search may extend to the extent required for the purposes of such other offences.”</p>
Slovakiet	<p>“The criteria for issuing a house search warrant are set forth in Section 99 para 1 of the Code of Criminal Procedure, which reads as follows:</p> <p>“A house search can be conducted if there is a reasonable suspicion that the apartment or other premises serving as a residence or premises attached to them (hereinafter referred to as “dwelling”) contains an item important for the criminal proceedings or that a person suspected of committing a criminal offence is hiding within it, or if it is necessary to perform a seizure of movable assets to satisfy the entitlement to damages of the victim“. Due to same reasons, a search of non-residential premises (hereinafter referred to as “other premises”) and land that are not publicly accessible may be performed. The house search warrant is issued by a presiding judge and, before the onset of the criminal prosecution or in the preliminary hearing upon the petition of the public prosecutor, the judge for the preliminary hearing. The warrant must be issued in writing and must be always justified. The warrant shall contain the description of the item or person who is to be arrested during the house search warrant, if it is known.“</p>

Nederlandene

[Det bemærkes, at den danske ambassade i Haag har oplyst, at der er tale om en uofficiel oversættelse modtaget fra det nederlandske Justitsministerium.]

“Code of Criminal Procedure

Section 67

[1.] A pre-trial detention order may be issued on the basis of suspicion of:

- a. a serious offence which carries a statutory term of imprisonment of at least four years;
- b. any of the serious offences defined in sections 132, 138a, 138ab, 138b, 139c, 139d(1) and (2), 141a, 161sexies(1)(1°) and (2), 137d(2), 137e(2), 137g(2), 184a, 254a, 248d, 248e, 285(1), 285b, 300(1), 321, 323a, 326c(2), 350, 350a, 351, 395, 417bis and 420quater of the Criminal Code;
- c. any of the serious offences defined in: section 122(1) of the Animal Health and Welfare Act [Gezondheids- en Welzijnswet voor Dieren]; section 175(2)(b) or (3) in conjunction with (1)(b) of the Road Traffic Act 1994; section 30(2) of the Civil Authority Special Powers Act [Wet Buitengewone Bevoegdheden Burgerlijk Gezag]; sections 52, 53(1) and 54 of the Conscientious Objections against Military Service Act [Wet Gewetensbezwaren Militaire Dienst]; section 31 of the Betting and Gaming Act [Wet op de Kansspelen]; section 11(2) of the Opium Act [Opiumwet]; section 55(2) of the Weapons and Ammunition Act [Wet Wapens en Munitie]; sections 5:56, 5:57 and 5:58 of the Financial Supervision Act [Wet op het Financieel Toezicht]; section 11 of the Temporary Home Exclusion Order Act [Wet Tijdelijk Huisverbod].

2. The order may also be issued if it cannot be established that the suspect has his permanent place of residence or abode in the Netherlands and he is suspected of a serious offence which is tried by the District Courts and which carries a statutory term of imprisonment.

[3.] The preceding subsections of this section shall apply only if it can be shown on the basis of facts or circum-

stances that there are serious suspicions against the suspect.

4. In derogation of subsection (3), serious suspicions shall not be required for a remand in custody order in the case of suspicion of a terrorist offence.

Section 96c

1. In cases where the suspect is caught red-handed in the commission of a criminal offence or where he is suspected of having committed a serious offence as defined in section 67(1), the public prosecutor may for the purpose of seizure search any place, with the exception of a dwelling without the consent of the occupant and an office of a person who has the right to assert privilege as referred to in section 218.

2. In the case of urgent necessity and if action on the part of the public prosecutor cannot be awaited, an assistant public prosecutor may exercise this power. He must be authorised by the public prosecutor for that purpose. If such authorisation cannot be applied for on time due to the speed required or the fact that the public prosecutor cannot be reached, the public prosecutor may grant the authorisation three days after the search. If the public prosecutor refuses to grant authorisation, then he shall ensure that the consequences of the search are reversed to the maximum extent possible.

3. The public prosecutor or, if subsection (2) applies, the assistant public prosecutor, shall be in charge of the search of places in accordance with the provisions of subsection (1).

4. Section 96(2) shall apply mutatis mutandis.

<p>Portugal</p>	<p>Section 110</p> <p>1. The examining magistrate may, on application of the public prosecutor and if he conducts investigative acts under sections 181 to 183 inclusive, also search ex officio any place for the purpose of seizure. In doing so, he may be accompanied by persons specifically designated by him. The application shall state the criminal offence and if known, the name or otherwise the most precise description possible of the suspect, as well as the facts or circumstances which show that the statutory conditions for the exercise of the power have been met.</p> <p>2. The examining magistrate, in the presence of the public prosecutor or, in his absence, of an assistant public prosecutor, shall be in charge of the search of places conducted in accordance with the provisions of subsection (1).</p> <p>3. Sections 98, 99 and 99a shall apply mutatis mutandis.”</p>
	<p>“CAPÍTULO II</p> <p>Das revistas e buscas</p> <p>Artigo 174.º</p> <p>Pressupostos</p>

- 1 - Quando houver indícios de que alguém oculta na sua pessoa quaisquer objectos relacionados com um crime ou que possam servir de prova, é ordenada revista.
- 2 - Quando houver indícios de que os objectos referidos no número anterior, ou o arguido ou outra pessoa que deva ser detida, se encontram em lugar reservado ou não livremente acessível ao público, é ordenada busca.
- 3 - As revistas e as buscas são autorizadas ou ordenadas por despacho pela autoridade judiciária competente, devendo esta, sempre que possível, presidir à diligência.
- 4 - O despacho previsto no número anterior tem um prazo de validade máxima de 30 dias, sob pena de nulidade.
- 5 - Ressalvam-se das exigências contidas no n.º 3 as revistas e as buscas efectuadas por órgão de polícia criminal nos casos:
 - a) De terrorismo, criminalidade violenta ou altamente organizada, quando haja fundados indícios da prática iminente de crime que ponha em grave risco a vida ou a integridade de qualquer pessoa;
 - b) Em que os visados consentam, desde que o consentimento prestado fique, por qualquer forma, documentado; ou
 - c) Aquando de detenção em flagrante por crime a que corresponda pena de prisão.
- 6 - Nos casos referidos na alínea a) do número anterior, a realização da diligência é, sob pena de nulidade, imediatamente comunicada ao juiz de instrução e por este apreciada em ordem à sua validação.

Spanien

[Den danske ambassade i Madrid har oplyst, at der er tale om en uofficiel oversættelse foretaget af ambassaden.]

”Den spanske Strafferetsplejelov fastsætter reglerne for udstedelse af ransagningskendelser.

Strafferetsplejeloven, Kapitel VIII

§ 545. Ingen har adgang til en spansk borgers, eller en fastboende udlændings hjem uden at vedkommende er indforstået, undtagen i de tilfælde og på den måde, som det er fastsat i den gældende lovgivning.

§ 546. Den dommer eller domstol, der behandler sagen, kan udstede en kendelse om ransagning, der kan foretages dag eller nat, i alle offentlige bygninger og steder, uanset hvor disse måtte være beliggende, såfremt der eksisterer indicier på at den sigtede befinder sig dér, eller på tilstedeværelsen af forbrydelsens udbytte eller redskaber, dokumenter, papirer eller andre genstande, der vil kunne lede til forbrydelsens opklaring og stadfæstelse.

§ 547. For at sikre overholdelsen af lovbestemmelserne i dette kapitel, anses offentlige bygninger for:

1. Bygninger, der er beregnet til et hvilket som helst statsligt, regionalt eller kommunalt offentligt virke, militært eller civilt, også selvom de der har til opgave at udføre dette virke, eller de der tager vare på bygningens opsyn og vedligeholdelse, måtte bo der.
2. Bygninger, der anvendes til enhver form for forsamling, uanset om den er lovlige eller ej.
3. En hvilken som helst bygning eller lukket sted, der ikke udgør en privat persons bopæl i henhold til det fastsatte i § 554.
4. Statens skibe.

§ 548. For at foretage ransagning i en medlovgivers sæde skal dommeren indhente tilladelse fra denne instans øverstbefalende.

§ 549. For at foretage ransagning i templer og andre religiøse steder er det tilstrækkeligt at give besked til den ansvarlige for stedet.

§ 550. En undersøgelsesdommer kan endvidere, når det skønnes uopsætteligt, befale at en ransagning foretages i de i § 546 angivne tilfælde, om dagen eller om natten, i en hvilken som helst bygning, lukket sted eller del af dette, der gør det ud for en spansk borgers eller fastboende udlændings bopæl i Spanien, såfremt den berørte har givet sit samtykke som fastsat i § 6 i Grundloven, eller uden den berørtes samtykke i henhold til en begrundet kendelse, som skal meddeles den berørte person øjeblikkeligt, eller senest 24 timer efter udstedelsen af kendelsen.

§ 551. Den, der af den ansvarlige for ransagningen er blevet anmodet om at give sin tilladelse, anses for at have givet sit samtykke, når pågældende muliggør ransagningen uden at påkalde sig boligens ukrænkelighed, som fastsat i Grundlovens § 6 (* På nuværende tidspunkt § 18.2. i den spanske Grundlov).

§ 552. Ransagningen bør foretages uden unyttige inspektioner, uden at skade eller forstyrre den berørte person mere end nødvendigt, og alle former for forholdsregler skal tages således at den berørtes ry ikke bringes i fare, og der skal udvises respekt for den berørtes hemmeligheder, når disse ikke er relevante for efterforskningen.

§ 553. Politiet kan foretage en øjeblikkelig anholdelse af personerne, når der foreligger en fængslingsordre mod dem, når de tages in flagranti, når en sigtet forfulgt af myndighedspersoner gemmer eller skjuler sig i på en bopæl, eller i særlige eller presserende tilfælde, når det drejer sig om formodede gemingsmænd til handlinger fastsat i § 384 bis, uanset det sted eller den adresse, hvor de måtte have skjult eller gemt sig. Politiet kan ligeledes i den anledning foretage en ransagning på stedet og beslaglægge materiale og redskaber, som måtte findes dér og som måtte have

forbindelse til den forbrydelse som retsforfølges.

En ransagning foretaget i henhold til ovenstående, meddeles øjeblikkeligt til den ansvarlige dommer, med angivelse af årsagerne samt resultatet, med særlig henvisning til de anholdelser, der måtte have fundet sted. De personer der har deltaget i ransagningen angives, samt evt. opståede hændelser.

§ 554. I forhold til forudgående artikler anses en bopæl for:

1. De kongelige slotte, uanset om de er beboet eller ej af Monarken i ransagningsøjeblikket.
2. Den bygning eller det lukkede sted, eller den del af den/det som anvendes som bolig af en spansk borger eller fastboende udlænding, samt disses familier.
3. Nationale rederivirksomheder
4. Når det drejer sig om juridiske personer under tiltale, anses bopælen for det fysiske sted, der anvendes som bopælsadresse eller selskabsadresse, samt andre steder hvor der måtte opbevares dokumenter eller andet med relation til disse daglige virke, og som kun kendes af andre.

§ 555. For at foretage en ransagning i det slot, hvor Monarken er bosiddende, skal Dommeren anmode om kongelig tilladelse gennem Hofmarskallen.

§ 556. I de kongelige bygninger, hvor Monarken ikke er bosiddende i ransagningsøjeblikket, er det nødvendigt med en tilladelse fra den person i Monarkens hofstab, der har ansvaret for opsyn og vedligeholdelse af bygningen, eller

dennes stedfortræder.

§ 557. Annulleret

§ 558. En kendelse om ransagning på en privat borgers bopæl skal altid være begrundet, og dommeren skal helt konkret angive i hvilken bygning eller på hvilket sted ransagningen skal foretages, om den udelukkende foretages i dagstimerne, samt hvilken myndighed eller tjenestemand, der vil foretage ransagningen.

§ 559. Ved ransagning af bygninger, der huser udenlandske repræsentanter akkrediteret i Spanien, skal dommeren indhente tilladelse hos disse gennem officiel skrivelse, hvori angives en svarfrist på 12 timer.

§ 560. Hvis denne frist udløber uden at der er blevet givet svar, eller hvis den udenlandske repræsentant nægter tilladelsen, skal dommeren øjeblikkeligt meddele dette telegrafisk, hvis muligt, til Justitsministeriet. Så længe Justitsministeriet endnu ikke har meddelt sin beslutning, skal dommeren afholde sig fra at foretage ransagningen, men samtidigt iværksætte overvågningsforanstaltninger, som fastsat i § 567.

§ 561. På udenlandske krigsskibe, hvor kaptajnen ikke giver sin tilladelse, erstattes denne af landets ambassadør eller Minister.

§ 562. Det er tilladt at trænge ind på udenlandske konsulers bopæl og kontor, når dette meddeles på forhånd og den berørte informeres om formaliteterne beskrevet i Grundloven og anden relevant lovgivning.

§ 563. Når bygningen eller det lukkede sted befinder sig i dommerens egen retskreds, overdrager han ransagningen til kommunalretsdommeren i området, hvor bygningen eller det lukkede sted befinder sig, eller til en hvilken som helst anden myndighed eller betjent fra kriminalpolitiet.

Når bygningen eller det lukkede sted befinder sig udenfor dommerens egen retskreds, overdrager han den praktiske udførelse til en dommer af samme rang i det område, hvor bygningen eller det lukkede rum befinder sig, og som samtidigt kan overdrage sagen til myndighederne eller kriminalpolitiet i området.

§ 564. Hvis det drejer sig om en offentlig bygning eller sted indeholdt i stk. 1, 2 og 3 i § 547, skal dommeren skriftligt meddele det til den myndighed eller øverstbefalende, som de måtte henhøre under.

Hvis denne ikke besvarer indenfor fristen angivet i den skriftlige meddelelse, kommunikeres ransagningskendelsen til den ansvarlige for opsyn og vedligeholdelse af bygningen eller det lukkede sted, hvor denne skal foretages.

Hvis det drejer sig om Statens skibe, rettes meddelelsen til den øverstbefalende.

§ 565. Hvis der er tale om bygninger eller lukkede steder som angivet i stk. 2 i § 547, rettes meddelelsen til den ansvarlige for forsamlingsstedet, eller dennes stedfortræder.

§ 566. Hvis ransagning skal foretages på en privat persons bopæl, meddeles kendelsen til denne. Hvis pågældende ikke er til stede, meddeles kendelsen til dennes stedfortræder.

Hvis stedfortræderen heller ikke er til stede, gives meddelelsen til en hvilken som helst anden myndig person, der måtte opholde sig på adressen, helst den interesseredes familie.

Hvis der ikke er nogen til stede, udfærdiges en meddelelse, som to husfæller skal underskrive.

§ 567. Fra det øjeblik dommeren træffer beslutning om at foretage ransagning af en hvilken som helst bygning eller lukket sted, skal han træffe de passende overvågningsforanstaltninger for at forhindre den sigtede i at flygte eller ulovligt at fjerne redskaber, udbyttet af forbrydelsen, dokumenter, papirer eller andet, der måtte være til genstand for

ransagningen.

§ 568. Når de nødvendige retshandlinger beskrevet i de forgående §§ er udført, iværksættes ransagningen, med kraft- anvendelse hvis dette måtte være nødvendigt.

§ 569. Ransagningen foretages med den interesseredes, eller dennes legale repræsentants, tilstedeværelse.

Hvis den interesserede ikke er til stede eller har ønsket ikke at være det, og heller ikke har udnævnt en repræsentant, foretages ransagningen under et myndigt familiemedlems tilstedeværelse.

Hvis der ikke er et myndigt familiemedlem, foretages ransagning med to vidners tilstedeværelse, husfæller.

Den dommerfuldmægtig, der har udskrevet ransagningskendelsen, eller dennes stedfortræder, skal altid være til stede. Dommerfuldmægtigen skal føre resultatet, gennemførelsen og omstændigheder ved ransagningen til protokols. Denne skal underskrives af alle de tilstedeværende. Dommerfuldmægtigen kan dog erstattes som angivet i Organisk Lov om Domstolene.

Modstand fra den berørte, dennes repræsentant, familiemedlemmer eller vidner til ransagningen vil medfører straffensvar som angivet i Straffeloven for personer, der udviser alvorlig ulydighed overfor en myndighed. Ransagningen stoppes ikke af den grund.

Hvis man under ransagningen ikke finder de personer eller genstande som man ledte efter, og ikke finder mistænkelige indicier, udstedes en kopi af protokollen, hvis den berørte anmoder om dette.

§ 570 Når ransagningen finder sted på en privat persons bopæl og ransagningen ikke er færdig inden dagen er omme, vil den ansvarlige begære den berørte eller dennes repræsentant, hvis denne er til stede, om tilladelse til at for-

sætte i løbet af natten. Hvis pågældende nægter dette, indstilles ransagningen, undtagen i de tilfælde, der er fastsat i §§ 546 og 550, og rummene eller møblerne, hvor ransagningen skal genoptages, forsegles, hvis det skønnes nødvendigt, for at undgå at den interesserede flygter eller borttager de genstand man leder efter.

Den ansvarlige for ransagningen skal advare de personer, der er til stede i bygningen eller på stedet om at de ikke må fjerne forseglingen og bryde aflåsningen, endstige tillade andre at gøre det, og at de står til ansvar i henhold til Straffeloven.

§ 571. Ransagningen indstilles kun i det tidsrum, hvor det ikke er muligt at forsætte, og overvågningsforanstaltninger i henhold til § 567 iværksættes under ransagnings indstilling.

§ 572. I ransagningsprotokollen anføres navnet på den dommer, eller dennes repræsentant, som foretager ransagningen, samt alle andre involverede personer, opståede hændelser, tidspunktet for ransagnings påbegyndelse og afslutning, og en fortegnelse over ransagningen i den orden den er foretaget, samt resultatet af denne.

§ 573. Der gives ikke ordre til ransagning af den sigtedes regnskabsbøger og papirer, eller en anden persons, hvis ikke der forelægger alvorlige indicier på at dette vil bidrage til opklaringen og stadfæstelse af en væsentlig kendsgerning eller omstændighed ved sagen.

§ 574. Dommeren beordrer indsamlingen af den strafbare handlings redskaber og forbrydelsens udbytte, samt dokumenter, papirer og andre fundne ting, hvis dette skønnes nødvendigt for forundersøgelsessagen.

De indsamlede dokumenter og papirer nummereres, forsegles og attesteres af dommerfuldmægtigen, og er under hans ansvar.

§ 575. Alle er forpligtigede til at fremvise de genstande og papirer, som må formodes at have tilknytning til sagen.

Hvis den der tilbageholder disse, nægter at fremvise dem, straffes vedkommende med en bøde. Hvis der er tale om vigtige genstande eller papirer, og vedkommende fortsat nægter at fremvise disse, vil vedkommende, når forbrydelses karakter taler for dette, blive sigtet for ulydighed mod en myndighed, undtagen hvis vedkommende har gjort sig berettiget til den juridiske betegnelse efterfølgende meddelagtighed.

§ 576. §§ 552 og 569 kommer til anvendelse ved ransagning af papirer og genstande.

§ 577. Hvis det måtte være nødvendigt med sagkyndig bistand for at afgøre vigtigheden i at indsamle det under ransagningen fundne materiale, aftales dette med dommeren, som fastsat i kapitel VII i Femte Bog.

§ 578. Hvis dokumentet, som er genstand for ransagningen, er en notars protokol, handles der i henhold til det fastsatte i Lov om Notarer.

Hvis det drejer sig om en protokol fra Ejendomsregistret, handles i henhold til Hypoteksloven.

Hvis det drejer sig om et dokument fra Civilstandsregistret eller Handelsregistret, handles i overensstemmelse med den lovgivning og de regler, der er for disse tjenester.”

Tjekkiet

“Section 82.

Reasons for house searches and personal searches and searches of other premises and plots of land

- (1) A house search may be carried out if there are grounds for suspicion that an thing or person important for criminal proceedings is in a flat or other premises used for residence or in premises belonging to them (residence).
- (2) A search of non-residential premises (other premises) and plots of land may also be carried out for the reasons specified in paragraph 1, if they are not accessible to the public.
- (3) A personal search may be carried out if there are grounds for suspicion that the person has an thing important for criminal proceedings on his/her person.
- (4) A personal search may also be carried out on a person detained and on a person who has been arrested or who is being taken into custody if it is suspected that he/she is carrying a weapon or other thing which could endanger his/her own or another person's life or health.

Section 83.

Search warrant

- (1) Presiding judge and in pre-trial proceedings the judge based on motion of the public prosecutor are authorised to order the search of close premises. In exigent cases this can be done by the presiding judge or the judge, in the district of whom the search is to be carried out, instead of the appropriate presiding judge or judge (Section 18). The search warrant must be issued in writing and justified. It shall be served on the person, in the premise of whom the search is to be carried out, during the search, and if this is not possible, within 24 hours at the latest from elimination

of the obstacle preventing from the service.

(2) A search warrant shall be executed upon order of presiding judge or judge by a police body.

Section 83a.

Warrant for a search of other premises and plots of land

(1) A search warrant for other premises or plots of land is authorised by the presiding judge, and in pre-trial proceedings the state prosecutor or the police authority. The police authority requires previous consent of the state prosecutor. The warrant must be issued in writing and reasons must be given. It is delivered to the user of the premises or plots of land concerned, and, if he/she is not found in the search, immediately after the impediment which prevents delivery is removed.

(2) A search of other premises or plots of land is carried out by the authority which ordered it or the police authority at its order.

(3) The police may only carry out a search of other premises or plots of land without a warrant or the consent specified in paragraph 1 if the warrant or consent could not be obtained in advance and the matter cannot be delayed, or if the user of the premises or plots of land concerned declares in writing that he/she consents to the search and delivers its declaration to the police authority. The authority which is authorised to issue the warrant or consent specified in paragraph 1 must be informed of this action promptly.

Section 83b.

Personal search warrant

- (1) A personal search warrant is authorised by the presiding judge and in pre-trial proceedings by the state prosecutor or with his/her consent the police authority.
- (2) If the personal search is not carried out by the authority which ordered it, it is carried out by the police authority at its order.
- (3) A personal search is always carried out by a person of the same sex.
- (4) The police may only carry out a personal search without a warrant or consent specified in paragraph 1 if the warrant or consent could not be obtained in advance and the matter could not be delayed, or if it involves a person caught in the act or a person for whom an arrest warrant has been issued. A personal search may also be carried out without a warrant or consent in the cases specified in Section 82 para. 4.

Section 83c.

Entry to dwellings, other premises and plots of land

- (1) The police may only enter dwellings, other premises or plots of land if the matter cannot be delayed and entry is necessary to protect persons' lives or health or protect other rights and freedoms or avert serious danger to public security and order.
- (2) They may also enter places specified in paragraph 1 if an arrest warrant or a writ of attachment or a committal

warrant for a person living there has been issued.

(3) No actions other than those serving to eliminate an imminent danger or to deliver a person may be carried out during entry to places specified above.

Section 84.

Previous questioning

A house search or personal search or search of other premises and plots of land may only be carried out after previous questioning of the person on whose premises or against whom this action is to be carried out, only if voluntary delivery of an thing sought or elimination of another reason which led to this action has not been achieved by questioning. Previous questioning is not required if the matter cannot be delayed and questioning cannot take place immediately.

Carrying out searches and entry to dwellings, other premises and plots of land

Section 85.

(1) The authority carrying out a house search or search of other premises is obliged to enable the person at whose premises this action is carried out or any adult member of his/her household, or in the case of a search of other premises also employees, to participate in the search. It is obliged to instruct these persons of their right to participate in the search.

(2) For carrying out a house and a personal search it is necessary to co-opt a person who is not involved in the mat-

ter. The authority carrying out the search shows its authorisation.

- (3) In the search protocol it is also necessary to state whether the provisions on previous questioning have been observed, or to give the reasons why they were not observed. If a thing has been delivered or seized in a search, it is also necessary to incorporate data specified in Section 79 para. 5 in the protocol.
- (4) The authority which executed this action provides the person on whose premises the search was carried out with a written confirmation of the result of the action, and also take-over of things which were delivered or seized in it, immediately, and if this is not possible, within 24 hours at the latest, or provides a copy of the protocol.
- (5) In entry to dwellings, other premises and plots of land, the provisions of paragraphs 1 to 4 are used as appropriate. However, participation of persons specified in paragraph 1 in entry to dwellings and co-opting of a person specified in paragraph 2 can be refused, if this could lead to endangering his/her life or health.”

Tyskland

[Den danske ambassade i Berlin har oplyst, at den givne tekst er uddrag fra den officielle engelske oversættelse af den tyske retsplejelov.]

"Ransagning hos en mistænkt retter sig efter §102 i den tyske retsplejelov (Strafprozessordnung, fork. StPO):

Section 102

[Search in Respect of the Suspect]

A body search, a search of the property and of the private and other premises of a person who, as a perpetrator or as an initiator or accessory before the fact, is suspected of committing a criminal offence, or is suspected of accessoryship after the fact or of obstruction of justice or of handling stolen goods, may be made for the purpose of his apprehension, as well as in cases where it may be presumed that the search will lead to the discovery of evidence.

En ransagning hos andre personer (f.eks. vidner) er reguleret i StPO § 103:

Section 103

[Searches in Respect of Other Persons]

(1) Searches in respect of other persons shall be admissible only for the purpose of apprehending the accused or to follow up the traces of a criminal offence or to seize certain objects, and only if certain facts support the conclusion that the person, trace, or object sought is located on the premises to be searched. For the purposes of apprehending an accused who is strongly suspected of having committed a criminal offence pursuant to section 89a of the Criminal Code or pursuant to section 129a, also in conjunction with section 129b subsection (1), of the Criminal Code, or one of the criminal offences designated in this provision, a search of private and other premises shall also be admissible if they are located in a building in which it may be assumed, on the basis of certain facts, that the accused is located.

(2) The restrictions of subsection (1), first sentence, shall not apply to premises where the accused was apprehended or which he entered during the pursuit.

Skal ransagningen gennemføres om natten, skal der ifølge StPO § 104 tages højde for følgende:

Section 104
[Searches During the Night]

- (1) Private premises, business premises and enclosed property may be searched during the night only in pursuit of a person caught in the act, in exigent circumstances, or for the purpose of reapprehending an escaped prisoner.
- (2) This restriction shall not apply to premises which are accessible at night to anyone, or which are known to the police as shelters or gathering places of offenders, as depots of property obtained through criminal offences, or as hiding places for gambling, illegal trafficking in narcotics or weapons, or prostitution.
- (3) Night shall include, during the period from 1 April to 30 September, the hours from nine o'clock in the evening to four o'clock in the morning and during the period from 1 October to 31 March, the hours from nine o'clock in the evening to six o'clock in the morning.

Af § 105 fremgår det, at beslutningskompetencen som udgangspunkt ligger hos domstolen. Kun ved overhængende fare må statsadvokaten og politiet udstede en sådan kendelse. § 105 specificerer som følger:

Section 105
[Search Order; Execution]

- (1) Searches may be ordered only by the judge and, in exigent circumstances, also by the public prosecution office and the officials assisting it (section 152 of the Courts Constitution Act). Searches pursuant to Section 103 subsection (1), second sentence, shall be ordered by the judge; in exigent circumstances the public prosecution office shall be authorized to order such searches.

(2) Where private premises, business premises, or enclosed property are to be searched in the absence of the judge or the public prosecutor, a municipal official or two members of the community in the district of which the search is carried out shall be called in, if possible, to assist. The persons called in as members of the community may not be police officers or officials assisting the public prosecution office.

(3) If it is necessary to carry out a search in an official building or in an installation or establishment of the Federal Armed Forces which is not open to the general public, the superior official agency of the Federal Armed Forces shall be requested to carry out such search. The requesting agency shall be entitled to participate. No such request shall be necessary if the search is to be carried out on premises which are inhabited exclusively by persons other than members of the Federal Armed Forces.

Beboers rettigheder:

Section 106
[Calling In the Occupant]

(1) The occupant of the premises or the possessor of the objects to be searched may be present at the search. If he is absent, his representative or an adult relative, or a person living in his household, or a neighbor shall, if possible, be called in to assist.

(2) In the cases referred to in Section 103 subsection (1), the purpose of the search shall be made known to the occupant or possessor or to the person called in his absence, before the search begins. This provision shall not apply to the occupants of the premises indicated in Section 104 subsection (2).

Meddelelser- og dokumentationspligt:

	<p data-bbox="220 1615 296 1771">Section 107 [Notification; Inventory]</p> <p data-bbox="331 197 475 1771">Upon conclusion of the search the person affected thereby shall, upon his request, be given a written notification indicating the reason for the search (Sections 102, 103) and, in the case of Section 102, the criminal offence. Upon request, he shall also be given a list of the objects which were impounded or seized; if nothing suspicious was found, he shall be given a certificate to this effect.”</p> <p data-bbox="483 2011 512 2096">Østrig</p> <p data-bbox="483 1285 512 1771">“§ 5 Gesetz- und Verhältnismäßigkeit</p> <p data-bbox="547 277 703 1771">(1) Kriminalpolizei, Staatsanwaltschaft und Gericht dürfen bei der Ausübung von Befugnissen und bei der Aufnahme von Beweisen nur soweit in Rechte von Personen eingreifen, als dies gesetzlich ausdrücklich vorgesehen und zur Aufgabenerfüllung erforderlich ist. Jede dadurch bewirkte Rechtsgutbeeinträchtigung muss in einem angemessenen Verhältnis zum Gewicht der Straftat, zum Grad des Verdachts und zum angestrebten Erfolg stehen.</p> <p data-bbox="730 277 903 1771">(2) Unter mehreren zielführenden Ermittlungshandlungen und Zwangsmaßnahmen haben Kriminalpolizei, Staatsanwaltschaft und Gericht jene zu ergreifen, welche die Rechte der Betroffenen am Geringsten beeinträchtigen. Gesetzlich eingeräumte Befugnisse sind in jeder Lage des Verfahrens in einer Art und Weise auszuüben, die unnötiges Aufsehen vermeidet, die Würde der betroffenen Personen achtet und deren Rechte und schutzwürdige Interessen wahrt.</p> <p data-bbox="954 277 1031 1771">(3) Beschuldigte oder andere Personen zur Untermehmung, Fortsetzung oder Vollendung einer Straftat zu verleiten oder durch heimlich bestellte Personen zu einem Geständnis zu verlocken, ist unzulässig.</p> <p data-bbox="1066 869 1094 1771">§ 119 Durchsuchung von Orten und Gegenständen sowie von Personen</p>
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<p>(1) Durchsuchung von Orten und Gegenständen (§ 117 Z 2) ist zulässig, wenn auf Grund bestimmter Tatsachen anzunehmen ist, dass sich dort eine Person verbirgt, die einer Straftat verdächtig ist, oder Gegenstände oder Spuren befinden, die sicherzustellen oder auszuwerten sind.</p> <p>(2) Durchsuchung einer Person (§ 117 Z 3) ist zulässig, wenn diese</p> <ol style="list-style-type: none">1. festgenommen oder auf frischer Tat betreten wurde,2. einer Straftat verdächtig ist und auf Grund bestimmter Tatsachen anzunehmen ist, dass sie Gegenstände, die der Sicherstellung unterliegen, bei sich oder Spuren an sich habe,3. durch eine Straftat Verletzungen erlitten oder andere Veränderungen am Körper erfahren haben könnte, deren Feststellung für Zwecke eines Strafverfahrens erforderlich ist. <p>§ 157 Aussageverweigerung</p> <p>(1) Zur Verweigerung der Aussage sind berechtigt:</p> <ol style="list-style-type: none">1. Personen, soweit sie ansonsten sich oder einen Angehörigen (§ 156 Abs. 1 Z 1) der Gefahr strafrechtlicher Verfolgung oder im Zusammenhang mit einem gegen sie geführten Strafverfahren der Gefahr aussetzen würden, sich über ihre bisherige Aussage hinaus selbst zu belasten,2. Verteidiger, Rechtsanwälte, Patentanwälte, Verfahrensanwälte in Untersuchungsausschüssen des Nationalrats, Notare und Wirtschaftstreuhänder über das, was ihnen in dieser Eigenschaft bekannt geworden ist,3. Fachärzte für Psychiatrie, Psychotherapeuten, Psychologen, Bewährungshelfer, eingetragene Mediatoren nach dem Zivilrechts-Mediations-Gesetz, BGBl. I Nr. 29/2003, und Mitarbeiter anerkannter Einrichtungen zur psychosozialen Beratung und Betreuung über das, was ihnen in dieser Eigenschaft bekannt geworden ist,4. Medieninhaber (Herausgeber), Medienmitarbeiter und Arbeitnehmer eines Medienunternehmens oder Mediendienstes	
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über Fragen, welche die Person des Verfassers, Einsenders oder Gewährsmannes von Beiträgen und Unterlagen betreffen oder die sich auf Mitteilungen beziehen, die ihnen im Hinblick auf ihre Tätigkeit gemacht wurden,
5. Wahlberechtigte darüber, wie sie ein gesetzlich für geheim erklärtes Wahl- oder Stimmrecht ausgeübt haben.

(2) Das Recht der in Abs. 1 Z 2 bis 5 angeführten Personen, die Aussage zu verweigern, darf bei sonstiger Nichtigkeit nicht umgangen werden, insbesondere nicht durch Sicherstellung und Beschlagnahme von Unterlagen oder auf Datenträgern gespeicherten Informationen oder durch Vernehmung der Hilfskräfte oder der Personen, die zur Ausbildung an der berufsmäßigen Tätigkeit nach Abs. 1 Z 2 bis 4 teilnehmen.”