

**ACT**  
**ON JUDICIAL CO-OPERATION IN CRIMINAL MATTERS WITH MEMBER**  
**STATES OF THE EUROPEAN UNION**

**TITLE I**  
**GENERAL PROVISIONS**

*Scope*

**Article 1**

(1) This Act regulates judicial cooperation in criminal matters between competent domestic judicial authorities and competent judicial authorities of other Member States of the European Union, with regard to:

1. the European arrest warrant and the surrender procedure;
2. the order freezing property or evidence;
3. the European evidence warrant;
4. the recognition and execution of decisions on the confiscation of property or objects;
5. the recognition and execution of decisions on financial penalties;
6. the recognition and enforcement of judgments imposing custodial sentences or measures involving the deprivation of liberty;
7. the recognition and enforcement of judgments and decisions imposing probation measures and alternative sanctions;
8. the recognition and execution of decisions on supervision measures;
9. the European protection order.

(2) This Act transposes into the legal order of the Republic of Croatia the following legal acts of the European Union:

- Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States (OJ L 190, 18.7.2002);
- Council Framework Decision 2003/577/JHA of 22 July 2003 on the execution in the European Union of orders freezing property or evidence (OJ L 196, 2.8.2003);
- Council Framework Decision 2005/214/JHA of 24 February 2005 on the application of the principle of mutual recognition to financial penalties (OJ L 76, 22.3.2005);
- Council Framework Decision 2006/783/JHA of 6 October 2006 on the application of the principle of mutual recognition to confiscation orders (OJ L 328, 24.11.2008);
- Council Framework Decision 2008/909/JHA of 27 November 2008 on the application of the principle of mutual recognition to judgments in criminal matters imposing custodial sentences

or measures involving deprivation of liberty for the purpose of their enforcement in the European Union (OJ L 81, 27.11.2008);

– Council Framework Decision 2008/947/JHA of 27 November 2008 on the application of the principle of mutual recognition to judgments and probation decisions with a view to the supervision of probation measures and alternative sanctions (OJ L 337, 27.11.2008);

– Council Framework Decision 2008/978/JHA of 18 December 2008 on the European evidence warrant for the purpose of obtaining objects, documents and data for use in proceedings in criminal matters (OJ L 350, 30.12.2008);

– Council Framework Decision 2008/977/JHA of 27 November 2008 on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters (OJ L 350, 30.12.2008);

– Council Framework Decision 2009/299/JHA of 26 February 2009 amending Framework Decisions 2002/584/JHA, 2005/214/JHA, 2006/783/JHA, 2008/909/JHA and 2008/947/JHA, thereby enhancing the procedural rights of persons and fostering the application of the principle of mutual recognition to decisions rendered in the absence of the person concerned at the trial (OJ L 81, 26.3.2009);

– Council Decision 2002/187/JHA of 28 February 2002 setting up Eurojust with a view to reinforcing the fight against serious crime (OJ L 63, 6.3.2002) as last amended by Council Decision 2009/426/JHA of 26 December 2008 on the strengthening of Eurojust (OJ L 138, 4.6.2009);

– Council Framework Decision 2009/829/JHA of 23 October 2009 on the application, between Member States of the European Union, of the principle of mutual recognition to decisions on supervision measures as an alternative to provisional detention (OJ L 294, 11.11.2009);

– Directive 2012/13/EU of the European Parliament and of the Council of 22 May 2012 on the right to information in criminal proceedings (OJ L 142, 1.6.2012);

– Directive 2011/99/EU of the European Parliament and of the Council of 13 December 2011 on the European protection order (OJ L 338/2, 21.12.2011).

### ***Definitions of terms used in this Act***

#### **Article 2**

The terms and expressions used in this Act shall have the following meanings:

1. issuing state – refers to the Member State of the European Union in which an order or decision referred to in Article 1 of this Act has been issued;
2. executing State – refers to the Member State to which an order or other decision referred to in Article 1 of this Act has been transmitted for the purpose of execution;
3. Member State – refers to a Member State of the European Union;
4. third State – refers to a state that is not a Member State of the European Union;

5. Eurojust – is a European Union body with legal personality established by Council Decision 2002/187/JHA, as amended by Council Decisions 2003/659/JHA and 2009/426/JHA, to stimulate and improve co-operation between competent judicial authorities of Member States in the prevention of serious crime;

6. European Judicial Network in Criminal Matters (EJNCM) – is a network of contact persons in Member States established by the Council Joint Action of 29 June 1998 on the creation of a European Judicial Network with a view to improving judicial co-operation in criminal matters;

7. Schengen Information System (SIS) – is a database system containing data entered by Schengen Member States and serving for data exchange purposes among them;

8. European arrest warrant – refers to a warrant issued by a competent judicial authority of a Member State with a view to the arrest and surrender of a person located in another Member State, for the purposes of conducting a criminal prosecution or executing a custodial sentence or a measure involving deprivation of liberty;

9. order freezing property or evidence – refers to a decision of a competent judicial authority of a Member State, issued in criminal proceedings, for the purpose of preventing the destruction, transformation, moving, transfer or sale of:

- a) property acquired through criminal offences, in order to prevent illicit profits;
- b) objects intended for use or used in committing criminal offences, or objects acquired through criminal offences;
- c) objects, documents and legal documents which may serve as evidence;

10. European evidence warrant – refers to a decision by a competent judicial authority of a Member State rendered with a view to obtaining objects, documents and data, issued in:

- a) criminal proceedings brought by, or to be brought before, a judicial authority in respect of a criminal offence under the national law of the issuing State;
- b) proceedings before administrative authorities in respect of acts which are punishable under the national law of the issuing State by virtue of being infringements of the national law, and where the decision of these authorities may give rise to proceedings before a criminal court;
- c) proceedings brought by judicial authorities in respect of acts which are punishable under the national law of the issuing State by virtue of being infringements of the law, and where the decision may give rise to further proceedings before a criminal court;
- d) in connection with the proceedings referred to above which relate to offences or infringements for which a legal person may be held liable or punished in the issuing State;

11. confiscation order – shall mean a final decision or measure imposed by a court following proceedings in relation to a criminal offence, resulting in the definitive deprivation of property;

12. property – refers to property of any description, whether corporeal or incorporeal, movable or immovable and legal documents or instruments evidencing title to or interest in such property, which the court in the issuing State has decided to be;

a) the proceeds of an offence referred to in Article 10, Article 17, paragraph 2, Article 43, paragraph 2, Article 50, Article 63, Article 77, paragraphs 1 and 2, Article 89, paragraph 2 of this Act, or equivalent to either the full value or part of the value of such proceeds;

b) an object used in, intended to be used in, or derived from committing an offence referred to in Article 10, Article 17, paragraph 2, Article 43, paragraph 2, Article 50, Article 63, Article 77, paragraphs 1 and 2, Article 89, paragraph 2 of this Act;

13. objects forming part of the national cultural heritage – refer to objects as defined in accordance with the domestic law on the protection and preservation of cultural objects;

14. evidence – refers to objects, documents or data which may be used as evidence in criminal proceedings concerning an offence referred to in Article 10, Article 17, paragraph 2, Article 43, paragraph 2, Article 50, Article 63, Article 77, paragraphs 1 and 2, and Article 89, paragraph 2;

15. decision on financial penalty – refers to a final decision ordering a natural or legal person to pay a financial penalty, where the decision was made by:

a) a court of the issuing State in respect of an act punishable under the law of that State;

b) the competent authority of the issuing State that has imposed the financial penalty in respect of an act punishable under the law of that State, provided that the person concerned has had an opportunity to have the case tried by a criminal court;

c) a competent authority of the issuing State in respect of acts which are punishable under the national law of the issuing State by virtue of being infringements of that law, provided that the person concerned has had an opportunity to have the case tried by a criminal court;

d) a criminal court, in deciding on a legal remedy filed against a decision rendered by a competent authority of the issuing State;

16. financial penalty – refers to an obligation to pay:

a) a sum of money imposed as a sanction in the decision referred to in item 15 of this Article;

b) compensation for the benefit of the injured party in criminal proceedings, imposed in the decision referred to in item 15 of this Article;

c) the costs of court or administrative proceedings leading to the decision referred to in item 15 of this Article;

d) a sum of money for the benefit of a public institution, humanitarian organisation or a fund for the compensation of victims of criminal offences, imposed in the decision referred to in item 15 of this Article;

17. judgment – refers to a final decision of a court of the issuing State, issued after the completion of criminal proceedings and establishing that a natural person has committed a criminal offence and imposing:

a) a custodial sentence or measure involving deprivation of liberty for a limited or unlimited period of time;

b) a custodial sentence or measure involving deprivation of liberty, when conditional release is granted or the sentence is passed by imposing one or more probation measures;

c) a suspended sentence;

d) a conditional sentence;

e) an alternative sanction;

18. suspended sentence – refers to the sanction determined in a judgement or in a separate probation decision taken by a competent authority imposing a custodial sentence or measure involving deprivation of liberty, the execution of which is conditionally suspended, wholly or in part, by imposing one or more probation measures;

19. conditional sentence – refers to the sanction determined in a judgement or in a separate probation decision taken by a competent authority, in which the imposition of a sentence has been conditionally deferred by imposing one or more probation measures or in which one or more probation measures are imposed instead of a custodial sentence or measure involving deprivation of liberty;

20. alternative sanction – refers to a sanction, other than a custodial sentence or a measure involving deprivation of liberty or a financial penalty, imposing an obligation or instruction;

21. probation decision – refers to a judgment or final decision of a competent authority of the issuing State taken on the basis of a judgment:

a) granting a conditional release;

b) imposing probation measures;

22. conditional release – refers to a final decision of a competent authority or stemming from the national law on the early release of a sentenced person after part of the custodial sentence or measure involving deprivation of liberty has been served by imposing one or more probation measures;

23. probation measure – refers to obligations and instructions imposed on a natural person by a competent authority of the issuing State in accordance with its national law, in connection with a suspended sentence, a conditional sentence or conditional release;

24. fiscal offences – refer to offences involving a breach of legislation relating to taxes, duties, customs duties and currency exchange activities;

25) decision on supervision measures – refers to an enforceable decision taken in the course of criminal proceedings by a competent authority of the issuing State in accordance with its national law and imposing on a natural person one or more supervision measures as an alternative to provisional detention;

26) supervision measures – refer to obligations imposed on a natural person, as an alternative to provisional detention, on the basis of the applicable law and in accordance with the prescribed procedure of the issuing State;

27) national S.I.Re.N.E. office – refers to an organisational office of the Ministry of the Interior, which is the central authority responsible for the exchange of supplementary information relating to alerts in the Schengen Information System;

28) European protection order – refers to a decision, taken by a judicial or other competent authority of a Member State in relation to a protection measure, on the basis of which a judicial or other competent authority of another Member State takes appropriate measures under its own national law with a view to continuing the protection of the protected person;

29) protection measure – refers to a measure imposed by a decision in criminal matters adopted in the issuing State in accordance with its national law, imposing on the person causing danger one or more of the following prohibitions or restrictions:

- a) prohibition on visiting a certain place or area;
- b) prohibition on approaching a certain person;
- c) prohibition on establishing or maintaining contact with a certain person;
- d) prohibition on stalking or harassing the victim or another person;
- e) removal from home;

30) protected person – refers to a natural person who is the object of the protection afforded by a protection measure against a criminal act which may endanger his/her life, physical or psychological integrity, dignity, personal liberty or sexual integrity;

31) person causing danger – refers to a natural person on whom one or more prohibitions or restrictions have been imposed;

32) State of supervision – refers to the State of execution of a probation decision referred to in Title VIII of this Act or of a supervision measure referred to in Title VIII.a of this Act in connection with which the European protection order has been issued.

### ***The principle of mutual recognition between Member States of the European Union***

#### **Article 3**

The principle of mutual recognition is the basis for judicial co-operation in criminal matters within the European Union.

### ***The principle of efficient co-operation***

#### **Article 4**

In proceedings conducted in accordance with to this Act, the competent authorities of the Republic of Croatia shall have, within the scope of their powers and in accordance with the fundamental principles of the legal order of the Republic of Croatia, the obligation to act in such a way as to achieve, as far as possible, the purposes of judicial co-operation.

### ***Protection of personal data***

#### **Article 4.a**

(1) The provisions of the domestic data protection law shall apply to the transmission and protection of personal data exchanged in the framework of judicial and police co-operation.

(2) Every individual whose personal data have been processed by Eurojust shall be entitled to have access to these data in accordance with Article 19 of Council Decision 2002/187/JHA, 2003/659/JHA, 2009/426/JHA. A request for access to these data may be made, in accordance with the domestic law, to the competent State Attorney's Office in the Republic of Croatia, which shall refer the request to Eurojust.

***The competent authorities responsible for receiving decisions of foreign judicial authorities***

**Article 5**

(1) The following authorities shall be competent to receive decisions of foreign judicial authorities referred to in Article 1 paragraph 1 of this Act:

- with regard to item 1, the county State Attorney's Office having jurisdiction for the place where the person who is the subject of the warrant is located;
- with regard to items 2 and 3, the county State Attorney's Office having jurisdiction for the place where the property, objects or evidence are located;
- with regard to item 4, the county State Attorney's Office having jurisdiction for the place where the property or objects are located, or where the natural person concerned resides or is domiciled, or where the legal person concerned has its registered seat;
- with regard to item 5, the ministry competent for justice affairs;
- with regard to items 6 and 7, the county court having jurisdiction for the place where the person concerned resides or is domiciled, or alternatively, of the place where the family of the sentenced person resides or is domiciled;
- with regard to item 8, the county State Attorney's Office having jurisdiction for the place where the person concerned resides or is domiciled;
- with regard to item 9, the county court having jurisdiction for the place where the protected person resides or is domiciled.

(2) The County State Attorney's Office in Zagreb shall be competent to receive decisions on supervision measures if the person to whom the decision relates does not reside or is not domiciled in the Republic of Croatia.

(3) Where it is not possible to establish which of the courts referred to in the fourth, fifth and seventh indents of paragraph 1 of this Article has jurisdiction, the County Court of Zagreb shall be responsible for receiving decisions.

(4) If the domestic judicial authority which receives a decision within the framework of judicial co-operation has no jurisdiction to receive it and to take the necessary measures and actions for its execution, it shall forward it to the competent authority and shall promptly and directly inform thereof the judicial authority of the issuing State.

(5) The ministry competent for justice affairs is the central authority that provides assistance to domestic competent authorities and competent authorities of other Member States in

establishing contacts and judicial co-operation with respect to the decisions referred to in Article 1 of this Act.

### **Role of the central authority**

#### **Article 5.a**

(1) The ministry competent for justice affairs is the central coordinating authority that provides assistance to domestic competent authorities and competent authorities of other Member States in establishing contacts and judicial co-operation with respect to the decisions referred to in Article 1, paragraph 1 of this Act.

(2) The ministry responsible for justice affairs shall submit to the competent authorities of the European Union information on cases in the area of judicial co-operation in criminal matters, in accordance with the obligations laid down in the legal acts of the European Union referred to in Article 1, paragraph 2 of this Act.

(3) In order to efficiently perform the tasks referred to in this Article, the ministry competent for justice affairs may require the competent judicial authorities to provide information on cases in the area of judicial co-operation in criminal matters.

#### ***Domestic authorities competent to issue decisions enforced via judicial cooperation***

#### **Article 6**

(1) A European arrest warrant requesting the surrender of a requested person for the purpose of conducting a criminal prosecution shall be issued by a judicial authority conducting proceedings, and if it is issued for the purpose of executing a custodial or detention sentence it shall be issued by a county court judge responsible for the execution of sentences.

(2) An order freezing property or evidence, a European evidence warrant and a decision on supervision measures shall be issued by a judicial authority conducting proceedings.

(3) A decision on the confiscation of property or objects shall be issued by the court having jurisdiction.

(4) A decision imposing a financial penalty shall be issued by the court having jurisdiction or by a state administration body conducting misdemeanour proceedings.

(5) A judgment imposing a custodial sentence or measure involving deprivation of liberty shall be delivered by the court having jurisdiction.

(6) A judgement or decision imposing probation measures or alternative sanctions shall be issued by the court having jurisdiction or the State Attorney.

(7) A European protection order shall be issued by the county court within whose territorial jurisdiction the proceedings are conducted or the probation decision or alternative sanction is executed.

#### ***Transmission of domestic authorities' decisions***

#### **Article 7**



(1) The county State Attorney's Offices shall transmit to the competent authority of the executing State the European arrest warrant and the European evidence warrant issued, on the prescribed form, by themselves as well as those issued by the municipal State Attorney's Offices within their territorial jurisdiction.

(2) The European arrest warrant and the European evidence warrant shall be transmitted by domestic courts on the prescribed form directly to the competent authority of the executing State.

(3) The following authorities are competent authorities for completing, certifying the contents of, and transmitting the certificates that are forwarded together with decisions:

- the State Attorney's Office of the Republic of Croatia, in the case of the decisions referred to in Article 1, item 2 of this Act and, with regard to item 4 of Article 1, in the case of a decision on the confiscation of property and, with regard to the decisions referred to in items 7 and 8 of Article 1, in the case of decisions issued by the State Attorney;

- the county courts, in the case of the decisions referred to in Article 1, item 4 when they concern the confiscation of objects and, with regard to items 6, 7, 8 and 9, in the case of decisions issued by themselves and those issued by municipal courts within their territorial jurisdiction;

- the ministry competent for justice affairs, in the case of the decisions referred to in Article 1, item 5.

#### ***Direct communication and methods of transmitting instruments of judicial co-operation***

#### **Article 8**

Deleted.

#### ***Language***

#### **Article 9**

(1) The competent judicial authority shall execute the decisions referred to in Article 1 of this Act issued by foreign judicial authorities if these decisions and the accompanying documents are translated into the Croatian language. In urgent cases, the English translation shall be accepted, on condition that the Member State transmitting a decision in English agrees to receive the decisions of domestic competent authorities in English.

(2) Decisions of domestic judicial authorities transmitted by the competent judicial authority to another Member State for the purpose of execution shall be translated into the official language of the Member State in question or into another language accepted by that Member State.

#### ***Exclusion of the verification of double criminality***

#### **Article 10**

For the following offences, if they are punishable in the issuing State by a custodial sentence or a measure involving deprivation of liberty for a maximum period of at least three years and, in the case of the recognition of a financial penalty, regardless of the amount of the penalty imposed, the competent judicial authority referred to in Article 7 of this Act shall execute the

received decision of a foreign judicial authority referred to in Article 1 of this Act without verification of the double criminality of the acts:

- participation in a criminal organisation,
- terrorism,
- trafficking in human beings,
- sexual exploitation of children and child pornography,
- illicit trafficking in narcotic drugs and psychotropic substances,
- illicit trafficking in weapons, munitions and explosives,
- corruption,
- fraud, including that affecting the financial interests of the European Communities within the meaning of the Convention of 26 July 1995 on the protection of the European Communities' financial interests,
- money laundering,
- counterfeiting currency, including of the euro,
- computer-related crime,
- environmental crime, including illicit trafficking in endangered animal species and in endangered plant species and varieties,
- facilitation of unauthorised entry and residence,
- murder, grievous bodily injury,
- illicit trade in human organs and tissue,
- kidnapping, illegal restraint and hostage-taking,
- racism and xenophobia,
- organised or armed robbery,
- illicit trafficking in cultural goods, including antiques and works of art,
- swindling,
- racketeering and extortion,
- counterfeiting and piracy of products,
- forgery of administrative documents and trafficking therein,
- forgery of means of payment,

- illicit trafficking in hormonal substances and other growth promoters,
- illicit trafficking in nuclear or radioactive materials,
- trafficking in stolen vehicles,
- rape,
- arson,
- crimes within the jurisdiction of the International Criminal Court,
- unlawful seizure of aircraft/ships,
- sabotage.

### ***Facilitation of the European Judicial Network in Criminal Matters***

#### **Article 11**

(1) Contact persons for the European Judicial Network in Criminal Matters in the ministry competent for justice affairs shall be designated by the minister, those in the courts competent for judicial co-operation shall be designated by the president of the court in question, and those in the competent State Attorney's Offices shall be designated by the State Attorney General of the Republic of Croatia.

(2) Contact persons for the European Judicial Network in Criminal Matters shall undertake the requisite measures for the purpose of facilitating direct contacts between competent domestic judicial authorities and the competent judicial authorities of other Member States in the execution of the decisions of judicial authorities.

(3) Contact persons for the European Judicial Network in Criminal Matters shall provide assistance to domestic and foreign judicial authorities, upon their request, in determining the competent judicial authorities for the execution of the decisions of judicial authorities.

### ***Objectives and competences of Eurojust***

#### **Article 12**

(1) Eurojust has been established to stimulate and improve the coordination and cooperation between the competent judicial authorities of the Member States of the European Union in prosecuting the crimes referred to in Article 4, paragraph 1 of Council Decision 2009/371/JHA establishing the European Police Office (Europol), i.e. organised crime, terrorism and serious crimes affecting two or more Member States in such a way as to require a common approach by the Member States due to the severity of the offences, the threat they pose to legal goods and their consequences.

(2) In addition to criminal offences referred to in paragraph 1 of this Article, Eurojust may, in accordance with its objectives and upon request of the competent authorities of the Member States, assist in the procedures concerning other criminal offences.

(3) In order to accomplish the objectives referred to in paragraph 1 of this Article, Eurojust may act through one or more of the national members designated by the European Union

Member States, or as a College.

(4) In order to accomplish the objectives referred to in paragraph 1 of this Article, the Eurojust College is authorised to:

- a) inform the State Attorney's Office of the Republic of Croatia about criminal offences of which they have been informed of and ask it to undertake a criminal prosecution;
- b) request the State Attorney's Office of the Republic of Croatia to consult with the competent authorities of other Member States with a view to concentrating the proceedings;
- c) request the State Attorney's Office of the Republic of Croatia to coordinate with the competent authorities of other Member States;
- d) request the State Attorney's Office of the Republic of Croatia to set up a joint investigation team with the judicial authorities of other Member States of the European Union;
- e) request the State Attorney's Office of the Republic of Croatia to inform the competent authorities of other Member States of the proceedings which are of interest for the European Union and of those which might affect other Member States;
- f) request domestic judicial authorities to provide Eurojust with information that is necessary for it to accomplish the objectives referred to in paragraph 1 of this Article.

(5) When no agreement between domestic judicial authorities and the competent authorities of European Union Member States has been reached, either directly or through the involvement of the national member at Eurojust, the domestic judicial authorities may refer the matter to the Eurojust College and request it to issue a non-binding opinion in the following cases:

- if the competent authorities of Member States do not act upon requests for international legal assistance issued by domestic judicial bodies;
- if the competent authorities of Member States refuse to recognise and execute a decision referred to in Article 1 of this Act issued by a domestic competent authority.

#### ***The national member at Eurojust***

#### **Article 12.a**

- (1) The national member at Eurojust shall be appointed by the minister competent for justice affairs on the proposal of the State Attorney General of the Republic of Croatia.
- (2) The national member shall have the status of Deputy State Attorney General of the Republic of Croatia and shall be appointed for a term of office of four years, following which he/she may be re-appointed to the same position.
- (3) An assistant to the national member at Eurojust shall have the status of deputy county or municipal State Attorney and shall be appointed by the State Attorney General of the Republic of Croatia for a term of office of six months, following which he/she may be re-appointed to the same position.
- (4) The national member shall regularly report on his/her work to the State Attorney General of the Republic of Croatia.

(5) In the performance of his/her duties, the national member shall respect the legal order of the receiving country, the legislation of the Republic of Croatia, and Council Decision setting up Eurojust No 2002/187/JHA as amended by Council Decision 2003/659/JHA and Council Decision 2009/426/JHA.

***The rights and obligations of the national member at Eurojust***

**Article 12.b**

(1) The national member at Eurojust shall:

- a) participate in the work of the Eurojust College and in the activities related to the management and operation of Eurojust;
- b) conduct the exchange of information between Eurojust and the Republic of Croatia;
- c) perform all the tasks required by the Eurojust College, Eurojust president, i.e. team presidents, including the obligation to maintain contacts with the European Commission and the European Parliament, the European Police Office (Europol) and the European Anti-Fraud Office (OLAF);
- e) cooperate with the European Judicial Network in criminal matters;
- f) assist the judicial authorities of the Republic of Croatia and of the European Union Member States in the coordination of investigations related to more than one Member State;
- g) mediate, at the request of domestic judicial authorities, with a view to achieving the coordinated execution of requests for international legal assistance.

(2) For the purpose of meeting the Eurojust objectives, the national member shall have the power to:

- a) access information contained in criminal records or any other records in the Republic of Croatia in the same way as provided in the law of the Republic of Croatia for the State Attorney or a deputy State Attorney;
- b) request domestic judicial authorities, on behalf of Eurojust, to undertake proceedings in accordance with Article 12, paragraph 4 of this Act and to submit information necessary for conducting special evidentiary actions or other procedures for criminal prosecution purposes.

***The national member mediation***

**Article 12.c**

(1) The national member may, to the extent permitted by domestic law, collect data and forward it to Eurojust and Member States' national members when such data is required for the execution of domestic requests for international legal assistance or for the recognition and execution of the decisions referred to in Article 1 of this Act issued by domestic judicial bodies.

(2) In the case of refusal to act on, or of partial action on requests, or on the decisions referred to in Article 1 of this Act issued by the competent authorities of Member States, the national member may, in accordance with domestic law, require domestic judicial authorities to take the

necessary action for the purpose of acting on the request or decision.

(3) The national member may, at the request of national members from other Member States:

- a) request domestic judicial authorities to submit requests for international legal assistance or decisions referred to in Article 1 of this Act;
- b) request domestic judicial authorities to execute requests from the judicial authorities of the Member States, or to recognise and execute the decisions referred to in Article 1 of this Act issued by the judicial authorities of the Member States;
- c) request the competent State Attorney of the Republic of Croatia to make a request to the investigating judge to conduct a special evidentiary action involving the controlled transport and delivery of objects related to a criminal offence for the purpose of enforcing a coordinated controlled delivery.

#### ***Domestic judicial authorities' action***

##### **Article 12.d**

(1) Domestic judicial authorities may refuse to comply with a request referred to in Article 12, paragraph 4 and Article 12.b paragraph 2 of this Act and may refuse to follow a non-binding opinion of the Eurojust College referred to in Article 12, paragraph 5 of this Act. Domestic judicial authorities shall immediately inform the national member at Eurojust of their decision and of the reasons for refusal.

(2) Domestic judicial authorities are not obliged to give the reasons for their decision referred to in paragraph 1 of this Article where doing so would harm public order, national security or the safety of individuals.

(3) For the purpose of achieving the objectives of Eurojust, the State Attorney's Office of the Republic of Croatia shall inform the national member for the Republic of Croatia of suspected criminal offences in respect of which Eurojust is competent and which concern at least two European Union Member States.

#### ***The national member of the Joint Supervisory Body of Eurojust***

##### **Article 12.e**

(1) The minister competent for justice affairs shall appoint, from among judges and for a term of office of three years, the national member of the Eurojust's Joint Supervisory Body established to monitor the processing of personal data at Eurojust.

(2) The national member shall act independently in the performance of his/her duties within the Eurojust's Joint Supervisory Body, and shall participate in the work of the Joint Supervisory Body as a member or an ad hoc judge.

(3) The national member may become a permanent member of the Eurojust's Joint Supervisory Body after being elected by the plenary meeting of the national members for the European Union Member States. The permanent member shall be appointed for a term of office of three years and may be re-elected.

(4) The national member for the Republic of Croatia who holds a position of an ad hoc judge in

the Eurojust's Joint Supervisory Body shall participate in its work only for the duration of the examination of an appeal against a decision taken by Eurojust on an individual's application for access to, or deletion, correction or blocking of, personal data supplied by the Republic of Croatia.

#### ***Eurojust national coordination system***

##### **Article 12.f**

(1) The minister competent for justice affairs shall designate:

- a national correspondent for Eurojust,
- a national correspondent for Eurojust for terrorism matters,
- a national correspondent for the European Judicial Network in Criminal Matters,
- national contact persons of the Network for Joint Investigation Teams, established by Council Decision 2002/494/JHA,
- national contact persons for the European network of contact points in respect of persons responsible for genocide, crimes against humanity and war crimes,
- national contact persons in accordance with Council Decision 2007/845/JHA concerning cooperation between Asset Recovery Offices of the Member States in the field of tracing and identification of proceeds from, or other property related to, crime,
- national contact persons for the anti-corruption network established under Council Decision 2008/852/JHA.

(2) The persons referred to in paragraph 1 of this Article shall constitute the Eurojust national coordination system established for the purpose of coordinating the work carried out by these contact persons.

#### ***Costs***

##### **Article 13**

(1) The costs of the execution of the decisions of foreign judicial authorities referred to in Article 1 of this Act incurred in the territory of the Republic of Croatia shall be borne by the State Budget of the Republic of Croatia. All other costs shall be borne by the issuing State.

(2) By way of derogation from paragraph 1 of this Article, where the Republic of Croatia, in the course of the execution of a decision on the confiscation of property or objects, has had costs which it considers large or exceptional, it may, upon request made by the competent judicial authority, propose to the issuing State that the costs be shared, on the basis of detailed specifications thereof.

(3) If a domestic authority receives a request within the meaning of paragraph 2 of this Article from the Member State which was executing a decision on the confiscation of property or objects issued by a domestic court, it shall transmit the request to the ministry competent for finances for further procedure.

(4) The costs of the transfer of a person for the purpose of the enforcement of a judgment imposing a custodial sentence or a measure involving deprivation of liberty shall be borne by the Member State issuing the judgement.

### ***Legal remedies***

#### **Article 14**

(1) Decisions on the recognition and enforcement of an order freezing property or evidence, a European evidence order or a decision on the confiscation of property or objects may be appealed against, in accordance with domestic law, by the parties concerned, including third parties that had bona fide acquired certain rights over the property covered by these decisions, in order to preserve their legitimate interests.

(2) Deleted.

(3) Deleted.

(2) Domestic judicial authority which made a decision to recognise and execute a European evidence warrant or confiscation order may suspend the transfer of objects, documents and data or the execution of the confiscation order pending the outcome of the appeal.

(3) An application to review the substantive reasons for issuing an order freezing property or evidence or a confiscation order and an application to review the substantive reasons and conditions established in Article 53 of this Act for issuing a European evidence warrant may be submitted only before the competent court in the issuing State, in accordance with its national law.

(4) The court shall promptly inform the issuing authority of the filing of an appeal referred to in paragraph 1 of this Article and of the grounds of appeal. The court shall inform the issuing authority of the decision made upon the appeal.

### ***Compensation of damage caused by the execution of orders***

#### **Article 15**

(1) Where the executing State under its national law is responsible for injury caused to one of the parties referred to in Article 14, paragraph 1 of this Act by the execution of an order freezing property or evidence, a European evidence warrant or a decision on the confiscation of property and objects issued by a domestic judicial authority, the Republic of Croatia shall, regardless of whether or not those persons have submitted an application referred to in Article 14, paragraph 3 of this Act, reimburse to the executing State any sums paid in damages by virtue of that responsibility to the said party except if, and to the extent that, the injury or any part of it is exclusively the consequence of the conduct of the executing State.

(2) The provision of paragraph 1 of this Article is without prejudice to domestic law on claims by natural or legal persons for compensation of damage.

### ***Amnesty, pardon and review of decisions or orders***

#### **Article 16**



(1) The provisions of the domestic law concerning amnesty may be applied to a decision on financial penalties, a confiscation decision, a judgment imposing a custodial sentence or measure involving deprivation of liberty or a probation decision executed in the Republic of Croatia.

(2) The person against whom a decision on financial penalty, a confiscation decision, a judgment imposing a custodial sentence or measure involving deprivation of liberty or a probation decision was issued and transmitted to the Republic of Croatia for the purpose of execution may be granted pardon in accordance with domestic law.

(3) The competent authorities of the Republic of Croatia may decide on an application for review of a decision on financial penalty, a confiscation decision, a judgment imposing a custodial sentence or measure involving deprivation of liberty or a probation decision only if the decision to be reviewed was issued by a domestic court.

## Title II EUROPEAN ARREST WARRANT

### *Scope*

#### **Article 17**

(1) The competent domestic authority may issue a European arrest warrant for offences other than those listed in Article 10 of this Act, if they are punishable by a custodial sentence for a maximum period of at least one year or, where the final sentence has been passed, for a custodial sentence of at least four months.

(2) The competent authority shall issue a European arrest warrant for the purposes of criminal prosecution if a detention order has been made against the person to whom the warrant relates.

(3) The authority that issued a European arrest warrant shall immediately withdraw it when the person concerned is surrendered, when the statute of limitations for criminal prosecution or for the execution of the sentence runs out or when other reasons arise for which the European arrest warrant is no longer necessary.

### *Content and form*

#### **Article 18**

The European arrest warrant shall contain the following information set out in accordance with the standard form (Annex 1), which forms an integral part of this Act:

1. the identity and nationality of the requested person;
2. the name, address, telephone and fax numbers and e-mail address of the issuing authority;
3. evidence of an enforceable judgment, an arrest warrant or any other enforceable judicial decision having the same effect, in respect of Article 2, item 8 and Articles 10 and 17 of this Act;
4. the legal classification and statutory description of the offence, particularly in respect of Articles 10 and 17 of this Act;

5. a factual description of the offence, including the circumstances in which the offence was committed, the time, place and degree of participation in the offence by the requested person;
6. the type and level of the criminal sanction imposed in the final judgement, or the type and level of the criminal sanction prescribed for the offence concerned under the domestic law;
7. if possible, the consequences of the offence.

***Particularities concerning the reception and transmission of a European arrest warrant***

**Article 19**

- (1) In addition to the means referred to in Articles 5 and 7 of this Act, a European arrest warrant may be received and transmitted through the secure telecommunication system of the European Judicial Network in Criminal Matters.
- (2) If the location of the requested person is unknown, the competent authority issuing the European arrest warrant shall issue, via the national S.I.Re.N.E. office, an alert in the Schengen Information System that the person concerned is sought for the purpose of executing the European arrest warrant.
- (3) Such an alert accompanied by the information set out in Article 18 of this Act shall be equivalent to a European arrest warrant.
- (4) If it is not possible to access the Schengen Information System through the national S.I.Re.N.E. office, the competent authority may receive and transmit the European arrest warrant via INTERPOL.

***Grounds for refusing to execute a European arrest warrant***

**Article 20**

- (1) For offences other than those referred to in Article 10 of this Act, the competent court shall execute a European arrest warrant issued for an act punishable by the law of the issuing Member State by a custodial sentence for a maximum period of at least one year or where the final judgment has been passed imposing a custodial sentence or measure involving deprivation of liberty for a period of at least four months, subject to the condition that the act concerned contains the essential elements of a criminal offence under the domestic law, regardless of its statutory description and legal classification indicated in the received warrant.”
- (2) The court shall refuse to execute a European arrest warrant in the following cases:
  1. if the European arrest warrant has been issued for an offence covered by amnesty in the Republic of Croatia, and a domestic court has jurisdiction under the law;
  2. if the court is informed that the requested person has already been sentenced by a final judgment in a Member State in respect of the same offence, provided that the sentence has been served or is currently being served or it may no longer be executed under the law of the sentencing Member State;
  3. if the requested person had not reached the age of 14 at the time the offence was committed;

4. if the offence referred to in Article 17 paragraph 1 of this Act to which the European arrest warrant relates does not constitute a criminal offence under the domestic law. In relation to fiscal offences, the execution of a European arrest warrant shall not be refused solely on the ground that the domestic law does not impose the same kind of tax or duty or does not contain the same provisions as regards taxes, duties, customs or exchange regulations as the law of the issuing State;

5. if the person who is the subject of the European arrest warrant is being prosecuted in the Republic of Croatia for the same offence for which the European arrest warrant has been issued, unless the State Attorney and the competent authority of the issuing State have agreed that criminal proceedings shall be conducted by a judicial authority of the issuing State;

6. if the domestic judicial authority has decided not to prosecute for the offence for which the European arrest warrant has been issued because the suspect has fulfilled the obligations imposed on him or her as a condition to cease prosecution;

7. if the criminal prosecution or the execution of the criminal sanction is statute-barred according to domestic law, providing that Croatian judicial authorities have jurisdiction for that offence under the domestic criminal law;

8. if the court is informed that the requested person has been sentenced by a final judgment in a third State in respect of the same offence, provided that the sentence has been served or is currently being served or it may no longer be executed under the law of the sentencing State.

***Grounds for optional non-execution of the European arrest warrant***

**Article 21**

(1) The court may, guided by the principles of efficient co-operation, expediency and right to a fair trial, refuse to execute the European arrest warrant:

1. deleted;

2. deleted;

1. if the domestic judicial authority has decided either not to prosecute for the offence for which the European arrest warrant was issued or to discontinue proceedings, or if a final judgment has been passed upon the requested person in a Member State, in respect of the same offence;

4. deleted;

5. deleted;

6. deleted;

7. deleted;

2. if the European arrest warrant relates to offences which:

a) have been committed in whole or in part in the territory of the Republic of Croatia;

b) have been committed outside the territory of the issuing State and the domestic law does not allow prosecution for the same offence when committed outside the territory of the Republic of Croatia.

(2) The court may refuse to execute the European arrest warrant issued for the purposes of executing a custodial sentence or measure involving deprivation of liberty imposed by a judgement rendered *in absentia*, unless it is clear from the information given on the form referred to in Article 18 of this Act that, in accordance with the law of the issuing State:

1. the requested person was, in due time and in person, summoned for the hearing and thereby informed of the time and place of the hearing which resulted in the judgment being rendered *in absentia* or that he or she received official information of the time and place of the hearing in such a manner that it was unequivocally established that he or she was aware of the scheduled hearing, and was warned about the possibility of a judgement being rendered *in absentia* if he or she does not appear for the hearing;

2. the requested person was represented at the hearing by a defence counsel authorised by him or her or appointed *ex officio* by the court;

3. the requested person, after being personally served with the judgement rendered *in absentia* and being instructed about his or her right to a retrial, or an appeal, in which he or she would be entitled to participate and in which the facts would be reassessed and new evidence presented, and which might lead to the original judgement being varied, has expressly stated that he or she does not contest the judgement rendered *in absentia*, or did not request a retrial or submit an appeal within the stipulated time limit;

4. the requested person was not personally served with the judgement rendered *in absentia*, but will be personally served with it without delay after surrender to the authorities of the issuing State, and informed that he or she has the right to file a request for a retrial or lodge an appeal within the legally stipulated time limit, which could initiate the procedure described in item 3 of this paragraph.

#### ***Special conditions for the execution of the European arrest warrant***

#### **Article 22**

If the offence on the basis of which the European arrest warrant has been issued is punishable by custodial life sentence or a measure involving life-time deprivation of liberty, the court may make the execution of the European arrest warrant subject to the condition:

(1) that the issuing State has provisions in its legal system for a review of the penalty or measure imposed, on the request of the convict or *ex officio* at the latest after 20 years;

(2) that the sentenced person is entitled to apply for a measure of clemency aiming at the non-execution of such a penalty or measure under the law or practice of the issuing State.

(3) If a European arrest warrant has been issued for the purpose of conducting a criminal prosecution and the requested person is a national of, or resides in, or is domiciled in the Republic of Croatia, the court shall make surrender subject to the condition that the requested person is returned to the Republic of Croatia in order to serve the sanction passed against him or her in the issuing State, in case such person consented to serve the sentence in the Republic of Croatia.

(4) If a European arrest warrant has been issued for the purpose of executing a custodial sentence or measure involving deprivation of liberty, and the requested person is a national of, or resides in, or is domiciled in the Republic of Croatia and has consented to serve the sentence in the Republic of Croatia, the court shall postpone deciding on the European arrest warrant. In order to take over the execution of the sanction, the court shall request documentation from the issuing State and shall set an appropriate time limit not exceeding 15 working days for its submission. If the foreign competent authority does not submit the appropriate documentation within that time limit, the court shall execute the European arrest warrant. The time limits referred to in Articles 28 and 32 of this Act shall start running from the expiry of the time limit set by the court for the submission of the documentation. After the decision to take over the execution of the foreign sanction becomes final, the court shall refuse to recognise the European arrest warrant.

(5) If, in accordance with Article 94, paragraph 2, item 4 of this Act, the competent court has refused to recognise and execute a judgement passed by a court of the issuing State against a Croatian national or a person who resides or is domiciled in the territory of the Republic of Croatia, the court shall approve the surrender of that person to the issuing State for the purpose of conducting criminal proceedings, on condition that the person is returned to the Republic of Croatia in order to serve there the sanction imposed in the issuing State, provided that the person consented to serving this sanction in the Republic of Croatia.

### ***Surrender of nationals***

#### ***Initiating the execution of a European arrest warrant***

#### **Article 23**

(1) The police may, in accordance with its powers under the law governing police conduct, arrest the person for whom a European arrest warrant or an international wanted notice has been issued, at the request of a Member State. The person shall be handed over to the custody supervisor no later than 24 hours after the arrest, and the competent State Attorney shall be notified thereof and sent the European arrest warrant and/or the alert in the Schengen Information System and/or the international wanted notice on the basis of which the person was arrested. If the documentation does not contain the translation of the European arrest warrant as provided for in Article 9 of this Act, the police shall request the issuing State to provide the translation within 48 hours of the arrest. The competent State Attorney may directly require the competent authority of the issuing State to submit the translation of the European arrest warrant.

(2) No later than 16 hours after the arrested person is handed over to the custody supervisor, the State Attorney shall interrogate him or her with regard to the circumstances stated in the documentation submitted by the police.

(3) If the European arrest warrant and the translation referred to in Article 9 of this Act, or an alert, are in the possession of the State Attorney, and if the State Attorney does not impose supervision measures, he or she shall order the police to bring the arrested person before the competent investigating judge within 48 hours from the arrest for the purpose of deciding on detention and initiating the surrender procedure.

(4) If the European arrest warrant or an alert and the translation referred to in Article 9 of this Act are not in the possession of the State Attorney, he or she may issue a decision imposing custody for a period of not more than 48 hours after the time of arrest.

(5) If the State Attorney does not receive the translation referred to in Article 9 of this Act within the time limit specified in paragraph 1 of this Article, the investigating judge may, on the proposal of the State Attorney, prolong the custody for a further 36 hours.

(6) When in cases referred to in paragraphs 4 and 5 of this Article the State Attorney receives the translation of the European arrest warrant or alert as provided for in Article 9 of this Act and does not impose supervision measures, he or she shall order the police to bring the arrested person before the competent investigating judge for the purpose of deciding on detention and initiating the surrender procedure.

(7) If the issuing State does not submit the documentation within the time limits specified in paragraphs 4 and 5 of this Article, the arrested person shall be released.

(8) If the issuing State submits the documentation after the expiry of the time limits referred to in paragraphs 4 and 5 of this Article, the police shall arrest the requested person again and shall, within 24 hours of the arrest, bring him or her before the competent investigating judge for the purpose of deciding on detention and initiating the surrender procedure. The time limits referred to in Article 32 of this Act shall start running from the moment the requested person is arrested again.

(9) When the competent county State Attorney's Office receives a European arrest warrant directly, it shall transmit it to the police for the purpose of taking further action pursuant to this Article.

#### ***Procedure before the investigating judge***

##### **Article 24.a**

(1) Following the proposal of the State Attorney submitted together with the documentation referred to in Article 23, paragraph 3 of this Act, the investigating judge shall, as part of the procedure for executing a European Arrest Warrant, schedule a hearing aimed at deciding on detention in accordance with domestic law.

(2) If the person who is the subject of the European arrest warrant consents to surrender in accordance with Article 27 of this Act, the investigating judge shall, after having determined that the consent to surrender was given in accordance with Article 27 of this Act, render a decision pursuant to Article 28 of this Act.

(3) The investigating judge shall notify the parties of the time of the hearing aimed at deciding on detention.

#### ***Procedure before the non-trial panel***

##### **Article 24.b**

(1) If, after a detention order or a measure to ensure the presence of the requested person has been imposed, the person who is the subject of the European arrest warrant does not consent to surrender, the investigating judge or the State Attorney shall submit the documentation referred to in Article 23, paragraph 3 of this Act to the non-trial panel of the competent county court.

(2) After receiving the documentation, the president of the non-trial panel shall schedule the panel's session within three days.

(3) The State Attorney, the requested person and his or her defence counsel, if he or she has one, and, where necessary, the interpreter shall be summoned to attend the session.

(4) At the beginning of the session, the president of the panel shall check whether the requested person has been provided with and understood the Letter of Rights and, if not, he shall order the State Attorney to provide the requested person with the Letter of Rights.

(5) The State Attorney shall state the basis for issuing the European Arrest Warrant, the criminal offence on which the warrant is based, as well as the reasons for its issuance and shall propose the recognition and execution of that warrant. The State Attorney shall also state his or her position on whether the grounds for detention or supervision measures, if imposed on the requested person, still exist.

(6) The requested person and his or her defence counsel shall make observations on the statements in the European arrest warrant and shall give reasons for not consenting to surrender, and may point to the existence of grounds for refusing surrender as referred to in Articles 20 and 21 of this Act and may present the evidence supporting their observations. At the session of the non-trial panel, the requested person may consent to surrender to the issuing State in accordance with Article 27 of this Act. In this case, the non-trial panel shall issue a decision on surrender with consent referred to in Article 28 of this Act.

#### **Termination of the execution of a European arrest warrant**

##### **Article 24.c**

The court shall issue a decision terminating the execution of a European arrest warrant if the requested person is no longer in the territory of the Republic of Croatia or if the European arrest warrant has been lifted by the issuing State.

#### ***Rights of a requested person***

##### **Article 24**

(1) The person who is the subject of a European arrest warrant shall be informed by the State Attorney of the contents of, and grounds for issuing, the European Arrest Warrant, and also of the possibility of consenting to surrender to the issuing State and expressing renunciation of the application of the speciality rule referred to in Article 38, paragraph 1 of this Act. At a hearing aimed at deciding on detention, the investigating judge shall determine whether the person has been instructed about the right to have a defence counsel present during the interrogation, the right to be assisted by a court interpreter and the right to request that a defence counsel be assigned to him or her in accordance with the provisions of the domestic law governing criminal procedure, and shall also instruct the person that he or she is not obliged to give statements in the proceedings conducted in connection with the warrant. If the person has not been instructed about these rights, the judge shall invite the State Attorney to do so. At the request of the requested person, the court shall assign to him or her a defence counsel in accordance with the criteria stipulated by the domestic law governing the assignment of defence counsel to a defendant against whom an indictment has been filed.

(2) When a requested person is arrested for the purpose of the execution of a European arrest warrant, he or she must have a defence counsel present already during the first interrogation. Immediately upon arrest and prior to the first interrogation, the arrested person shall be provided with the Letter of Rights, written in a language that the arrested person understands,



containing information about the rights referred to in paragraph 1 of this Article, the right to appeal against the decision imposing pre-surrender detention, the right of access to the materials of the case, the right to have consular authorities or a person designated by the arrested person informed about the arrest, the right of access to urgent medical assistance, and shall be informed about the maximum legally provided duration of pre-surrender detention. Where a Letter of Rights is not available in the language that the arrested person understands, the arrested person shall be informed of his or her rights orally, and a Letter of Rights in a language that he or she understands shall then be given to him or her within the shortest possible time.

(3) The State Attorney shall interrogate the requested person about his or her personal situation, nationality, relations to the issuing State and whether he or she opposes surrender and for what reasons. The interrogation may only be conducted if the requested person's defence counsel is present.

(4) The minutes of the interrogation of the requested person shall be drawn up.

(5) If the European arrest warrant was issued for the purpose of executing a custodial sentence or measure involving deprivation of liberty imposed by a judgement rendered *in absentia*, the requested person may request to be served with a copy of the said judgement before surrender to the issuing State, provided that it had not been previously personally served or that he or she had not been officially informed of criminal proceedings conducted against him or her. In that case, the court shall request that the issuing authority without delay transmit a copy of the judgement for the purpose of serving it on the requested person. Service of the copy of the judgement shall not be considered as an official service from which the time limits for submitting requests for a retrial or appeal should be counted. This shall not delay the procedure of surrender of the requested person, or the rendering of a decision on surrender.

#### ***Surrender of a person benefiting from immunity***

##### **Article 25**

(1) If, during the interrogation of the requested person who is a national of the Republic of Croatia, the State Attorney finds that the person benefits from an immunity in the Republic of Croatia, he or she shall request authorisation from the competent authority to undertake procedures pursuant to the warrant against that person.

(2) If the requested person benefiting from an immunity in the Republic of Croatia is a national of another State or is an employee of an international organisation, the State Attorney shall immediately inform thereof the ministry competent for foreign affairs. The surrender procedure shall not be initiated before the issuing authority provides proof that immunity has been waived.

(3) The time limits referred to in Articles 28 and 32 of this Act shall start running from the day the State Attorney receives proof that immunity has been waived.

#### ***Measures ensuring the surrender of a requested person***

##### **Article 26**



(1) In order to execute a decision on surrender, during the procedure based on the European arrest warrant, measures in accordance with domestic law must be taken in respect of the requested person to ensure his or her surrender.

(2) The judge shall, upon a motion of the State Attorney, order that the requested person who is arrested be kept in pre-surrender detention for no longer than necessary to execute the decision to surrender the requested person pursuant to Article 35 of this Act.

(3) Instead of pre-surrender detention, it is possible to impose precautionary measures provided for in the Criminal Procedure Act, provided that these measures serve the purpose envisaged in paragraph 1 of this Article.

### ***Consent to surrender***

#### **Article 27**

(1) A requested person may consent to surrender to the issuing State and renounce the application of the speciality rule referred to in Article 38, paragraph 1 of this Act.

(2) The consent and renunciation referred to in paragraph 1 of this Article shall be entered into the minutes drafted in such a way as to make unambiguously clear that the requested person has given them voluntarily and in full awareness of the consequences.

(3) The consent and renunciation referred to in paragraph 1 of this Article are irrevocable.

(4) The court shall without delay notify the authority that issued the European arrest warrant of the consent referred to in paragraph 1 of this Article.

### ***Decision on surrender with consent***

#### **Article 28**

(1) If the requested person consents to surrender to the issuing State, the investigating judge or the non-trial panel of the competent court shall, without delay and no later than three days after the consent, render a decision granting surrender, unless there are grounds for the non-execution of the European arrest warrant referred to in Articles 20 and 21 of this Act.

(2) The decision granting surrender shall contain the following information:

1. the first and last name, date and place of birth and nationality of the requested person;
2. the Member State to which the requested person is to be surrendered;
3. a description of the offence for which the person is surrendered;
4. a note stating that the person has consented to surrender;
5. if the requested person has renounced the application of the speciality rule referred to in Article 38, paragraph 1 of this Act, a note stating that fact;
6. if the requested person has not renounced the application of the speciality rule referred to in Article 38, paragraph 1 of this Act, a note stating that without the approval of the Republic of Croatia, for an offence committed prior to surrender, the requested person may not be:

a) prosecuted and that the custodial sentence against him or her may not be enforced in the issuing State;

b) surrendered to another Member State for the purpose of prosecution or for the enforcement of a custodial sentence;

c) extradited to a third State for the purpose of prosecution or for the enforcement of a custodial sentence.

(3) The decision referred to in paragraph 2 of this Article shall be served to the requested person, his or her defence counsel and the State Attorney who may appeal within three days. An appeal against the decision of the investigating judge shall be decided by the non-trial panel within three days. An appeal against the decision of the non-trial panel referred to in Article 24b, paragraph 6 of this Act shall be decided by the panel of a higher court within three days.

#### ***Decision on surrender without consent***

#### **Article 29**

(1) If the requested person does not consent to surrender, the court shall hear him or her about the reasons for opposing the surrender. The competent State Attorney may be present, while the requested person's defence counsel must be present at the hearing.

(2) The court may request additional information or documents from the issuing authority and set an appropriate time limit of no more than seven working days to provide them.

(3) The court may, if necessary, conduct evidentiary actions in accordance with the relevant provisions of domestic law on criminal procedure in order to determine whether all the preconditions for surrender are met.

(4) After the procedures described in paragraphs 1 to 3 of this Article, the non-trial panel of the competent court shall render a decision granting or refusing surrender of the requested person.

(5) The decision granting surrender shall contain the following information:

1. the first and last name, date and place of birth and nationality of the requested person;
2. the Member State to which the requested person is to be surrendered;
3. a description of the offence for which the person is surrendered;
4. a note stating that without the approval of the Republic of Croatia, for an offence committed prior to surrender, the requested person may not be:
  - prosecuted and that the custodial sentence against him or her may not be enforced in the issuing State;
  - surrendered to another Member State for the purpose of prosecution or for the enforcement of a custodial sentence;
  - extradited to a third State for the purpose of prosecution or for the enforcement of a custodial sentence.

(6) The decision referred to in paragraph 4 of this Article shall be served to the requested person, his or her defence counsel and the State Attorney who can appeal within three days. The appeal shall be decided by the non-trial panel of a higher court within three days.

(7) A decision refusing surrender shall contain a statement of reasons, and the issuing authority and the national S.I.Re.N.E. office shall be notified thereof without delay.

***Procedure in the event of multiple European arrest warrants or an extradition request***

**Article 30**

(1) If European arrest warrants issued for the same person have been received from two or more Member States, the court shall, when deciding on the State to which the requested person will be surrendered, take into consideration all the circumstances and especially the seriousness of the offences, the places where the offences were committed, the dates on which the European arrest warrants were issued and whether the warrant has been issued for the purposes of prosecution or for the execution of a custodial sentence or measure involving deprivation of liberty.

(2) If the court determines that in relation to the same person the conditions for the surrender based on a European arrest warrant and for the extradition based on a third State request have been met, the decision on the surrender or extradition shall be rendered by the minister competent for justice affairs. In this case, the provisions concerning surrender with consent and simplified extradition shall not apply.

(3) All the States concerned must be notified of the final decision.

***Notification of the decision***

**Article 31**

(1) The court shall, without delay, notify the authority that issued the warrant and the national S.I.Re.N.E. office of the final decision granting or refusing the surrender of the requested person.

(2) In the course of the surrender of the requested person to the issuing State, information on the types and duration of measures referred to in Article 26 of this Act shall also be provided.

***Time limits for issuing the decision to surrender the requested person***

**Article 32**

(1) The procedure for the surrender of a requested person shall be a matter of urgency.

(2) Deleted.

(2) If the requested person has not consented to surrender, the decision on his or her surrender shall be rendered within sixty days after the arrest or the first interrogation.

(3) If a decision on surrender cannot be rendered within the time limits stipulated in paragraph 2 of this Article, the court shall notify thereof the authority that issued the warrant, giving the

reasons for the delay. In such a case, the time limit for rendering a decision on the surrender of the requested person shall be extended by a further thirty days.

(4) If, due to exceptional circumstances, a decision on surrender cannot be rendered within the time limit stipulated in paragraph 3 of this Article, the court shall notify Eurojust thereof, giving the reasons for the delay.

(5) If a Member State repeatedly fails to observe the time limits for the execution of European arrest warrants issued by domestic competent authorities, the ministry competent for justice affairs shall notify the Council of the European Union thereof.

#### ***Postponement of surrender and temporary surrender of the requested person***

##### **Article 33**

(1) Surrender may be postponed until criminal proceedings against the requested person conducted in the Republic of Croatia for another criminal offence are completed, or until the requested person has served his or her custodial sentence in the Republic of Croatia for another criminal offence.

(2) Temporary surrender for the purpose of conducting criminal proceedings may be permitted if it does not interfere with the criminal proceedings conducted before a domestic court. The conditions for temporary surrender of the requested person shall be arranged by a written agreement concluded between the competent domestic court and the issuing judicial authority. This agreement shall be binding on all the competent authorities in the issuing State.

#### ***The hearing or temporary transfer of the requested person before making a surrender decision***

##### **Article 34**

(1) Before making a surrender decision, the court may, on the proposal of the issuing authority, when the surrender of a person is requested for the purpose of conducting a criminal prosecution:

1. hear the requested person regarding the offence for which the warrant has been issued; or
2. permit the temporary transfer of the requested person to the issuing State.

(2) The court and the issuing authority shall arrange the circumstances of the hearing and the conditions of the temporary transfer of the requested person by a written agreement which shall be binding on all the competent authorities in the issuing State.

(3) The court shall hear the requested person in accordance with the relevant provisions of domestic law on criminal procedure and the agreement referred to in paragraph 2 of this Article. The defence counsel and the State Attorney must be present during the hearing, and an official of the issuing State may also be present.

#### ***Surrender of the requested person***

##### **Article 35**

(1) When the decision on surrender becomes final, the court shall without delay order the surrender of the requested person. The decision on surrender shall be executed by the ministry competent for internal affairs, which shall agree with the competent authorities of the issuing State on the manner, time and place of surrender. The surrender shall be executed as soon as possible and no later than ten days after the decision on surrender has become final.

(2) If the surrender within the period laid down in paragraph 1 of this Article is prevented by circumstances beyond the control of the Republic of Croatia or the issuing State, the police shall agree with the competent authority of the issuing State on the new manner, time and place of surrender within a further period of ten days.

(3) Exceptionally, the court may temporarily postpone the surrender of the requested person for serious humanitarian reasons, for example if it would manifestly endanger the requested person's life or health. The court shall immediately inform the issuing authority of these circumstances. The surrender of the requested person shall take place as soon as the grounds for postponement have ceased to exist. A new manner, time and place of surrender shall be arranged within ten days after the grounds for postponement cease to exist.

(4) In the case referred to in paragraph 2 of this Article, if the period of pre-surrender detention has expired, the investigating judge shall, upon a motion of the State Attorney, and if he or she establishes that the circumstances referred to in paragraph 2 of this Article exist, extend pre-surrender detention by a further 10 days.

(5) If the surrender of the requested person is temporarily postponed for serious humanitarian reasons, and if the period of pre-surrender investigative detention has expired, the investigating judge shall, upon a motion of the State Attorney, extend pre-surrender detention by a further 10 days counting from the moment when the grounds for postponement cease to exist.

(6) If, upon the expiry of the time limits referred to in the previous paragraphs, the requested person is still kept in pre-surrender detention, the court shall vacate the measure of pre-surrender detention and release the requested person.

### *Execution of a European arrest warrant against an extradited person*

#### **Article 36**

(1) If the State Attorney receives a European arrest warrant for a person who has been extradited to the Republic of Croatia from a third State under the condition that the speciality rule is respected, he or she shall inform the competent authority of the issuing State thereof for the purpose of obtaining the consent of the third State to surrender such person.

(2) The time limits referred to in Articles 28 and 32 of this Act shall not start running until the day on which the State Attorney receives the consent referred to in paragraph 1 of this Article.

### *Transit through the Republic of Croatia*

#### **Article 37**

(1) The minister competent for justice affairs shall decide on the request for the transit through the territory of the Republic of Croatia of a requested person who is being surrendered from one Member State to another.

(2) A request for transit must contain the following information:

**Comment [W1]:** Ovo ne odgovara izmjeni iz 2015.

Izmjenu sam prevela za svaki slučaj pa je ubacite ako je potrebno:

Before the expiry of the period of pre-surrender detention referred to in paragraph 1 of this Article, the investigating judge may, upon a motion of the State Attorney, and if it establishes that there are serious humanitarian reasons for which the surrender of the requested person needs to be temporarily postponed, extend pre-surrender detention until these reasons cease to exist. As soon as the reasons for extension of pre-surrender detention cease to exist, the investigating judge shall inform the police thereof so that a new manner, time and place of surrender can be agreed upon within the time limit referred to in paragraph 3 of this Article. When a new manner of surrender is agreed upon, the investigating judge may extend pre-surrender detention until the agreed date of surrender

1. the name and surname, date and place of birth, residence and nationality of the requested person;
2. the existence of a European arrest warrant;
3. the legal classification of the offence;
4. the description of the circumstances of the offence, including the date and place.

(3) If the requested person is a national or resident of the Republic of Croatia, and if the European arrest warrant was issued for the purpose of conducting criminal proceedings, transit through the Republic of Croatia may be made subject to the condition that, after the completion of the proceedings, the person is returned to the Republic of Croatia to serve the custodial sentence or measure involving deprivation of liberty imposed on him or her by a decision rendered by a judicial authority of the issuing State.

(4) If the requested person has to be transported from one Member State to the other by air, and if an unscheduled landing occurs on the territory of the Republic of Croatia, the minister competent for justice affairs shall grant transit through the Republic of Croatia upon a request submitted in accordance with paragraphs 1 and 2 of this Article.

(5) The provisions of this Article shall apply in relation to Member States when the requested person is being extradited from a third State.

#### **Request to permit transit of a requested person through the territory of another Member State**

##### **Article 37.a**

(1) The domestic judicial authority that issued a European arrest warrant shall submit a request to permit transit of a requested person through the territory of another Member State to the competent authority of that Member State.

(2) The transit request must contain the information specified in Article 37, paragraph 2 of this Act.

(3) If the surrender of a requested person has been granted pursuant to several European arrest warrants issued by different domestic judicial authorities or if the transit is to be effected through the territory of a third State, a transit request shall be made by the ministry competent for justice affairs.

#### ***Speciality rule***

##### **Article 38**

(1) A person surrendered to the Republic of Croatia pursuant to a European arrest warrant may not be prosecuted and a criminal sanction may not be executed against him or her by a domestic court for an offence committed prior to his or her surrender other than that for which he or she was surrendered.

(2) By way of derogation from the provision of paragraph 1 of this Article, the court may conduct criminal proceedings or execute a criminal sanction if:

1. the surrendered person, although having had an opportunity to leave the territory of the Republic of Croatia, has not done so within 45 days of his or her final discharge, or has returned to the territory of the Republic of Croatia after leaving it;
2. the offence is not punishable by a custodial sentence according to domestic law and the criminal proceedings do not give rise to the application of a measure of custody, detention or home arrest;
3. the offence is punishable by a financial penalty according to domestic law, even if that penalty may be replaced by a custodial sentence;
4. the person consented to be to be surrendered to the Republic of Croatia and at the same time renounced the speciality rule referred to in paragraph 1 of this Article;
5. the person, after his or her surrender, has expressly, voluntarily and in full awareness of the consequences renounced entitlement to the speciality rule referred to in paragraph 1 of this Article, and that renunciation was entered into the minutes in the presence of the person's defence counsel;
6. the competent authority of the issuing State gives its consent to the conducting of criminal proceedings or to the execution of a criminal sanction for an offence committed prior to surrender and not covered by the European arrest warrant, upon a request made by the Republic of Croatia in accordance with Article 18 of this Act.

#### ***Surrender to a third Member State***

##### **Article 39**

(1) A person who has been surrendered to the Republic of Croatia pursuant to a European arrest warrant may not be surrendered to a third Member State for any offence committed prior to his or her surrender without the consent of the competent judicial authority of the executing State, except in the following cases:

1. where the surrendered person, although having had an opportunity to leave the territory of the Republic of Croatia, has not done so within 45 days of his or her final discharge, or has returned to the territory of the Republic of Croatia after leaving it;
2. where the person is not subject to the application of the speciality rule in accordance with Article 38, paragraph 2, items 1, 4, 5 and 6 of this Act;
3. where the person consents to be surrendered to a third Member State, and that consent is entered into the minutes before a competent court, in the presence of the person's defence counsel and in accordance with domestic law governing criminal procedure. The renunciation must be entered into the minutes drafted in such a way as to make unambiguously clear that the requested person has given it voluntarily and in full awareness of the consequences.

(2) If the State Attorney receives a European arrest warrant for a person who has been surrendered to the Republic of Croatia by a third Member State under the condition that the speciality rule is respected, he or she shall inform the competent authority of the issuing State thereof for the purpose of obtaining the consent of the Member State which surrendered the person.

#### ***Extradition of a surrendered person to a third State***



#### **Article 40**

A person who has been surrendered to the Republic of Croatia pursuant to a European arrest warrant may not be extradited to a third State without the consent of the State whose judicial authority made a surrender decision. The request for consent shall be submitted by the minister competent for justice affairs in accordance with the law governing international legal assistance in criminal matters, as well as with international agreements by which the Republic of Croatia is bound.

#### ***Consent procedure***

#### **Article 41**

(1) The court which rendered the decision on the surrender of a person pursuant to a European arrest warrant is competent to decide on the request of the issuing State for consent to be given for:

- a) the conducting of a criminal proceeding or for the execution of a custodial sentence or measure involving deprivation of liberty against the surrendered person for an offence committed prior to his or her surrender, and for which he or she was not surrendered;
- b) the surrender of that person to another Member State for an offence committed prior to his or her surrender;
- c) the extradition of that person to a third State for an offence committed prior to his or her surrender.

(2) The non-trial panel of the competent court shall decide upon the request referred to in paragraph 1 of this Article without a hearing of the person and no later than 30 days after receipt of the request, in accordance with the provisions of this Title of this Act.

#### ***Handing over of property or objects***

#### **Article 42**

(1) The court deciding on the surrender of a requested person shall, *ex officio* or at the request of the issuing authority, in accordance with domestic law, render a decision on temporary seizure of objects which may serve as evidence or of property which has been acquired by the requested person as a result of the offence, and hand them over to the issuing State. An appeal against this decision may be submitted within three days and shall not stay its execution.

(2) The decision referred to in paragraph 1 of this Article shall be executed even if the surrender cannot be carried out owing to the death or escape of the requested person.

(3) If the property or objects referred to in paragraph 1 of this Article are needed in connection with criminal proceedings pending in the Republic of Croatia, the court may temporarily retain it or hand it over to the issuing authority under the condition that they are returned to the Republic of Croatia after the completion of the criminal proceeding in the issuing State.

(4) Any rights which the Republic of Croatia or bona fide third parties may have acquired in the property or objects referred to in paragraph 1 of this Article shall be preserved. Where such rights exist, the issuing authority shall return the property or objects to the Republic of Croatia as soon as the criminal proceeding has been completed.



### Title III

#### ORDER FREEZING PROPERTY OR EVIDENCE

##### *Scope of a freezing order*

###### **Article 43**

(1) The judicial authority competent under the domestic law shall recognise and execute a freezing order issued for the purposes of:

1. securing evidence
2. subsequent confiscation of property.

(2) For offences other than those listed in Article 10 of this Act, the competent judicial authority shall recognise and execute a freezing order issued for the purposes referred to in paragraph 1 of this Article for acts which constitute an offence under domestic law, regardless of the statutory description and legal classification of the offence indicated in the received freezing order.

##### *Issuing a freezing order*

###### **Article 44**

(1) An authority competent under domestic law shall issue an order freezing property or evidence which is located in another Member State for the purpose of securing evidence or providing subsequent confiscation of property in criminal proceedings conducted in the Republic of Croatia.

(2) The State Attorney's Office that has issued an order for a temporary seizure of objects or on whose proposal the court rendered a decision to ensure confiscation of the proceeds of crime shall forward such decisions to the State Attorney's Office of the Republic of Croatia for further procedure.

(3) The State Attorney's Office of the Republic of Croatia shall fill out a certificate on the standard form which forms an integral part of this Act (Annex 2) and shall certify its contents as accurate and transmit it together with the order or decision to the competent authority of the Member State in which it has reasonable grounds to believe that the property or objects are located or in which the natural or legal person holding such property or objects resides or has its seat.

(4) If the order referred to in paragraph 2 of this Article is lifted, and the decision referred to in that paragraph is withdrawn or modified, the State Attorney's Office of the Republic of Croatia shall immediately notify the competent authority of the executing State thereof, by a secure means of communication capable of producing a written record, provided that the executing State accepts such transmission.

##### *Recognition and immediate execution of an order*

###### **Article 45**

(1) After receiving a freezing order transmitted in accordance with Article 5 of this Act, the competent authority referred to in Article 5, paragraph 1, sub-paragraph 2 of this Act shall forthwith take the necessary measures for its immediate execution in the same way as for a freezing order issued by a domestic authority, unless it decides to refuse or postpone the execution of the order for one of the reasons referred to in Articles 47 and 48 of this Act.

(2) During the execution of the freezing order, the competent judicial authority shall observe the procedures expressly indicated by the issuing authority in order to ensure that the evidence taken is valid, provided that such procedures are not contrary to the fundamental principles of domestic law.

(3) The competent judicial authority shall immediately notify the issuing authority of the execution of the freezing order by a secure means of communication capable of producing a written record, provided that the issuing State accepts such transmission.

(4) Any additional freezing measures that are necessary for the execution of the freezing order shall be taken in accordance with domestic law.

(5) The competent judicial authority shall render a decision on a freezing order as soon as possible, whenever practicable within 24 hours of receipt of the freezing order, and shall without delay notify the issuing authority thereof.

#### ***Duration of the freezing***

#### **Article 46**

(1) The property and evidence shall remain frozen until they are transferred upon the request of the issuing State in accordance with the provision of Article 49 of this Act.

(2) The competent judicial authority may, in accordance with domestic law and in the light of the circumstances of the case and the requests of the issuing State, lay down conditions to limit the period for which the property is frozen. If these conditions may result in the measures being lifted, the competent judicial authority shall immediately notify the issuing authority thereof, in order for it to submit its comments.

(3) After receiving notification from the issuing authority that the freezing order has been lifted, the competent judicial authority shall immediately lift the freezing measures.

#### ***Grounds for non-recognition or non-execution***

#### **Article 47**

(1) The competent judicial authority shall decide whether to execute or to refuse to recognise and execute a freezing order if:

1. the certificate referred to in Article 44, paragraph 2 of this Act is not produced, is incomplete or manifestly does not correspond to the freezing order, and has not been completed or corrected by the issuing State within a specified time limit not exceeding seven working days;

2. deleted;

2. it is clear from the information provided in the certificate for the offence in respect of which the freezing order has been made that the transfer of property or objects pursuant to Article 49 of this Act would infringe the *ne bis in idem* principle;

3. the offence referred to in Article 43, paragraph 2 of this Act on which the freezing order is based does not constitute an offence under domestic law. In relation to fiscal offences, the execution of an order shall not be refused solely on the ground that the domestic law does not impose the same kind of tax or duty or does not contain the same provisions as regards taxes, duties, customs and exchange regulations as the law of the issuing State.

(2) The competent judicial authority may refuse to recognise a freezing order if there is an immunity or privilege which makes it impossible to execute it.

(3) In the case referred to in paragraph 1, item 1 of this Article, the competent judicial authority shall:

1. specify a time limit of no more than seven working days for submitting, completing or correcting the certificate referred to in Article 44, paragraph 2 of this Act;

2. accept an equivalent document; or

3. execute the freezing order if it considers that the information provided is sufficient.

(4) The competent judicial authority shall immediately notify the issuing authority of any decision to refuse the recognition or execution of the freezing order by a secure means of communication capable of producing a written record, provided that the issuing State accepts such transmission.

(5) The competent judicial authority shall immediately notify the issuing authority that the property or evidence has disappeared, has been destroyed, could not be found in the location indicated in the certificate or the location of the property or evidence could not be determined even after consultation with the issuing State, which made it impossible to execute the freezing order.

#### ***Grounds for the postponement of the execution of a freezing order***

#### **Article 48**

(1) The competent judicial authority may postpone the execution of a freezing order:

1. where its execution might obstruct an ongoing criminal investigation before a competent domestic authority, for as long as the property or evidence is essential for conducting the said investigation;

2. where the property or evidence concerned has already been subjected to a freezing order in criminal proceedings before a domestic judicial authority, and until that freezing order is lifted;

3. where, in the case of an order freezing property with a view to its subsequent confiscation, that property is already subject to an order made in the proceedings before a domestic authority, until that order is lifted; the freezing order shall then have priority over subsequent freezing orders made by domestic authorities.

(2) The competent judicial authority shall immediately notify the issuing authority of the postponement of the execution of the freezing order, including the grounds for the postponement and, if possible, the expected duration of the postponement, by a secure means of communication capable of producing a written record, provided that the issuing State accepts such transmission.

(3) As soon as the ground for postponement has ceased to exist, the competent judicial authority shall immediately take the necessary measures for the execution of the freezing order and inform the issuing authority thereof in the manner provided for in paragraph 2 of this Article.

(4) The competent judicial authority shall inform the issuing authority of any other restraint measure to which the property or evidence, for which the freezing order has been issued, may be subjected.

#### ***Transfer of the frozen property***

#### **Article 49**

The transfer of property or evidence frozen in accordance with the provision of Article 45 of this Act shall be carried out:

1. on the request of the issuing State for the transfer of frozen evidence to that State, pursuant to the provisions of the law governing mutual legal assistance in criminal matters;
2. by the execution of an evidence warrant issued by the competent judicial authority of the issuing State, pursuant to the provisions of Title IV of this Act;
3. by the execution of a confiscation order issued by the competent judicial authority of the issuing State, pursuant to the provisions of Title V of this Act.

#### **TITLE IV**

#### **EUROPEAN EVIDENCE WARRANT**

#### ***Offences for which a European evidence warrant shall be executed***

#### **Article 50**

(1) The competent judicial authority referred to in the second indent of paragraph 1 of Article 5 of this Act shall execute a European evidence warrant without verification of double criminality unless it is necessary to carry out search and seizure.

(2) Where, for the purpose of the execution of a European evidence warrant, it is necessary to carry out search and seizure, a competent judicial authority shall execute a European evidence warrant issued for acts which constitute an offence under domestic law, regardless of the statutory description and legal classification of the offence in the received European evidence warrant, and for offences listed in Article 10 of this Act in any case without verification of double criminality.

#### ***Scope of the European evidence warrant***

#### **Article 51**

(1) Without prejudice to the application of paragraph 2 of this Article, the competent judicial authority shall execute a European evidence warrant with a view to obtaining objects, documents or data needed in the issuing State for the purpose of the proceedings referred to in Article 2, item 10 of this Act. The European evidence warrant may cover the objects, documents and data specified therein.

(2) The competent judicial authority shall refuse to execute a European evidence warrant issued for the purpose of requiring the executing authority to:

1. conduct interviews or hearings involving suspects, witnesses, experts or any other party;
2. carry out bodily examinations or obtain bodily material or biometric data directly from the body of any person, including DNA samples or fingerprints;
3. obtain information in real time such as through the interception of communications, covert surveillance or monitoring of bank accounts;
4. conduct analyses of existing objects, documents or data;
5. obtain communications data retained by the providers of a publicly available electronic communications service or a public communications network.

(3) The competent judicial authority shall execute a European evidence warrant issued with a view to obtaining objects, documents or data falling within paragraph 2, where the objects, documents or data were already in its possession before the European evidence warrant is issued.

(4) By way of derogation from paragraph 1 of this Article, the competent judicial authority shall execute a European evidence warrant that also covers other objects, documents or data which it discovers during the execution of the European evidence warrant and without further enquiries considers to be relevant to the proceedings for the purpose of which the European evidence warrant was issued, if expressly requested by the issuing authority.

(5) By way of derogation from paragraph 2 of this Article, the competent judicial authority shall execute a European evidence warrant that also covers taking statements from persons present during the execution of the warrant, provided that these statements are directly related to the subject of the warrant and that the issuing authority expressly requests it in the warrant. The competent judicial authority shall take such statements in accordance with the relevant provisions of domestic law on criminal procedure.

#### ***Issuing a European evidence warrant***

#### **Article 52**

The competent judicial authority referred to in Article 6 of this Act shall issue a European evidence warrant on the prescribed form that forms an integral part of this Act (Annex 3), sign it and certify its contents as accurate and submit it to the competent judicial authority in accordance with Article 7, paragraphs 1 and 2 of this Act for the purpose of transmitting it to the executing State.

#### ***Conditions for issuing a European evidence warrant***

#### **Article 53**

The competent judicial authority shall issue a European evidence warrant if the following conditions have been met:

1. obtaining the objects, documents or data sought is necessary and proportionate for the purpose of the proceedings referred to in Article 2, item 10 of this Act;
2. if the objects, documents or data were available on the territory of the Republic of Croatia, they could be obtained under the provisions of domestic law on criminal procedure concerning evidentiary actions.

#### ***Transmission of a European evidence warrant***

##### **Article 54**

(1) In addition to the procedures referred to in Article 5, paragraphs 1 and 2, and Article 7, paragraphs 1 and 2 of this Act, a European evidence warrant may be received and transmitted via the secure telecommunication system of the European Judicial Network in Criminal Matters.

(2) The competent judicial authority referred to in Article 7, paragraphs 1 and 2 of this Act may transmit a European evidence warrant directly to the competent authority of the executing State when it has reasonable grounds to believe that relevant objects, documents or data are located there or, in the case of electronic data, that they are directly accessible under the law of the executing State. All further official communications shall be made directly between the issuing authority and the executing authority.

#### ***European evidence warrant related to an earlier European evidence warrant or a freezing order***

##### **Article 55**

(1) The competent judicial authority shall execute a European evidence warrant which supplements an earlier European evidence warrant or which is a follow-up to a freezing order referred to in Title III of this Act, if this fact is indicated in the form referred to in Article 52 of this Act.

(2) Where, in accordance with the provisions of the law governing mutual legal assistance in criminal matters, the issuing authority participates in the execution of a European evidence warrant, it may address a European evidence warrant which supplements an earlier European evidence warrant directly to the competent judicial authority while present in the Republic of Croatia.

#### ***Conditions for the use of personal data***

##### **Article 56**

(1) Personal data obtained from the executing State may be used by competent domestic authorities for the purpose of:

1. proceedings for which a European evidence warrant may be issued;

2. judicial and administrative proceedings directly related to the proceedings referred to in item 1 of this paragraph;

3. preventing an immediate and serious threat to public security.

For any purpose other than those set out in items 1 to 3 of this paragraph, personal data obtained from the executing State may be used only with the prior consent of the executing State, unless the competent domestic authority has obtained the consent of the data subject or if those data originate from the Republic of Croatia.

(2) Upon the request of the issuing State, the judicial authority which executed the European evidence warrant may, in accordance with domestic law, give consent for the use of personal data obtained in the course of the execution of that warrant in the Republic of Croatia. The issuing State may be requested to provide information on the use made of the data.

### ***Recognition and execution***

#### **Article 57**

(1) The competent judicial authority shall, without any further formality being required, recognise a European evidence warrant issued in accordance with Article 52 of this Act, and shall forthwith take the necessary measures for its execution in the way prescribed by domestic criminal procedure law, unless it decides to invoke one of the grounds for non-recognition or non-execution provided for in Article 59 of this Act or one of the grounds for postponement provided for in Article 61 of this Act.

(2) When executing a European evidence warrant, the competent judicial authority shall decide whether, in a specific case, it is necessary to use coercive measures in accordance with domestic criminal procedure law.

(3) Domestic procedural actions which include search or seizure are applicable for the purpose of the execution of a European evidence warrant where it is related to any of the offences as set out in Article 10 of this Act.

(4) The competent judicial authority may, in a specific case, decide that no search or seizure may be carried out for the purpose of the execution of a European evidence warrant if the warrant is not issued by a judge, a court, an investigating magistrate or a public prosecutor and has not been validated by one of those authorities in the issuing State. Before taking such a decision, the court shall consult the competent authority of the issuing State.

(5) When executing a European evidence warrant, the competent judicial authority shall not assess the existence of the conditions referred to in Article 53 of this Act.

### ***Conditions for the execution of a European evidence warrant***

#### **Article 58**

The competent judicial authority shall execute a European evidence warrant in accordance with the formalities and instructions expressly indicated by the issuing authority unless otherwise provided for by other provisions of this Act, and provided that such formalities and procedures are not contrary to the fundamental principles of domestic law. In doing so, the competent judicial authority is not obliged to take coercive measures.



## *Grounds for non-recognition or non-execution*

### **Article 59**

(1) The competent judicial authority may, guided by the principles of efficient co-operation, expediency and right to a fair trial, decide whether to execute or to refuse to recognise and execute a European evidence warrant:

1. if its execution would infringe the *ne bis in idem* principle;
2. if, in the cases referred to in Article 50, paragraph 2 of this Act, the European evidence warrant relates to acts which would not constitute an offence under domestic law. In relation to fiscal offences, the execution of a European evidence warrant shall not be refused solely on the ground that the domestic law does not impose the same kind of tax or duty or does not contain the same provisions as regards taxes, duties, customs and exchange regulations as the law of the issuing State;
3. if it is not possible to execute the European evidence warrant by applying the procedural actions referred to in Article 57, paragraph 2 of this Act;
4. if there is an immunity or privilege under domestic law which prevents the execution of the European evidence warrant;
5. if, in the case referred to in Article 57, paragraph 4 of this Act, the European evidence warrant has not been validated by a judge, a court, an investigating magistrate or a public prosecutor;
6. if the European evidence warrant relates to criminal offences which:
  - a) under domestic law are regarded as having been committed wholly or for a major or essential part within the territory of the Republic of Croatia or in a place equivalent to its territory, or
  - b) were committed outside the territory of the issuing State, and domestic law does not provide for the application of domestic criminal legislation in respect of such offences where they are committed outside the territory of the Republic of Croatia;
7. if, in a specific case, the execution of the European evidence warrant would harm essential national security interests, jeopardise the source of information or involve the use of classified information relating to specific intelligence activities;
8. if the form referred to in Article 52 of this Act is incomplete or manifestly incorrect and has not been completed or corrected within a reasonable deadline set by the court.

(2) A decision to refuse the recognition and execution of a European evidence warrant pursuant to paragraph 1, item 6, sub-item (a) of this Article shall be taken by the competent judicial authority having regard to the specific circumstances of the case, and in particular to whether a major or essential part of the act in question was committed in the issuing State, whether the European evidence warrant relates to an act which is not a criminal offence under domestic law and whether it would be necessary to carry out search and seizure in the execution of the European evidence warrant. Before taking a decision to refuse the recognition and execution of the warrant, the competent judicial authority shall consult Eurojust. Where it is not in



agreement with Eurojust's opinion, it is obliged to give the reasons for its decision and notify the Council of the European Union thereof through the ministry competent for justice affairs.

(3) Before taking a decision to refuse the recognition and execution of a European evidence warrant for reasons referred to in paragraph 1, items 1, 7 and 8 of this Article, the competent judicial authority shall, where appropriate, ask the issuing authority to urgently supply any necessary information and set a time limit of no more than seven working days for submitting this information.

#### ***Deadlines for the recognition and execution of the warrant and for the transfer of evidence***

##### **Article 60**

(1) The competent judicial authority shall treat the received European evidence warrant as a matter of urgency, taking account of respect of the deadlines provided for in this Article and taking into account procedural deadlines or other urgent circumstances indicated in the warrant.

(2) The competent judicial authority shall as soon as possible take any decision to refuse recognition or execution, and no later than 30 days after the receipt of the European evidence warrant.

(3) The competent judicial authority shall take possession of the sought objects, documents or data without delay and no later than 60 days after the receipt of the European evidence warrant, unless either grounds for postponement under Article 61 of this Act exist or the competent judicial authority has the objects, documents or data sought already in its possession.

(4) When it is not possible for the competent judicial authority to execute the warrant within the deadlines provided for in paragraphs 2 and 3 of this Article, it shall immediately inform the issuing authority, giving the reasons for the delay and indicating the estimated time needed for the execution of the warrant.

(5) The competent judicial authority shall without delay transfer to the issuing State the objects, documents or data obtained under the European evidence warrant, unless a legal remedy is pending in accordance with Article 14 of this Act, or grounds exist for postponement under Article 61 of this Act.

(6) When transferring the objects, documents or data, the competent judicial authority shall indicate whether it requires them to be returned as soon as they are no longer required by the issuing State.

#### ***Grounds for the postponement of recognition or execution of a warrant***

##### **Article 61**

(1) The competent judicial authority shall postpone the recognition and execution of a European evidence warrant where:

1. the form referred to in Article 52 of this Act is incomplete or manifestly incorrect, until such time as the complete and correctly filled out form is received;
2. in the case referred to in Article 57, paragraph 4 of this Act, the European evidence warrant has not been validated, until such time as the validated form is received.

(2) The competent judicial authority may postpone the execution of a European evidence warrant, taking into account the circumstances of the case and especially the seriousness of the offence for which criminal proceedings are conducted in the Republic of Croatia and the possibility of the later use of evidence, where:

1. the execution of the evidence warrant might damage an ongoing criminal investigation or prosecution in the Republic of Croatia, until such time as it deems necessary;

2. the objects, documents or data sought by the warrant are already being used in other proceedings, until such time as they are no longer required for that purpose.

(3) As soon as the ground for postponement has ceased to exist, the competent judicial authority shall forthwith take the necessary measures for the execution of the European evidence warrant and inform the issuing authority thereof by any means capable of producing a written record.

### ***Obligation to inform***

#### **Article 62**

(1) The competent judicial authority shall inform the issuing authority immediately by any means:

1. if, in the course of the execution of a European evidence warrant, it establishes that it may be appropriate to undertake investigative measures not initially foreseen, or which could not be specified when the European evidence warrant was issued, in order to enable the issuing authority to take further action in the specific case;

2. if it establishes that the European evidence warrant was not executed in a manner consistent with domestic law;

3. if it establishes that, in the specific case, it cannot comply with the formalities and instructions referred to in Article 58 of this Act.

Upon the request of the issuing authority, the competent judicial authority shall confirm this information without delay by any means capable of producing a written record.

(2) The competent judicial authority shall inform the issuing authority without delay by any means capable of producing a written record:

1. of the transmission of a European evidence warrant to the competent judicial authority, in accordance with Article 5, paragraph 4 of this Act;

2. of a decision to refuse the recognition or execution of a European evidence warrant, together with the reasons for the decision;

3. of the postponement of the recognition and execution of a European evidence warrant, the reasons for the postponement and, if possible, the expected duration of the postponement;

4. of the impossibility to execute a European evidence warrant, even after consultation with the issuing authority, because the objects, documents or data have disappeared, have been destroyed or cannot be found in the location indicated in the warrant or because the location of the objects, documents or data has not been indicated in a sufficiently precise manner.

## Title V

### DECISION ON THE CONFISCATION OF PROPERTY AND OBJECTS

#### *Scope*

#### **Article 63**

For offences other than those listed in Article 10 of this Act, the competent court shall recognise, and domestic judicial authority shall execute, a decision on the confiscation of property or objects for acts which constitute an offence under domestic law, regardless of the statutory description and legal classification of the offence indicated in the received decision, which shall be executed in accordance with domestic law.

#### *Recognition and execution of decisions*

#### **Article 64**

(1) After receiving from the competent State Attorney referred to in Article 5, paragraph 1, third indent of this Act a decision on the confiscation of property or objects issued by a foreign judicial authority, the competent court shall recognise it without delay unless there are reasons referred to in Article 65 or Article 67 of this Act. After the decision on recognition becomes final and enforceable, its execution shall be carried out in accordance with domestic law.

(2) If the decision concerns the confiscation of an object, the court may, instead of confiscating the object itself, confiscate a sum of money corresponding to the value of the object, if the competent State Attorney presents consent of the issuing State for such confiscation, and the decision shall be executed in accordance with the provisions of the law governing enforcement proceedings.

(3) If a confiscation decision concerning an amount of money cannot be totally executed, the competent state attorney shall collect the remainder of the amount in accordance with the law governing enforcement proceedings.

(4) If a confiscation decision concerning an amount of money cannot be executed in the nominal currency, the competent court shall convert that amount into the national currency at the rate of exchange obtaining on the day when the decision was issued.

#### *Grounds for refusing to recognise a decision*

#### **Article 65**

(1) The court shall refuse to recognise a decision on the confiscation of property or objects:

1. if the certificate referred to in Article 73, paragraph 2 of this Act is not submitted, is incomplete, or manifestly does not correspond to the decision, and it has not been completed or corrected by the issuing State within a specified time limit;

2. if the execution of the confiscation decision would infringe the *ne bis in idem* principle;

3. if the confiscation decision relates to an offence which does not constitute an offence under domestic law. In relation to fiscal offences, the execution of the decision shall not be refused solely on the ground that the domestic law does not impose the same kind of tax or duty or

does not contain the same provisions as regards taxes, duties, customs and exchange regulations as the law of the issuing State.

(2) The court may, guided by the principles of efficient co-operation, expediency and right to a fair trial, refuse to recognise and execute a decision on the confiscation of property and objects:

1. if there is an immunity or privilege under domestic law which prevents the execution of the confiscation decision;
2. if the execution of the confiscation decision is prevented by the rights which third parties have acquired in good faith on the basis of domestic law;
3. if, according to the certificate referred to in Article 73, paragraph 2 of this Act, the person against whom the confiscation decision was rendered did not appear personally at the hearing at which that decision was rendered, unless the certificate states that, in accordance with the requirements prescribed by the national law of the issuing State:
  - a) the person was, in due time and in person, summoned for the hearing and thereby informed of the time and place of the hearing at which the confiscation decision was rendered or that he or she received official information of the time and place of the hearing in such a manner that it can be unequivocally concluded that he or she was aware of the scheduled hearing, and was warned about the possibility of a decision being rendered *in absentia* if he or she does not appear for the hearing;
  - b) the person was represented at the hearing by a defence counsel authorised by him or her or appointed *ex officio* by the court;
  - c) the person, after being personally served with the confiscation decision rendered *in absentia* along with an instruction that he or she has the right to a retrial or an appeal, based on which proceedings may be held in which he or she shall have the right to participate and in which the facts found will be reassessed and new evidence presented, which might lead to the decision being varied, has expressly stated that he or she does not contest the decision rendered *in absentia*, or has not requested a retrial or submitted an appeal within an appropriate time limit;
4. if the confiscation decision relates to criminal offences which have been committed in whole or in part in the territory of the Republic of Croatia;
5. if the confiscation decision relates to criminal offences which have been committed outside the territory of the issuing State and the domestic law does not allow prosecution for the same offences when committed outside the territory of the Republic of Croatia;
6. if the execution of the confiscation order is barred by statutory time limitations according to domestic law, provided that the acts fall within the jurisdiction of the Republic of Croatia.

### ***Supplementary information***

#### **Article 66**

(1) If the court establishes that the grounds provided for in Article 65 of this Act exist, it may, before deciding on the recognition and execution of a confiscation decision, request supplementary information from the issuing authority and set a time limit of no more than seven working days for its submission. The court shall notify the issuing authority that it shall

refuse to execute the decision if supplementary information is not received within the set time limit.

(2) The court must request the supplementary information referred to in paragraph 1 of this Article when it establishes the existence of grounds specified in Article 65, paragraph 1, item 1 and paragraph 2, items 2, 3 and 4 of this Act.

(3) The State Attorney shall immediately notify the issuing authority that the property has already been confiscated, has disappeared, has been destroyed, could not be found in the location indicated in the certificate or the location of the property could not be determined even after consultation with the issuing State, which made it impossible to execute the confiscation decision.

#### ***Postponement of execution of a confiscation decision***

##### **Article 67**

(1) The competent State Attorney may, taking into account the urgency of matter and the likelihood of confiscation being prevented or significantly impeded, postpone the enforcement proceedings:

1. if there is a risk that, due to the simultaneous execution of the confiscation decision concerning an amount of money in more than one Member State, the total value derived from its execution will exceed the amount specified in the decision;

2. if a legal remedy referred to in Article 14 of this Act has been filed against the confiscation decision;

3. where the execution of the confiscation decision might damage ongoing criminal proceedings which have been undertaken in the Republic of Croatia, until such time as the court deems necessary;

4. where the property or objects covered by the decision are already the subject of ongoing confiscation proceedings conducted in the Republic of Croatia.

(2) If the enforcement proceedings have been postponed, the State Attorney shall suggest the implementation of measures prescribed by domestic law to ensure that the property remains available for the purpose of confiscation.

(3) The State Attorney referred to in Article 5, paragraph 1, third indent, of this Act shall immediately inform the issuing authority of the postponement of execution, indicating the grounds for the postponement and, if possible, the expected duration of the postponement referred to in paragraph 1, items 2 to 4 of this Article, by a secure means of communication capable of producing a written record, provided that the issuing State accepts such transmission.

(4) As soon as the grounds for postponement have ceased to exist, the State Attorney shall forthwith propose that the enforcement proceedings be continued for the purpose of executing the confiscation decision and inform the issuing authority thereof by the means referred to in paragraph 3 of this Article.

#### ***Multiple confiscation decisions***

## **Article 68**

Giving due consideration to all the circumstances of the case, especially the previous freezing of the property, the seriousness of the offence, the place where the offence was committed and the dates on which the decision was rendered and transmitted, the State Attorney shall, in accordance with domestic law, decide on the sequence of the execution of

1. two or more confiscation decisions concerning an amount of money, which have been issued against the same natural or legal person, when that person does not have sufficient means to allow all the decisions to be executed;
2. two or more confiscation decisions concerning the same specific item of property.

### ***Governing law***

## **Article 69**

- (1) The competent State Attorney shall execute the recognised confiscation decision issued by a foreign authority in accordance with domestic law.
- (2) If the person to whom the confiscation decision applies provides the State Attorney referred to in Article 5, paragraph 1, third indent of this Act with proof of partial or complete confiscation in another State, the State Attorney shall notify the issuing authority thereof. Any part of the amount that is recovered pursuant to the same confiscation decision in another State shall be deducted from the full amount indicated in the received confiscation decision.
- (3) The State Attorney shall execute a confiscation decision issued against a legal person in accordance with domestic law.

### ***Termination of execution***

## **Article 70**

When the authority that issued a confiscation decision informs the State Attorney referred to in Article 5, paragraph 1, third indent of this Act, by a secure means of communication capable of producing a written record the authenticity of which can be established, that the confiscation decision has been withdrawn, the State Attorney shall propose to the court to terminate the enforcement proceedings initiated on the basis of the decision on recognition referred to in Article 64 of this Act.

### ***Disposal of confiscated property***

## **Article 71**

- (1) Money which has been obtained from the execution of a confiscation decision shall be disposed of as follows:
  1. if the amount obtained is below EUR 10 000, the amount shall accrue to the State Budget of the Republic of Croatia;
  2. if the amount obtained exceeds EUR 10 000, 50% of the amount which has been obtained shall be transferred to the issuing State.

(2) Property other than that covered by paragraph 1 of this Article, which has been obtained from the enforcement of the confiscation decision, shall be:

1. sold, and the proceeds of the sale shall be disposed of in accordance with paragraph 1 of this Article;
2. transferred to the issuing State; if the confiscation decision covers an amount of money, the property confiscated in lieu of that amount may only be transferred to the issuing State when that State has given its consent;
3. put at the disposal of the Republic of Croatia in accordance with domestic law, when it is not possible to apply items 1 and 2 of this paragraph.

(3) Property which cannot be disposed of in accordance with paragraph 2 of this Article shall remain at the disposal of the Republic of Croatia.

(4) Objects forming part of the national cultural heritage of the Republic of Croatia shall not be subject to the application of the provisions of paragraphs 1 and 2 of this Article.

(5) The confiscated property shall be disposed of pursuant to the provisions of paragraphs 1 to 3 of this Article, unless the Republic of Croatia agrees otherwise with the issuing State.

#### ***Information on the result of the execution***

##### **Article 72**

The State Attorney shall immediately inform the authority which issued a confiscation decision, using a secure means of communication capable of producing a written record, provided that the executing State accepts such transmission:

1. of the refusal to recognise and execute the confiscation decision, giving reasons for such refusal;
2. of the impossibility to execute the confiscation order in total for the reasons referred to in Article 68, Article 69, paragraph 2, or Article 16 of this Act;
3. of the execution of the confiscation decision;
4. of the application of alternative measures in accordance with Article 69, paragraph 4 of this Act.

#### ***Transmission of confiscation decisions***

##### **Article 73**

(1) The State Attorney competent under domestic law to initiate enforcement of a decision on the confiscation of property located in another State shall forward this decision to the State Attorney's Office of the Republic of Croatia for further procedure.

(2) The State Attorney's Office of the Republic of Croatia shall fill out a certificate on the standard form which forms an integral part of this Act (Annex 4) and shall certify its contents as accurate and transmit it together with the confiscation decision to the competent authority of



the Member State in which it has reasonable grounds to believe that the natural or legal person against whom the confiscation decision has been issued has property or income.

(3) If on the basis of paragraph 2 of this Article it is not possible to determine which Member State is competent for the execution of a decision rendered by a domestic court, the State Attorney's Office of the Republic of Croatia shall transmit the decision to the competent authority of the Member State where the natural or legal person is normally resident or has its registered seat respectively.

#### ***Transmission of a decision to more than one Member State***

##### **Article 74**

(1) The State Attorney's Office of the Republic of Croatia referred to in Article 5, paragraph 1 of this Act may transmit a confiscation decision to the competent authority of only one Member State at any one time.

(2) By way of derogation from paragraph 1 of this Article, the State Attorney's Office of the Republic of Croatia may transmit a confiscation decision to the competent authorities of more than one Member State at the same time if there are reasonable grounds to believe that:

- a) the property and objects covered by the confiscation decision are located in different Member States, or
- b) the property and objects covered by the confiscation decision are located in one of two or more Member States; or
- c) the confiscation of the property and objects covered by the confiscation decision involves the participation of the judicial authorities of more than one Member State.

#### ***Consequences of transmission of a confiscation decision***

##### **Article 75**

(1) The State Attorney competent to initiate enforcement on the basis of a confiscation decision may start the enforcement proceedings in the Republic of Croatia regardless of the fact that the decision has already been transmitted for execution to a competent authority of one or more Member States in accordance with this Act.

(2) If a confiscation decision concerning an amount of money has been transmitted to a competent authority of one or more Member States, the total value derived from its execution may not exceed the amount specified in the confiscation decision.

(3) The State Attorney's Office of the Republic of Croatia shall inform, without delay, all competent authorities of the Member States to which the confiscation decision was transmitted, by a secure means of communication capable of producing a written record, provided that the executing State accepts such transmission:

- 1. if there is a risk that execution beyond the amount specified in the confiscation decision may occur, as well as when the risk referred to has ceased to exist;

2. if all or part of the confiscation order has been executed in the Republic of Croatia or in another executing State, specifying the amount for which the confiscation order has not yet been executed;

3. if, after the transmission of a confiscation decision, the person concerned has paid voluntarily any sum of money, which should therefore be deducted from the amount specified in the decision.

#### ***Withdrawing a confiscation decision***

#### **Article 76**

The State Attorney's Office of the Republic of Croatia shall immediately notify the competent authority of the executing State of any decision to withdraw a confiscation decision, by a secure means of communication capable of producing a written record, provided that the executing State accepts such transmission.

#### **Title VI**

#### **RECOGNITION AND EXECUTION OF DECISIONS ON FINANCIAL PENALTIES**

#### ***Scope***

#### **Article 77**

(1) In addition to the offences listed in Article 10 of this Act, the court referred to in Article 79 of this Act shall recognise decisions on financial penalties without verification of the double criminality for the following offences as well:

- breaches of road traffic regulations, including breaches of regulations pertaining to driving hours and rest periods and regulations on hazardous goods,
- smuggling of goods;
- infringements of intellectual property rights;
- threats and acts of violence against persons, including violence during sport events;
- criminal damage;
- theft;
- offences established by Member States and serving the purpose of implementing obligations arising from instruments adopted under the EC Treaty or under Title VI of the EU Treaty.

(2) In addition to the offences listed in paragraph 1 of this Article, the court shall also recognise decisions for all acts which constitute an offence under domestic law, regardless of the statutory description and legal classification of the offence under the national law of the issuing State.

(3) The execution of a financial penalty shall be subject to the provisions applicable to the execution of financial penalties imposed under domestic law.

#### ***Exemption from collection of financial penalty***

## **Article 78**

A financial penalty shall not include:

1. the confiscation of instrumentalities used in, intended to be used in, or derived from committing a criminal offence;
2. the confiscation of proceeds of crime;
3. claims for damages and restitution which are enforced in accordance with Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters.

### ***Recognition and execution of decisions on financial penalties***

#### **Article 78.a**

The recognition of decisions on financial penalties received in accordance with Article 5, paragraph 1, sub-paragraph 4 of this Act shall be within the competence of minor offence courts and municipal courts according to the place where the natural person concerned resides or is domiciled, or where the legal person concerned has its registered seat, or according to the place where these persons have property or income.

### ***Recognition and execution of decisions on financial penalties***

#### **Article 79**

Deleted.

### ***Grounds for non-recognition and non-execution***

## **Article 80**

(1) The court shall refuse to recognise and execute a decision on financial penalty if:

1. the certificate referred to in Article 87, paragraph 2 of this Act is not submitted, is incomplete, or manifestly does not correspond to the decision, and it has not been completed or corrected by the issuing State within a specified time limit;
2. the final decision against the same person in respect of the same offence has already been rendered by a domestic court or by a court in another Member State, and, in the latter case, that decision has been executed;
3. the decision relates to an act referred to in Article 77, paragraph 2 of this Act which does not constitute a punishable act under domestic law;
4. the financial penalty is below EUR 70 or the equivalent to that amount at the rate of exchange obtaining on the date the decision on financial penalty was brought.

(2) The court may, guided by the principles of efficient co-operation, expediency and right to a fair trial, decide whether to execute or to refuse to recognise and execute a decision on financial penalty if it establishes that:

1. deleted;

2. deleted;

1. the execution of the decision is statute-barred according to domestic law and the decision relates to an act which falls within the competence of the Republic of Croatia under its own law;

2. the decision relates to acts which:

a) have been committed in whole or in part in the territory of the Republic of Croatia, or

b) have been committed outside the territory of the issuing State and domestic law does not allow prosecution for the same offence committed outside the territory of the Republic of Croatia;

3. the person concerned benefits from an immunity under the domestic law;

4. the decision has been imposed on a person on whom, according to domestic law, financial penalty cannot be imposed owing to his or her age;

5. according to the certificate referred to in Article 87, paragraph 2 of this Act, the decision on financial penalty was rendered without hearing, and the person concerned was not, in accordance with the law of the issuing State, informed personally or via a representative of his or her right to contest the decision and of the time limits of such a legal remedy;

6. according to the certificate referred to in Article 87, paragraph 2 of this Act, the person to whom the decision relates did not appear personally at the hearing at which that decision was rendered, unless the certificate states that, in accordance with the requirements prescribed by the national law of the issuing State:

a) the person was, in due time and in person, summoned for the hearing and thereby informed of the time and place of the hearing at which the decision on financial penalty was rendered or that he or she received official information of the time and place of the hearing in such a manner that it can be unequivocally concluded that he or she was aware of the scheduled hearing, and was warned about the possibility of a decision being rendered *in absentia* if he or she does not appear for the hearing;

b) the person was represented at the hearing by a defence counsel authorised by him or her or appointed *ex officio* by the court;

c) the person, after being personally served with the decision on financial penalty rendered *in absentia* along with an instruction that he or she has the right to a retrial or an appeal, based on which proceedings may be held in which he or she shall have the right to participate and in which the facts found will be reassessed and new evidence presented, which might lead to the decision being varied, has expressly stated that he or she does not contest the decision rendered *in absentia*, or has not requested a retrial or submitted an appeal within an appropriate time limit;

7. according to the certificate referred to in Article 87 paragraph 2 of this Act, the person to whom the decision relates did not appear personally at the hearing at which that decision was rendered, unless the certificate states that the person, having been notified of the proceedings against him or her and of the possibility of appearing personally at the hearing, expressly

renounced the right to a personal hearing and stated expressly that he or she does not contest the case;

10. deleted.

(3) In the cases referred to in paragraph 1 and paragraph 2, items 1, 5, 6 and 7 of this Article, the court shall, where appropriate, before deciding not to recognise and execute a decision, either totally or in part, contact the competent authority in the issuing State and ask it to submit supplementary information necessary for a decision to be brought and set a time limit of no more than seven working days for its submission.

#### ***Determination of the amount to be paid***

##### **Article 81**

(1) If the financial penalty is related to acts which were not committed in the territory of the issuing State, the court may, when the acts fall within the jurisdiction of the Republic of Croatia, decide to reduce the amount of the imposed penalty in accordance with the maximum amount provided for acts of the same kind under domestic law.

(2) The court shall convert the penalty into the national currency at the rate of exchange obtaining on the date the decision on financial penalty was brought.

#### ***Governing law***

##### **Article 82**

(1) The court shall execute a decision on financial penalty according to domestic law in the same way as a financial penalty imposed by a domestic court.

(2) If the person to whom the decision on financial penalty relates furnishes proof of payment, totally or in part, in any Member State, the court shall verify this information directly with the competent authority of the issuing State.

(3) Any part of the penalty recovered in any Member State shall be deducted from the amount which is to be recovered in the Republic of Croatia.

#### ***Imprisonment or other alternative sanctions by way of substitution for non-recovery of the financial penalty***

##### **Article 83**

When it is not possible to execute a decision on financial penalty, either totally or in part, the court shall, in accordance with domestic law, apply alternative sanctions, including a custodial sentence, provided that the issuing State has allowed for the application of such alternative sanctions in the certificate referred to in Article 87, paragraph 2 of this Act. The type and severity of the alternative sanction shall be determined in accordance with domestic law, but shall not exceed the maximum level stated in the certificate transmitted by the issuing State.

#### ***Informing the competent authority of the issuing State***

##### **Article 84**

The Ministry of Justice shall without delay notify the competent authority of the issuing State by a secure means of communication capable of producing a written record, provided that the issuing State accepts such transmission:

4. deleted;

1. of any decision not to recognise and execute the decision for the reasons referred to in Article 80 of this Act or on suspicion that the fundamental rights or fundamental legal principles as enshrined in Article 6 of the Treaty may have been infringed, together with the reasons for the decision;

2. of the execution of the decision in the ways provided for in Article 81, Article 82 and Article 16 of this Act;

3. of termination of the execution of the decision;

4. of the application of an alternative sanction referred to in Article 83 of this Act.

#### ***Termination of execution***

##### **Article 85**

The court shall terminate execution of a decision on financial penalty when the competent authority of the issuing State informs it that there are reasons that prevent the decision from being executed.

#### ***Accrual of monies obtained from the execution of a decision***

##### **Article 86**

Monies obtained from the enforcement of a decision on financial penalty shall accrue to the Republic of Croatia unless otherwise agreed between the Republic of Croatia and the issuing State.

#### ***Transmission of a decision on financial penalty***

##### **Article 87**

(1) The competent court or the competent administrative body that brought a decision on financial penalty that is to be executed in another Member State shall transmit the decision to the ministry competent for justice affairs in accordance with Article 7, paragraph 3, subparagraph 3 of this Act for further procedure.

(2) The ministry competent for justice affairs shall fill out a certificate on the standard form which forms an integral part of this Act (Annex 5) and shall certify its contents as accurate.

(3) The ministry competent for justice affairs shall transmit a decision on financial penalty, together with the certificate referred to in paragraph 2 of this Article, to the competent authority of the Member State in which the natural or legal person, against whom the decision has been brought, has property or income, is normally resident or, in the case of a legal person, has its registered seat.

(4) The ministry competent for justice affairs may transmit a decision only to one executing State at any one time.

***Consequences of the transmission of a decision on financial penalty***

**Article 88**

(1) The court or administrative body shall not execute a decision which has been transmitted to a Member State for execution.

(2) The court or administrative body may again initiate the execution of a decision on financial penalty in the Republic of Croatia:

1. if the decision could not be executed in total in the Member State referred to in paragraph 1 of this Article;

2. if the court or administrative body has waived the execution of the decision in the Member State referred to in paragraph 1 of this Article.

(3) If, after the transmission of a decision on financial penalty, the court or administrative body is informed that the penalty has been recovered in total or in part, it shall without delay inform thereof the ministry competent for justice affairs.

**Title VII**

**RECOGNITION AND ENFORCEMENT OF JUDGMENTS IMPOSING CUSTODIAL SENTENCES OR MEASURES INVOLVING THE DEPRIVATION OF LIBERTY**

***Scope***

**Article 89**

(4) Deleted.

(1) The court referred to in Article 5, paragraph 1, fifth indent of this Act shall recognise a judgment imposing a custodial sentence or measure involving deprivation of liberty for acts that constitute an offence under domestic law, regardless of the statutory description and the legal classification of the offence in the received judgment.

(2) The provisions of this Title shall apply regardless of where the sentenced person is located at the moment of the initiation of the procedure for the recognition and execution of the judgement imposing a custodial sentence or measure involving deprivation of liberty.

***Territorial competence***

**~~Article 90~~**

Deleted.

***Recognition of the judgment and enforcement of the sentence***

**Article 91**



(1) When the competent court receives a foreign judgment, it shall verify that it is accompanied with the certificate referred to in Article 103, paragraph 1 of this Act and whether the following conditions are met:

1. the sentenced person is a Croatian national and resides or is domiciled in the Republic of Croatia; or

2. the sentenced person is a Croatian national who does not reside or is not domiciled in the Republic of Croatia, but will be deported to the Republic of Croatia after he or she is released from the enforcement of the sentence on the basis of an expulsion or deportation order included in the judgment or in an administrative decision or any other measure taken consequential to the judgment; or

3. in cases not covered by items 1 and 2 of this paragraph, the ministry competent for justice affairs has given consent to the issuing State to transmit the judgment imposing a custodial sentence or any measure involving deprivation of liberty to the Republic of Croatia for the purpose of its recognition, and the sentenced person has consented to this.

(2) In the cases covered by paragraph 1, item 3 of this Article, the ministry competent for justice affairs shall, when deciding upon giving consent to the issuing State to transmit the judgment imposing a custodial sentence or any measure involving deprivation of liberty to the Republic of Croatia, in particular take into account the purpose of facilitating the social rehabilitation of the sentenced person, and shall determine through the Directorate for Probation whether the sentenced person or members of his or her family have domicile/residence in the Republic of Croatia, whether he or she owns any immovable property in the Republic of Croatia, and what are other personal and social circumstances that connect the sentenced person with the Republic of Croatia.

(3) The competent court may request the issuing State to transmit the judgment brought in that State, accompanied with the certificate referred to in Article 103, paragraph 1 of this Act, for the purpose of its recognition and execution in the Republic of Croatia.

(4) The court shall adapt a custodial sentence imposed in the received judgment where that sentence, in terms of its duration, exceeds the maximum penalty provided for the same or similar offences under domestic law, in such a manner as to impose a sentence which is not less than the maximum penalty provided for the same or similar offences under domestic law.

(5) The court shall adapt a custodial sentence or other measure involving deprivation of liberty where that sentence or measure is incompatible with domestic law in terms of its nature, in such a manner as to impose the punishment provided for the same or similar offence under domestic law which corresponds as closely as possible to the sentence imposed by the received judgment, whereby the sentence shall not be converted into a pecuniary punishment.

(6) The court shall not impose a sentence under domestic law which would aggravate the sentence brought in the issuing State in terms of its nature or duration.

(7) The court shall without delay forward a final decision on recognition of the foreign judgment brought as a result of the procedure referred to in paragraphs 1 to 6 of this Article to the executing judge who is competent under the law governing the execution of criminal penalties.

(8) When deciding on the recognition of a foreign judgement imposing a custodial sentence of five years or a more severe punishment, the court shall determine that the person located in the territory of the Republic of Croatia be kept in detention.

#### ***Agreement with other Member States***

#### **Article 92**

The consent of the minister competent for justice affairs referred to in Article 91, paragraph 1, item 3 of this Act shall not be required where an agreement has been reached with another Member State to the effect that such consent shall not be required in the following cases:

1. if the sentenced person lives and has been legally residing continuously for at least five years in the Republic of Croatia, and has retained the right of residence there;
2. if the sentenced person is a national of the Republic of Croatia, in cases not covered by Article 91, paragraph 1, items 1 and 2 of this Act.

#### ***Time limits and the obligation to inform***

#### **Article 93**

(1) After receiving the judgment and the certificate, the court shall immediately initiate the procedure and, within a time limit of no more than ninety days, shall bring a decision on the recognition of the judgment and issue a decision committing the person to serve the sentence, unless it decides to postpone the recognition of the judgement for a reason referred to in Article 96 of this Act.

(2) The sentenced person and the competent State Attorney may appeal against a decision on recognition of the judgment within eight days from the date this decision was served. The higher court must decide upon this appeal within fifteen days.

(3) The court shall notify the competent authority of the issuing State of an exceptional case when it is not practicable to comply with the time limit referred to in paragraph 1 of this Article, giving the reasons for the delay and the estimated time needed for the final decision to be brought.

(4) The court shall immediately notify the competent authority of the issuing State in writing:

- of the fact that after transmission of the judgment and the certificate, the sentenced person cannot be found in the territory of the Republic of Croatia;
- of the decision to recognise the judgment and enforce the sentence and of the date on which it was made and the date on which it became final;
- of a decision not to recognise the judgment and enforce the sentence, together with the reasons for such decision as referred to in Article 94 of this Act;
- of a decision taken in accordance with Article 91, paragraphs 4 and 5 of this Act, together with the reasons for the decision;
- of a decision not to enforce the sentence pursuant to Article 16 of this Act, together with the reasons for the decision;

- of the release of the prisoner from a penitentiary or prison on the basis of a decision on conditional release, and of the remaining unserved part of the sentence, only where so indicated in the certificate by the issuing State,
- of the prisoner's escape from a penitentiary or prison,
- of the completion of the sentence.

#### ***Grounds for non-recognition and non-enforcement***

#### **Article 94**

(1) The court shall refuse to recognise a judgement if:

1. the certificate referred to in Article 103, paragraph 1 of this Act is incomplete or manifestly does not correspond to the judgment and has not been completed or corrected by the issuing State within a specified time limit not exceeding seven working days;
2. the criteria set out in Article 91, paragraph 1, items 1 and 2 of this Act are not met;
3. enforcement of the sentence would be contrary to the principle of *ne bis in idem*;
4. the offence on which the transmitted judgment is based does not constitute an offence under domestic law. In relation to fiscal offences, the execution of an order shall not be refused solely on the ground that the domestic law does not impose the same kind of tax or duty or does not contain the same provisions as regards taxes, duties, customs and exchange regulations as the law of the issuing State;
5. the sentence has been imposed on a person who has not reached the age of 16.

(2) The court may, guided by the principles of efficient co-operation, expediency and right to a fair trial, refuse to recognise the judgment and enforce the sentence, if:

1. the enforcement of the sentence is statute-barred according to domestic law;
2. the sentenced person benefits from an immunity under the domestic law, which makes it impossible to enforce the sentence;
3. at the time the court received the judgment for the purpose of recognition and enforcement, less than six months of the sentence remain to be served;
4. according to the certificate referred to in Article 103, paragraph 1 of this Act, the sentenced person did not appear personally at the hearing resulting in the judgment, unless the certificate states that, in accordance with the requirements prescribed by the national law of the issuing State:
  - a) the sentenced person was, in due time and in person, summoned for the hearing and thereby informed of the time and place of the hearing at which the judgement was rendered or that he or she received official information of the time and place of the hearing in such a manner that it can be unequivocally concluded that he or she was aware of the scheduled hearing, and was warned about the possibility of a decision being rendered *in absentia* if he or she does not appear for the hearing;

b) the sentenced person was represented at the hearing by a defence counsel authorised by him or her or appointed *ex officio* by the court;

c) the sentenced person, after being personally served with the judgement rendered *in absentia* along with an instruction that he or she has the right to a retrial or an appeal, based on which proceedings may be held in which he or she shall have the right to participate and in which the facts found will be reassessed and new evidence presented, which might lead to the judgement being varied, has expressly stated that he or she does not contest the decision rendered *in absentia*, or has not requested a retrial or submitted an appeal within an appropriate time limit;

5. the issuing State, upon a request made by the Republic of Croatia, does not consent to a criminal sanction being enforced against the sentenced person, in respect of whom it requested recognition and enforcement of its judgement, for an offence committed prior to the transfer other than that for which the forwarded judgement was rendered;

6. the sentence imposed a measure of psychiatric or health care or another measure involving deprivation of liberty which cannot be executed in the Republic of Croatia in accordance with domestic law;

7. the judgment relates to offences which under domestic law are regarded as having been committed wholly within the Republic of Croatia, or in a place equivalent to its territory, and in relation to offences committed for a major or essential part within this territory, the court shall take into account all the specific circumstances of the case, and in particular whether a major or essential part of the conduct in question took place in the issuing State.

(3) In the cases referred to in paragraph 1, items 1, 2 and 3, and paragraph 2, items 5, 6 and 7 of this Article, before deciding not to recognise the judgment and enforce the sentence, the court shall consult the competent authority of the issuing State and shall where appropriate ask it to supply additional information.

#### ***Partial recognition and enforcement***

##### **Article 95**

When the court establishes that grounds exist for a partial recognition of a foreign judgement, it shall, before deciding to refuse the recognition and enforcement of the sentence, consult the competent authority of the issuing State with a view to finding an agreement on the partial recognition of the judgement and enforcement of the sentence. Such recognition and enforcement shall not result in the aggravation of the sentence imposed in the issuing State.

#### ***Postponement of recognition of the judgment***

##### **Article 96**

The court shall postpone the recognition of the judgment if the certificate accompanying it is incomplete or manifestly does not correspond to the judgment, and shall set a time limit of no more than seven working days for the issuing State to complete or correct the certificate.

#### ***Withdrawal of the enforcement***

##### **Article 97**

If the issuing State withdraws the certificate referred to in Article 103, paragraph 1 of this Act, giving reasons for doing so, before the decision to execute the sentence becomes final, the competent executing judge shall not enforce the sentence.

#### ***Provisional arrest***

#### **Article 98**

(1) If the sentenced person is located in the territory of the Republic of Croatia, the court that has territorial jurisdiction over the case may, at the request of the issuing State, before the receipt of the judgment and the certificate or before the decision to recognise the judgment and enforce the sentence, and if circumstances exist that point to a risk of flight from the Republic of Croatia, impose measures deemed necessary to ensure his or her presence in the territory of the Republic of Croatia pending a decision to recognise the judgment and enforce the sentence, in accordance with the provisions of domestic law on criminal procedure.

(2) The period that the sentenced person has spent in detention pending a decision to recognise the foreign judgment, as well as any other deprivation of liberty within the meaning of paragraph 1 of this Article, shall be counted in the period of the custodial sentence, long-term imprisonment or juvenile imprisonment to be served.

#### ***Transfer of sentenced persons to the Republic of Croatia***

#### **Article 99**

(1) Immediately after the decision on recognition becomes final, the domestic authority competent for the execution of criminal sanctions shall order the police to agree with the competent authority of the issuing State on the time and place of surrender of the sentenced person. If the sentenced person is in the issuing State, he or she shall be transferred to the Republic of Croatia no later than thirty days after the decision on recognition of the judgment becomes final.

(2) If the transfer within the period laid down in paragraph 1 is prevented by circumstances beyond the control of the Republic of Croatia or the issuing State, the police shall agree with the competent authority of the issuing State on a new manner, time and place of transfer within the following ten days.

#### ***Transit through the territory of the Republic of Croatia***

#### **Article 100**

(1) The minister competent for justice affairs shall, upon the request of the issuing State, permit the transit through the territory of the Republic of Croatia of a sentenced person who is being transferred to the executing State, provided that a copy of the certificate referred to in Article 103, paragraph 1 of this Act has been forwarded to it by the issuing State together with the transit request.

(2) When the ministry competent for justice affairs receives a request to permit the transit of a sentenced person who is sought by the judicial authorities of the Republic of Croatia for the purpose of conducting criminal proceedings or serving a custodial sentence for an offence committed, or a sentence imposed for an offence committed prior to the initiation of the transfer in the issuing State, it shall notify the competent authority of the issuing State thereof.

(3) The minister competent for justice affairs shall decide on the request referred to in paragraph 1 of this Article immediately and render its decision no later than seven working days after the request is received.

(4) The ministry competent for justice affairs shall notify, in writing, the competent authority of the issuing State of the decision referred to in paragraph 3 of this Article.

(5) For the purpose of the transfer, the competent court may render a decision to keep the person in detention if circumstances exist that point to a risk of flight, for such time as transit through the territory of the Republic of Croatia requires.

### ***Governing law***

#### **Article 101**

(1) A custodial sentence imposed in the recognised foreign judgment shall be enforced in the Republic of Croatia in accordance with the provisions of the law governing the execution of criminal sanctions.

(2) When deciding on conditional release, the competent authority shall take into account the provisions on conditional release indicated by the issuing State.

(3) Time spent serving a custodial sentence imposed in the recognised foreign judgement shall be credited against the term of the sentence imposed pursuant to Article 91 of this Act.

(4) The court shall, upon request, inform the competent authority of the issuing State of the domestic law provisions governing conditional release.

### ***Specialty rule***

#### **Article 102**

(1) A sentenced person transferred to the Republic of Croatia may not be prosecuted, a custodial sentence may not be executed against him or her, and he or she may not be otherwise deprived of his or her liberty by a domestic court for an offence committed prior to his or her transfer, other than that for which he or she was transferred.

(2) By way of derogation from the provision of paragraph 1 of this Article, a domestic court may conduct criminal proceedings or execute a criminal sanction if:

1. the transferred person, although having had an opportunity to leave the territory of the Republic of Croatia, has not done so within 45 days of his or her final discharge, or has returned to the territory of the Republic of Croatia after leaving it;

2. the offence is not punishable by a custodial sentence according to domestic law and the criminal proceedings do not give rise to the application of a measure of custody, detention or home arrest;

3. the offence is punishable by a financial penalty according to domestic law, even if that penalty may be replaced by a custodial sentence;

4. the sentenced person has consented to be transferred;

5. the person, after his or her surrender, has expressly, voluntarily and in full awareness of the consequences renounced entitlement to the speciality rule referred to in paragraph 1 of this Article, and that renunciation was entered into the minutes in the presence of the person's defence counsel;

6. upon a request made by the Republic of Croatia in accordance with Article 18 of this Act, accompanied by a translation, the competent authority of the issuing State gives its consent to the conducting of criminal proceedings or to the execution of a criminal sanction for an offence committed prior to the transfer other than that for which the sentenced person was transferred. At the request of the issuing State, the Republic of Croatia may provide guarantees that the conditions referred to in Article 22 of this Act will be fulfilled.

***Criteria for forwarding a judgment and certificate to another Member State***

**Article 103**

(1) Irrespective of whether the person sentenced to a custodial sentence by a domestic court, who has given his or her consent in accordance with Article 105, paragraph 1 of this Act, is in the Republic of Croatia or in the executing State, the court referred to in Article 7, paragraph 3, second indent of this Act shall forward the judgment together with the certificate the standard form of which forms an integral part of this Act (Annex 6) to:

1. the Member State of nationality of the sentenced person in which he or she resides or is domiciled;
2. the Member State of nationality of the sentenced person in which he or she does not reside or is not domiciled, but to which he or she will be expelled once he or she is released from the enforcement of the sentence on the basis of a domestic judgement or other decision issued by the competent domestic authority;
3. a Member State other than a Member State referred to in items 1 and 2 of this paragraph, the competent authority of which consents to the forwarding of the judgment and the certificate to that Member State.

(2) The court shall forward the judgment and the certificate to the executing State if it establishes that the enforcement of the sentence by the executing State would serve the purpose of facilitating the social rehabilitation of the sentenced person. For that purpose, the court may, where appropriate, contact and consult the competent authorities of the executing State before forwarding the judgment. Consultation with the competent authorities of the executing State shall be obligatory in the cases referred to in paragraph 1, item 3 of this Article.

(3) The court may withdraw the certificate if, after the judgment and certificate have been forwarded without the prior consultation referred to in paragraph 2 of this Article, it receives a reasoned opinion of the executing State that enforcement of the sentence in the executing State would not serve the purpose of facilitating the social rehabilitation and successful reintegration of the sentenced person into society.

(4) A request of a Member State referred to in paragraph 1 of this Article for forwarding the judgment and the certificate and an application of the sentenced person for initiating a procedure for forwarding the judgment and the certificate shall not be binding on the Republic of Croatia. The sentenced person may submit his or her application to the executing State or to the issuing State.



***Forwarding of the judgment and the certificate***

***Article 104***

Deleted.

***Opinion and notification of the sentenced person***

**Article 105**

(1) The court shall forward a judgment with a certificate to the executing State for the purpose of its recognition and enforcement only after the sentenced person has consented to being transferred.

(2) By way of derogation from paragraph 1 of this Article, the consent of the sentenced person shall not be required where the judgment together with the certificate is forwarded:

1. to the Member State of nationality of the sentenced person in which he or she resides or is domiciled;
2. to the Member State to which the sentenced person will be deported or expelled once he or she is released from the enforcement of the sentence on the basis of a judgement or other decision rendered by the competent domestic authority,
3. to the Member State to which the sentenced person has fled or otherwise returned to avoid criminal proceedings or execution of a penalty.

(3) If the sentenced person is in the Republic of Croatia, he or she shall be given an opportunity to state his or her opinion, orally or in writing, on the forwarding of the judgement to a foreign country for enforcement. For minors and persons deprived of legal capacity, a legal representative shall state an opinion. A written record shall be made of an opinion given orally. When deciding on whether to forward the judgment to the executing State, the court shall take into account the opinion of the sentenced person.

(4) The court shall forward the written opinion of the sentenced person to the executing State, in particular if the sentenced person consents to transfer and if the executing State has presented a reasoned opinion that enforcement of the sentence in that State would not serve the purpose of facilitating the social rehabilitation and successful reintegration of the sentenced person into society.

(5) Using the standard form that forms an integral part of this Act (Annex 7), the court shall inform the sentenced person, in a language which he or she understands, that it has decided to forward the judgment for the purpose of enforcement. That decision shall be notified in the same way through the competent authority of the executing State when the sentenced person is already in that State.

***Withdrawal of the certificate***

**Article 106**

(1) If enforcement of the sentence in the executing State has not yet begun, the court may withdraw the certificate referred to in Article 103, paragraph 1 of this Act if such circumstances occur which are contrary to the purpose of enforcement of the sentence and

which, at the time the judgement was forwarded, did not exist or the court was not aware of them.

(2) The court may withdraw the certificate forwarded to the executing State if the court does not agree to the application of the provisions on conditional release provided by the executing State.

#### ***Request for provisional arrest***

##### **Article 107**

The court may request the executing State to take measures to ensure that the sentenced person remains in its territory pending a decision to recognise the judgment and enforce the sentence, before the arrival of the judgment and the certificate, or before the decision to recognise the judgment and enforce the sentence, if circumstances exist that point to a risk of flight from the territory of that State.

#### ***Transfer of the sentenced person from the Republic of Croatia and the consequences of transfer***

##### **Article 108**

(1) The sentenced person shall be transferred to the executing State in accordance with Article 99 of this Act.

(2) The competent executing judge shall discontinue enforcement of the custodial sentence in the Republic of Croatia when the sentenced person begins to serve the custodial sentence in the executing State.

(3) The Republic of Croatia may proceed to enforce the custodial sentence referred to in paragraph 2 of this Article when it is informed by the executing State of the partial non-enforcement of the custodial sentence, because the sentenced person has escaped from custody.

#### ***Request for transit of the sentenced person through the territory of a third Member State***

##### **Article 109**

(1) Where the transfer of the sentenced person to the executing State requires transit through the territory of a third Member State, the ministry competent for justice affairs shall, upon the request of the court, transmit a transit request to that State together with a copy of the certificate referred to in Article 103, paragraph 1 of this Act.

(2) At the request of the third Member State, the ministry competent for justice affairs shall transmit a translation of the certificate referred to in Article 103, paragraph 1 in one of the languages indicated in the request.

(3) If the third Member State cannot guarantee that the sentenced person will not be prosecuted or subjected to a measure involving deprivation of liberty in its territory for an offence committed or a sentence imposed before his or her departure from the territory of the Republic of Croatia, the ministry competent for justice affairs may withdraw its request.

(4) If an unscheduled landing occurs in the case of transport by air, the ministry competent for justice affairs shall transmit to the competent authority of the Member State where the landing occurred the documentation referred to in paragraph 1 of this Article within 72 hours.

#### ***Consent procedure***

#### **Article 110**

The court referred to in Article 7, paragraph 1, second indent of this Act shall decide on the executing State's request for consent to conduct criminal proceedings or to execute a custodial sentence or measure involving deprivation of liberty for an offence committed prior to transfer, in accordance with the provision of Article 41 of this Act.

#### ***Obligation to inform***

#### **Article 111**

The court shall forthwith inform the competent authority of the executing State of any decision or measure as a result of which the custodial sentence ceases to be enforceable or will cease to be enforceable within a certain period of time.

#### **Title VIII**

#### **RECOGNITION AND ENFORCEMENT OF JUDGMENTS AND DECISIONS IMPOSING PROBATION MEASURES AND ALTERNATIVE SANCTIONS**

#### ***Scope***

#### **Article 112**

(1) The provisions of this Title shall apply to:

1. the recognition of a judgment imposing a custodial sentence or measure involving deprivation of liberty on a physical person when the conditional release of the sentenced person is granted, and of a judgment imposing a suspended or conditional sentence or alternative sanction;
2. the recognition of probation decisions;
3. the transfer of responsibility for the supervision of probation measures and alternative sanctions;
4. all other decision of the competent authorities related to those under items 1 to 3 of this paragraph.

(2) The court referred to in Article 5, paragraph 1, fifth indent, of this Act shall also recognise a judgement or decision imposing a probation measure or alternative sanction for acts which contain the essential elements of an offence under the domestic law, regardless of the statutory description and legal classification of the offence indicated in the received decision.

(3) The provisions of this Title shall also apply to the forwarding of domestic courts' judgments and decisions imposing probation measures or alternative sanctions, accompanied by the certificate referred to in Article 129, paragraph 1 of this Act, to the competent authorities of the Member States for the purpose of their recognition and enforcement.

***Subject-matter and territorial jurisdiction for recognition***

***Article 113***

Deleted.

***Subject-matter and territorial jurisdiction to enforce decisions on recognition***

**Article 114**

(1) The court referred to in Article 5, paragraph 1, fifth indent shall transmit to the competent probation office the final decision on the recognition of a foreign court decision imposing probation measures, alternative sanctions or granting conditional release from serving the sentence or measure involving deprivation of liberty, and shall supervise its execution.

(2) The county court within whose territory the sentenced person had the last domicile or residence or where members of his or her family or close relatives have their domicile or residence shall be competent for committing the sentenced person to serve a custodial sentence or measure involving deprivation of liberty imposed by a final and enforceable decision on the recognition of a foreign judgment or probation decision granting conditional release to the sentenced person.

***Recognition and enforcement procedure***

**Article 115**

(1) When the competent court receives a foreign judgement or probation decision, it shall verify whether the following requirements are satisfied:

1. the sentenced person resides or is domiciled in the Republic of Croatia and has returned to the Republic of Croatia or wants to return to the Republic of Croatia; or

2. the sentenced person has requested that the judgment or probation decision be forwarded to the competent authorities of the Republic of Croatia for the purpose of recognition and enforcement, although the requirements referred to in item 1 of this paragraph are not satisfied, and the ministry competent for justice affairs gave consent to the issuing State to such forwarding.

(2) In the case referred to in paragraph 1, item 2 of this Article, the ministry competent for justice affairs shall, when deciding upon giving consent to the issuing State to forward the judgement or probation decision to the Republic of Croatia for recognition and enforcement, in particular take into account the facilitation of social rehabilitation and reintegration of the sentenced person into society.

(3) In the cases referred to in paragraphs 1 and 2 of this Article, the court or the ministry competent for justice affairs shall establish the residence of the sentenced person or members of his or her family in the Republic of Croatia, if he or she owns any immovable property in the Republic of Croatia, and other personal and social circumstances which connect the sentenced person with the Republic of Croatia.

(4) The competent court may request the issuing State to transmit the judgment or probation decision, or their authenticated copy, accompanied with the original certificate.

(5) After the procedure in accordance with paragraphs 1 to 4 of this Article, the court shall without delay issue a decision recognising the foreign judgment or probation decision, unless it decides to invoke one of the grounds for refusing recognition and enforcement of the judgment or probation decision referred to in Articles 120 and 121 of this Act.

(6) The court shall forward a decision on recognition of a foreign judgment or probation decision to the competent court referred to in Article 114 of this Act within eight days of the decision becoming final and enforceable.

### ***Postponement of recognition***

#### **Article 116**

If the certificate transmitted together with the judgement or probation decision is incomplete or manifestly does not correspond to the judgment, the court shall postpone a decision on recognition of the judgment or probation decision to a time of seven working days, in which period the competent authority of the issuing State is to submit a complete or corrected certificate.

### ***Types of probation measures and alternative sanctions***

#### **Article 117**

On the basis of a recognised foreign judgement or probation decision, the competent domestic authorities shall apply in respect of a sentenced person only such types of probation measures and alternative sanctions as are provided for in the criminal legislation of the Republic of Croatia.

### ***Adaptation of probation measures and alternative sanctions to the domestic law***

#### **Article 118**

(1) If a probation measure or alternative sanction imposed by a foreign judgment or probation decision is incompatible with domestic law in terms of its nature, duration or the duration of the probation period, the court shall adapt it by imposing on the sentenced person a probation measure or alternative sanction, or by determining the duration of the probation period, which are prescribed under domestic law for the same or similar offence and which shall correspond as far as possible to the probation measure or alternative sanction imposed by the foreign decision.

(2) If the probation measure or alternative sanction referred to in paragraph 1 of this Article exceeds, in terms of its duration or the probation period, the maximum level provided for under domestic law for the same or similar offence, the court shall adapt it by imposing a probation measure or alternative sanction or by determining the probation period, the duration of which shall not exceed the maximum duration prescribed under domestic law for the same or similar offence.

(3) The probation measure or alternative sanction imposed by the decision of the court pursuant to the provision of paragraph 1 of this Article shall not be more severe, in terms of its nature or duration or the probation period, than the probation measure or alternative sanction imposed by the judgement or probation decision in the issuing State.

(4) The probation measure or alternative sanction imposed by the decision of the domestic court pursuant to paragraphs 1 to 3 of this Article shall not be executed if the competent authority referred to in Article 114 of this Act, before it begins to execute the probation measure or alternative sanction, receives the notification referred to in Article 130, paragraph 2, item 1 of this Act from the competent authority of the issuing State.

#### ***Time limit***

#### **Article 119**

(1) Upon receiving the judgement or probation decision, together with the certificate, the court shall immediately start the procedure and shall, within a time limit of no more than sixty days, decide on recognition of the judgement and issue a decision committing the sentenced person to serve the recognised probation measure or alternative sanction, unless it postpones the recognition of the judgement or probation decision for reasons referred to in Article 116 of this Act.

(2) The sentenced person and the competent state attorney may appeal against a decision on recognition of the judgment within eight days from the date this decision was served on them. The higher court must decide upon this appeal within fifteen days.

(3) The court shall notify the competent authority of the issuing State of an exceptional case when it is not practicable to comply with the time limit referred to in paragraph 1 of this Article, giving the reasons for the delay and indicating the estimated time needed for the final decision to be taken.

#### ***Grounds for refusing recognition and enforcement***

#### **Article 120**

(1) The court shall refuse to recognise the foreign judgement or probation decision and to execute probation measures or alternative sanctions if:

1. the certificate referred to in Article 129, paragraph 1 of this Act is incomplete or manifestly does not correspond to the received judgment or probation decision, and the competent authority of the issuing State has not submitted a complete or corrected certificate in accordance with Article 116 of this Act;

2. the requirements set forth in Article 115, paragraph 1 of this Act are not satisfied;

3. recognition of the judgment or probation decision and execution of probation measures or alternative sanctions would be contrary to the principle of *ne bis in idem*;

4. the act referred to in Article 112, paragraph 2 of this Act to which the judgement or probation decision relates does not constitute an offence under the domestic law. In relation to fiscal offences, recognition and execution of the judgement or probation decision shall not be refused solely on the ground that the domestic law does not impose the same kind of tax or duty or does not contain the same provisions as regards taxes, duties, customs or exchange regulations as the law of the issuing State;

5. the probation measure or alternative sanction has been imposed on a child who had not reached the age of 14 at the time the offence was committed.

### *Optional grounds for refusing recognition and enforcement*

#### **Article 121**

(1) The court may, taking into account the purpose of probation measures and alternative sanctions, especially the need to protect the community from the criminal offender by influencing criminogenic factors and facilitating his or her social rehabilitation and successful reintegration into society, decide whether or not to recognise and enforce the foreign judgment or probation decision if:

1. deleted;

1. the execution of the probation measures or alternative sanctions imposed by the foreign judgement or probation decision is statute-barred according to the domestic law;

2. the sentenced person benefits from an immunity under the domestic law, which makes it impossible to execute probation measures or alternative sanctions;

3. the foreign judgment or probation decision provides for a measure of psychiatric or therapeutic treatment which cannot be executed in the Republic of Croatia in accordance with Article 118 of this Act;

4. the probation measure or alternative sanction is of less than six months' duration or less than six months of the sanction remain to be executed;

5. the judgment or probation decision relates to offences which under the domestic law are regarded as having been committed wholly within the territory of the Republic of Croatia, or in a place equivalent to its territory, and in relation to offences committed for a major or essential part within this territory, the court shall take into account all the specific circumstances of the case, and in particular whether the offence has been committed for a major or essential part in the issuing State;

6. according to the certificate referred to in Article 129, paragraph 1 of this Act, the sentenced person did not appear personally at the hearing at which the judgment or probation decision was rendered, unless the certificate states that, in accordance with the requirements prescribed by the national law of the issuing State:

a) the sentenced person was, in due time and in person, summoned for the hearing and thereby informed of the time and place of the hearing at which the judgment or probation decision was rendered or that he or she received official information of the time and place of the hearing in such a manner that it can be unequivocally concluded that he or she was aware of the scheduled hearing, and was warned about the possibility of a decision being rendered *in absentia* if he or she does not appear for the hearing;

b) the sentenced person was represented at the hearing by a defence counsel authorised by him or her or appointed *ex officio* by the court;

c) the sentenced person, after being personally served with the judgement or probation decision rendered *in absentia* along with an instruction that he or she has the right to a retrial or an appeal, based on which proceedings may be held in which he or she shall have the right to participate and in which the facts found will be reassessed and new evidence presented, which might lead to the judgement or probation decision being varied, has expressly stated that he or



she does not contest the decision rendered *in absentia*, or has not requested a retrial or submitted an appeal within an appropriate time limit.

(2) The court may, regardless of the existence of grounds for refusing recognition and execution of the judgment or decision referred to in paragraph 1 of this Article, in agreement with the competent authority of the issuing State, recognise and execute the foreign judgment or probation decision in accordance with Article 115 of this Act, provided that the court will not have jurisdiction to take subsequent decisions referred to in Article 122, paragraphs 1 and 2 of this Act.

### ***Subsequent decisions***

#### **Article 122**

(1) Subsequent decisions are decisions which the court takes in accordance with the domestic law when executing final and enforceable decisions on the recognition of a foreign judgment or probation decision referred to in Article 112, paragraph 1, items 1 and 2 of this Act:

1. if the sentenced person does not comply with the imposed probation measures or alternative sanctions;
2. if the sentenced person commits a new criminal offence.

(2) The subsequent decisions may only relate to:

1. the modification of obligations or instructions contained in the probation measure or alternative sanction;
2. the setting of a new probation period;
3. the revocation of a suspended sentence or the revocation of a conditional release; and
4. the subsequent imposition of a custodial sentence or measure involving deprivation of liberty in the case of the revocation of an alternative sanction or conditional sentence.

(3) The court shall not take the subsequent decisions referred to in paragraph 2, items 3 and 4 in the case of:

1. the revocation of an alternative sanction imposed by a judgment that does not both impose and specify the custodial sentence or measure involving deprivation of liberty that should be enforced if the sentenced person, through his or her own fault, fails to perform the obligations concerned or in some other way prevents them from being performed;
2. the subsequent imposition of a custodial sentence on a sentenced person who is subject to a judgment imposing a conditional sentence;
3. the execution of a judgment that relates to acts which do not constitute an offence under the domestic law, regardless of their constituent elements or legal description.

(4) The application of paragraph 3 of this Article shall be without prejudice to the obligation of the court to recognise and execute a foreign judgment or probation decision in accordance with Article 115 of this Act.

(5) The court shall without delay inform the competent authority of the issuing State that it will not take a subsequent decision referred to in paragraph 3 of this Article. If the court is of the view that a subsequent decision referred to in paragraph 2, items 3 and 4 of this Article needs to be taken by the competent authority of the issuing State in the cases referred to in paragraph 3 of this Article, it shall issue a decision on the transfer of jurisdiction to the competent authority of the issuing State.

***Jurisdiction to take subsequent decisions and governing law***

**Article 123**

(1) The court referred to in Article 5, paragraph 1, fifth indent of this Act which has jurisdiction to execute probation measures or alternative sanctions shall also have jurisdiction to take subsequent decisions referred to in Article 122 of this Act.

(2) The domestic law shall apply to the decisions referred to in Article 122 of this Act and to legal consequences and enforcement of these decisions, as well as to the adaptation of the custodial sentence or measure involving deprivation of liberty imposed by a foreign judgment or probation decision with sanctions prescribed by the domestic law for the same and similar offences.

***Jurisdiction of the issuing State to take subsequent decisions***

**Article 124**

(1) If the issuing State has jurisdiction for the subsequent decisions referred to in Article 122, paragraph 3 of this Act, the court shall without delay notify the competent authority of that State of:

1. any circumstances which are likely to result in the subsequent imposition of a conditionally deferred custodial sentence or in the revocation of conditional release;
2. any circumstances which are likely to result in the revocation of the suspended sentence and the execution of the imposed custodial sentence or measure involving deprivation of liberty;
3. all further facts and circumstances which the competent authority of the issuing State requests to be provided and which are essential in order to allow it to take subsequent decisions in accordance with its law.

(2) In the case referred to in Article 122, paragraph 2 of this Act, the court shall inform the competent authority of the issuing State in case of non-compliance by the sentenced person with the probation measures or alternative sanctions imposed.

(3) Notice of the circumstances referred to in paragraphs 1 and 2 of this Article shall be given using the standard form which forms an integral part of this Act (Annex 8), and notice of the circumstances referred to in paragraph 1, item 3 of this Article shall be given by any means which leaves a written record.

(4) If, under the national law of the issuing State, the sentenced person must be given a hearing before a subsequent decision is taken, the court shall, upon the request of the competent authority of that State, approve using video conference links for hearing the sentenced person, in accordance with domestic law, international agreements and European Union law.

### *Obligation to inform*

#### **Article 125**

(1) The court shall without delay inform the competent authority of the issuing State, by any means which leaves a written record of:

1. the fact that, after transmission of the judgment or probation decision, together with the certificate referred to in Article 129, paragraph 1 of this Act, the sentenced person cannot be found in the territory of the Republic of Croatia;
2. the decision on the recognition of the judgement or probation decision, the date on which it was made and the date on which it became final, and the fact that the sentenced person was committed to serve the probation measures or alternative sanctions imposed by that decision;
3. any decision not to recognise and enforce the foreign judgment or probation decision, together with the reasons for such decision as referred to in Articles 120 and 121 of this Act;
4. any decision taken in accordance with Article 122 of this Act, together with the reasons for the decision;
5. any legal obstacles referred to in Article 16 of this Act, which prevent the execution of the probation measures and alternative sanctions imposed by final decisions taken in accordance with Article 118 of this Act.

(2) In cases when the subsequent decision referred to in Article 122 of this Act has been taken, the court shall without delay inform the competent authority of the issuing State, by the means referred to in paragraph 1 of this Article, of the following decisions:

1. the decision modifying the conditions which the sentenced person who is granted conditional release must comply with for the duration of the conditional release, the judgement modifying the obligations imposed by a suspended sentence, the judgement modifying the obligations imposed by a conditional sentence and the judgement modifying the alternative sanction;
2. the decision revoking conditional release or the judgement subsequently imposing a conditionally deferred custodial sentence;
3. the judgement revoking the suspended sentence and ordering the execution of the imposed custodial sentence or measure involving deprivation of liberty because the sentenced person has not complied with the probation measures imposed on him or her;
4. the decision to enforce the custodial sentence for a duration proportional to the period of the non-executed alternative sanction;
5. the lapsing of the probation measure or alternative sanction.

(3) Immediately after reception of the judgment or probation decision, together with the certificate referred to in Article 129, paragraph 1 of this Act, the court shall, if so requested by the competent authority of the issuing State, inform it of the type and severity of the criminal sanction that is foreseen in the domestic law for an offence which is the same or similar to the offence which gave rise to the judgement or probation decision and that could be imposed on

the sentenced person in the case of his or her non-compliance with the probation measure or alternative sanction.

### ***Transfer of jurisdiction***

#### **Article 126**

(1) If the sentenced person absconds or no longer resides or is no longer domiciled in the territory of the Republic of Croatia, the court referred to in Article 5, paragraph 1, fifth indent of this Act shall issue a decision transferring to the competent authority of the issuing State the jurisdiction for the execution of the probation measures or alternative sanctions and for taking all subsequent decisions.

(2) If new criminal proceedings against the person concerned are taking place in the issuing State and the competent authority of that State requests the competent domestic court to transfer jurisdiction for the execution of probation measures or alternative sanctions and for taking any subsequent decisions, the domestic court may decide to transfer the jurisdiction to the competent authority of the issuing State and in doing so shall take into account all the relevant circumstances and in particular the seriousness of the offence for which the new proceeding is being conducted in the issuing State, the circumstances under which the offence was committed and the duration of the period left for the probation measures and alternative sanctions to be served.

### ***Co-operation with the competent authorities of the Member States***

#### **Article 127**

(1) When the court considers that the specific circumstances of the case require submission of additional information or provision of assistance, it shall contact the competent authority of a Member State in order to ensure a more efficient application of this Title of the Act.

(2) Before deciding to refuse recognition of the judgement or decision and execution of the probation measures or alternative sanctions pursuant to Article 120, paragraph 1, items 1, 2 and 3 and Article 121, paragraph 1, items 3, 4 and 6 of this Act, the domestic court shall consult the competent authority of the issuing State, and may, if it deems necessary, ask it to supply additional information within seven working days.

### ***Criteria for forwarding a judgment or probation decision***

#### **Article 128**

(1) The authority that has rendered a decision imposing probation measures or alternative sanctions shall transmit the decision to the competent authority referred to in Article 7, paragraph 3, item 2 of this Act for the purpose of it being forwarded:

1. to the competent authority of the Member State in which the sentenced person is domiciled or ordinarily resides, in cases where the sentenced person has returned or wants to return to that State;
2. upon request of the sentenced person, to a competent authority of a Member State other than the Member State referred to in item 1 of this paragraph, on condition that this authority has consented to such forwarding.

(2) The competent authority shall forward the judgement or probation decision to the executing State if it establishes that the execution of probation measures or alternative sanctions in that State would contribute to the social rehabilitation and reintegration of the sentenced person in society and facilitate the application of the probation measures and alternative sanctions referred to in paragraph 1 of this Article.

***Procedure for forwarding a judgment or probation decision***

**Article 129**

(1) The domestic competent authority shall forward the judgement or probation decision, together with the certificate the standard form of which forms an integral part of this Act (Annex 9) directly to the competent authority of the executing State by any means which leaves a written record under conditions allowing the executing State to establish their authenticity.

(2) Deleted.

(2) The judgement or probation decision, together with the certificate, may be forwarded only to one executing State at any one time.

***Legal consequences of forwarding a judgment or probation decision***

**Article 130**

(1) Once the competent authority of the executing State has informed the domestic authorities of the final and enforceable decision on recognition of the forwarded judgement or probation decision, the domestic authorities shall cease to have competence in relation to the execution of the probation measures or alternative sanctions imposed in these decisions, and to take subsequent measures referred to in Article 122 of this Act.

(2) Notwithstanding paragraph 1 of this Article, the competence in relation to the execution of the probation measures or alternative sanctions imposed in the forwarded decisions and to take subsequent measures referred to in Article 122 of this Act shall revert to the domestic authorities when:

1. the domestic competent authority decides, no later than ten days of the receipt of the information referred to in Article 125, paragraph 1, item 4 and paragraph 3 of this Act, to withdraw the certificate referred to in Article 129, paragraph 1 of this Act and informs the competent authority of the executing State thereof;

2. the competent authority of the executing State is not competent to take subsequent decisions according to Article 122, paragraph 5 of this Act;

3. the competent authority of the executing State ceases to be competent for the enforcement of probation measures and alternative sanctions pursuant to Article 126 of this Act.

***Obligations of competent authorities***

**Article 131**

(1) The domestic competent authority shall without delay inform the competent authority of the issuing State, by any means which leaves a written record, of any circumstances which, in its

opinion, could entail decisions referred to in Article 125, paragraph 2, items 1, 2, 3 and 4 of this Act being taken.

(2) In the case referred to in Article 130, paragraph 2, item 2 of this Act, a court that has jurisdiction under the domestic law to take the subsequent decisions referred to in Article 122 of this Act shall without delay inform the competent authority of the issuing State of the following decisions:

1. the judgement revoking the suspended sentence and ordering the execution of the imposed custodial sentence, and the decision revoking conditional release;
2. a decision on the enforcement of the custodial sentence or measure involving deprivation of liberty where such measure is contained in the judgment;
3. a decision on the imposition of a custodial sentence or measure involving deprivation of liberty, where such measure is not contained in the judgment;
4. a decision on the lapsing of the probation measure or alternative sanction.

(3) If new criminal proceedings are being conducted in the Republic of Croatia against the person who, in the State in which he or she resides or is domiciled or in another state, is serving probation measures or alternative sanctions imposed by a judgment or probation decision forwarded in accordance with Article 128, paragraph 1 of this Act, the court before which the new proceedings are being conducted may, upon the consent of the court referred to in Article 128, paragraph 1 of this Act, request the competent authority of the executing State to transfer jurisdiction in respect of the execution of the probation measures and alternative sanctions and for the taking of any subsequent decisions.

(4) When the competent authority of the executing State transfers jurisdiction to a domestic court in accordance with paragraph 3 of this Article or for the reasons referred to in Article 126, paragraph 1 of this Act, the domestic court shall resume jurisdiction taking account of:

- the duration and degree of compliance with the probation measures or alternative sanctions in the executing State;
- any subsequent decisions taken by the executing State.

#### **Title VIII.a**

### **RECOGNITION AND EXECUTION OF DECISIONS ON SUPERVISION MEASURES**

#### ***Scope***

#### **Article 131.a**

The provisions of this Title shall apply to the recognition and execution of decisions issued by foreign judicial authorities imposing supervision measures on a person who resides or is domiciled in the territory of the Republic of Croatia and has agreed to return to the Republic of Croatia while the criminal proceedings are being conducted and to the forwarding of decisions of domestic judicial authorities imposing supervision measures on a person who is lawfully and ordinarily residing in the territory of a Member State and has agreed to return to that Member State.

***Types of supervision measures that shall be recognised and executed by domestic competent authorities***

**Article 131.b**

The county court having jurisdiction for the place where the person is domiciled or resides shall recognise and submit for execution the decisions of the competent authorities of the issuing State containing the following supervision measures:

- 1) prohibition on leaving the place of residence and changing the address used for delivery of summons, except with prior notification to the competent authority of the executing State;
- 2) prohibition on visiting a certain place or area;
- 3) prohibition on leaving a certain area, along with the temporary seizure of a travel or other document required for crossing the state border;
- 4) obligation to report at regular intervals to a certain person or government authority;
- 5) prohibition on approaching a certain person;
- 6) prohibition on establishing or maintaining contact with a certain person;
- 7) prohibition on pursuing a certain business activity;
- 8) prohibition on driving a motor vehicle, along with a suspension of the driving licence;
- 9) prohibition on stalking or harassing the victim or another person;
- 10) removal from home.

***Reception of foreign decisions on supervision measures***

**Article 131.c**

(1) When the competent State Attorney's Office referred to in Article 5, paragraph 1, item 6 of this Act receives a decision on supervision measures from the competent authority of the issuing State, together with the certificate which is signed and whose content is certified, by a secure means of communication capable of producing a written record the authenticity of which can be established, it shall forward it, in the same way, to the competent court referred to in Article 133 of this Act.

(2) If the certificate transmitted together with the decision is incomplete or manifestly does not correspond to the decision, the State Attorney's Office referred to in paragraph 1 of this Article shall set a time limit of no more than 15 working days in which the competent authority of the issuing State is to submit a completed or corrected certificate. The court shall postpone rendering a decision until a completed or corrected certificate is received.

(3) The competent court may, if it deems it necessary, request the competent authority of the issuing State to submit the original of the decision or a certified copy of it, as well as the original of the certificate forwarded together with the decision.

***Time limits for the recognition of a foreign decision on supervision measures***



#### **Article 131.d**

(1) After receiving a decision on supervision measures and a certificate, the competent court shall immediately initiate the recognition procedure and, within a time limit of no more than 15 working days of receipt, shall issue a decision on the recognition of the decision of a foreign judicial authority imposing supervision measures referred to in Article 133 of this Act, and shall forward it for execution after it becomes final.

(2) If an appeal has been filed against the decision on recognition of a foreign decision on supervision measures, the time limit set in paragraph 1 shall be extended by another 15 working days.

(3) If it is not possible, in exceptional circumstances, for the competent court to issue the decision on the recognition of a decision on supervision measures within the time limits laid down in paragraphs 1 and 2 of this Article, it shall inform the competent authority of the issuing State, in the manner provided for in Article 134, paragraph 1 of this Act, giving reasons for the delay and indicating the expected date by which the decision will be issued and become final.

#### ***Grounds for non-recognition of a foreign decision on supervision measures***

#### **Article 131.e**

(1) The court shall refuse to recognise the supervision measures if:

a) the certificate referred to in Article 131.c, paragraph 1 of this Act, which has been submitted together with the decision on supervision measures, is incomplete and obviously does not correspond to the decision, or if a complete or corrected certificate is not received within the time limit referred to in Article 134, paragraph 2 of this Act;

b) the person who is domiciled or resides or stays in the Republic of Croatia has not returned to the territory of the Republic of Croatia after the issuance of the decision on supervision measures in the issuing State;

c) the competent court has not consented to receiving for execution the decision on supervision measures from the issuing State for a person who is not domiciled or does not reside or stay in the territory of the Republic of Croatia;

d) the decision of the competent authority of the issuing State contains a supervision measure that is not provided for in Article 133, items 1 to 8 of this Act;

e) recognition of the decision on supervision measures would contravene the *ne bis in idem* principle;

f) the criminal prosecution is statute-barred under the domestic law and relates to an offence the prosecution of which falls within the competence of domestic judicial authorities under the domestic law;

g) the person who is subject to the supervision measures benefits from an immunity under the domestic law;

h) the person who is subject to the supervision measures is under 14 years of age;

i) in case of breach of the supervision measures, it would not be possible to execute the European arrest warrant against the person who is subject to these measures, for reasons referred to in Article 20 and Article 21, paragraph 1 of this Act.

(2) Before issuing a decision on non-recognition of a foreign decision on supervision measures for reasons referred to in items (a) to (e) and item (i) of paragraph 1 of this Article, the competent court shall communicate with the competent authority in the issuing State and, as necessary, request the latter to supply without delay additional information required for issuing the decision.

(3) If the court recognises a foreign decision on supervision measures although the circumstances referred to in paragraph 1, item (i) of this Article exist, it shall not apply the provisions of Title of this Act to the person who is subject to the supervision measures in case of a breach of supervision measures.

(4) Notwithstanding the provision of item (c) of paragraph 1 of this Article, the competent court may consent to the forwarding of a decision on supervision measures issued by the competent authority of the issuing State in respect of a person who is not domiciled or does not reside in the territory of the Republic of Croatia, on condition that prior to the issue of the decision in the issuing State the person lived for at least one year in the Republic of Croatia to which he or she has family or business ties.

#### ***Adaptation of the supervision measures***

##### **Article 131.f**

(1) When the competent State Attorney's Office referred to in Article 5, paragraph 1, subparagraph 6 of this Act receives a foreign decision on supervision measures that are not provided for in the domestic law, it shall inform the competent authority of the issuing State of the measures that may be imposed in accordance with the provisions of the domestic law and their maximum duration. If, within ten working days of submission of this information, the competent authority of the issuing State does not withdraw the certificate submitted together with the decision on supervision measures, the competent State Attorney's Office shall transmit the foreign court decision to the competent court for recognition.

(2) The court shall issue a decision recognising the foreign decision and shall impose the supervision measures pursuant to the domestic law, which shall correspond as far as possible to those imposed in the issuing State.

(3) The supervision measure imposed pursuant to the domestic law shall not be more severe than the corresponding supervision measure which was imposed in the issuing State.

#### ***Extension of execution of supervision measures***

##### **Article 131.g**

(1) If the competent authority of the issuing State issues a decision to extend the duration of the supervision measures, without modifying the scope or the type of the supervision measures, the court shall recognise the foreign decision on the extension of the supervision measures without examining whether there are grounds referred to in Article 136 of this Act.

(2) If the decision of the competent authority of the issuing State referred to in paragraph 1 of

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this Article modifies the type and scope of the measure compared to the previously recognised decision, the court shall:

a) adapt the measure to bring it into line with the domestic law, by applying the provision of Article 137, paragraphs 1 and 2 of this Act;

b) refuse to recognise the decision on the modified supervision measures if the decision of the competent authority of the issuing State includes a supervision measures which is not provided for in Article 133, items 1 to 8 of this Act.

(3) The decision on recognition of the decision of the competent authority of the issuing State on the extension of the duration of the supervision measures shall indicate the maximum duration of the supervision measure under the domestic law.

(4) In accordance with the domestic law, the competent court shall, in order to decide on the further execution of the supervision measures, request the competent authorities of the issuing State to provide information as to whether the execution of the measures is still needed in the circumstances of the particular case.

(5) Upon request of the competent authority of the issuing State, the court shall enable the establishment of a video conference link, in case the foreign competent authority must question the person subject to the measures before deciding on the extension of the duration of the supervision measures.

(6) The decision on supervision measures issued by the competent authority of the issuing State shall not prevent the initiation of criminal proceedings before the competent domestic authorities against the person who is subject to the supervision measures imposed by a foreign authority, for another criminal offence.

#### ***Information to the competent authority of the issuing State***

#### **Article 131.h**

The competent court shall, without delay, inform the competent authority in the issuing State by any means which leaves a written record:

a) of any change of residence of the person subject to the supervision measures;

b) of the fact that, after transmission of the decision on supervision measures and the certificate on the standard form, the person cannot be found in the territory of the Republic of Croatia;

c) of the fact that an appeal has been filed against a decision on recognition of a foreign decision on supervision measures;

d) of the fact that the decision on recognition of a decision on supervision measures has become final and that its execution has begun;

e) of the fact that the supervision measures imposed by a foreign decision have been adapted to bring them into line with the kind of supervision measures that are provided for under the domestic law;

f) of a decision not to recognise a foreign decision on supervision measures for reasons referred to in Article 136, paragraph 1 of this Act, and a decision not assume responsibility for

executing these supervision measures;

g) of any breach of a supervision measure and other circumstances which might affect a decision on the extension, modification and withdrawal of supervision measures or the issuing of an arrest warrant or other decision having the same effect, using for that purpose the standard form (Annex 11).

#### ***Competence over the execution of the supervision measures***

##### **Article 131.i**

(1) The supervision measures shall be executed by the competent authorities, after the decision on recognition of the foreign decision on supervision measures becomes final.

(2) The competent court shall transfer the competence for the execution of supervision measures to the competent authority of the issuing State:

a) where the person subject to the supervision measures has established his or her lawful and ordinary residence outside of the Republic of Croatia;

b) where the issuing State has withdrawn the certificate accompanying a foreign decision on supervision measures as referred to in Article 134, paragraph 1 of this Act;

c) where the competent authority in the issuing State has modified its decision and imposed supervision measures which are not provided for in Article 133, items 1 to 8 of this Act, and the domestic court has refused to recognise them;

d) where the maximum duration of supervision measures, as provided for under the domestic law, has elapsed;

e) where the domestic competent authority has decided to stop executing the supervision measures because the competent authority of the issuing State has failed to submit the required decisions referred to in Article 141 of this Act.

(3) In cases referred to in paragraph 2 of this Article, the domestic competent authority shall consult the issuing State so as to avoid any discontinuance in the application of the supervision measures.

#### ***Silence on the part of the competent authorities of the issuing State***

##### **Article 131.j**

(1) If the competent authority of the issuing State does not answer to notices sent by the domestic competent authority in relation to breaches of the supervision measures imposed in the recognised decision of that authority, the domestic court shall invite the competent authority in the issuing State to submit its decision concerning these notices within ten working days.

(2) If the competent authority of the issuing State does not submit, *ex officio*, its decision concerning the extension of the duration of the supervision measures or information on the necessity of further execution of the supervision measures, as provided for in Article 138, paragraph 4 of this Act, the domestic court shall request that such decision be submitted within the time limit referred to in paragraph 1 of this Article, with the caveat that the further

execution of supervision measure shall be suspended if the decision is not submitted.

(3) If the competent authority of the issuing State does not submit the requested decision or the information on the necessity of further execution of the supervision measures, as provided for in Article 138, paragraph 4 of this Act, within the time limit referred to in paragraph 1 of this Article, the domestic court shall stop executing the supervision measures and shall notify the issuing State thereof for the purpose of transferring the competence for the execution of the measures to that State.

### ***Surrender of the person***

#### **Article 131.k**

When the competent authority of the issuing State issues a European arrest warrant, surrender proceedings shall be initiated before the competent court pursuant to the provisions of Title II (European Arrest Warrant) of this Act only if the decisions of the foreign authority have been issued in accordance with the conditions governing the issuance of the European arrest warrant.

### ***Forwarding of decisions on supervision measures***

#### **Article 131.l**

(1) The competent authority referred to in Article 7, paragraph 3 of this Act shall forward the decision on the imposed supervision measure to the competent authority of the Member State in which the person who is subject to the measures has his or her lawful and ordinary residence. The person subject to the supervision measures shall consent, on the record, to return to the executing State, and shall be warned that that if he or she does not report to the competent authority in the executing State, remand prison shall be ordered against him or her.

(2) In addition to forwarding the decision to the competent authority referred to in paragraph 1 of this Article, the competent authority may, at the request of the person subject to the measure, forward the decision to the competent authority of another Member State, if the authority of that Member State consents to it and if the person in question gives his or her consent as referred to in paragraph 1 of this Article.

(3) Along with the decision on the imposed supervision measures, the competent authority referred to in paragraph 1 of this Article shall submit a signed certificate, with its content certified as accurate, on the standard form (Annex 10), by a secure means of communication capable of producing a written record. The original of the decision on supervision measures, or a certified copy of it, and the original of the certificate, shall be sent to the executing State if it so requires.

(4) The competent authorities shall execute the measures imposed by the domestic judicial authority until they receive the notification from the competent authority of the executing State on the recognition of the decision imposing the supervision measures.

(5) The competent authorities shall communicate directly with each other on the progress of the execution of the imposed supervision measures.

### ***Content of the certificate and determining the executing State***

#### **Article 131.m**

(1) The certificate referred to in Article 131.l, paragraph 3 of this Act shall include the measures referred to in items 1 to 6 of Article 133 of this Act and, if the executing State is willing to execute them, the measures referred to in items 7 and 8 of the same Article.

(2) The competent authority referred to in Article 7, paragraph 3 of this Act shall indicate the following in the certificate:

a) time limits for new decisions on these measures:

and

b) the estimated total duration of the supervision measures, taking into account the established circumstances of the case.

(3) The decision on supervision measures together with the certificate shall be forwarded only to one executing State at any one time.

#### ***Withdrawal of the certificate***

##### **Article 131.n**

(1) If the execution of the supervision measures in the executing State has not yet begun, the domestic competent authority may withdraw the certificate when the competent authority of the executing State submits the information on the maximum duration of the supervision measures according to law of that State or a decision by which the supervision measures were modified in accordance with the law of the executing State.

(2) The decision on the withdrawal of the certificate shall be immediately communicated to the executing State, and no later than 10 working days from the receipt of the above mentioned information or decision.

#### ***Extension of the duration of supervision measures and other subsequent decisions***

##### **Article 131.o**

(1) Before the expiry of the period referred to in Article 144, paragraph 2, item (b) of this Act, the domestic competent authority shall submit, *ex officio*, the decision on the extension of the duration of the supervision measures, if these measures are still necessary taking into account the circumstances of the case, along with the certificate referred to in Article 131.l, paragraph 3 of this Act in which they shall indicate the period of time for which such an extension is likely to be needed.

(2) Pursuant to the provisions of the domestic law and in the light of the circumstances of the case and the report of the competent authority of the executing State on breaches of the supervision measures or other decisive circumstances, the domestic competent authority may, in addition to extending the duration of the supervision measures in accordance with paragraph 1 of this Article:

a) discontinue the supervision measures;

b) modify the supervision measures;

c) order detention and issue a wanted notice or a European arrest warrant,

and shall inform the competent authority of the executing State thereof without delay.

(3) The domestic competent authority shall inform without delay the competent authority of the executing State if an appeal has been filed against the decision referred to in paragraphs 1 and 2 of this Article.

(4) Before issuing a decision referred to in paragraphs 1 and 2 of this Article, the domestic competent authority may, in accordance with the provisions of domestic and international law or the law of the European Union, request the establishment of a video conference link with the competent authority of the executing State for the purposes of questioning the person subject to the supervision measures.

(5) Failure to submit the decisions referred to in paragraphs 1 and 2 of this Article, *ex officio* or at the request of the competent authority in the executing State, within a specified time limit, may result in suspension of the execution of the supervision measures in the executing State and in the competence for the execution of those measures being reverted back to the domestic competent authority.

#### ***Effects of detention and arrest warrant on the decision on supervision measures***

##### **Article 131.p**

The execution of supervision measures shall stop once detention is ordered and a wanted notice is issued in accordance with the domestic law. When the domestic competent authority issues a European Arrest Warrant, it shall institute proceedings in accordance with Title II (European arrest warrant) of this Act.

#### ***Mutual consultation and exchange of information***

##### **Article 131.r**

(1) The competent authorities of the issuing State and of the executing State shall consult each other before forwarding a decision on supervision measures together with the certificate, to facilitate the smooth and efficient implementation of these measures, and well as in cases of a serious breach of the measures imposed.

(2) For the purposes of paragraph 1 of this Article, the competent authorities shall exchange all useful information, in particular:

- a) information allowing verification of the identity and place of residence of the person subject to the supervision measures;
- b) information extracted from criminal records, in accordance with national and international provisions.

(3) When deciding on supervision measures, the domestic competent authority shall take due account of any information communicated by the competent authority of the executing State on the risk that the person who is subject to the supervision measures might pose to victims and to the general public.

#### ***Costs of executing supervision measures***

##### **Article 131.s**



Costs resulting from the execution of supervision measures shall be borne by the executing State, except for costs arising within the territory of the issuing State.

#### Title VIII.b

### EUROPEAN PROTECTION ORDER

#### *Scope*

#### **Article 131.t**

The provisions of this Title shall apply to:

1. the recognition and execution of a European protection order issued by the competent authority of a Member State for the purpose of executing protection measures with a view to protecting the protected person who resides or stays or intends to reside or stay in the territory of the Republic of Croatia;
2. the transmission of a European protection order issued by a domestic court to a Member State in whose territory the protected person resides or stays or intends to reside or stay.

#### *Recognition and execution of a European protection order*

#### **Article 131.u**

- (1) Upon receipt of a European protection order issued by the competent authority of the issuing State, the investigating judge of the county court having jurisdiction for the place where the protected person resides or stays or intends to reside or stay shall immediately recognise that order and take appropriate measures for its execution.
- (2) If a European protection order is incomplete or is not accompanied by a translation, the investigating judge shall set a time limit of no more than 15 working days, by any means capable of producing a written record, for the competent authority of the issuing State to provide the missing information or a translation. The investigating judge shall postpone the decision until receipt of the missing information or a translation of the European protection order.
- (3) If, instead of a European protection order, the domestic court receives a request from the protected person for issuing a European protection order relating to a decision issued by another Member State, it shall forward it without delay to the competent authority of that State.

#### *Decision imposing protection measures*

#### **Article 131. v**

- (1) In a decision on the recognition of a European protection order, issued during the criminal proceedings, the investigating judge shall impose the supervision measure in accordance with the domestic law.
- (2) In a decision on the recognition of a European protection order, issued after the probation decision or alternative sanction has been imposed, the investigating judge shall impose a special obligation.

(3) The prohibitions and restrictions imposed by the supervision measures and special obligations shall, to the highest degree possible, correspond to those imposed in the issuing State.

(4) The decision on the recognition of the European protection order shall be forwarded without delay to the issuing State, the protected person, his or her legal representative or guardian and the person causing danger, together with the information about the legal consequence of a breach of these measures.

(4) The address and other contact details of the protected person shall not be disclosed to the person causing danger unless such details are necessary in view of the enforcement of the protection measure.

***Grounds for refusing to recognise a European protection order***

**Article 131.z**

(1) The investigating judge shall refuse to recognise a European protection order if:

1. the European protection order is not complete, or the missing information or a translation has not been submitted within the time limit laid down in Article 131.u, paragraph 2 of this Act;
2. the European protection order contains a measure that is not provided for in Article 2, item 29 of this Act;
3. the protection measure relates to an act that does not constitute a criminal offence under the domestic law;
4. the person causing danger benefits from an immunity under the domestic law;
5. recognition of the European protection order would contravene the *ne bis in idem* principle,
6. the person causing danger is under the age of 14.

2) The investigating judge may refuse to recognise a European protection order:

1. if the European protection order has been issued for an act covered by an amnesty in the Republic of Croatia, and a domestic court has jurisdiction under the law;
2. if there is an immunity or privilege under the domestic law which makes it impossible to give effect to the European protection order;
3. if the protection measure relates to an offence which, under the domestic law, is regarded as having been committed, wholly or for a major or essential part, within the territory of the Republic of Croatia or in a place equivalent to its territory.

(3) If the investigating judge refuses to recognise a European protection order for one or more reasons referred to in paragraph 1 of this Article, he or she shall:

1. without delay, inform the issuing State and the protected person of this refusal and the reasons for the refusal;

2. inform the protected person about the possibility of filing an appeal against the decision.

### ***The right to appeal***

#### **Article 131.a.a**

The protected person or his/her guardian or legal representative and the person causing danger may, within three days, file an appeal against the decision on the recognition of a European protection order. The appeal shall be decided by the panel of a county court within three days.

### ***Competence to enforce a decision on the recognition of a European protection order***

#### **Article 131.a.b**

- (1) When a decision on the recognition of a European protection order becomes final, it shall be enforced in accordance with the domestic law.
- (2) The final decision on the recognition of a European protection order shall be submitted for enforcement to the competent authority in accordance with the domestic law.
- (3) The investigating judge who issued a decision on the recognition of a European protection order may order the verification of the execution of the protection measure and request a report from the police or other competent authority. The authority executing the protection measure shall immediately carry out the ordered verifications and inform thereof the competent investigating judge.
- (4) The authority executing the protection measure shall inform the investigating judge of any conduct of the person causing danger which is contrary to the prohibition or restriction imposed by the decision.
- (5) The investigating judge shall, without delay and by a means which leaves a written record, notify the competent authority of the issuing State or of the State of supervision of any breach of the measure taken on the basis of the European protection order. Notice shall be given using the standard form which forms an integral part of this Act (Annex 13). The form shall be translated into the official language or other language which the issuing State or the State of supervision accepts.

### ***Consequences of the withdrawal or modification of a European protection order***

#### **Article 131.a.c**

- (1) If the competent authority of the issuing State has withdrawn a European protection order, the investigating judge shall, immediately after having been notified thereof by the competent authority of the issuing State, issue a decision on the discontinuation of the supervision measures and special obligations imposed by the decision on the recognition of the European protection order.
- (2) If the competent authority of the issuing State has modified a European protection order, the investigating judge shall:
  1. modify the supervision measures and special obligations imposed by the decision on the recognition of the European protection order, in accordance with the domestic law; or

2. refuse to recognise the modified European protection order if grounds referred to in Article 131.z, paragraph 1, items 1 and 2 of this Act exist.

#### ***Grounds for discontinuation of protection measures***

##### **Article 131.a.d**

(1) The investigating judge shall discontinue the supervision measures or special obligations imposed on the basis of a European protection order:

1. where the protected person does not reside or stay in the territory of the Republic of Croatia;
2. where, according to the domestic law, the maximum term of duration of the supervision measures or special obligations imposed by the decision on the recognition of the European protection order has expired, after the necessary information has been obtained from the issuing State as to the need for further enforcement of the protection measures;
3. in the case referred to in Article 131.a.c, paragraph 2, item 2 of this Act;
4. where the issuing State has requested recognition and enforcement of a decision within the meaning of Titles VIII and VIII.a of this Act which imposes supervision measures or special obligations that had been previously imposed by a decision on the recognition of the European protection order.

(2) The investigating judge shall without delay inform the competent authority of the issuing State and, where possible, the protected person, of the decision referred to in paragraph 1 of this Article.

#### ***Issuing of a European protection order***

##### **Article 131.a.e**

(1) When a domestic judicial authority issues a decision imposing a supervision measure or special obligation and containing a protection measure referred to in Article 2, item 29, it shall inform the protected person who resides or stays, or decides to reside or stay, in another Member State, or his/her guardian or representative, about the possibility of issuing a European protection order and the conditions for its issuing.

(2) A European protection order shall be issued by the investigating judge of the county court that has jurisdiction for the place where the proceedings are being conducted or where the enforcement of the probation decision or alternative sanction is taking place.

(3) A European protection order shall be issued at the request of the protected person or his/her guardian or representative, who has submitted the request directly to a domestic authority.

(4) A European protection order shall also be issued on a request submitted to the competent authority of the State in which the protected person resides or stays or decides to reside or stay, and which has been transferred to the competent county court.

(5) When deciding upon the issuing of a European protection order, the investigating judge shall take into account the length of the period that the protected person intends to stay in the executing State, the need for protection, and other factors that are essential to achieving effective protection.

(6) The protected person or his/her guardian or legal representative may, within three days, file an appeal against the decision rejecting the request to issue a European protection order. The appeal shall be decided by the panel of a county court within three days.

### ***Content of the European protection order***

#### **Article 131.a.f**

(1) The investigating judge of the competent county court shall issue a European protection order using the prescribed form which forms an integral part of this Act (Annex 12), and shall transmit it by any means which leaves a written record so as to allow the competent authority of the executing State to establish its authenticity.

(2) The European protection order shall contain the following information:

1. the identity and nationality of the protected person, as well as the identity and nationality of the guardian or representative if the protected person is a minor or is legally incapacitated;
2. the date from which the protected person intends to reside or stay in the executing State, and the period or periods of stay, if known;
3. the name, address, telephone and fax numbers and e-mail address of the competent authority of the issuing State;
4. identification of the legal act containing the protection measure on the basis of which the European protection order is issued;
5. a summary of the facts and circumstances which have led to the adoption of the protection measure in the issuing State;
6. the prohibitions imposed, in the protection measure, underlying the European protection order, on the person causing danger, their duration and the indication of the penalty, if any, in the event of the breach of any of the prohibitions;
7. the use of a technical device, if any, that has been provided to the protected person or to the person causing danger as a means of enforcing the protection measure;
8. the identity and nationality of the person causing danger, as well as that person's contact details;
9. where such information is known by the competent authority of the issuing State without requiring further inquiry, whether the protected person and/or the person causing danger has been granted free legal aid in the issuing State;
10. a description, where appropriate, of other circumstances that could have an influence on the assessment of the danger that confronts the protected person;
11. indication, where applicable, that a judgment within the meaning of Title VIII or a decision on supervision measures within the meaning of Title VIII.a of this Act has already been transferred to the State of supervision, and the identification of the competent authority for the enforcement of such a judgment or decision.

### ***Subsequent decisions***

#### **Article 131.a.g**

(1) If the domestic competent authority has renewed or modified the supervision measure or has modified the special obligation imposed on the person causing danger, the investigating judge who issued the European protection order shall inform the competent authority of the executing State thereof without delay. At the request of the executing State, the investigating judge shall transmit the European protection order by which the duration of the protection measure has been extended or another protection measure has been imposed.

(2) If the domestic competent authority has revoked the supervision measure or the special obligation imposed on the person causing danger, the investigating judge who issued the European protection order shall withdraw the European protection order and shall inform the executing State thereof without delay.

(3) Where a decision within the meaning of Title VIII of this Act is transferred to the State of supervision after the issuing of the European protection order, and the competent authority of the State of supervision has made a subsequent decision within the meaning of Article 122, paragraph 2 of this Act, the investigating judge who issued the European protection order shall inform the competent authority of the executing State thereof without delay. At the request of the executing State, the investigating judge shall transmit the European protection order by which the duration of the protection measure has been extended or another protection measure has been imposed, or a decision withdrawing the European protection order.

#### ***Mutual consultation***

#### **Article 131.a.h**

The competent authorities of the issuing State and of the executing State shall consult each other in order to facilitate the efficient and smooth application of this Title of the Act.

#### ***Submission of data***

#### **Article 131.a.i**

The ministry competent for justice affairs may request the competent judicial authorities to submit data on the number of European protection orders requested, issued and/or recognised.

#### **Title IX**

#### **TRANSITIONAL AND FINAL PROVISIONS**

#### **Article 132**

The provisions of the Act on Mutual Legal Assistance in Criminal Matters, the Criminal Procedure Act, the Act on the Office for the Suppression of Corruption and Organised Crime, the Courts Act, the Juvenile Courts Act, the Act on Execution of Custodial Sentences, the Act on Execution of Sanctions Imposed on Juveniles for Criminal Offences and Misdemeanours, the Probation Act, the Act on Proceedings for the Confiscation of Pecuniary Gain Resulting from Criminal Offences and Misdemeanours, the Misdemeanour Act and the Execution Act shall apply *mutatis mutandis* to all matters which are not governed by this Act.

#### ***Application of the European arrest warrant***

#### **Article 132.a**

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Procedures pending on the day of entry into force of this Act shall be completed in accordance with the provisions of the Act on Judicial Co-operation in Criminal Matters with Member States of the European Union (Official Gazette 91/10, 81/13 and 124/13).

***Entry into force***

**Article 133.**

This Act shall enter into force on the eighth day after the day of its publication in the Official Gazette.

PROVISIONAL TRANSLATION