

# THE CROATIAN PARLIAMENT

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Pursuant to Article 89 of the Constitution of the Republic of Croatia, I hereby issue the

## DECISION

### PROMULGATING THE ACT ON THE LEGAL CONSEQUENCES OF CONVICTIONS, CRIMINAL RECORDS AND REHABILITATION

I hereby promulgate the Act on the Legal Consequences of Convictions, Criminal Records and Rehabilitation passed by the Croatian Parliament at its session on 7 December 2012.

Class: 011-01/12-01/165

Reg. No.: 71-05-03/1-12-2

Zagreb, 12 December 2012

The President  
of the Republic  
of Croatia

**Ivo Josipović, m.  
p.**

## ACT

### ON THE LEGAL CONSEQUENCES OF CONVICTIONS, CRIMINAL RECORDS AND REHABILITATION

#### GENERAL PROVISIONS

##### Article 1

(1) This Act regulates the legal consequences of convictions, the organisation, management, accessibility, transmission and deletion of information extracted from criminal records, international exchanges of information extracted from criminal records, and rehabilitation.

(2) This Act contains provisions which are aligned with the following acts of the European Union:

– Council Framework Decision 2009/315/JHA of 26 February 2009 on the organisation and content of the exchange of information extracted from the criminal record between Member States

– Council Decision 2009/316/JHA of 6 April 2009 on the establishment of the European Criminal Records Information System (ECRIS) in application of Article 11 of Framework Decision 2009/315/JHA.

## Title I

### LEGAL CONSEQUENCES OF A CONVICTION

#### Article 2

- (1) Legal consequences of a conviction in relation to a committed criminal offence shall be prescribed solely by law.
- (2) Legal consequences of a conviction occur on the day the decision whereby the perpetrator was found guilty of committing a criminal offence and convicted becomes final.
- (3) Legal consequences of a conviction shall cease no later than ten years after imprisonment has been executed, pardoned or time-barred, the fine has been paid, community service has been performed, or the probation deadline under a suspended sentence has elapsed.

## Title II

### CRIMINAL RECORDS

#### *Setting up and operating criminal records*

#### Article 3

- (1) Criminal records shall be set up and operated by the ministry competent for the judiciary, which is also the central competent authority for the exchange of such information with other states (hereinafter: „the Ministry“).
- (2) Records of corrective measures imposed against juveniles and younger adults shall be operated by the ministry competent for social affairs.

#### Article 4

- (1) Criminal records shall be operated for natural persons and legal persons (hereinafter: „persons“) against whom a final conviction in respect of a criminal offence has been handed down in the Republic of Croatia.
- (2) In addition, criminal records shall be operated for nationals of the Republic of Croatia and for legal persons established in the Republic of Croatia against whom a final conviction in respect of a criminal offence has been handed down outside the Republic of Croatia, if such information has been submitted to the Ministry.
- (3) Criminal records shall also contain a list of persons against whom a final conviction has been handed down in respect of criminal offences of sexual abuse and exploitation of children and other criminal offences referred to in Article 13, paragraph 4 of this Act.

## Article 5

Criminal records shall be operated by means of information technology, and access to and loss of information entered therein shall be protected in line with specific regulations pertaining to information security and personal data protection.

### *Content of records*

## Article 6

Criminal records shall contain:

- a) information on the identity of the convicted person, as a rule: full name, surname at birth, person's identification number (hereinafter: PIN), father's and mother's full names, mother's maiden name, date, place and state of birth, nationality, permanent and temporary residence; information on legal persons: company name, i.e. full name of the legal person, headquarters and identification number,
- b) details of the conviction, the criminal offence and criminal penalties, more precisely: name of the court, the number and date of issuance and the date the conviction becomes final, type, amount and duration of criminal penalties and other measures, information on replacing imprisonment with community service, decision on remission of punishment, data on executed, time-barred and pardoned imprisonment, and other measures,
- c) information on changes to the conviction, namely: conviction correction, decision regarding extraordinary legal remedies, decision to replace an unpaid fine with imprisonment, parole, amnesty and pardon, and revocation of a suspended sentence or parole.

### *Entry of information in criminal records*

## Article 7

The Ministry shall enter information in criminal records based on information from final court decisions and other legal acts.

## Article 8

- 1) The information referred to in Article 6 of this Act shall be transmitted to the Ministry by courts and other competent authorities whose decisions alter the information entered in criminal records.
- (2) Penitentiaries and prisons shall immediately transmit to the Ministry information about the date of executed imprisonment or the date imprisonment elapses, probation offices about the date of performing community service, and courts about the date of fine payment.
- (3) The authority competent for granting pardon shall immediately transmit to the Ministry information on granting pardon to a convicted person.
- (4) The Ministry shall enter the transmitted information in a criminal records database as soon as possible.

*Direct access to information from criminal records*

Article 9

- 1) The Ministry shall ensure direct access to information entered in criminal records for courts and state attorney offices in relation to a person subject to criminal prosecution.
- (2) The Ministry shall ensure direct access for the police and state attorney offices to information on persons against whom a final conviction has been handed down for the purpose of prevention, detection and prosecution of criminal offences.
- (3) The Minister for the Interior and the State Attorney General of the Republic of Croatia shall specify in a separate decision the persons authorised for direct access to information as per paragraph 2 of this Article.

*Transmission of information from criminal records*

Article 10

- (1) The Ministry shall transmit information from criminal records by issuing a certificate containing information from criminal records.
- (2) The certificate referred to in paragraph 1 of this Article shall contain integral information from criminal records in respect of a specific person (general certificate) or partial information from criminal records in respect of a specific person (special certificate).
- (3) Information from criminal records is unclassified information in terms of a separate law and shall be used only for official purposes, and in respect of this information the right to access information under the law defining this right shall not be exercised.
- (4) Information from criminal records shall be used only for the purpose for which it was issued.

*Transmission of general certificates containing information from criminal records*

Article 11

The Ministry shall transmit a general certificate at the request of:

- a) the police, in relation to a person in respect of whom the police are investigating criminal offences,
- b) the body competent for the enforcement of criminal penalties, in relation to a person to whom the enforcement of criminal penalties applies,
- c) the competent state authority, in relation to a person in respect of whom the process of granting pardon or parole is pending,
- d) the competent state authority, when specific tasks and duties in the civil service are entrusted to a person in respect to whom such information is requested,

- e) security and intelligence bodies, when they are requesting information on the basis of specific regulations governing their actions,
- f) the authority competent for the stay, work or asylum of aliens, for aliens seeking residence, work or asylum in the Republic of Croatia,
- (g) the authority competent for deciding about the acquisition of Croatian citizenship, for a person who has submitted an application to acquire Croatian citizenship,
- h) the authority competent for granting approval for the acquisition, possession, holding, collecting, manufacture, repair and conversion, transport of and trade in weapons, in relation to a person who has applied for any such approval,
- i) the body competent for granting approval for the manufacture of, trade in, use or disposal of poisons, in relation to a person who has applied for any such approval,
- j) the body competent for granting approval for the production of and trade in medicinal products, in relation to a person who has applied for approval for the manufacture of and trade in medicinal products,
- k) the body competent for deciding on change of name applications.

#### Article 12

- (1) Every person has the right to request for himself or herself to examine information from criminal records which is entered in the general certificate.
- (2) A written request under paragraph 1 of this Article shall be submitted to the Ministry which shall, subject to appropriate protection measures, transmit the general certificate to the municipal court on whose territory a person has permanent or temporary residence.
- (3) The person referred to in paragraph 1 of this Article shall personally examine the general certificate at the municipal court under the supervision of an authorised officer, and shall not copy, photograph or reproduce it in any way. After examination the authorised officer shall, in the presence of the person concerned, destroy the general certificate, draw up a note about it and submit it to the Ministry.

#### *Transmission of special certificates containing information from criminal records*

#### Article 13

- (1) A special certificate shall contain limited information from a criminal record and shall be issued for a specific purpose or in cases provided for by a separate law. Limited information is information that is necessary to meet the purpose for which it was requested or that is provided for in a separate law.
- (2) The Ministry shall transmit to the commercial courts authorised for entries in the court register a separate certificate containing information about the imposed security measure prohibiting the performing of a specific duty or activity to the founder or the person

authorised to represent the business entity of entry, when it receives information about the enforceability of the security measure concerned.

(3) The Ministry may transmit via a special certificate the information referred to in paragraph 2 of this Article in relation to a craftsman or a person authorised to represent other legal persons that are not entered in the register of commercial courts to the competent authority for operating the register at its request.

(4) In the proceedings of protecting the rights and interests of children, as well as in the proceedings of delegating certain tasks and assignments in working with children, based on a reasoned request, courts, public authorities and institutions can via a special certificate receive information from criminal records on final convictions handed down against persons who are perpetrators of:

- criminal offences listed in Title XVII of the Criminal Code (Official Gazette 125/11),
- criminal offences under Article 154, paragraph 1, item 2; Article 154, paragraph 3, Article 155, paragraph 2 and Article 156, paragraph 1 of the Criminal Code (Official Gazette 125/11) committed in relation to a victim who is particularly vulnerable due to his/her age,
- the criminal offence provided for in Article 106, paragraphs 2 and 3 of the Criminal Code (Official Gazette 125/11),
- criminal offences under Article 175, paragraph 2, Article 178, paragraph 3, Article 188, paragraphs 4 and 5, Article 191, paragraph 2, Article 192, Article 193, paragraph 2, Article 194, Article 195, paragraphs 1, 4, 5 and 6, Article 196, Article 197, Article 197a and Article 198 of the Criminal Code (Official Gazette 110/97, 27/98, 50/00, 129/00, 51/01, 11/03, 190/03, 105/04, 84/05, 71/06, 110/07, 152/08 and 57/11).

#### Article 14

(1) No one has the right to require from citizens to submit evidence of their previous convictions or the lack thereof.

(2) In exceptional cases, which involve future employment or delegating activities whose performance includes regular contacts with children, the employer may, with the consent of the person for whom the information is required, request a special certificate containing information from Article 13, paragraph 4 of this Act.

(3) A person has the right to request information from the criminal record for himself/herself if he/she needs this information to exercise a specific right abroad or within an international organisation.

#### *Provision of information from criminal records*

#### Article 15

(1) A written request for information from criminal records shall contain the purpose and legal basis of requesting such information and shall be submitted on a standardised form.

(2) In exceptional cases, if justified by specific concrete circumstances, the request under Article 11 of this Act shall be submitted to the Ministry electronically.

#### Article 16

(1) If the Ministry establishes that the request is incomprehensible or incomplete, it shall send a conclusion to the applicant asking him to supplement it within eight days.

(2) If the Ministry establishes that the request is unfounded, it shall issue a decision declining the request, against which an administrative dispute may be initiated.

#### *Deletion of information from criminal records*

#### Article 17

(1) Information from criminal records under Article 6 of this Act shall be deleted completely and permanently from the database after the time limits set out in Article 19, paragraphs 4, 6 and 7 of this Act have elapsed.

(2) Information from criminal records shall be deleted on the basis of:

1. a rehabilitation decision of the authority competent for operating criminal records;
2. a final court decision on rehabilitation;
3. a decision granting early rehabilitation of the authority competent for granting amnesty or pardon.

(3) The Ministry of Justice shall notify the court or other register in which the legal person is entered of the fact that information regarding the legal person concerned has been deleted from criminal records.

### Title III

## REHABILITATION

### *The right to rehabilitation*

#### Article 18

A perpetrator of a criminal offence against whom a final conviction has been handed down or who has been acquitted shall be entitled, after the time limit specified by law has elapsed and under the conditions specified in this Act, to be regarded as a person who has not committed a criminal offence, and his/her rights and freedoms shall not be different than the rights and freedoms of persons who have not committed a criminal offence.

### *Occurrence of rehabilitation*

#### Article 19

(1) Following executed, pardoned or time-barred imprisonment, long-term imprisonment or juvenile imprisonment, or following a paid fine, convicted persons shall enjoy all the rights of citizens set out in the Constitution, laws and other regulations and shall acquire all rights except those that are restricted by means of a security measure or the legal consequence of a conviction.

(2) The provision of paragraph 1 of this Article shall also apply to the perpetrator of a criminal offence in relation to whom a specific obligation or protective custody has been imposed or who has been acquitted by the court.

(3) The provision of paragraph 1 of this Article shall also apply to persons on parole provided that their rights are not restricted by special regulations on parole.

(4) Provided that the perpetrator of a criminal offence has not been reconvicted for another criminal offence, rehabilitation sets in by operation of law when the following time limits have elapsed:

- twenty years from the date of executed, time-barred or pardoned imprisonment in the event of long-term imprisonment,

- fifteen years from the date of executed, time-barred or pardoned imprisonment in the event of imprisonment lasting ten years or more,

- ten years from the date of executed, time-barred or pardoned imprisonment in the event of imprisonment lasting three years or more,

- five years from the date of executed, time-barred or pardoned imprisonment in the event of imprisonment lasting one year or more and imprisonment of juveniles;

- three years from the date of executed, time-barred or pardoned imprisonment in the event of imprisonment lasting up to one year, from the date of paying a fine, from the date of expiry of the probation time limit in the event of a suspended sentence, from the date of performing community service, and from the date the decision on acquittal becomes final.

(5) After the time limits set out in paragraph 4 of this Article have elapsed, the perpetrator of a criminal offence shall be regarded as unconvicted; any use of information on the person concerned as the perpetrator of a criminal offence is prohibited, and the use of such information has no legal effect. A rehabilitated person has the right to deny a former conviction and should not be held responsible or have any legal consequences arising therefrom.

(6) Rehabilitation for perpetrators of criminal offences under Article 13, paragraph 4 of this Act shall, by operation of law, begin after the double time limits set out in paragraph 4 of this Act have elapsed.

(7) Notwithstanding Article 17, paragraph 1 of this Act, if rehabilitation sets in while a security measure is in force, conviction-related information shall be deleted as of the date on which rehabilitation starts, and information on the security measure shall be deleted after the length of the security measure has elapsed.



## Article 20

(1) When, according to the law, rehabilitation sets in after a specific time limit has elapsed, and provided that a final conviction has not been handed down against the convicted person in relation to a new criminal offence in the said period, the Ministry shall pass a decision on rehabilitation *ex officio*.

(2) If the Ministry does not have the information based on which it could make a proper decision on the occurrence of rehabilitation, it shall instruct the applicant to submit the request to the court of first instance, which shall decide thereon after receiving the position of the competent State Attorney General if the proceedings were conducted at his request.

## Article 21

(1) If the Ministry does not issue a decision on rehabilitation, a person whose information is contained in criminal records may require that it be established that rehabilitation has occurred according to the law.

(2) If the Ministry declines the request or does not decide on the request within 30 days from the date the request was submitted, the person concerned has the right to initiate an administrative dispute.

## Title IV

### INTERNATIONAL TRANSMISSION OF INFORMATION FROM CRIMINAL RECORDS

#### PART ONE

#### GENERAL PROVISIONS

##### *Transmission of information from criminal records to non-EU states*

## Article 22

Information from criminal records shall be transmitted to countries outside the European Union in accordance with the provisions of international treaties, and if such treaties do not exist, pursuant to the Act on International Legal Assistance in Criminal Matters.

##### *Transmission of information from criminal records to EU Member States*

## Article 23

(1) Information on natural persons from criminal records shall be transmitted to Member States of the European Union (hereinafter: EU) in accordance with the provisions of Articles 23 – 34 of this Act.

(2) Information from criminal records shall be transmitted to Member States of the European Union in accordance with the provisions of international treaties, and if such treaties do not exist, pursuant to the Act on International Legal Assistance in Criminal Matters.

*The manner of transmission of information from criminal records*

Article 24

(1) Information from criminal records shall be transmitted to other EU Member States electronically by means of a criminal records database linked into the European Criminal Records Information System (ECRIS).

(2) Information from criminal records shall be submitted to EU Member States in line with the forms and categories (standardised formats) set out in EU regulations.

*Language*

Article 25

(1) A request of the central authority of an EU Member State to receive information from criminal records shall be submitted to the Ministry in the Croatian language, except in emergency situations, when the Ministry shall accept a request made in the English language.

(2) The Ministry shall transmit a reply to the request under paragraph 1 of this Article in the Croatian language.

(3) The Ministry shall transmit the request for information from criminal records to the central authority of an EU Member State in the official language or one of the official languages of the state concerned, or in one of the official languages of the EU institutions that has been adopted by the state in question.

PART TWO

UNSOLICITED TRANSMISSION OF INFORMATION FROM CRIMINAL RECORDS

*Unsolicited transmission of information on convictions to another Member State*

Article 26

(1) Following entry in criminal records, the Ministry shall immediately transmit to the central authority of an EU Member State the information on the conviction handed down on the territory of the Republic of Croatia, as well as any subsequent alteration or deletion of information from criminal records, in respect of a person who is a national of the Member State in question.

(2) If the Ministry knows that a convicted person has the nationality of several Member States, including the nationality of the Republic of Croatia, information on the conviction shall be transmitted to the central authority of each of the Member States concerned.

(3) When the Ministry considers that the information on such a conviction may not be transmitted for any purposes other than that of criminal proceedings, it shall, when acting in line with the provisions of paragraphs 1 and 2 of this Article, simultaneously notify thereof the central authority of the Member State of the convicted person's nationality.

(4) The Ministry shall, after acting in accordance with paragraphs 1 or 2 of this Article and upon a subsequent request of the central authority of the EU Member State of the person's nationality, transmit a copy of the conviction as well as all other necessary information to allow the authority of the Member State concerned to consider whether a measure is needed in relation to the person in question at the national level.

#### Article 27

(1) When acting in accordance with Article 26 of this Act, the Ministry shall transmit information under Article 6 of this Act.

(2) The Ministry shall, if such information is entered in criminal records, submit the following information: the convicted person's parents' names, the reference number and designation of the conviction, the place of the offence, and the legal consequences of the conviction.

(3) The Ministry shall, if such information is available, transmit the following information: the number and type of the convicted person's identification document, the convicted person's fingerprints, nickname, pseudonym or alias name(s) used by the convicted person.

#### *Obligation to store information transmitted by EU Member States*

#### Article 28

(1) The Ministry shall store information from criminal records on a citizen of the Republic of Croatia that has been transmitted by the central authority of an EU Member State for the purpose of their further transmission under Articles 29, 30 and 31 of this Act. The obligation to store information shall apply to information referred to in Article 27 of this Act.

(2) The Ministry shall change or delete stored information under paragraph 1 of this Article when the central authority of an EU Member State notifies it of changes or deletion.

(3) For the purpose of further information transmission, the Ministry shall use only the information aligned with the notification referred to in paragraph 2 of this Article.

### PART THREE

#### SOLICITED TRANSMISSION OF INFORMATION FROM CRIMINAL RECORDS

##### Request for information extracted from the criminal record of another Member State

#### Article 29

(1) At the request of the court or the State Attorney's Office for the purposes of criminal proceedings or enforcement of criminal penalties against a person who is a national of an EU

Member State, the Ministry shall send a request for information from criminal records to the central authority of the Member State concerned.

(2) After receiving a request to issue a general or a special certificate under Articles 11 and 13 of this Act in relation to a person who is a national of an EU Member State, the Ministry shall send a request for information from criminal records to the central authority of the Member State concerned.

(3) A natural person who is a national of the Republic of Croatia can request from the Ministry to send to the central authority of a Member State a request for data and related information from criminal records pertaining to the person in question.

(4) A natural person who is a national of an EU Member State may request from the Ministry to send to the central authority of the Member State of the person's nationality a request for data and related information from criminal records pertaining to the person in question.

(5) The persons referred to in paragraphs 3 and 4 of this Article shall have the right to ask for themselves to examine the information from the criminal records of EU Member States in a manner provided for in Article 12 of this Act.

(6) A request for information from criminal records and information under Article 27, paragraphs 2 and 3 of this Act shall be submitted on the prescribed form.

*Reply to the request for information extracted from criminal records for the purposes of criminal proceedings*

#### Article 30

At the request of the central authority of an EU Member State for information from criminal records on a national of the Republic of Croatia for the purposes of criminal proceedings or enforcement of criminal penalties, the Ministry shall transmit:

- a) information on convictions handed down in the Republic of Croatia;
- b) information on convictions handed down in another Member State, which has been transmitted to the Ministry after the entry into force of Title IV of this Act and stored in accordance with Article 28 of this Act;
- c) information on convictions handed down in another Member State, which has been transmitted to the Ministry prior to the entry into effect of Title IV of this Act and entered in criminal records;
- d) information on convictions handed down in a third country, which has been entered in criminal records.

*Reply to the request for information extracted from criminal records for the purposes other than that of criminal proceedings*

#### Article 31

(1) At the request of the central authority of an EU Member State for information from criminal records on a national of the Republic of Croatia for the purposes other than that of criminal proceedings or enforcement of criminal penalties, the Ministry shall transmit information under Article 30 of this Act if the requirements for the transmission of a general or special certificate under Articles 11 and 13 of his Act have been met.

(2) Notwithstanding paragraph 1 of this Article, the Ministry shall transmit only information under Article 30, items a), c) and d) of this Act if, when receiving information under Article 30, item b), it was notified by the central authority of the other Member State of the prohibition to transmit it further for the purposes other than that of criminal proceedings or enforcement of criminal penalties, and shall refer the central authority of the requesting EU Member State to the EU Member State that has transmitted such notification about prohibition of transmission.

### *Restrictions in specific circumstances*

#### Article 32

(1) When receiving a request of a third state for information from criminal records pertaining to a national of the Republic of Croatia, the Ministry may transmit information relating to convictions that has been transmitted by EU Member States only if the restrictions set out in Articles 30 and 31 of this Act are complied with.

(2) When receiving a request of the central authority of an EU Member State for information from criminal records pertaining to a person who is not its national, the Ministry shall, pursuant to Article 13 of the European Convention on Mutual Assistance in Criminal Matters, transmit:

a) information from criminal records on convictions handed down on the territory of the Republic of Croatia,

b) information from criminal records on convictions handed down against third country nationals or stateless persons.

### *Time limits and the form for replying to a request*

#### Article 33

(1) The Ministry shall transmit a reply to the requests of the central authority of an EU Member State under Articles 30 and 31 of this Act immediately and at any event within a period not exceeding 10 working days from the date the request was received.

(2) If more information is required to determine the identity of the person to whom the request relates, the Ministry shall immediately consult the central authority of the requesting Member State, and a reply to the request shall be transmitted within 10 working days from the date the additional information is received.

(3) The Ministry shall transmit replies to the requests of the central authority of an EU Member State at the request of a natural person to obtain information from criminal records within 20 working days from the date the request was received.

(4) Replies to the requests for information from criminal records shall be transmitted on the prescribed form along with a list of convictions.

### *The use of personal data*

#### Article 34

(1) Personal data transmitted by the central authority of an EU Member State at the Ministry's request for information from criminal records for the purposes of criminal proceedings or enforcement of criminal penalties may be used only for the purposes for which they were requested and within the limitations specified in the reply to a request.

(2) Personal data transmitted by the central authority of an EU Member State at the Ministry's request for information from criminal records for any purposes other than that of criminal proceedings or enforcement of criminal penalties may be used only for the purposes for which they were requested and within the limitations specified in the reply to a request.

(3) Notwithstanding paragraphs 1 and 2 of this Article, personal data transmitted to the Ministry may be used for purposes other than those specified in the request for information from criminal records for preventing an immediate threat to the constitutional order and public security.

#### Title V

### TRANSITIONAL AND FINAL PROVISIONS

#### Article 35

The minister competent for the judiciary shall prescribe the appearance and content of forms under Article 15, paragraph 1, Article 24, paragraph 2, Article 29, paragraph 6 and Article 33, paragraph 4 of this Act in an ordinance, which shall be issued within three months from the entry into effect of this Act.

#### Article 36

With the entry into effect of this Act, the following shall cease to have effect:

- the provisions of Articles 9, 84, 85 and 86 of the Criminal Code (OG 110/97, 27/98, 50/00, 129/00, 51/01, 11/03, 190/03, 105/04, 84/05, 71/06, 110/07, 152/08 and 57/11), and
- the Ordinance on criminal records (OG 92/09 and 108/09 – corrigendum).

#### Article 37

This Act shall be published in the Official Gazette and shall enter into force on 1 January 2013, with the exception of Title IV, which shall enter into force on the day of accession of the Republic of Croatia to the European Union.

Class: 740-02/12-01/02

Zagreb, 7 December 2012

THE CROATIAN PARLIAMENT

The President  
of the Croatian  
Parliament

**Josip Leko, m. p.**

PROVISIONAL TRANSLATION