

# ACT ON THE OFFICE FOR THE SUPPRESSION OF CORRUPTION AND ORGANISED CRIME

## I. INTRODUCTORY PROVISIONS

### Article 1

(1) This Act establishes:

1. organisation, jurisdiction and competence of the Office for the Suppression of Corruption and Organised Crime (hereinafter referred to as: Office),
2. jurisdiction and competence of courts and conduct of criminal proceedings specified by this Act,
3. appointment of the Head of the Office (hereinafter referred to as: Head) and the Deputy Heads, assignment of State Attorneys and their Deputies, conditions for employment of civil servants and employees, and provision of funds for the work of the Office,
4. securing confiscation of crime-related instrumentalities, proceeds and property,
5. cooperation of government bodies and other bodies and persons with the Office,
6. international cooperation in criminal prosecution and investigation of criminal offences falling under the competence of the Office.

(2) The terms used in this Act for persons in the masculine gender are used neutrally and shall refer to both male and female persons (director, State Attorney, investigator, advisor, judge, etc.).

### Article 1a (OG 148/13)

This Act transposes the following decisions into the legal system of the Republic of Croatia:

- 1) Council Framework Decision 2005/212/JHA of 24 February 2005 on Confiscation of Crime-Related Proceeds, Instrumentalities and Property (OJ L 68, 15.3.2005),
- 2) Council Framework Decision of 13 June 2002 on Joint Investigation Teams (2002/465/JHA) (OJ L 162, 20.6.2002).

### Article 2

(1) The Office acts as a special State Attorney's Office established for the territory of the Republic of Croatia with the seat in Zagreb.

(2) Unless otherwise provided by this Act, the provisions of the Act on the State Attorney's Office shall apply to the organisation and activities of the Office.

(3) The Office shall have a stamp bearing the following inscription: Republic of Croatia – State Attorney's Office, Office for the Suppression of Corruption and Organised Crime, and the coat of arms of the Republic of Croatia. On the building in which the Office is located the following title shall be displayed: Republic of Croatia, State Attorney's Office, Office for the Suppression of Corruption and Organised Crime, along with the coat of arms and flag of the Republic of Croatia.

## II. ORGANISATION, JURISDICTION AND POWERS OF THE OFFICE, APPOINTMENT OF THE HEAD AND DEPUTY HEADS

### 1. Organisation of the Office

### Article 3

- (1) The Office shall be run by the Head. A Deputy State Attorney General of the Republic of Croatia (hereinafter referred to as: State Attorney General), or a County State Attorney or his Deputy meeting the requirements for the appointment as a Deputy State Attorney General, may be appointed the Head.
- (2) The Head shall be appointed by the State Attorney General, subject to a previously obtained opinion of the minister in charge of judicial affairs, and an opinion of the collegiate body of the State Attorney's Office of the Republic of Croatia.
- (3) The minister in charge of judicial affairs shall issue the opinion referred to in paragraph 2 of this Article within thirty days from the date of receipt of the request.
- (4) The procedure of appointment of the Head shall be initiated by the State Attorney General four months prior to the expiration of the period for which the Head was appointed.
- (5) A candidate for the position of the Head shall give a written consent for the appointment to the position of the Head and a declaration stating that he agrees to undergo security clearance checks.
- (6) In addition to the request asking him to provide his opinion, the State Attorney General shall submit to the minister in charge of judicial affairs a written consent of the candidate for the position of the Head.
- (7) Security clearance checks and checks of the property status of the Head, based on the State Attorney General's request, may be performed prior to the appointment and any time during the period of the appointment, according to special regulations.

### Article 4

- (1) The Head shall be appointed for a period of four years. After the expiration of this period, the Head may be re-elected to this position.
- (2) The Head shall be relieved from duty in cases pertaining to the relief from duty of the State Attorney prescribed by the Act on the State Attorney's Office.
- (3) Besides the cases referred to in paragraph 2 of this Article, the Head shall be relieved from duty if he does not agree to security checks or impedes their implementation.
- (4) In cases referred to in paragraph 2 of this Article, unless they refer to relief from duty for disciplinary reasons, and in paragraph 3 of this Article, the Head shall remain a Deputy State Attorney General, or a County State Attorney, but may no longer work at the Office.

The Head shall have the rights and duties of a State Attorney.

### Article 5

- (1) The State Attorney's Office duties at the Office shall be performed by the Head and Deputy Heads. The number of Deputy Heads at the Office shall be determined by the minister in charge of judicial affairs at the proposal of the State Attorney General.
- (2) While working on cases and in the course of proceedings, a Deputy Head shall have the rights and duties of a Deputy State Attorney.

### Article 6

Subject to a previous approval of the minister in charge of judicial affairs, the Head shall issue a job description and classification scheme for civil servants and employees.

### Article 7

The Head of the Office shall be evaluated by the State Attorney General, whereas the Deputy Heads shall be evaluated by the Head in the manner and under the conditions stipulated by the Act on the State Attorney's Office.

#### Article 8

(1) The State Attorney or Deputy State Attorney who, having passed the judicial exam, worked at least eight years as a judge, State Attorney, Deputy State Attorney, lawyer, or a police officer combating crime, and who has pronounced inclination towards and capabilities for investigating most serious and complex criminal offences, may be assigned to the position of a Deputy Head of the Office.

(2) A Deputy Head shall be assigned in the manner, under the conditions and according to the procedure in which his expertise, independence and capability for performing State Attorney duties at the Office are best employed.

(3) The expertise and capability to perform State Attorney duties at the Office shall be determined on the basis of the opinion on the candidate's performance issued by a State Attorney, the evaluation of his work in complex cases, his performance in pre-investigatory proceedings and during criminal proceedings, and the evaluation of his performance as a State Attorney.

#### Article 9 (OG 148/13)

(1) A Deputy Head vacancy shall be announced in such a manner that it is made accessible to State Attorneys and their Deputies. Candidates may apply for the position within thirty days from the date of the vacancy announcement.

(2) A Deputy Head shall be assigned to the Office by the State Attorney General, at the proposal of the Head, from among the ranks of State Attorneys and Deputy State Attorneys, for a period of four years. After the expiration of the said period, a Deputy Head may be reassigned to the Office. In his decision on the assignment, the State Attorney General shall take into consideration the information referred to in Article 8 paragraph 3 of this Act, and in particular the data on the candidate's performance as a State Attorney.

(3) If the Head is not reappointed or a Deputy Head is not reassigned to the Office, he shall continue to work as a Deputy State Attorney at the State Attorney's Office where he worked prior to his appointment to the Office.

(4) The provisions of Article 3 paragraphs 4 through 7 of this Act shall apply accordingly to the assignment procedure of Deputy Heads.

#### Article 10

(1) The provisions of the Act on the State Attorney's Office shall apply to the relief from duty of Deputy Heads. In addition to this, the Deputy Head shall cease working at the Office for the reasons specified in Article 4 paragraph 3 of this Act.

(2) Besides for the reasons specified in paragraph 1 of this Article, the State Attorney General may, at the the Head's proposal, relieve from duty a Deputy Head who has no notable inclinations and capabilities for investigating most severe and complex cases of corruption and organised crime.

(3) The Head may submit the proposal referred to in paragraph 2 of this Article if it has been established upon monitoring the Deputy Head's work that he has no notable inclinations and capabilities for investigating cases of corruption and organised crime. The monitoring shall be carried out by the State Attorney's Office of the Republic of Croatia, at the Head's request.

(4) The Head, upon approval of the minister in charge of judicial affairs, and the Deputy Head upon approval of the Head, may cease working at the Office at his own request.

(5) The decision on the termination of the office of a Deputy Head for the reason referred to in paragraph 2 of this Article and on the termination of the office of the Head and Deputy Head for the reason referred to in paragraph 4 of this Article shall be passed by the State Attorney General.

(6) The Head or Deputy Head who has ceased working at the Office under the conditions referred to in paragraphs 2 and 4 of this Article shall continue to work as the Deputy Head in the State Attorney's Office where he worked before the appointment or assignment to the Office.

#### Article 11

(1) By way of exception, if there are particularly important reasons to do so, the State Attorney General may, at the proposal of the Head, assign a State Attorney or Deputy State Attorney to work for the Office on a particular case or for a limited period.

(2) The provisions of Article 3 paragraphs 5 through 7 of this Act shall apply accordingly to the procedure of assignment to work for the Office.

(3) The assignment to work referred to in paragraph 1 of this Article shall not exceed the period of one year.

#### Article 12

(1) In the recruitment procedure, senior advisors, advisors and expert associates shall submit a declaration on the property they own or have at their disposal and a statement accepting to undergo security checks.

(2) Expert associates employed at the Office shall assist the Head and Deputy Head in cases in which expert knowledge is required, and may also perform their work independently provided this is specified by law or other regulations.

(3) In the recruitment procedure, civil servants and employees shall submit a declaration on the property they own or have at their disposal and a statement accepting to undergo security checks.

#### Article 13 (OG 148/13)

The Office shall be composed of the following organisational units:

1. Investigation and Documentation Department,
2. Anticorruption and Public Relations Department,
3. Department of State Attorneys acting as Prosecutors (hereinafter: Prosecutors Department),
4. Department for Investigating Crime-Related Proceeds,
5. Department for International Cooperation and Joint Investigations,
6. Secretariat,
7. Supporting Services.

#### Article 14

(1) The Investigation and Documentation Department shall:

1. systematically collect data on the occurrence of corruption and organised crime,
2. organise and run a data basis which may serve as a source of insights in the criminal proceedings referred to in Article 21 of this Act,
3. encourage and direct cooperation among government bodies with a view to discovering corruption and organised crime,
4. perform other duties according to the annual schedule of tasks at the Office.

(2) The minister in charge of judicial affairs shall adopt special rules on the keeping of the database, in line with regulations on the protection of confidentiality of data and the protection of personal data.

(3) The activities at the Investigation and Documentation Department shall be carried out by advisors and expert associates supervised by the Deputy Head who manages the Department according to the annual schedule of tasks.

#### Article 15 (OG 148/13)

(1) The Anticorruption and Public Relations Department shall:

1. inform the public of the danger of and damage from corruption, and the methods and means to prevent it,
2. based on the authorities and instructions given by the Head of the Office, inform the public of the Office's activities,
3. in the manner prescribed by a special act, the Department may inform the public on the course of an investigation carried out by the Office, but only when it is of public interest,
4. prepare reports and analyses on the manifestations and causes of corruption in the public and private sectors, and may also give impetus to the Head of the Office for the adoption of new regulations or amendments to the regulations in force,
5. perform other duties according to the annual schedule of tasks at the Office.

(2) The activities at the Anticorruption and Public Relations Department shall be carried out by advisors and expert associates supervised by the Deputy Head who manages the Department according to the annual schedule of tasks.

#### Article 16 (OG 148/13)

(1) The Prosecutors Department shall carry out duties of a State Attorney pursuant to the Criminal Procedure Act and other regulations, and shall notably:

1. direct the work of the police and other bodies in detecting the criminal offences referred to in Article 21 of this Act and request that information on these offences be collected,
2. carry out investigations so as to establish the value and the location of proceeds related to the criminal offences referred to in Article 21 of this Act and propose implementation of security measures of confiscation of such property as specified by this Act and other regulations,
3. perform other duties according to the schedule of tasks at the Office.

(2) If required due to the workload, special sections may be set up within the Prosecutors Department for proceedings before the county courts in Osijek, Rijeka and Split.

(3) The activities at the Prosecutors Department shall be carried out by Deputy Heads, advisors and expert associates supervised by the Deputy Head who manages the Department according to the annual schedule of tasks.

#### Article 16a (OG 148/13)

(1) The Department for Investigating Crime-Related Proceeds shall, in agreement and at the order of the Deputy Head in charge of a particular case, carry out investigations if there are founded grounds for suspicion that by committing a criminal offence referred to in Article 21 of this Act, significant proceeds have been acquired.

(2) Investigations shall be carried out to establish the exact value of proceeds, find proceeds derived from a criminal offence and secure their confiscation.

(3) Police officers and officers of the Ministry of Finance may participate in the work of the Department for Investigating Crime-Related Proceeds in the manner and under the conditions determined by the Criminal Procedure Act.

(4) The duties of the Department for Investigating Crime-Related Proceeds shall be carried out by financial investigators, advisors and expert associates supervised by the Deputy Head who manages the Department according to the annual schedule of tasks.

(5) The Department for Investigating Crime-Related Proceeds shall perform other duties according to the schedule of tasks at the Office.

#### Article 17

(1) The Department for International Cooperation and Joint Investigations shall:

1. cooperate with competent authorities of other countries and international organisations in accordance with international treaties,

2. designate members of joint investigation teams established on the basis of an international treaty or a clause for a particular case, in order to carry out investigation, criminal prosecution or representation of the prosecution before the court for the criminal offences referred to in Article 21 of this Act, in the Republic of Croatia or in one or several other countries.

(2) In joint investigations carried out in the territory of the Republic of Croatia, the Department for International Cooperation and Joint Investigations shall supervise the application of national regulations and the respect of the sovereignty of the Republic of Croatia. It shall immediately inform the Head about observed flaws or disputable issues that cannot be resolved by counselling with the competent authority of another country or its representatives, and the Head shall, where appropriate, seek an opinion from the ministry in charge of judicial affairs and the ministry in charge of foreign affairs.

(3) To serve the needs of joint investigations, the Department for International Cooperation and Joint Investigations shall:

1. receive requests from other countries for undertaking special evidentiary actions related to criminal offences pursuant to Article 332 of the Criminal Procedure Act and take necessary measures before competent courts,

2. in case of particularly urgent actions which the competent bodies of other countries are authorised to undertake independently in the territory of the Republic of Croatia pursuant to a special agreement, supervise the undertaking of such actions and take care that the competent body of the other country does not infringe the inviolability of the home or of the right to personal freedom and dignity; upon completion of those actions, it shall submit a final report to the Head who may require the presence of the authorised foreign public official during the submission of the report,

3. receive requests from competent authorities of other countries for the provision of legal assistance in proceedings regarding the criminal offences referred to in Article 21 of this Act. The Office shall inform the State Attorney's Office of the Republic of Croatia of the receipt and execution of such a request.

#### Article 18

The Secretariat shall perform tasks related to human resources management and other duties according to the annual schedule of tasks at the Office.

#### Article 19

(1) Security of the premises, facilities and personnel of the Office, as well as of actions taken by the Office, shall be maintained through physical and technical protection provided by judicial police officers assigned to work at the Office.

(2) Physical protection means immediate guarding and protecting of persons and property through direct security measures and means of coercion.

(3) Technical protection of persons and property shall include technical means and devices the type, purpose and quality of which shall be determined by the minister in charge of judicial affairs.

#### Article 20

(1) Judicial police officers shall be reassigned to work at the Office by the minister in charge of judicial affairs. When reassigned to work at the Office, judicial police officers shall submit a declaration on the property they own or have at their disposal and a statement accepting to undergo security checks.

(2) During their work at the Office, judicial police officers shall act according to orders and instructions of the Head and may not perform other duties without the Head's previous approval.

### 2. Competence of the Office

#### Article 21

(1) The Office shall perform duties of the State Attorney's Office in cases of the following criminal offences referred to in the Criminal Code (Official Gazette 110/97, 27/98, 50/00, 129/00, 51/01, 111/03, 190/03, 105/04, 84/05, 71/06, 110/07, 152/08, 57/11 and 77/11):

1. misuse in bankruptcy proceedings referred to in Article 283 paragraphs 2 and 3, unfair competition in foreign trade operations referred to in Article 289 paragraph 2, misuse in performing government duties referred to in Article 338, illegal mediation referred to in Article 343, taking a bribe referred to in Article 347, taking a bribe in business dealings referred to in Article 294a, giving a bribe referred to in Article 348, and giving a bribe in business dealings referred to in Article 294b,
2. abuse of position and authority referred to in Article 337, if such an offence was committed by a public official referred to in Article 89 paragraph 3,
3. unlawful deprivation of freedom referred to in Article 124 paragraph 3, kidnapping referred to in Article 125 paragraph 2, coercion referred to in Article 128 paragraph 2, trafficking in human beings and slavery referred to in Article 175 paragraph 3, illegal transfer of persons across the state border referred to in Article 177 paragraph 3, robbery referred to in Article 218 paragraph 2, extortion referred to in Article 234 paragraph 2, blackmail referred to in Article 235 paragraph 2, money laundering referred to in Article 279 paragraph 3 and illegal debt collection referred to in Article 330 paragraphs 4 and 5, if such criminal offences were committed as a member of a group (Article 89 paragraph 22) or a criminal organisation,
4. abuse of narcotic drugs referred to in Article 173 paragraph 3,
5. association for the purpose of committing the criminal offences referred to in Article 333, including all criminal offences committed by the group or criminal organisation, except for the criminal offences against the Republic of Croatia and its Armed Forces,
6. criminal offences committed in connection with the activity of a group or a criminal organisation punishable by imprisonment exceeding three years, where the criminal offence was committed in two or more countries or a significant part of its preparation or planning was performed in another country,
7. conduct of criminal proceedings against the organiser of a group or criminal organisation for the commission of criminal offences of pandering referred to in Article 195 paragraph 2, illicit trade in gold referred to in Article 290 paragraph 2 and avoiding customs controls referred to in Article 298 paragraph 2 and 3,

8. money laundering referred to in Article 279 paragraphs 1 and 2, evasion of taxes and other levies referred to in Article 286, obstruction of justice referred to in Article 304 paragraphs 1 and 2, coercion against a judicial official referred to in Article 309, obstructing a public official in the performance of official duty referred to in Article 317, attack on a public official referred to in Article 318, disclosure of the identity of a protected witness referred to in Article 305a, if such offences were committed in relation to the perpetration of the criminal offences referred to in items 1 to 7 of this paragraph.

(2) The Office shall perform duties of the State Attorney's Office in cases of the following criminal offences referred to in the Criminal Code:

1. receiving or giving bribes in bankruptcy proceedings referred to in Article 251, receiving bribes in business dealings referred to in Article 252, giving bribes in business dealings referred to in Article 253, abuse of position and authority referred to in Article 291 if such offences were committed by a public official referred to in Article 87 paragraph 3, unlawful favouritism referred to in Article 292, taking a bribe referred to in Article 293, giving a bribe referred to in Article 294, trading in influence referred to in Article 295, giving a bribe for trading in influence referred to in Article 296, bribing representatives referred to in Article 339,

2. criminal association referred to in Article 328 and committing a criminal offence as a member of a criminal association punishable under Article 329, except for criminal offences against the Republic of Croatia and its Armed Forces,

3. criminal offences committed in connection with activities of a criminal organisation punishable by imprisonment exceeding three years, where the offence was committed in the territory of two or more countries or a significant part of its preparation or planning was performed in another country,

4. money laundering referred to in Article 265, tax or customs duty evasion referred to in Article 256, obstruction of justice referred to in Article 306 paragraphs 1 and 2, coercion against a judicial official referred to in Article 312, coercion against a public official referred to in Article 314, attack on a public official referred to in Article 315, disclosing the identity of a person in danger or protected witness referred to in Article 308, if such offences were committed in relation to the perpetration of the criminal offences referred to in items 1 to 3 of this paragraph.

#### Article 22 (OG 148/13)

The State Attorney General may, at the Head's substantiated proposal, decide that in cases of the criminal offences referred to in Article 337 paragraphs 1 and 2 of the Criminal Code (Official Gazette 110/97, 27/98, 50/00, 129/00, 51/01, 111/03, 190/03, 105/04, 84/05, 71/06, 110/07, 152/08, 57/11 and 77/11) and the criminal offences referred to in Article 291 paragraph 1 of the Criminal Code, in pretrial proceedings, a territorially competent municipal State Attorney's office shall act until the decision on the conduct of an investigation is issued, where it is obvious that this will facilitate the proceedings or for other important reasons.

#### Article 23 (OG 148/13)

(1) All government bodies and all legal persons which, within the scope of their activities or in the course of performance of their activities, find out about circumstances and information indicating perpetration of any of the criminal offences referred to in Article 21 of this Act, especially those which, by the manner of planning and preparing of the criminal offence, the manner of its perpetration, the manner of dealing with acquired funds, the participation in business transactions, the conspiratorial behaviour of the perpetrators, the connection with foreign countries, the corruption or attempts to corrupt or other similar behaviour (indicators of organised crime), point to activities of an association of at least three people joined to commit criminal offences, shall be obliged to file a report regarding those circumstances or inform the Office thereof.



(2) All government bodies and legal entities which, within the scope of their activities or in the course of performance of their activities, find out about circumstances or information indicating that in a legal transaction property has been acquired by perpetrating any of the criminal offences referred to in Article 21 of this Act, especially if dealings with acquired funds or property indicate money laundering or concealment of assets, shall be obliged to immediately inform the Office on such circumstances or information.

#### Article 24

(1) If, along with the grounds for suspicion that a criminal offence subject to public prosecution was committed, indications of organised crime or corruption arise, the police shall immediately inform the competent State Attorney's Office thereof and, in agreement with that State Attorney's Office, immediately undertake all necessary actions and inform the Office thereof.

(2) Upon receipt of the information referred to in the paragraph 1 of this Article, the Office may take over the case if it assesses that the criminal offence committed falls under its jurisdiction. It shall notify thereof the police and the State Attorney's Office that was in charge of that case until that moment.

(3) The State Attorney General may issue an instruction for the appointment of a Deputy at the State Attorney's Offices that have a larger number of pending cases referred to in the paragraph 1 of this Article, who shall give instructions to the police regarding necessary actions and measures, and, where appropriate, conduct other investigations.

(4) If the State Attorney's Office referred to in the paragraph 1 of this Article considers that there are no indications of organised crime or corruption, it shall inform the Office thereof. The Office may ask that the State Attorney General issue the instruction referred to in Article 54 paragraph 3 of the Act on State Attorney's Office.

(5) Upon termination of investigations, the State Attorney's Office referred to in paragraph 1 of this Article shall hand the case over to the Office, if it considers that the committed criminal offence falls under the Office's jurisdiction, or inform the Office that it shall resume the proceedings.

#### Article 25 (OG 148/13)

(1) If there are grounds for suspicion that any of the criminal offences referred to in Article 21 of this Act were committed and if there are indications of organised crime, the Office and the police shall undertake all necessary actions so as to infiltrate the heart of the criminal organisation or criminal association, uncover its members and organisers and collect all information and evidence required for the criminal procedure. With this aim the police shall immediately inform the Office of the institution and conduct of investigations regarding the criminal offences referred to in Article 21 of this Act which came to their knowledge, and the Office shall at its own discretion get immediately involved, executing its powers to institute, order, monitor and direct investigations of criminal offences (Article 38 paragraph 2 items 1 and 2 of the Criminal Procedure Act). The Office shall especially take into consideration urgent investigations and evidentiary actions, and provisional measures of securing the confiscation of proceeds. It shall consult the police and the Ministry of Finance regarding those measures.

(2) The General Police Director of the Ministry of the Interior shall organise central collecting, storing and processing of information relevant for the institution and conduct of criminal proceedings for the criminal offences referred to in Article 21 of this Act, especially those concerning the identity, nature, composition, structure, location and activities of a group or a criminal organisation or a criminal association, their relations with other groups or criminal organisations or criminal associations, and the criminal offences committed by the group or a criminal organisation or a criminal association, and their members or

participants. The central register of such information shall be available to the Office by way of a protected computer network in real time.

#### Article 26

If police's or State Attorney's Office's investigations show that there are indications of organised crime in a perpetrated criminal offence of fraud, including fraud related to business activities and insurance, criminal offences violating intellectual property rights, criminal offences of money laundering, malpractice in bankruptcy proceedings, evasion of tax and other levies, abuse of authority in business dealings, illicit trade, avoiding customs controls and other criminal offences committed with the aim of acquiring considerable proceeds, the Office shall ask the competent administrative organisations of the Ministry of Finance (Tax Administration, Financial Police, Customs Administration, Financial Inspectorate, Anti-Money Laundering Office) to check business operations of the particular legal or natural person, to temporarily seize money, securities, objects and documents that may serve as evidence and to request information on collected, processed and stored data concerning unusual and suspicious financial transactions. In its request, the Office may specify the content of the measure or action required and ask to be informed about its planned implementation, so that the Head or the Deputy Head could be present when it is being implemented. The failure to act upon such a request or prolonged non-compliance with it shall be deemed serious violation of the official or working duty.

#### Article 27

(1) In cases of suspected money laundering, the Anti-Money Laundering Office shall:

1. notify the Office of any instrumentalities, proceeds or property it has found out about in any manner, if it is likely that it was acquired by committing any of the criminal offences referred to in Article 21 of this Act,
2. ask those in charge of enforcing measures for the prevention of money laundering to provide all the data at their disposal which are related to the transactions and parties, and deliver those data to the Office within three days.

(2) Upon the Office's request, the Anti-Money Laundering Office shall provide all the available data on transactions executed by persons suspected of money laundering and perform necessary checks in order to establish the existence of such transactions.

(3) The state inspectors authorised to temporarily seize or retain suspicious objects, instrumentalities or property shall enclose minutes of the action taken and a transcript of the decision on the confiscation or retention to the notification submitted to the Office.

#### Article 28

(1) The enforcement judge with the territorial jurisdiction pursuant to a special act shall submit to the Office all decisions on the execution of prison sentences by persons convicted of any of the criminal offences referred to in Article 21 of this Act.

(2) Upon receipt of a decision on a person's sentencing to prison, the Office may deliver to the Prison in Zagreb – Department for Psychosocial Diagnostics and the Central Office of the Prison System Directorate, an opinion on the convicted person's connections with other members of a criminal organisation or a criminal association, which shall be used for drawing up of an individual programme pertaining to the execution of the prison sentence and for passing of a decision on the penitentiary or the prison in which the sentence will be executed.

(3) The warden of the penitentiary or prison shall without delay inform the Office of all relevant information on the person convicted for any of the criminal offences referred to in Article 21 of this Act which came to his knowledge during the execution of that person's prison sentence.

#### Article 28a

(1) If the Head or the Deputy Head has dismissed the crime report due to the lack of grounds for prosecution for any of the criminal offences referred to in Article 21 of this Act, or if he has established that there are no grounds for prosecution of any of the persons charged, and not a single person was damaged by the criminal offence and, therefore, no instruction was given to the injured party (Article 55 paragraph 1 of the Criminal Procedure Act), he shall be obliged, along with the delivery of the decision on dismissal of the crime report, to instruct the person who filed the crime report that an objection may be filed to the Collegiate Body of the Office within fifteen days from the receipt of the decision.

(2) Upon receipt of an objection, the Collegiate Body of the Office shall designate a rapporteur from among the ranks of the Deputy Heads. The rapporteur shall not be the Deputy Head who had passed the decision on dismissal of the crime report. The rapporteur shall study the case within fifteen days and, upon expiration of the deadline, set the date and time of the Collegiate Body's session.

(3) The Collegiate Body's session shall commence with a presentation delivered by the Deputy Head appointed as the rapporteur. After the discussion, the Collegiate Body shall pass a decision regarding merits of the dismissal of the crime report by majority vote by secret ballot of all the members of the Collegiate Body.

(4) If the Collegiate Body of the Office establishes in the decision that the objection is well founded, the Head or the Deputy Head who had passed the decision on the dismissal of the crime report shall resume the proceedings in line with the substantiated decision of the Collegiate Body.

(5) If the Collegiate Body of the Office establishes in the decision that there are no grounds for the objection, the Deputy Head appointed as the rapporteur shall pass a substantiated decision rejecting the objection and shall within eight days notify the complainant thereof and instruct him about the possibility to file an objection against the decision of the Collegiate Body of the Office to the Internal Control Department of the State Attorney's Office of the Republic of Croatia within fifteen days from the day of receipt of the decision.

#### Article 28b

(1) In the objection against the decision of the Collegiate Body of the Office, the complainant shall state his reasons for believing that the decision of the Collegiate Body of the Office is unfounded and shall list data and facts on which the objection is based.

(2) Having received the objection, the Internal Control Department of the State Attorney's Office of the Republic of Croatia shall request the case file from the Office, which shall deliver it within eight days. Upon receipt of the case file, the Internal Control Department of the State Attorney's Office of the Republic of Croatia may request from the Deputy Head appointed as the rapporteur to conduct specific evidentiary actions.

#### Article 28c

(1) The Internal Control Department of the State Attorney's Office of the Republic of Croatia shall pass a decision dismissing the objection as untimely if it has been established that it was filed after the final filing deadline. The Internal Control Department of the State Attorney's Office of the Republic of Croatia shall pass a decision dismissing the objection as not permissible if it has been established that the objection was filed by a person not authorised to file an objection.

(2) The Internal Control Department of the State Attorney's Office of the Republic of Croatia shall pass a decision dismissing the objection as unfounded if it has established that the decision of the Collegiate Body of the Office was well founded.

(3) If the Internal Control Department of the State Attorney's Office of the Republic of Croatia establishes that the objection has been well founded, it shall order the Office to carry out an investigation or to issue an immediate indictment.

#### Article 28d

(1) If the Head or the Deputy Head considers it necessary to pass a decision on dismissal of the crime report in a case in which crime report was not filed because there are no grounds for prosecution for any of the criminal offences referred to in Article 21 of this Act or considers that there are no grounds for prosecution against any of the persons from the case in question, and not a single person was damaged by the criminal offence and, therefore, no instruction was given to the injured party (Article 55 paragraph 1 of the Criminal Procedure Act), he shall be obliged, along with the delivery of a draft decision on the dismissal of the crime report, to ask for the approval of the Collegiate Body of the Office.

(2) Upon receipt of the draft decision on the dismissal of the crime report, the Collegiate Body of the Office shall designate a rapporteur from among the ranks of the Deputy Heads. The rapporteur shall not be the Deputy Head who proceeds in the case in question. The rapporteur shall study the case within fifteen days and, upon expiration of the deadline, set the date and time of the Collegiate Body's session.

(3) The Collegiate Body's session shall commence with a presentation delivered by the Deputy Head appointed as the rapporteur. After the discussion, the Collegiate Body shall pass a decision regarding merits of the dismissal of the crime report by majority vote by secret ballot of all the members.

(4) If the Collegiate Body of the Office establishes in the decision that the draft decision on the dismissal of the crime report is unfounded, the Head or the Deputy Head in charge of the case shall resume the proceedings.

(5) If the Collegiate Body of the Office, by the decision, establishes that the draft decision on the dismissal of the crime report is founded, it shall forward the case file together with its decision to the Internal Control Department of the State Attorney's Office of the Republic of Croatia.

#### Article 28e

(1) Upon receipt of the case file and the decision of the Collegiate Body of the Office referred to in Article 28d paragraph 5 of this Act, the Internal Control Department of the State Attorney's Office of the Republic of Croatia may request from the Deputy Head appointed as the rapporteur to conduct specific evidentiary actions.

(2) If the Internal Control Department of the State Attorney's Office of the Republic of Croatia establishes that the decision of the Collegiate Body of the Office is well founded, it shall notify thereof the Office, which shall, upon receipt of the notification, enter the decision on the dismissal of the crime report into the crime report register.

(3) If the Internal Control Department of the State Attorney's Office of the Republic of Croatia establishes that the decision of the Collegiate Body of the Office is unfounded, it shall order the Office to carry out an investigation or to issue an immediate indictment.

### **III. JURISDICTION AND COMPETENCE OF COURTS AND CRIMINAL OFFENCE PROCEEDINGS SPECIFIED BY THIS ACT**

#### Article 29 (OG 148/13)

(1) In proceedings for the criminal offences referred to in Article 21 of this Act, the Criminal Procedure Act shall apply unless otherwise specified by this Act.

(2) In proceedings for the criminal offences referred to in Article 21 of this Act the provisions of the Criminal Procedure Act pertaining solely to criminal offences for which a fine or imprisonment for a term not exceeding five years and the provisions pertaining to the issuance of a criminal order shall not apply.

#### Article 30 (OG 148/13)

(1) The bodies that participate in proceedings for the criminal offences referred to in Article 21 of this Act shall proceed expeditiously, but in the manner that does not deteriorate their capability to pay equal attention when investigating the facts for and the facts against defendants.

(2) Information on criminal prosecution in the cases referred to in Article 21 of this Act shall not be published without the approval of the Head. Non-authorized publication of such information shall constitute a criminal offence of disclosure of official secret referred to in Article 351 of the Criminal Code (Official Gazette 110/97, 27/98, 50/00, 129/00, 51/01, 111/03, 190/03, 105/04, 84/05, 71/06, 110/07, 152/08, 57/11 and 77/11) and Article 300 of the Criminal Code.

#### Article 31

(1) In cases of the criminal offences referred to in Article 21 of this Act in which the Office acts as the prosecutor, the County Courts in Osijek, Rijeka, Split and Zagreb shall have the subject-matter and territorial jurisdiction, unless otherwise prescribed by this Act.

(2) The County Court in Osijek shall have jurisdiction over the territories of the County Courts in Slavonski Brod and Vukovar. The County Court in Rijeka shall have jurisdiction over the territory of the County Court in Pula. The County Court in Split shall have jurisdiction over the territories of the County Courts in Dubrovnik, Šibenik and Zadar. The County Court in Zagreb shall have jurisdiction over the territories of the County Courts in Bjelovar, Karlovac, Sisak, Varaždin and Velika Gorica.

(3) The courts referred to in paragraph 1 of this Article shall be competent to adjudicate in cases of complicity in the criminal offences referred to in Article 21 of this Act, as well as in cases of concurrence with other criminal offences.

(4) The courts referred to in paragraph 1 of this Article shall also be competent in cases of taking over the prosecution upon the motion of the injured person acting as a subsidiary prosecutor.

(5) The State Attorney General may, upon consent of the President of the Supreme Court of the Republic of Croatia, institute proceedings before any of the courts referred to in paragraph 1 of this Article that have no territorial jurisdiction pursuant to the provision of paragraph 2 of this Article. The President of the Supreme Court of the Republic of Croatia shall give such consent when it is appropriate due to the circumstances of the criminal offence and necessities to conduct the proceedings.

(6) If several persons are accused of several criminal offences referred to in Article 21 of this Act and other criminal offences, and there is a connection between the perpetrators of the criminal offences, a single procedure shall be conducted before the courts referred to in paragraph 1 of this Article.

#### Article 32

(1) In the County Courts in Osijek, Rijeka, Split and Zagreb and in the Municipal Courts in Osijek, Rijeka and Split and in the Municipal Criminal Court in Zagreb, special departments shall be set up for the criminal offences referred to in Article 21 of this Act. The Departments shall be composed of judges with the experience in complex cases.

(2) The judges referred to in paragraph 1 of this Article shall be assigned by the president of the court in accordance with the annual schedule, after obtaining the opinion of the judicial council.

(3) In the procedure of assigning judges to work and of termination of their work, the provisions of Article 3 paragraphs 5 and 7 of this Act shall apply meaningfully.

### Article 33

Upon a substantiated proposal of the president of any of the County Courts referred to in Article 31 paragraph 1 of this Act or the Head of the Office, the Supreme Court of the Republic of Croatia may decide that the trial be held before another county court or before one of the municipal courts referred to in Article 32 paragraph 1, if it is obvious that this would facilitate the proceedings or for other important reasons.

### Article 34

(1) Panels of judges that judge in the cases referred to in Article 21 of this Act shall be composed of three judges.

(2) The judges in the panels referred to in the paragraph 1 of this Article of a county court to which the case is assigned by the decision of the Supreme Court, in terms of the provision of Article 33 of this Act, shall be appointed by the president of that court from among the ranks of judges experienced in working on complex cases.

(3) The prosecution before the court to which the case is assigned by the decision of the Supreme Court, in terms of the provision of Article 33 of this Act, shall be represented by the Office or the State Attorney's Office designated by the State Attorney General, at the proposal of the Head of the Office.

### Article 35 (OG 148/13)

Deleted.

### Article 36

(1) The State Attorney General may request from the court referred to in Article 31 paragraph 1 of this Act to issue a decision stating that a person who has become a member of a criminal organisation or a criminal association should be examined as a witness in the following cases:

1. if against that person a criminal report was filed or if criminal proceedings have been initiated against him for any of the offences referred to in Article 21 of this Act if the offence was committed within a framework of a criminal organisation and if circumstances exist on the basis of which, pursuant to the Criminal Code, the punishment of a member of a criminal organisation may be remitted, or if extenuating circumstances exist on the basis of which the punishment may be mitigated,

2. if that person's testimony is proportional to the severity of the criminal offence committed and relevant for disclosing and proving criminal offences committed as a member of a criminal organisation, or their perpetrators, or for disclosing and preventing criminal offences of a criminal organisation.

(2) The State Attorney General may file a request referred to in paragraph 1 on the basis of a reasoned proposal of the Head before the date has been set for the main hearing in the criminal proceedings against the member of a criminal organisation referred to in paragraph 1 of this Article.

### Article 37

(1) Upon a reasoned proposal of the Head, the State Attorney General may submit the court referred to in Article 31 paragraph 1 of this Act a request to issue a decision to examine as a witness a person who has been convicted as a member of a criminal organisation or a criminal association on the basis of a final judgement, along with a request to reopen the criminal proceeding so as to amend the final judgement in terms of the decision on the penalty (Article 43 paragraph 5 of this Act and Article 497 paragraph 2 of the Criminal Procedure Act), if that person's testimony is relevant for disclosing and proving criminal offences committed as a member of a criminal organisation or a criminal association, or perpetrators of those criminal offences, or for disclosing and preventing commission of criminal offences by members of a criminal organisation or a criminal association.

(2) The statement referred to in Article 38 paragraphs 2 and 3 of this Act shall be enclosed to the mentioned requests. The convicted person shall give his testimony before the competent enforcement judge, in the presence of a defence counsel.

(3) Instead of the request referred to in paragraph 1 of this Article, the State Attorney General may submit a proposal to the court competent for releasing on parole, to release the person on parole beyond the time limits for repeating motions prescribed by a special act.

#### Article 38

(1) Prior to filing the request, the Head shall warn the person referred to in Article 36 paragraph 1 of this Act in accordance with the provision under Article 288 paragraph 3 of the Criminal Procedure Act.

(2) After the person referred to in Article 36 paragraph 1 of this Act has stated that, with regard to the criminal offences referred to in Article 21 paragraph 1 of this Act, he will answer the questions in the capacity of a witness although it is likely that he will expose himself or a close person to great shame, substantial property loss or criminal prosecution, the Head shall obtain a written statement by which such a person shall, as a witness in criminal proceedings, undertake to:

1. speak the truth and not withhold any information known to him regarding a criminal offence referred to in Article 21 paragraph 1 of this Act or its perpetrator,

2. speak the truth and not withhold any information known to him regarding any other criminal offence referred to in Article 21 paragraph 1 of this Act and its perpetrator,

3. speak the truth and not withhold any information known to him about the property or any other benefit or proceeds, objects, acquired assets or other circumstances related to the criminal offences referred to in Article 21 paragraph 1 of this Act, and

4. state that he is not familiar with any other circumstances referred to in paragraph 2 items 1 through 3 of this Article apart from those he will state as a witness.

(3) The warning, the declaration and the statement referred to in paragraphs 1 and 2 of this Article shall be entered into the minutes attached to the Head's proposal referred to in Article 36 paragraph 2 of this Act.

#### Article 39 (OG 148/13)

The perpetrator to whom the circumstances referred to in Article 36 paragraph 1 of this Act apply, may not be examined as a witness if he:

1. has committed one or several criminal offences of murder referred to in Article 90, aggravated murder referred to in Article 91, an act of terrorism referred to in Article 169 paragraph 2, endangering the safety of internationally protected persons referred to in Article 170 paragraph 2, taking hostages referred to in Article 171 paragraph 2, hijacking an aircraft or a ship referred to in Article 179 paragraph 2, piracy at sea and in the air referred to in Article 180 paragraph 2, rape referred to in Article 188 paragraphs 2, 3 and 4, sexual intercourse with a helpless person referred to in Article 189 paragraphs 2, 3 and 4, and sexual intercourse with a child referred to in Article 192 of the Criminal Code (OG 110/97, 27/98, 50/00, 129/00, 51/01, 111/03, 190/03, 105/04, 84/05, 71/06, 110/07, 152/08, 57/11 and 77/11),

2. has committed one or several criminal offences of murder referred to in Article 110, aggravated murder referred to in Article 111, an act of terrorism referred to in Article 97 paragraphs 3 and 4, financing of terrorism referred to in Article 98 paragraph 1, terrorist association referred to in Article 102 paragraph 1, murder of an internationally protected person referred to in Article 352, kidnapping of an internationally protected person referred to in Article 353 paragraph 2, attack on an internationally protected person referred to in Article 354 paragraph 2, attack on an aircraft, vessel or immovable platform referred to in Article 223 paragraphs 5 and 6, serious criminal offences against sexual freedom referred to in Article 154,

serious criminal offences of child sexual abuse and exploitation referred to in Article 166 of the Criminal Code,

3. is an organiser of a criminal organisation or a criminal association,

4. has instigated commission of a criminal offence referred to in Article 21 of this Act with the purpose of having criminal procedures instituted against the instigated person for the offence committed.

#### Article 40

(1) The State Attorney General shall submit a request for issuing a decision on examination of the person referred to in Article 36 paragraph 1 of this Act as a witness to the court referred to in Article 31 paragraph 1 of this Act.

(2) The panel of judges of the competent court shall decide on the request submitted by the State Attorney General within eight days.

(3) The panel shall decide on the request on the basis of documents and other written evidence. Where necessary, the State Attorney General and the person referred to in Article 36 paragraph 1 of this Act accompanied by his defence counsel, if he has one, shall be invited to the session. The State Attorney General may authorise the Head to attend the session. The session shall be held *in camera*.

(4) The panel may make its decision conditional upon the possibility that the Republic of Croatia compensates the persons damaged by the criminal offences which the person referred to in Article 36 paragraph 1 of this Act committed as a member of criminal organisation or a criminal association.

#### Article 41

(1) The panel shall reject the request of the State Attorney General referred to in Article 36 paragraph 1 of this Act in the following cases:

1. if the request was submitted after the date for the main hearing had been set (Article 36 paragraph 2),
2. if the testimony of the witness referred to in Article 36 paragraph 1 of this Act is not in the interest of disclosure and prosecution of other members of the criminal organisation or criminal association.

(2) The panel may reject the State Attorney General's request if it is not likely that the witness referred to in Article 36 paragraph 1 of this Act will give a full circumstantial testimony in the criminal proceedings, or if it is likely that he will withhold information relevant for disclosure or prevention of other criminal offences and members of the criminal organisation or for clarification of the circumstances under which the criminal offences were committed.

(3) The State Attorney General may file an appeal against the decision of the panel within 48 hours. The Supreme Court of the Republic of Croatia shall decide on the appeal within three days.

#### Article 42 (OG 148/13)

By way of a decision accepting the State Attorney General's request, the panel of judges shall:

1. allow that the person indicated in the request be interrogated as a witness in the criminal proceedings (crown witness),
2. order that the minutes and official notes of that person on his earlier testimonies given in the capacity of a suspect or defendant, if there are any, be separated from the court records. Such statements, as well as other evidence they lead to, shall not be used as evidence in the criminal proceedings.

#### Article 43 (OG 148/13)

(1) The panel referred to in Article 31 paragraph 1 of this Act shall reject the State Attorney General's request for examining the person referred to in Article 37 paragraph 1 of this Act as a witness if the



testimony of that person is not in the interest of disclosure and prosecution of other members of the criminal organisation or criminal association.

(2) The panel may reject the State Attorney General's request for examining the person referred to in Article 37 paragraph 1 of this Act as a witness for the reasons listed under Article 41 paragraph 2 of this Act.

(3) The State Attorney General may file an appeal against the decision of the panel referred to in paragraphs 1 and 2 of this Article within 48 hours. The Supreme Court of the Republic of Croatia shall decide on the appeal within three days.

(4) The panel shall, if they find the State Attorney General's request for examining the person referred to in Article 37 paragraph 1 of this Act as a witness well-founded, pass a decision permitting that the person in question be examined as a witness.

(5) Upon examination of the person referred to in Article 37 paragraph 1 of this Act, if the panel has found that the person's testimony may significantly contribute to disclosing and proving of criminal offences committed as a member of a criminal organisation or a criminal association or of perpetrators of those criminal offences, or to disclosing and preventing of the commission of criminal offences by members of a criminal organisation or a criminal association, by applying correspondingly the provisions under Article 498 of the Criminal Procedure Act, the panel shall amend the final judgement in terms of the decision on the penalty to which the person was convicted and pronounce a new penalty which shall be shorter at least by one third and at most by two thirds than the previously pronounced penalty.

#### Article 44

By way of a decision accepting the State Attorney General's request, the panel shall decide on the exclusion of the public from the part of the main hearing in the criminal proceedings against members of a criminal organisation or a criminal association when the crown witness is interrogated.

#### Article 45

(1) The crown witness who has given a testimony in accordance with the obligations referred to in Articles 38 paragraphs 1 and 2 of this Act and the witness referred to in Article 37 of this Act may not be prosecuted for a criminal offence referred to in Article 21 paragraph 1 items 3 through 6 and paragraph 2 of this Act.

(2) The crown witness and the witness referred to in Article 37 of this Act shall be held responsible for giving a false testimony.

(3) If the State Attorney General has not already dismissed the crime report against the crown witness, he shall declare that he desists from criminal prosecution until the final termination of the criminal proceedings against members of a criminal organisation or a criminal association at the latest.

#### Article 46

The provisions of Article 45 of this Act shall not apply and the State Attorney shall resume the prosecution or initiate criminal proceedings in the following cases:

1. if the crown witness has not mentioned all the facts and circumstances referred to in Article 38 paragraph 2 of this Act, or if he has given a false testimony,
2. if prior to the final termination of the criminal proceedings the crown witness commits a new criminal offence referred to in Articles 21 and Article 39 of this Act,

3. if the crown witness, within two years after passing of the decision referred to in Article 42 of this Act, becomes a member of a criminal organisation or a criminal association and, within its framework, commits a criminal offence referred to in Article 21 of this Act.

#### Article 47 (OG 148/13)

(1) Provisions of the Criminal Procedure Act shall apply to interrogation of crown witnesses, with the exception of the provisions of Article 286 paragraph 1 of that Act in relation to the criminal offences referred to in Article 21 paragraphs 1 and 2 of this Act.

(2) Measures for the protection of crown witnesses and persons close to him outside of the criminal proceedings shall be conducted pursuant to special regulations.

#### Article 48 (OG 148/13)

(1) At the Head's request, the judge of investigation may order special evidentiary actions to be conducted, against the person suspected for a reason that he, alone or together with other persons, plans any of the criminal offences referred to in Article 21 of this Act and the extent of elaboration of plans for action and the connections among such persons indicate that they pose a serious threat to the public order, if the police cannot detect, prevent or prove such criminal offences in any other manner or if this would entail disproportionate difficulties.

(2) A reasoned order ordering a special evidentiary action shall contain available information on the person against whom the action is conducted, description of the criminal offence, the manner, scope, location and duration of the action that shall be appropriate for the goal to be reached. Upon expiry of three months from the day of issuance of the order, implementation of a special evidentiary action may be extended by the same period if such extension is essential for achieving the goal for which it was established in the first place.

(3) The decision referred to in paragraph 2 of this Article shall be passed by the panel referred to in Article 34 paragraph 1 of this Act, particularly taking into account whether the reached goal of the measure is consistent with the restriction of personal rights of the citizen, or whether the same results could be reached by implementation of other, less drastic investigative actions and measures.

#### Article 49 (OG 148/13)

(1) As soon as the Office learns about the likelihood that a certain person is receiving, holding or dealing in another manner with proceeds derived from any of the criminal offences referred to in Article 21 of this Act on his bank accounts, provided those proceeds are important for inquiries and investigation of those criminal offences or subject to forcible confiscation pursuant to provisions of the Criminal Code, the Criminal Procedure Act, the Act on the Procedure of Confiscation of Pecuniary Advantage Obtained by Criminal Offence or Misdemeanour and the Act on the Liability of Legal Entities for Criminal Offences, the Office shall issue a request asking the bank to submit information on those bank accounts. The request shall contain data referred to in Article 56 paragraph 1 of this Act, but the exact amount of instrumentalities, proceeds and property obtained by committing criminal offences does not need to be indicated if it is not yet fully known.

(2) The bank is obliged to deliver the data mentioned in the Office's request within the deadline stated in the request. If the bank does not act upon the request, the Office shall ask the judge of investigation to decide on the request.

(3) Upon receipt of the Office's request, the judge of investigation shall immediately decide upon it by way of a decision. The decision shall, without delay, be delivered to the Office, which is entitled to file an appeal against it within 48 hours.

(4) The judge of investigation may, by way of a decision, oblige the bank to deliver data on the state of accounts of the person referred to in paragraph 1 of this Article to the Office, to monitor transactions on accounts of a certain person and, during the period laid down in the order for the monitoring of transactions, to regularly report to the Office on the transactions conducted on the monitored account.

(5) In case of non-compliance with the decision of the judge of investigation, the responsible person at the bank shall be fined in the amount of up to HRK 50,000.00, whereas the bank shall be fined in the amount up to HRK 5,000,000.00. If, after this, the responsible person still does not comply with the decision, he may be imposed a prison sentence until the order or decision has been executed, but not exceeding one month. The panel of the county court shall decide on the appeal against the decision imposing a fine or a prison sentence. The appeal against the decision on a prison sentence shall not suspend the execution of the decision.

(6) Upon issuing the decision referred to in paragraph 4 of this Article, the judge of investigation may, at the Office's request, summon and interrogate members of the bank's bodies, shareholders, employees and all other persons having access to confidential data, with the purpose of collecting information on the circumstances the bank learned while providing services and dealing with individual clients.

#### **IV. SECURING CONFISCATION OF INSTRUMENTALITIES, PROCEEDS OR PROPERTY DERIVED FROM A CRIMINAL OFFENCE**

##### Article 50 (OG 148/13)

(1) The provisions in this section of the Act regulate the procedure by which the Office and the courts, by means of previous or provisional measures (securing measures), secure confiscation of instrumentalities, proceeds or property related to the criminal offences referred to in Article 21 of this Act.

(2) The procedure referred to in paragraph 1 of this Article shall not constitute criminal proceedings and shall include appropriate implementation of provisions of the Enforcement Act, unless otherwise stipulated by this Act.

(3) Ceased to be valid.

##### Article 51

The following terms used in this section shall have the following meanings:

1. "*instrumentalities*" – any object used or intended to be used, in any manner, wholly or in part, to commit one or more criminal offences, or an object resulting from a criminal offence,

2. "*proceeds*" – any form of property gain derived from a criminal offence,

3. *ceased to be valid*,

4. "*account*" – business form in relation to which a bank or any other financial institution carries out transactions involving money or other means of payment, permitting its depositing or withdrawal for somebody else's account,

5. *ceased to be valid*,

6. "*opponent*" – person whose instrumentalities, proceeds or property are seized in favour of the state budget,

7. *ceased to be valid*.

##### Article 52

(1) Ceased to be valid.

(2) The court competent for the implementation of securing measures shall be the court that would have territorial jurisdiction over the implementation of enforcement.

(3) Upon commencement of criminal proceedings, the court before which the criminal proceedings are conducted shall be responsible for deciding on the extension of the period for which the securing measure is ordered.

(4) Ceased to be valid.

#### Article 53

(1) Procedure of securing the instrumentalities, proceeds or property referred to in Article 50 paragraph 1 of this Act shall be initiated by the Office *ex officio*. During the procedure, the honour and dignity of the opponent shall be taken care of and the public shall be excluded until the decision on the securing measure referred to in Article 56 paragraph 2 of this Act has become final.

(2) The procedure shall be urgent and may be initiated prior to the criminal proceedings.

(3) Ceased to be valid.

(4) Ceased to be valid.

#### Article 54

(1) Prior to submitting the request referred to in Article 56 paragraph 1 of this Act, the Office may collect necessary information from citizens.

(2) Ceased to be valid.

(3) The natural person holding the documents and evidence pertaining to the sources of personal income and revenues on whatever grounds shall submit them to the Office if it is likely that on their basis any instrumentalities, proceeds or property derived from or related to criminal offences committed by organised crime could be identified, located and quantified. If the natural person does not do so, the Office shall ask the court to issue the measure referred to in Article 268 of the Criminal Procedure Act against such person.

#### Article 55

(1) The court shall, at the proposal of the Office, order the securing measure of confiscation of instrumentalities, proceeds or property derived from a criminal offence if it has established that:

1. there is a ground to suspect that the natural or legal person has committed any of the criminal offences referred to in Article 21 of this Act,

2. there is a ground to suspect that the total of the instrumentalities, proceeds or property belonging to that person are obtained as proceeds of crime,

3. the value of those instrumentalities, proceeds or property exceeds the amount of HRK 100,000.00.

(2) Ceased to be valid.

(3) Ceased to be valid.

(4) Ceased to be valid.

(5) Ceased to be valid.

#### Article 56 (OG 148/13)

(1) The Offices' request for instituting the proceedings referred to in Article 50 paragraph 1 of this Act shall contain as follows:

1) a short factual description of the criminal offence and its legal name,

2) information about the natural or legal person in relation to whom the request is being submitted,

- 3) a description of the instrumentalities, proceeds or property held by that natural or legal person,
- 4) reasons to believe that there is obvious significant disproportion between the value of instrumentalities, proceeds and property at disposal of that natural or legal person and the value of personal income and other revenues reported to competent government bodies,
- 5) ceased to be valid.

(2) The court shall, in a decision ordering a securing measure, establish that the securing measure refers also to the part of the opponent's instrumentalities, proceeds or property for which the proposing party has made it probable that, on whatever legal grounds, they are held by the opponent's spouse or a common-law partner, relative in the direct line, relative in the lateral line up to the third degree, in-laws up to the second degree, adoptees or adopters.

(3) The court shall, in a decision ordering a securing measure, establish that the securing measure refers also to the part of the opponent's instrumentalities, proceeds or property for which the proposing party has made it probable that, on whatever legal grounds, they are held by another natural or legal person, unless it has decided that there is room for applying rules on the protection of an honest acquirer.

(4) The court shall order the securing measure referred to in Article 55 of this Act immediately and no later than twelve hours after the receipt of the request submitted by the proposing party. In the decision specifying the securing measure, the court shall indicate the value of the instrumentalities and the amount of the proceeds or benefits derived from the criminal offence and the period for which the measure is being ordered.

(5) Ceased to be valid.

(6) The court shall deliver a reasoned decision on ordering the securing measure to the opponent, the bank and other persons involved in payment transactions and to other government bodies as appropriate.

(7) As of the date of initiation of bankruptcy proceedings against the opponent, the value of the instrumentalities or the amount of the proceeds or benefits derived from the criminal offence referred to in the decision under paragraph 2 of this Article shall be deemed amount due bearing the right to separate settlement.

#### Article 57

(1) The judge shall hold a hearing to confirm the decision referred to in Article 56 paragraph of 4 of this Act within 21 days from the day of its issuance. The failure of the opponent to appear shall not prevent the holding of the hearing.

(2) After hearing the parties, the court shall repeal or confirm the decision on the securing measure.

(3) The court shall repeal the securing measure in the following cases:

1. if the opponent makes it probable that the value of the instrumentalities, proceeds or property referred to in Article 55 paragraph 1 item 3 does not exceed HRK 100,000.00,
2. if the opponent, by way of authentic documents, makes it probable that the source of his instrumentalities, proceeds or property is legal,
3. if the opponent makes it probable that there is no risk of his preventing or making it substantially difficult to confiscate the property, instrumentalities or proceeds.

(4) If the opponent, by way of authentic documents, make probable a legal source only of a part of his instrumentalities, proceeds or property, the court shall repeal the measure for that part of the instrumentalities, proceeds or property.

(5) If the court confirms the decision, it shall extend the time period for which the securing measure was ordered for six months, taking into account the severity of the criminal offence, the risk that without the securing measure the confiscation of the proceeds of crime would be prevented or made substantially difficult, and the financial standing of the opponent and the persons whom the opponent is obliged to support pursuant to law.

(6) Ceased to be valid.

(7) Ceased to be valid.

#### Article 58

Ceased to be valid.

#### Article 59

No later than three days prior to the expiry of the period for which the measure was ordered, the court shall decide on its extension if the circumstances based on which it was ordered have not changed.

#### Article 60 (OG 148/13)

(1) Ceased to be valid.

(2) The decision on repealing a securing measure shall be delivered *ex officio* to the Office (the proposing party of securing) and to the opponent of securing.

(3) In such a case, the opponent may claim damages from the proposing party in line with general regulations.

#### Article 61 (OG 148/13)

(1) In the Republic of Croatia, securing of instrumentalities, proceeds and property related to the criminal offences referred to in Article 21 paragraph 1 items 2 or 3 and the criminal offences of abuse of position and authority referred to in Article 291 of the Criminal Code, if the offence was committed by a public official referred to in Article 87 paragraph 3 of the Criminal Code, of the criminal association referred to in Article 328 of the Criminal Code and the commission of criminal offences as a member of a criminal association referred to in Article 329 of the Criminal Code may be ordered and carried out pursuant to conditions stipulated by an international agreement and by this Act.

(2) Rogatory letters by foreign courts shall be decided upon by the competent court, whereas rogatory letters by other government bodies regarding the provision of information on the confiscation of instrumentalities, proceeds or property derived from criminal offences, shall be decided upon by the Head of the Office.

## V. CONFIDENTIALITY OF INFORMATION

#### Article 62

(1) The Head may, for a justified reason, decide at any moment that individual files should be especially guarded in the course of criminal prosecution and that only a certain Deputy Head may be acquainted with the contents of such files.

(2) The files referred to in the paragraph above may only be disclosed to civil servants and employees of the Office to the extent necessary for the performance of their tasks.

(3) Should other persons work on such files, their work shall be separately recorded, as provided by the Rules of Procedure of the State Attorney's Office.

(4) In order to protect confidentiality, the Head may decide that the case referred to in paragraph 1 of this Article should, in the course of criminal prosecution, be entered into registers and other records under a code name.

## **VI. FUNDS FOR WORK**

### **Article 63**

- (1) Funds for salaries of civil servants and employees shall be provided pursuant to law.
- (2) Judges proceeding on the criminal cases referred to in Article 21 of this Act, the Head and his Deputies shall be entitled to insurance period add-ons to the effect that every 12 months of effective work shall be counted as 16 months of insurance.

### **Article 64**

(1) Funds necessary for the functioning of the Office shall be provided for in the state budget of the Republic of Croatia pursuant to provisions of the Act on the State Attorney's Office.

(2) Besides the purposes specified in the Act on the State Attorney's Office, the special purpose funds shall also include:

1. funds for compensation of experts,
2. funds for special purposes in criminal prosecutions and proceedings,
3. funds for covering proceeding costs.

### **Article 65**

Funds for standard technical equipment and working space shall be provided for in the state budget.

### **Article 66**

Financial and material accounting of the Office shall be conducted as prescribed for State Attorney's offices.

## **VII. TRANSITIONAL AND FINAL PROVISIONS**

### **Article 67**

Special regulations pertaining to the protection of the staff employed at the Office and protection of other possible targets against attack shall be passed by the minister in charge of judicial affairs.

### **Article 68**

The minister in charge of judicial affairs shall pass the regulations that he is authorised to pass pursuant to this Act within six month from the date of the entry into force of this Act.

Within three months from the date of the entry into force of this Act, the Minister of the Interior shall pass the subordinate regulation on the organisation and keeping of the register referred to in Article 25 of this Act.

### **Article 69**

Criminal proceedings instituted prior to the entry into force of this Act shall be completed in line with Article 574 of the Criminal Procedure Act (OG 152/08) and provisions of the Act on the Office for the Suppression of Corruption and Organised Crime (OG 88/01, 12/02, 33/05, 48/05 and 76/07).

Article 70

As from the day of the entry into force of this Act, the Act on the Office for the Suppression of Corruption and Organised Crime (OG 88/01, 12/02, 33/05 and 76/07) shall cease to be valid.

Article 71

This Act shall be published in the Official Gazette and shall enter into force on 1 July 2009.

Class: 215-01/09-01/04

Zagreb, 30 June 2009

PROVISIONAL TRANSLATION