

# 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 AMENDMENTS TO THE MISDEMEANOUR ACT

I hereby promulgate the Act on Amendments to the Misdemeanour Act, passed by the Croatian Parliament at its session on 22 March 2013.

Class: 011-01/13-01/59

Reg. No.: 71-05-03/1-13-2

Zagreb, 27 March 2013

The President  
of the  
Republic of Croatia

**Ivo Josipović, m. p.**

## ACT

### ON AMENDMENTS TO THE MISDEMEANOUR ACT

#### Article 1

In the Misdemeanour Act (Official Gazette 107/07), Article 1 shall be amended to read as follows:

»Misdemeanours and misdemeanour sanctions shall be prescribed only for such conduct as violates or jeopardises the public order, social discipline and social values guaranteed and protected by the Constitution of the Republic of Croatia, international law and statutes in such a way that it is not possible to protect them without reverting to misdemeanour sanctioning and whose protection is not ensured by criminal coercion.«

#### Article 2

After Article 1, there shall be inserted the following Article 1a:

»Article 1a

This Act contains provisions aligned with the following European Union acts:

- Directive 2010/64 of 20 October 2010 on the right to interpretation and translation in criminal proceedings;
- Directive 2012/13/EU of 22 May 2012 on the right to information in criminal proceedings.«.

### Article 3

The title preceding Article 3 shall be amended to read as follows: »Principle of application of the more lenient law and temporal validity of misdemeanour legislation«.

Article 3 shall be amended to read as follows:

»(1) Such law applies to a perpetrator as was in force at the time of commission of a misdemeanour.

(2) If, after a misdemeanour is committed and before a final misdemeanour decision is made, a law is amended once or a number of times, such law as is the most lenient to the perpetrator shall apply.

(3) Where in the cases referred to in paragraph 2 of this Article the name or description of a misdemeanour or the name of a law is amended, the court shall assess whether there is legal continuity by subsuming the facts under the statutory definition of the relevant misdemeanour set out in the new law and where it establishes that legal continuity exists, it shall apply the law that is more lenient to the perpetrator. In the absence of legal continuity, there shall be no misdemeanour.

(4) If a law is amended in the course of commission of a misdemeanour, the law that was in force at the time of completion of the act shall apply.

(5) A law that is to be in force only for a particular pre-determined period of time or for a period of time that is determinable in advance shall apply to misdemeanours committed in this period of time even after it ceases to have effect, unless such law provides otherwise.«.

### Article 4

The title preceding Article 10 shall be amended to read as follows: »Exclusion of the application of misdemeanour law in special cases«.

Article 10 shall be amended to read as follows:

»Where a criminal proceeding has been instituted against a perpetrator of a misdemeanour for a criminal offence that encompasses this misdemeanour, a misdemeanour proceeding cannot be instituted for this misdemeanour and if it has already been instituted, it cannot resume.«.

### Article 5

Article 12 shall be amended to read as follows:

»(1) The misdemeanour law of the Republic of Croatia shall apply to whoever commits a misdemeanour in its territory.

(2) A special statute may prescribe the application of misdemeanour law of the Republic of Croatia also in the part of the sea in which the Republic of Croatia has particular sovereign rights and jurisdiction.

(3) A misdemeanour proceeding shall be conducted for a misdemeanour laid down by decision of a unit of local or regional self-government if the misdemeanour in question is committed in the territory of that unit of local or regional self-government.«.

#### Article 6

The title preceding Article 13 shall be amended to read as follows: »Statute of limitations for misdemeanour prosecution«.

Article 13 shall be amended to read as follows:

»(1) Misdemeanour prosecution shall become statute barred upon expiry of four years.

(2) Misdemeanour prosecution of misdemeanours for which the authorised prosecutor is required to issue a misdemeanour warrant shall become statute barred upon expiry of three years.

(3) Legislation on limitation periods shall also apply to disciplinary punishment during misdemeanour proceedings.«.

#### Article 7

After Article 13 there shall be inserted the following title and Article 13a:

*»Running of the statute of limitations for misdemeanour prosecution*

#### Article 13a

The period of limitation for misdemeanour prosecution shall start to run on the day a misdemeanour is committed.«.

#### Article 8

The title preceding Article 14 shall be amended to read as follows: »Statute of limitations for enforcement of misdemeanour sanctions«.

Article 14 shall be amended to read as follows:

»(1) An imposed misdemeanour sanction cannot be enforced upon expiry of three years from when the decision imposing it becomes final.

(2) It shall not be possible to enforce the protective measure of mandatory addiction treatment referred to in Article 53 of this Act after the expiry of the statute of limitations for enforcing

the penalty with which such measure has been imposed or upon expiry of the probation period referred to in the suspended sentence.

(3) The provisions on the limitation periods for the enforcement of misdemeanour sanctions shall also apply to the limitation periods for the enforcement of disciplinary penalties imposed by the court in the course of proceedings.«.

#### Article 9

After Article 14 there shall be inserted the following Articles 14a, 14b and 14c preceded by their respective titles:

*»Running of the statute of limitations for enforcement of misdemeanour sanctions*

#### Article 14a

(1) The statute of limitations for enforcing a misdemeanour sanction shall start to run on the day the decision imposing the misdemeanour sanction becomes final. Where a suspended sentence of imprisonment is revoked, the statute of limitations shall start to run on the day the revocation judgement becomes final.

(2) The periods of limitation for enforcing a sentence of imprisonment, community service at liberty, and imprisonment for failure to pay a fine and the periods of limitation for enforcing protective measures shall not run during their enforcement.

*Statute of limitations for enforcing the confiscation of a pecuniary advantage, seizure of items and the costs of a misdemeanour proceeding*

#### Article 14b

Enforcement of a decision on the confiscation of a pecuniary advantage, seizure of items, or costs of a misdemeanour proceeding shall become statute barred upon expiry of five years from the day the decision thereon becomes final.

*Application of limitation periods*

#### Article 14c

To the statutes of limitations for misdemeanour prosecution and enforcement of misdemeanour sanctions the limitation periods as set down at the time of commission of a misdemeanour shall apply.«.

#### Article 10

After Article 24, there shall be inserted the following title and Article 24a:

*»Trivial misdemeanour*

#### Article 24a

There shall be no misdemeanour despite its essential elements having been realised if the degree to which the public order, social discipline and social values have been endangered or violated is insignificant and there is no need to punish the perpetrator.«

## Article 11

Article 34 shall be amended to read as follows:

»(1) If a fine, the costs of a misdemeanour proceeding, and the confiscated pecuniary advantage are not paid in full or in part within the time limit set in the misdemeanour decision, they shall be collected forcibly, unless this Act provides otherwise.

(2) Any fine of over HRK 2,000.00 imposed on a convicted natural person which is not even forcibly collected in full or in part within two years from the filed forcible collection request shall be replaced with community service.

(3) If a convicted person does not agree to do community service or fails to complete their community service through their own fault within the time limit set therefor, a sentence of imprisonment shall be substituted for the fine.

(4) By way of exception, where the severity of a misdemeanour and the convicted person's personality traits point to the purpose of punishment not being achieved, in the case referred to in paragraph 1 of this Article, by substituting community service at liberty for a fine, a convicted natural person shall see their outstanding fine of over HRK 2,000.00 immediately replaced with a sentence of imprisonment.

(5) When a defendant who is not domiciled or permanently resident in the Republic of Croatia fails to pay a fine within the time limit set in a misdemeanour decision, the fine shall be replaced immediately with a sentence of imprisonment.

(6) Any outstanding fine shall be substituted for so that each three hundred kuna of a fine or, in the case of a smaller fine amount or a remainder of less than three hundred kuna, such smaller amount shall be replaced with two hours of community service or one day of imprisonment, in which case community service shall not be imposed for less than six hours or more than 240 hours, and imprisonment for less than three days or more than 60 days.

(7) Where a convicted person pays a fine after the decision on its replacement becomes final, enforcement of community service or the sentence of imprisonment shall cease. In the case of partial payment, only the remainder of community service or sentence of imprisonment shall be enforced.

(8) There shall be no remuneration paid for community service.

(9) If a misdemeanour decision has not been made by the court, the fine replacement decision shall be made by the court having jurisdiction, upon proposal of the body that made the misdemeanour decision.«

## Article 12

Article 37 shall be amended to read as follows:

»(1) Where this Act expressly provides therefor, the court may impose a sentence less severe than the one prescribed for a particular misdemeanour.

(2) The court may impose a sentence less severe than the one prescribed for a particular misdemeanour also in the case of particularly mitigating circumstances, in particular if the perpetrator makes up with the injured party or pays compensation in full or for the most part for the damage caused by the misdemeanour and where the purpose of punishment can also be achieved by such a less severe penalty.

(3) The court may mitigate a penalty in accordance with paragraphs 1 and 2 of this Article by taking into account the following penalty mitigation limits:

1. if a misdemeanour is punishable by a fine of up to HRK 40,000.00 or a fine whose exact amount is less than HRK 40,000.00 or whose minimum amount is up to HRK 10,000.00, the penalty may be mitigated to the general statutory minimum penalty amount prescribed by this Act for the corresponding type of defendant (Article 33 of this Act);

2. if a misdemeanour is punishable by a minimum fine amount of over HRK 10,000.00 or by an exact fine amount of more than HRK 40,000.00, the penalty may be mitigated to four times the general statutory minimum penalty amount prescribed by this Act for the corresponding type of defendant (Article 33 of this Act);

3. if a misdemeanour is punishable by imprisonment, the penalty may be mitigated to the general statutory minimum prison sentence prescribed by this Act.«.

#### Article 13

Article 38 shall be amended to read as follows:

»(1) The court shall grant a discharge if the law expressly provides therefor.

(2) The court may grant a discharge:

1. if a perpetrator of a misdemeanour is so affected by the consequences of the misdemeanour that it is not necessary to punish them in order to achieve the purpose of punishment;

2. if a perpetrator makes the consequences of a misdemeanour disappear or reduces them or compensates for the damage caused by a misdemeanour, or pays or fulfils the prescribed obligation on account of whose non-payment or non-fulfilment the misdemeanour proceeding has been instituted;

3. when the perpetrator makes up with the injured party and compensates for the damage.«.

#### Article 14

The title preceding Article 40 shall be amended to read as follows: »Crediting deprivation of liberty towards the penalty«.

Article 40 shall be amended to read as follows:

»(1) Time spent under arrest, in detention and any other deprivation of liberty relating to a misdemeanour shall be credited towards the imposed sentence of imprisonment, juvenile imprisonment or fine.

(2) Crediting shall equate each started day of arrest, detention or any other deprivation of liberty, or each three hundred kuna of fine or, in the case of a smaller fine amount or a remainder of less than three hundred kuna, such amount with one day of imprisonment.«.

#### Article 15

The title preceding Article 45 shall be amended to read as follows: »Special obligations accompanying a suspended sentence«.

Article 45 shall be amended to read as follows:

»(1) In addition to imposing a suspended sentence, the court may order a perpetrator to do or not do the following within a particular time period:

1. make good the loss caused by a misdemeanour;
2. undergo or continue to undergo treatment necessary to resolve such health issues as might incite the commission of a new misdemeanour;
3. undergo or continue to undergo alcohol or drug addiction treatment or treatment for other types of addiction at a medical or another specialised institution or addiction treatment in a therapeutic community;
4. participate or continue to participate in psychosocial treatment procedures at a health institution or a legal entity or with a natural person authorised to provide psychosocial treatment;
5. not frequent particular places, facilities and events that might provide an opportunity for or incite the commission of a new misdemeanour;
6. not to approach the injured party or some other persons;
7. leave their home for a particular period of time in the case of domestic violence;
8. regularly report to a police directorate or another competent authority;
9. fulfil any other obligations as are appropriate with respect to the committed misdemeanour.

(2) A perpetrator shall not be imposed obligations that are unreasonable or impossible to fulfil or obligations that insult their dignity.«.

#### Article 16

After Article 45 there shall be inserted the following title and Article 45a:

*»Imposition of special obligations*

Article 45a

(1) The court may impose the special obligations referred to in Article 45 of this Act where it assesses that their application is necessary for the purpose of protecting the health and safety of the person against whom a misdemeanour has been committed or where this is necessary for eliminating such circumstances as might facilitate or incite the commission of a new misdemeanour.

(2) The obligations referred to in Article 45, paragraph 1, points 2 and 3, of this Act may be imposed only with the perpetrator's consent.

(3) The time period referred to in Article 45, paragraph 1, of this Act, i.e., the duration of special obligations, shall not exceed the probation period, and the obligations referred to in Article 45, paragraph 1, points 3 and 4, of this Act may be imposed for a period of up to one year.«.

Article 17

Article 47 shall be deleted.

Article 18

Article 48 shall be deleted.

Article 19

Article 49 shall be deleted.

Article 20

Article 50 shall be amended to read as follows:

»(1) Protective measures shall include:

1. mandatory addiction treatment;
2. prohibition against performing a particular duty or engaging in a particular activity;
3. prohibition against a legal entity engaging in a particular activity or performing a particular task;
4. prohibition against obtaining a licence, authorisation, concession, or subsidy;
5. prohibition against doing business with the beneficiaries of the state or local budgets;
6. prohibition to drive a motor vehicle.

(2) In addition to the protective measures referred to in paragraph 1 of this Article, the statute prescribing a particular misdemeanour may prescribe additional types of protective measures.



(3) The protective measures referred to in paragraph 1 of this Article may be imposed for a period of between one month and two years, and the protective measures referred to in paragraph 2 of this Article for a period of between one month and one year.

(4) Any protective measure applicable to a natural person-defendant shall likewise apply to the responsible person in a legal entity, craftsperson and another sole trader.«.

#### Article 21

After Article 51, there shall be inserted the following title and Article 51a:

#### *»Principle of proportionality*

#### Article 51a

A protective measure may not be imposed unless it is proportional to the gravity of the committed misdemeanour and the misdemeanours to be expected and the degree of risk posed by the perpetrator.«.

#### Article 22

Article 52 shall be deleted.

#### Article 23

Article 53 shall be amended to read as follows:

»(1) The court may impose the protective measure of mandatory addiction treatment for a period of between one month and one year on a defendant who committed a misdemeanour under the decisive influence of alcohol or drug addiction or other type of addiction where there is a risk that as a result of such addiction they might commit a misdemeanour in the future.

(2) The protective measure referred to in paragraph 1 of this Article may be imposed in addition to a fine, imprisonment, juvenile imprisonment and suspended sentence.

(3) The protective measure referred to in paragraph 1 of this Article, imposed alongside imprisonment or juvenile imprisonment, or imprisonment substituted for a fine, shall be applied within the framework of the prison system or in a medical or another specialised addiction treatment institution outside the prison system under the conditions laid down by a special regulation. A measure imposed alongside a fine and suspended sentence, or community service substituted for a fine, shall be enforced in a medical or another specialised addiction treatment institution outside the prison system and may, under the conditions laid down by a special regulation, also be enforced in a therapeutic community where such addiction treatment is sufficient to eliminate the risk.

(4) Where the protective measure referred to in paragraph 1 of this Article is imposed for a period of time that is longer than the imposed prison sentence, juvenile prison sentence, community service or imprisonment substituted for a fine, its enforcement shall resume at a

medical or another specialised addiction treatment institution outside the prison system under the conditions laid down by a special regulation.

(5) The court may suspend further enforcement of the protective measure referred to in paragraph 1 of this Article even before expiry of the period for which it was imposed if it establishes that the reasons for which it was imposed no longer exist or if its enforcement up to that moment as well as its future enforcement are not promising. This may be established by the court at the request of the institution at which the protective measure is being enforced or at the defendant's request.«.

#### Article 24

The title preceding Article 54 shall be amended to read as follows: "Prohibition against performing a particular duty or engaging in a particular activity«.

Article 54 shall be amended to read as follows:

»(1) The court may impose the protective measure of prohibition against full or partial performance of a particular duty or engagement in a particular activity for a period of between one month and one year on a defendant who has committed a misdemeanour in performing a duty or engaging in an activity if there is a risk that through abuse of such duty or activity they might recommit a misdemeanour.

(2) Time spent serving a prison sentence, doing community service or serving a prison sentence as a substitute for an unpaid fine shall not be credited towards the duration of this measure.

(3) For the duration of the prohibition referred to in paragraph 1 of this Article a convicted person may not perform a particular duty or engage in a particular activity either independently, for another person, in a legal entity, or on behalf of another person, nor may they authorise another person to perform this duty or engage in this activity on their behalf and on their instruction.

(4) If a perpetrator fails to observe the prohibition against performing a particular duty or engaging in a particular activity where such prohibition is imposed alongside a suspended sentence, it may be proceeded in accordance with Article 46, paragraph 4, of this Act.

(5) Of the finally imposed measure the court shall inform the body responsible for keeping a record of persons performing a particular duty or engaging in a particular activity.

(6) The protective measure referred to in paragraph 1 of this Article cannot be imposed upon a juvenile.«.

#### Article 25

Article 55 shall be amended to read as follows:

»(1) The court may impose the protective measure of prohibition against engaging in full or in part in a particular activity or performing in full or in part a particular task for a period of between three months and one year on a legal entity-defendant that has committed a

misdemeanour in engaging in an activity or performing a task if there is a risk that by engaging in such activity or performing such task it might recommit a misdemeanour.

(2) Of the finally imposed measure the court shall inform the court having jurisdiction with which the legal entity in question is registered in the commercial register.

(3) The prohibition against engaging in a particular activity or performing a particular task may not be imposed on a unit of local or regional self-government or on a political party.

(4) Article 54, paragraph 3, of this Act shall apply accordingly to the measure of prohibition against engaging in a particular activity or performing a particular task.«.

#### Article 26

After Article 55, there shall be inserted the following titles and their respective Articles 55a and 55b:

*»Prohibition against obtaining a licence, authorisation, concession, or subsidy*

#### Article 55a

(1) The court may impose the protective measure of prohibition against obtaining in full or in part a licence, authorisation, concession, or subsidy for a period of between three months and a year on a legal entity-defendant that has committed a misdemeanour in the process of obtaining a licence, authorisation, concession, or subsidy, or their use, where there is a risk that by obtaining a licence, authorisation, concession, or subsidy it might recommit a misdemeanour.

(2) Of the finally imposed measure the court shall inform the competent authorities responsible for issuing licences, authorisations, concessions or subsidies.

*Prohibition against doing business with the beneficiaries of the state or local budgets*

#### Article 55b

(1) The court may impose the protective measure of prohibition against doing any or some business with the beneficiaries of the state or local budgets for a period of between three months and a year on a legal entity-defendant that has committed a misdemeanour in the process of doing business with the beneficiaries of the state or local budgets where there is a risk that by doing business with the beneficiaries of the state or local budgets it might recommit a misdemeanour.

(2) Of the finally imposed measure the court shall inform the court having jurisdiction with which the legal entity is registered in the commercial register.«.

#### Article 27

Article 56 shall be deleted.

#### Article 28

Article 57 shall be deleted.

#### Article 29

Article 58 shall be amended to read as follows:

»(1) The court may impose the protective measure of prohibition to drive a motor vehicle for a period of between one month and two years on a perpetrator of a misdemeanour against traffic safety where there is a risk that by driving a motor vehicle they might endanger traffic safety. The prohibition shall be imposed in respect of all or some types or categories of motor vehicles.

(2) The measure referred to in paragraph 1 of this Article shall start to run on the day after the defendant is properly served by the competent authority with the notice of registration of the imposed measure in the record of issued driving licences. Service of a prison term shall not be credited towards the duration of the measure.

(3) If the defendant fails to comply with the prohibition referred to in paragraph 1 of this Article when such prohibition is imposed alongside a suspended sentence, the court may proceed as provided in Article 46, paragraph 4, of this Act.

(4) The period of temporary surrender of a driving licence shall be credited towards the duration of prohibition to drive a motor vehicle.

(5) The prohibition to drive a motor vehicle imposed on a convicted person holding a foreign driving licence shall mean the prohibition against such person either using the foreign driving licence in the territory of the Republic of Croatia or being issued a Croatian driving licence. If the judgement imposing such measure is not appealed, the measure shall start to run from the day the judgement becomes final. If such judgement is appealed to the court of appeal, the measure shall start to run from when the second-instance decision is properly served on the convicted person.«.

#### Article 30

In Article 72, paragraph 2, the word: »ten« shall be replaced by the word: »fifteen«.

In paragraph 3, the word: »may« shall be replaced by the word: »must«.

#### Article 31

The title of the Tenth Title shall be amended to read as follows:

»Tenth Title (X)

**CONFISCATION OF A PECUNIARY ADVANTAGE, SEIZURE OF ITEMS,  
REHABILITATION, DATA CONTAINED IN THE MISDEMEANOUR  
RECORD AND LEGAL CONSEQUENCE OF CONVICTION«**

The title preceding Article 76 shall be amended to read as follows: »Conditions for and manner of confiscating a pecuniary advantage«.

Article 76 shall be amended to read as follows:

"(1) A pecuniary advantage shall be confiscated on the basis of a court decision establishing the commission of a misdemeanour. A pecuniary advantage shall be confiscated also from whoever it has been transferred to if it has not been obtained in good faith.

(2) If the injured party is awarded damages in a civil claim which by its nature and content correspond to the pecuniary advantage obtained, such part of the pecuniary advantage as exceeds the awarded damages in the civil claim shall be confiscated.

(3) The court shall confiscate a pecuniary advantage also in cases where it instructs the injured party to bring a civil action for damages.

(4) Where the impossibility of confiscating in full or in part the things or rights obtained as a pecuniary advantage is established, the court shall bind the defendant to pay the corresponding monetary countervalue. If so specified, payments may be made in instalments.

(5) A confiscated pecuniary advantage shall not be reduced by the amount of funds invested in a criminal activity.

(6) A special statute may provide for the manner of calculating the pecuniary advantage obtained from a misdemeanour.«.

#### Article 32

After Article 76, there shall be inserted the following title and Article 76a:

#### *»Seizure of items*

#### Article 76a

(1) Any item or another means intended for use or used in the commission of a misdemeanour or which has come into existence as a result of the commission of a misdemeanour shall be seized whenever there is a risk of their being reused in committing a misdemeanour. Any item or another means may be seized by the court also in cases where such seizure is necessary for the purpose of protecting public safety, order, health or morals.

(2) Whenever the conditions referred to in paragraph 1 of this Article are met, the court shall seize an item or another means also in cases where a proceeding is not ended by a judgement of conviction.

(3) Any such item as under the law a defendant or another person may not have in their possession, or whose possession or trade is prohibited or limited, or which, although intended for trade, may be marketed only subject to special conditions (with control stamps and the like) shall be seized also in cases where a proceeding is not ended with a judgement of conviction. Upon motion of the authorised prosecutor, the court may order its destruction even before the proceeding is ended.

(4) Any item or means seized shall become the property of the Republic of Croatia. This shall not prejudice the right of third parties to receive compensation from a perpetrator for an item or means seized. The owner of an item or means seized who is not the perpetrator of an act shall be entitled to have the item or means returned to them or to receive its market value compensation out of the state budget provided they did not contribute, by acting with at least gross negligence, to the item or means being intended or used for the commission of a misdemeanour or to its coming into existence as a result of the commission of a misdemeanour or provided they did not gain possession of it while knowing of the circumstances allowing for its seizure.

(5) Unless a special statute provides otherwise, the law may provide for the mandatory seizure of an item or means, in which case its owner shall not be entitled to compensation out of the state budget.

(6) Upon motion of the authorised prosecutor, the court may order the destruction of an item or means even before a proceeding ends where it has established that such item or means represents a direct threat to life and health.«

#### Article 33

In Article 87, paragraph 5 shall be amended to read as follows:

"(5) An alien detained on suspicion of having committed a misdemeanour, or in custody, investigative prison or prison for a criminal offence, or deprived of liberty for some other reason may, from the start of a proceeding to its end, submit briefs to the court in their own language.«

After paragraph 5, there shall be inserted the following paragraph 6:

»(6) Before being interrogated for the first time, the person referred to in paragraph 5 of this Article shall be informed of their right to interpretation and translation. They may waive such right if they know the language of the proceeding. Such instruction and the participant's statement shall be noted for the record.«

#### Article 34

Article 94 shall be amended to read as follows:

»(1) Misdemeanour courts shall have jurisdiction to:

1. try in the first instance all misdemeanours except those over which under a statute state administration bodies have jurisdiction;
2. decide on objections to misdemeanour warrants of all authorised issuers where such objections concern the decision on the misdemeanour sanction, costs of a proceeding, confiscation of a pecuniary advantage, or seizure of an item;
3. decide on appeals solely concerning the decision on the misdemeanour sanction, costs of a proceeding, confiscation of a pecuniary advantage, or seizure of items, or appeals against misdemeanour decisions of courts or other authorities conducting proceedings in respect of

only such misdemeanours or jointers of misdemeanours as are punishable only by a fine of up to HRK 15,000.00;

4. decide on petitions for the reopening of a misdemeanour proceeding:

a) in cases that were heard by them;

b) against final misdemeanour warrants of authorised prosecutors in cases where the misdemeanour falls within the court's subject-matter jurisdiction; and

c) against all final mandatory misdemeanour warrants.

5. provide legal assistance under the provisions of international treaties and this Act;

6. perform any other tasks provided for by law.

(2) The courts having subject-matter and territorial jurisdiction to decide the cases referred to in paragraph 1, points 2 and 3 of this Article, shall include the misdemeanour courts in Osijek, Rijeka, Split and Zagreb:

1. the Misdemeanour Court in Osijek shall also have jurisdiction over the territories of the misdemeanour courts in Osijek-Baranja County, Brod-Posavina County, Vukovar-Srijem County, and Požega-Slavonia County;

2. the Misdemeanour Court in Rijeka shall also have jurisdiction over the territories of the misdemeanour courts in Primorje-Gorski Kotar County, Lika-Senj County, and Istra County;

3. the Misdemeanour Court in Split shall also have jurisdiction over the territories of the misdemeanour courts in Split-Dalmatia County, Zadar County, Šibenik-Knin County, and Dubrovnik-Neretva County;

4. the Misdemeanour Court in Zagreb shall also have jurisdiction over the territories of the misdemeanour courts in the City of Zagreb, Zagreb County, Krapina-Zagorje County, Sisak-Moslavina County, Karlovac County, Varaždin County, Koprivnica-Križevci County, Bjelovar-Bilogora County, Virovitica-Podravina County, and Međimurje County.

(3) In the case of misdemeanours referred to in paragraph 1, point 3, of this Article, committed by legal entities and the responsible persons in them, the misdemeanour court shall have jurisdiction to decide on an appeal only if the conditions set out in the said provisions are met with respect to the misdemeanour committed by a legal entity.

(4) The court which under paragraph 1, points 2 and 3, of this Article decides on objections or appeals shall also have jurisdiction to decide on appeals against decisions whereby the issuer of a misdemeanour warrant rejects an objection as untimely, inadmissible or incomplete and appeals against decisions whereby the authority making the misdemeanour decision rejects an appeal as untimely, inadmissible or incomplete.«

#### Article 35

In Article 95, point 1 shall be amended to read as follows:

»1. decide in the second instance on appeals against judgements and decisions of misdemeanour courts, state administration bodies conducting misdemeanour proceedings and authorised prosecutors, as well as other decisions where the law so provides, unless this Act provides otherwise;«.

#### Article 36

Article 97 shall be amended to read as follows:

»(1) Unless this Act provides otherwise, in misdemeanour courts decisions shall be taken by a single judge.

(2) The decision referred to in Article 94, paragraph 1, points 2 and 3, shall be taken by a three-judge panel which shall not include the judge who issued the misdemeanour warrant or delivered the judgement.

(3) Unless the law provides otherwise, the High Misdemeanour Court of the Republic of Croatia shall decide in three-judge panels.«.

#### Article 37

After Article 109, there shall be inserted the following Articles 109a, 109b, 109c, 109d and 109e:

##### »Article 109a

(1) Before filing a motion to indict against a perpetrator of a misdemeanour with the court having jurisdiction or another authority conducting a proceeding, the authorised prosecutor referred to in Article 109, paragraph 1, points 1 through 3, of this Act shall be required, except in the case referred to in Article 134, paragraphs 1 through 3, and Article 136 of this Act, to establish the exact domicile and residence or registered office of the perpetrator and to serve on them a written notice in the language the perpetrator understands whereby they shall inform the perpetrator:

1. of the misdemeanour in respect of which the authorised prosecutor intends to file a motion to indict against them, including the factual and statutory description of the misdemeanour in question;
2. that in the course of the proceeding they may freely put forward their defence orally or in writing, withhold their defence or answer to a particular question;
3. of their right to examine, at the authority conducting the proceeding, the case file and acquaint themselves with evidence against them;
4. that they may defend themselves in the proceeding or have defence counsel of their choosing defend them in the proceeding but that if defence counsel fails to attend the trial or hearing or they retain counsel as late as at the hearing, the trial or hearing will not be adjourned;



5. that during the course of the proceeding they may file motions for the taking of evidence in their defence;

6. that the trial before the authority conducting the proceeding may also be held in their absence and a misdemeanour decision taken;

7. that until the final decision in the proceeding is made and the enforcement procedure ends they are required to notify the authority conducting the proceeding of any change of domicile and residence, or registered office because, if they fail to do so, or if they avoid service, all documents will be served on them via the notice board of the body conducting the proceeding;

8. of their right to use their own language in the proceeding, i.e., the right to be assigned an interpreter if the proceeding or a particular act in the proceeding is not conducted in their language and of the possibility of waiving this right if they know the language of the proceeding or of a particular act;

9. of the right to reach a plea bargain deal within the meaning of Article 109e of this Act.

(2) The written notice referred to in paragraph 1 of this Article shall be drawn up in two copies which shall be personally signed by the perpetrator, thereby acknowledging its receipt, and an authorised official of the authorised prosecutor. One copy of the notice shall be enclosed within the motion to indict and the other shall be handed to the perpetrator.

(3) If, when being served the written notice referred to in paragraph 1 of this Article a perpetrator refuses to accept service or to acknowledge receipt with their signature, the authorised prosecutor shall proceed as provided in the last sentence of Article 148, paragraph 4, of this Act, whereupon service shall be deemed properly effected.

#### Article 109b

(1) Unless authorised to do so under a special regulation, the authorised prosecutor referred to in Article 109, paragraph 1, points 1 through 3, of this Act may decide against instituting a misdemeanour proceeding although a misdemeanour is suspected to have been committed if:

1. in view of the circumstances it is probable that in the misdemeanour proceeding against the perpetrator Articles 24a and 38 of this Act will apply;

2. a penalty or protective measure is being enforced or is to be enforced against the perpetrator and therefore the institution or conduct of a misdemeanour proceeding for another misdemeanour would serve no purpose in view of the gravity and nature of the misdemeanour, the motives for its commission, and the expected deterrent effect on the perpetrator of enforcement of the already imposed penalty or protective measure;

3. a perpetrator has committed more than one misdemeanour but it is expedient to convict them for one only because the institution or conduct of misdemeanour proceedings for the other misdemeanours would not essentially affect the imposition of a penalty or other sanctions on the perpetrator.

(2) Unless authorised to do so under a special regulation, the authorised prosecutor referred to in Article 109, paragraph 1, points 1 through 3, of this Act may decide against instituting a

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misdemeanour proceeding although a misdemeanour is suspected to have been committed if the perpetrator has not committed the same misdemeanour before and has agreed to fulfil within a set period of time any of the following obligations:

1. to eliminate the consequence of the misdemeanour;
2. to compensate for the damage caused by the misdemeanour;
3. to fulfil the prescribed payment obligations where non-payment constitutes an element of the misdemeanour.

(3) Where a natural person is injured by a misdemeanour that has elements of violence, paragraphs 1 and 2 of this Article shall apply only subject to written consent of the injured party.

(4) For the purpose of fulfilling the obligation assumed under paragraph 2 of this Article, the authorised prosecutor shall serve on the perpetrator a written order specifying the obligation assumed and setting the time limit for its fulfilment. The time limit for fulfilling the obligations referred to in point 1 and points 2 and 3 shall be, respectively, 15 days and up to three months from receipt of the written order.

(5) Where a perpetrator fails to fulfil within the set time limit the obligation assumed under paragraph 2 of this Article, the authorised prosecutor shall institute misdemeanour proceedings.

(6) Where in the course of misdemeanour proceedings a perpetrator, upon motion of the authorised prosecutor referred to in Article 109, paragraph 1, points 1 through 3, of this Act, assumes one of the obligations set forth in paragraph 2 of this Article, a stay of misdemeanour proceedings shall be granted by a decision pending notice from the authorised prosecutor of fulfilment or non-fulfilment of the obligation assumed. Such decision staying misdemeanour proceedings shall not be subject to appeal.

(7) When the authorised prosecutor informs the court that a perpetrator has failed to fulfil an obligation assumed under paragraph 2 of this Article, the court shall resume proceedings. When the authorised prosecutor informs the court that a perpetrator has fulfilled an obligation assumed under paragraph 2 of this Article, the court shall decide to terminate proceedings. Such decision terminating proceedings shall not be subject to appeal.

#### Article 109c

(1) Unless authorised to do so under a special regulation, the authorised prosecutor referred to in Article 109, paragraph 1, points 1 and 2, of this Act may decide against instituting a misdemeanour proceeding although a misdemeanour is suspected to have been committed if the perpetrator agrees to fulfil within a set period of time any of the following obligations:

1. to undertake drug addiction treatment or treatment for other addictions;
2. to undertake psychosocial treatment of violent behaviour with the perpetrator's and victim's consent to leave the family home for the duration of the treatment.

(2) Where a natural person is injured by a misdemeanour that has elements of violence, paragraph 1 of this Article shall apply only subject to written consent of the injured party.

(3) For the purpose of fulfilling the obligation assumed under paragraph 1 of this Article, the authorised prosecutor shall serve on the perpetrator a written order specifying the length of treatment which may not last for more than nine months and the time limit for fulfilling the assumed obligation which may not exceed one year from receipt of the written order.

(4) Where a perpetrator fails, through their own fault, to fulfil in full or for the most part the obligation assumed under paragraph 1 of this Article, the authorised prosecutor shall institute misdemeanour proceedings.

(5) Where in the course of misdemeanour proceedings a perpetrator, upon motion of the authorised prosecutor referred to in Article 109, paragraph 1, points 1 and 2, of this Act, assumes one of the obligations set forth in paragraph 1 of this Article, a stay of misdemeanour proceedings shall be granted by a decision pending notice from the authorised prosecutor of fulfilment or non-fulfilment of the obligation assumed. Such decision staying misdemeanour proceedings shall not be subject to appeal.

(6) When the authorised prosecutor informs the court that a perpetrator has failed, through their own fault, to fulfil in full or for the most part an obligation assumed under paragraph 1 of this Article, the court shall resume proceedings. When the authorised prosecutor informs the court that a perpetrator has fulfilled an obligation assumed under paragraph 1 of this Article or that an obligation has not been fulfilled through no fault of the perpetrator, the court shall decide to terminate proceedings. Such decision terminating proceedings shall not be subject to appeal.

#### Article 109d

»(1) Where such circumstances as referred to in Article 109b, paragraphs 1 and 2, and Article 109c, paragraph 1, of this Act arise, the court may proceed as provided in Articles 109b and 109c of this Act.

(2) Where it proceeds as provided in Article 109b, paragraph 1, of this Act, the court shall decide to terminate the misdemeanour proceeding.

(3) Where it proceeds as provided in Article 109b, paragraph 2, and Article 109c of this Act, the court shall issue an order specifying the obligation assumed and the time limit for its fulfilment, under Article 109b, paragraph 2, and Article 109c, paragraph 1, of this Act.

(4) Upon issuing the order, the court shall decide to stay the misdemeanour proceedings by a decision. Such decision staying proceedings shall not be subject to appeal.

(5) If a perpetrator fulfils the obligation assumed under paragraph 3 of this Article within the set time limit, the court shall decide to terminate misdemeanour proceedings. Such decision terminating proceedings shall not be subject to appeal. If a perpetrator fails to fulfil the obligation assumed under paragraph 3 of this Article within the set time limit, the court shall resume proceedings.

(6) Where proceedings are conducted on the basis of a motion to indict of the injured party-prosecutor, the court may, except in the case referred to in Article 109b, paragraph 1, of this Act, proceed as provided in this Article, subject to consent of the injured party-prosecutor. The injured party-prosecutor shall record their written signed consent in the court record.

(7) If within eight days from the expiry of the period of time in which a perpetrator has to fulfil the obligation assumed the injured party-prosecutor fails to inform the court within the meaning of Article 109b, paragraph 6, and Article 109c, paragraph 5, of this Act, the perpetrator shall be deemed to have fulfilled the obligation assumed. The injured party-prosecutor shall be informed of this obligation and the consequence of failure to act when giving their written consent referred to in paragraph 6 of this Article.

#### Article 109e

(1) After a perpetrator is served with the notice referred to in Article 109a, paragraph 1, of this Act, the authorised prosecutor referred to in Article 109, paragraph 1, points 1 through 3, of this Act and the perpetrator may negotiate the terms and conditions for admitting guilt and the sanction and measures to be imposed.

(2) Upon motion of the defendant or the authority conducting the proceedings, the authorised prosecutor and defendant may also in the course of proceedings, before a misdemeanour decision is taken, negotiate the terms and conditions for admitting guilt and the sanction and measures to be imposed.

(3) If the authorised prosecutor and perpetrator reach the plea bargain deal referred to in paragraph 1 or paragraph 2 of this Article, they shall draft a written statement thereon, on the basis of which a misdemeanour decision shall be made. Such statement shall include the following:

- 1) a description of the misdemeanour;
- 2) a statement by the defendant admitting their guilt with respect to this misdemeanour;
- 3) the agreement on the type and measure of penalty, or some other sanction or measure;
- 4) the agreement on the authorised prosecutor's costs relating to misdemeanour determination;
- 5) signatures of the parties.

(4) The drafted statement referred to in paragraph 3 of this Article and, in the case of the plea bargain deal referred to in paragraph 1 of this Article, also the written notice referred to in Article 109a, paragraph 1, of this Act shall be delivered to the authority conducting the proceeding which shall decide on whether or not to accept it.

(5) The authority conducting the proceeding shall not accept any such deal by the parties as, in view of the rules on the type and severity of the sanction, is disadvantageous to the defendant or will not achieve the purpose of punishment or is illegal.

(6) Where it does not accept the parties' plea bargain deal referred to in paragraph 1 of this Article, the reached deal shall be deemed a motion to indict and the authority conducting the

proceeding shall discuss the circumstances due to which it has not accepted the deal and take the appropriate misdemeanour decision.

(7) Where it does not accept the parties' plea bargain deal referred to in paragraph 2 of this Article, the authority conducting the proceeding shall decide to reject the deal and resume the proceeding. Such decision shall not be subject to appeal.

(8) Where it accepts the parties' plea bargain deal, the authority conducting the proceeding shall take a misdemeanour decision which must fully correspond to the plea bargain deal reached by the parties.

(9) The misdemeanour decision referred to in paragraph 8 of this Article shall not be subject to appeal.«

#### Article 38

After Article 117, there shall be inserted the following title and Article 117a:

#### *»Electronic document*

#### Article 117a

(1) Such briefs as under this Act have been drafted in writing and signed may be filed electronically provided they have been drafted, dispatched, received and stored by means of available information technology and ensure the determination of a unique feature identifying the drafter of the electronic document.

(2) An electronic brief shall be deemed received in the information system or device used by the court, a state administration body conducting a misdemeanour proceeding, authorised prosecutor, or law firm at the moment its receipt is registered in this system or device. The recipient shall ensure the proper functioning of the automated receipt acknowledgement system. If the sender does not receive acknowledgement of receipt, they shall inform the recipient thereof and if they still do not receive this message within the time limit set by them, the electronic brief shall be deemed not sent.

(3) Of the electronic brief referred to in paragraph 2 of this Article, the court, state administration body conducting the proceeding and authorised prosecutor shall prepare an official note. Where an electronic brief is incomprehensible or incomplete, the person who filed it shall be called up to correct or supplement it and if they fail to do so within the specified time period, such brief shall be rejected.

(4) When addressing issues relating to legal validity, use, transmission, storage and confidentiality of electronic briefs, the provisions of special regulations shall apply accordingly.«

#### Article 39

The title preceding Article 125 shall be amended to read as follows: »Filing and deciding on the motion«.

Article 125 shall be amended to read as follows:

»(1) The motion for *restitutio in integrum* shall be filed, together with the appeal, with the authority that has made the misdemeanour decision in respect of which the motion is filed.

(2) The court having jurisdiction to decide on appeals against the misdemeanour decision in respect of which the motion for *restitutio in integrum* has been filed shall decide on such motion.

(3) In deciding on a motion for *restitutio in integrum*, the court having jurisdiction shall decide to reject the motion as inadmissible if:

1. the motion has been filed by a person not authorised to file it;
2. the motion has been filed but without filing with it also the appeal;
3. the motion has been filed after the expiration of the time limits referred to in Article 124, paragraphs 1 and 2, of this Act;
4. the motion has been filed after the appeal was rejected.

(4) After making a decision as provided in paragraph 3 of this Article, the court having jurisdiction shall, except in the case referred to in paragraph 3, point 4, of this Article decide on the timeliness of the appeal.

(5) The decisions referred to in paragraphs 3 and 4 of this Article shall not be subject to appeal.

(6) Where it does not decide as provided in paragraph 3 of this Article, the court having jurisdiction shall decide to:

1. dismiss the motion as unfounded and reject the appeal as untimely;
2. accept the motion as well-founded and take into consideration the appeal as having been filed in due time.

(7) The decision referred to in paragraph 6 of this Article shall not be subject to appeal.«

#### Article 40

Article 126 shall be amended to read as follows:

»The motion for *restitution in integrum* shall not stay the enforcement of the decision referred to in Article 124, paragraph 1, of this Act unless the court having jurisdiction to decide on the motion, upon motion of the person who filed the motion, decides in especially justified cases that enforcement be stayed pending the decision on the motion.«

#### Article 41

In Article 138, paragraph 2, point 3, shall be amended to read as follows:

"3. fixed costs of a misdemeanour proceeding:

a) incurred by the authorities of a proceeding when conducting the proceeding;

b) incurred by the misdemeanour court when deciding on an objection (Article 238, paragraph 11, and Article 244, paragraph 2), or the appeals of both the prosecutor and the defendant, or the appeal of only the defendant (Article 94, paragraph 1, point 3), where it finally establishes a defendant's misdemeanour liability;

c) incurred by the High Misdemeanour Court of the Republic of Croatia when finally establishing a defendant's misdemeanour liability, if it has decided on the appeals of both the prosecutor and the defendant or the appeal of only the defendant.«.

#### Article 42

Article 143 shall be amended to read as follows:

»(1) Decisions in misdemeanour proceedings include:

1. the judgement;

2. the misdemeanour ruling;

3. the misdemeanour warrant;

4. the mandatory misdemeanour warrant;

5. the decision;

6. the order.

(2) Judgements are delivered only by courts.

(3) Misdemeanour rulings are made by courts and state administration bodies conducting misdemeanour proceedings.

(4) Misdemeanour warrants, decisions and orders are issued by courts and other bodies taking part in misdemeanour proceedings.

(5) Mandatory misdemeanour warrants are issued by the authorised prosecutors referred to in Article 109, paragraph 1, points 1 and 2, of this Act and units of local or regional self-government.

(6) The misdemeanour decisions referred to in paragraph 1, points 1 through 5, of this Article are enforceable documents.«.

#### Article 43

Article 152 shall be amended to read as follows:

»(1) The court within the territorial jurisdiction of which a convicted person sentenced to imprisonment by a final judgement is domiciled shall refer such person by decision to an incarceration facility having competence under a special statute.

(2) Where the final judgement referred to in paragraph 1 of this Article is given by another court, this court shall deliver such judgement containing the finality clause to the court referred to in paragraph 1 of this Article.

(3) A fine shall be deemed paid in full if a convicted person pays two thirds of the imposed fine within the time period specified in the decision imposing the fine.

(4) Where a convicted natural person fails to comply with paragraph 3 of this Article or fails to pay in full or in part, within the time limit specified in the misdemeanour decision, the costs of a misdemeanour proceeding, or the confiscated pecuniary advantage, or where a convicted legal entity fails to pay within the time limit specified in the misdemeanour decision a fine or the costs of a misdemeanour proceeding, or the confiscated pecuniary advantage, the court or another authority that finally decided thereon in the first instance shall issue to the competent enforcement authority an order for the collection of the convicted person's monetary assets in accordance with a special statute. Such order shall be accompanied by a certified copy of the misdemeanour decision containing the finality clause.

(5) If the competent enforcement authority fails to collect in full or in part from a convicted adult natural person a fine in excess of HRK 2,000.00 within two years from receipt of the order referred to in paragraph 4 of this Article, it shall immediately and appropriately inform thereof the authority that issued the order.

(6) In the case referred to in paragraph 5 of this Article, the court referred to in paragraph 1 of this Article shall decide to replace the fine with community service in accordance with Article 34, paragraph 6, of this Act and shall refer the convicted person for community service. Such decision shall also order replacement of an outstanding fine with imprisonment in case the convicted person does not agree to community service (Article 152c of this Act).

(7) The court not having jurisdiction to proceed as provided in paragraph 6 of this Article and the state administration body that has taken the misdemeanour decision shall deliver to the court referred to in paragraph 1 of this Article a certified copy of the misdemeanour decision containing the finality clause and the notification of the competent enforcement authority so that the latter court may proceed as provided in paragraph 6 of this Article.

(8) The court that has made the decision on the replacement of a fine with community service or imprisonment shall have jurisdiction to enforce it also in cases where a convicted person changes their domicile after such decision is made.

(9) Following the death of a convicted person, no proceeding under this Article shall be instituted. Where a convicted person dies in the course of a proceeding, the court shall decide to terminate the proceeding. Where a proceeding has been instituted upon motion of a state administration body, such motion shall be rejected.

(10) If the competent enforcement authority fails to collect from a convicted natural person a fine of up to HRK 2,000.00, or to collect in full or in part from a legal entity, natural person-craftsperson, or natural person-another sole trader a fine, the costs of a proceeding, or the



confiscated pecuniary advantage within two years from receipt of the order referred to in paragraph 4 of this Article, it shall immediately and appropriately inform thereof the authority that issued the order.

(11) Upon receipt of the notification referred to in paragraph 10 of this Article, the authority conducting the proceeding shall request from the Tax Administration to proceed with enforcement against some other property of the convicted person.

(12) Where a convicted person who is not domiciled or permanently resident in the Republic of Croatia fails to pay a fine within the time period specified in the misdemeanour decision, the court that delivered the judgement shall decide to immediately replace the fine with imprisonment, in accordance with the provisions of this Act. Where the misdemeanour decision has been made by a state administration body, the decision replacing a fine with imprisonment shall, upon motion of this state administration body, be made by the misdemeanour court having jurisdiction. An appeal against the decision replacing a fine with imprisonment shall not stay the decision's enforcement.«

#### Article 44

After Article 152, there shall be inserted the Chapter 1a and the following titles and their respective Articles 152a, 152b, 152c, 152d, 152e, 152f, 152g, 152h, 152i, 152j, 152k:

»1a PROCEDURE FOR ENFORCING COMMUNITY SERVICE IN MISDEMEANOUR PROCEEDINGS

#### *Competence in respect of community service enforcement*

##### Article 152a

(1) Competence in respect of community service enforcement shall lie with the misdemeanour court having jurisdiction over a convicted person's domicile (hereinafter referred to as: the court of enforcement).

(2) The ministry responsible for judicial affairs shall enter into agreements with institutions and other legal entities (hereinafter referred to as: legal entities) on the existence of a common interest in enforcing community service in misdemeanour proceedings and shall keep a record thereof.

(3) On the basis of agreements referred to in paragraph 2 of this Article, the court of enforcement shall issue orders referring convicted persons for community service.

(4) The minister responsible for judicial affairs shall adopt an ordinance on the performance of community service in misdemeanour proceedings.

#### *Place and costs of performing community service*

##### Article 152b

(1) Community service shall be performed within the territorial jurisdiction of the court of enforcement.

(2) A convicted person shall not be entitled to remuneration for performing community service.

(3) Until being referred for community service, a convicted person shall bear no community service costs nor shall they be liable to pay any duties on briefs, official acts and decisions relating to the application of this Act. The costs of arriving each time to the place where community service is being carried out and returning each time to one's place of abode shall be borne by the convicted person.

### *Referral for community service*

#### Article 152c

(1) After the decision replacing a fine with community service becomes final and enforceable, the court of enforcement shall summon a convicted person to appear in court in order to be handed the order referring them for community service.

(2) Before being handed the order referred to in paragraph 1 of this Article, a convicted person shall be required to make and sign a statement in writing that they agree to perform community service, which statement shall be attached to the order.

(3) The court of enforcement shall refer a convicted person for community service at one of the legal entities within its jurisdiction contained in the record referred to in Article 152a, paragraph 2, of this Act.

(4) The order referring for community service shall also be delivered to the legal entity in which such work is to be performed.

(5) The contents of the order referred to in paragraph 1 of this Article shall be laid down in the Ordinance on the performance of community service in misdemeanour proceedings.

(6) If a convicted person states that they do not agree to perform community service or, upon being properly summoned by the court of enforcement, fail to appear in court in order to be handed the order referred to in paragraph 1 of this Article, the court of enforcement shall immediately issue an order referring the convicted person to an incarceration facility having jurisdiction for the purpose of their serving a prison sentence in accordance with the decision referred to in Article 152, paragraph 6, of this Act.

### *Assignment to and conditions of community service work*

#### Article 152d

(1) A legal entity shall assign a convicted person to perform such work as corresponds with their mental and physical capacities and personal circumstances.

(2) Community service work shall be performed in a manner guaranteeing convicted persons respect for the human dignity, fundamental rights and freedoms and privacy.

(3) For the duration of the community service the ministry responsible for judicial affairs shall insure convicted persons against permanent disability and death due to accidents at work.

## *Postponement and suspension of community service*

### Article 152e

- (1) Community service may be postponed or suspended at the request of a convicted person made to the court of enforcement.
- (2) A request for the postponement of community service shall be submitted within three days from when a convicted person is handed the order referring them for community service, and if a reason for its postponement occurs upon expiry of the said time limit, and the person has not yet started their community service, within no more than forty-eight hours after becoming aware of its existence. The request for community service postponement shall stay the enforcement of the order, whereof the legal entity, if it has already received the order, shall be informed.
- (3) A request for the suspension of community service shall be submitted within twenty-four hours from when the circumstance constituting the reason for the suspension occurs.
- (4) The decision on community service postponement or suspension shall be made by the court of enforcement within three days from receipt of the request.
- (5) A convicted person may appeal against the decision refusing a request for community service postponement or suspension to a panel of misdemeanour court judges within three days from receipt of such decision (Article 94, paragraph 2, and Article 97, paragraph 2).
- (6) The decision postponing or suspending community service shall be delivered to the legal entity at which community service is being performed.

### *Reasons for and duration of community service postponement and suspension*

#### Article 152f

- (1) The reasons for community service postponement and suspension are as follows:
  - 1) convicted person becoming acutely ill or severely disabled or experiencing a significant deterioration in their existing chronic condition;
  - 2) death of an immediate family member, serious illness, severe disability or obligation of a convicted person's immediate family member to be away from home, as a result of which the convicted person becomes the sole mandatory guardian of juvenile children, their spouse or common-law spouse, parents, adopter or adoptee, or another person who is in their exclusive care on some other legal basis;
  - 3) need to carry out or complete particular work or works following a natural disaster or another accident where failure to do so would result in significant material damage, provided the convicted person is the only able-bodied member of their immediate family.
- (2) By way of exception, the court of enforcement may postpone or suspend community service in cases other than those referred to in paragraph 1 of this Article provided there is good cause to do so.

(3) With the request for community service postponement or suspension a convicted person shall enclose a document or another article furnishing evidence of the reasons for community service postponement or suspension.

(4) Community service postponement or suspension for the reason set out in paragraph 1, point 1, of this Article may last for the duration of the illness; for the reason set out in point 2, for not more than twenty days; for the reason set out in point 3, until completion of the work or works and no longer than 20 days; and for the reason set out in paragraph 2 of this Article, for no longer than three days.

(5) Community service postponement shall not exceed three months in total.

(6) Community service suspension shall not exceed 30 days in total.

### *Community service reporting*

#### Article 152g

(1) A legal entity shall inform the court of enforcement of the community service work performed or of negligent performance of community service work.

(2) Negligent performance of community service work shall mean: being late for work or absence without just cause, bringing oneself into a state of reduced work ability, deliberately damaging instruments of labour, disrespect for the organisation and method of work or any other inappropriate conduct during work.

### *Reassessing community service*

#### Article 152h

Upon being informed by a legal entity of negligent performance of community service work, the court of enforcement shall reassess community service and decide by order whether or not community service is to continue at the same or another legal entity or shall terminate community service and refer the person to serve a prison sentence pursuant to the decision referred to in Article 152, paragraph 6, of this Act.

### *Community service record*

#### Article 152i

Legal entities shall keep a community service record for each convicted person under the Ordinance on the performance of community service in misdemeanour proceedings.

### *Denial of documents*

#### Article 152j

(1) A convicted person who fails to pay a finally imposed fine within the time limit specified in the misdemeanour decision shall be denied:

1. driving licence issue or renewal;
2. motor vehicle registration or registration renewal;
3. participation in public tenders within the framework of public procurement procedures;
4. setting up a legal entity and any change to its status;
5. setting up and registering a craft or another sole trade;
6. award of concessions and granting of subsidies.

(2) A special statute may provide for the denial of any other documents and licences apart from those specified in paragraph 1 of this Article. This, however, shall not apply to the certificates issued on the basis of records relating to personal (status) rights or to the freedom of movement, exercise of employment rights, pension and social insurance rights, or the non-issue of which would endanger the health or safety of persons.

#### *Register of finally imposed but unpaid fines*

##### Article 152k

(1) In order to provide for the possibility of a state administration body proceeding in accordance with Article 152j of this Act, the ministry responsible for the judiciary shall set up a Register of fines imposed but unpaid in the given period (hereinafter referred to as: the Register).

(2) When a misdemeanour decision becomes final and the person convicted and fined fails to pay the fine within the period of time specified in the misdemeanour decision, the court and any other authority that made the decision shall inform the Register thereof.

(3) The notice referred to in paragraph 2 of this Article shall be accompanied by the final misdemeanour decision and an indication of when the statute of limitations on the right to enforce the fine expires.

(4) Upon receipt of the notice referred to in paragraphs 2 and 3 of this Article, the Register shall enter this information into the unique electronic database of imposed but unpaid fines.

(5) If in the meantime the convicted person pays the fine or the enforcement authority collects the fine, the Register shall be immediately informed thereof.

(6) The minister responsible for judicial affairs shall adopt an implementing regulation on the manner of delivery of information to the Register, entry of information in the Register, their deletion from the Register, right of access to the Register, and conditions and manner of use of the information contained in the Register.

(7) Denial may last until the fine is paid, forcibly collected or at the longest until the statute of limitations on enforcement expires.«

##### Article 45

In Article 160, paragraph 2, after point 8, there shall be inserted the following points 9 and 10:

»9. the written notice referred to in Article 109a, paragraphs 1 and 2, of this Act;

10. information from the authorised prosecutor on whether a criminal charge has also been filed against the perpetrator in relation to the same event.«.

#### Article 46

In Article 161, paragraph 4, after the second sentence there shall be inserted the following sentences:

»Where a motion to indict is not accompanied by the written notice referred to in Article 109a of this Act, the prosecutor shall be called upon to obtain such notice within a specified period of time and, being drawn up in accordance with Article 109a, paragraphs 1 and 2, of this Act, serve it. If the prosecutor fails to do so within a given time period, the motion to indict shall be rejected by decision.«.

#### Article 47

After Article 171, there shall be inserted the following Article 171a:

##### »Article 171a

(1) Where a defendant is examined for the first time, they shall be asked, before noting their statement of defence, to respond to the motion to indict and enter a plea in respect of the misdemeanour charge.

(2) Where a defendant pleads guilty to all the counts of a motion to indict, they shall be examined in respect of the circumstances concerning all the counts of the motion to indict.

(3) Where the court assesses that a defendant's admission corresponds with the evidence contained in the case file, in the further course of the evidentiary procedure it shall take only such evidence as relates to the decision on the misdemeanour sanctions and other measures.«.

#### Article 48

In Article 183, the following sentence shall be inserted at the end of paragraph 2:

»The defendant shall also be informed that if two thirds of the imposed fine are paid within the set fine payment time limit, the fine shall be deemed paid in full (Article 152, paragraph 3).«.

#### Article 49

In Article 191, after paragraph 3, there shall be inserted the following new paragraph 4:

»(4) The decisions on objections or appeals made by panels of misdemeanour court judges referred to in Article 94, paragraph 1, points 2 and 3, of this Article shall not be subject to appeal.«.

Paragraph 4 shall be renumbered 5.

#### Article 50

In Article 194, point 4, after the words: »confiscation of a pecuniary advantage«, there shall be inserted the words: »seizure of an item«.

After paragraph 1, there shall be inserted the following paragraph 2:

»(2) A misdemeanour decision made under Article 171a of this Act shall be appealable only in respect of the decision on the misdemeanour sanction and other measures.«.

#### Article 51

In Article 223, paragraph 2 shall be amended to read as follows:

»(2) If at the time of committing a misdemeanour a perpetrator was juvenile, the perpetrator must be interrogated before the misdemeanour decision is made. During a juvenile interrogation the presence of the juvenile's parent or guardian or a professional welfare centre worker is obligatory.«.

Paragraph 12 shall be deleted.

#### Article 52

In Article 228, paragraph 3, after the words: »confiscation of a pecuniary advantage«, there shall be inserted the words: »seizure of an item«.

In paragraph 4, the words: »seizure of items and« shall be deleted.

#### Article 53

In Article 234, at the end of paragraph 3 the following sentence shall be inserted:

»In the issued misdemeanour warrant or mandatory misdemeanour warrant the authorised prosecutor shall provide the defendant with the information set forth in Article 109a, paragraph 1, points 2 through 8, of this Act.«.

#### Article 54

In Article 237, paragraph 1, point 2, after the word: »advantage« a comma and the words: »the seized item of a misdemeanour« shall be inserted.

#### Article 55

In Article 238, paragraph 8, the words: »High Misdemeanour Court of the Republic of Croatia« shall be replaced in both instances by the words: »misdemeanour court having jurisdiction referred to in Article 94, paragraph 2, of this Act«.

Paragraph 11 shall be amended to read as follows:

»(11) Where an objection referred to in Article 237, paragraph 1, point 2, of this Act is filed and the issuer of the misdemeanour warrant fails to decide in accordance with paragraphs 1, 4 and 5 of this Article, the misdemeanour warrant as well as the objection shall be delivered to the misdemeanour court having jurisdiction referred to in Article 94, paragraph 2, of this Act, which court shall decide on the objection by applying accordingly the provisions of this Act relating to the appellate procedure.«.

## Article 56

Article 239 shall be amended to read as follows:

»(1) Before instituting a misdemeanour proceeding against a perpetrator of a misdemeanour, an authorised prosecutor referred to in Article 109, paragraph 1, points 1 and 2, of this Act shall be required to issue a misdemeanour warrant (mandatory misdemeanour warrant) for:

1. a misdemeanour prescribed by a decision of a unit of local or regional self-government;
2. a misdemeanour prescribed by statute punishable by only a fine of up to HRK 5,000.00, HRK 10,000.00, HRK 15,000.00 and HRK 5,000.00 for, respectively, a natural person, natural person craftsperson or another sole trader-perpetrator of a misdemeanour, legal entity and the responsible person in a legal entity. In the case of a misdemeanour by a legal entity and the responsible person within in, a mandatory misdemeanour warrant shall be issued where the condition set out in this point is met in respect of the legal entity-perpetrator.
- (2) An authorised prosecutor referred to in Article 109, paragraphs 1 and 2, of this Act may issue a mandatory misdemeanour warrant also in cases where a fine exceeding the amount laid down in paragraph 1, point 2, of this Article is prescribed for a particular misdemeanour. In such case, however, an individual misdemeanour cannot be fined by an amount exceeding the amount set in paragraph 1, point 2, of this Article.
- (3) In the case of misdemeanours in concurrence, an authorised prosecutor shall be required to issue a misdemeanour warrant only when the conditions therefor, referred to in paragraph 1 of this Article, are met in respect of all the misdemeanours in concurrence.
- (4) In addition to a fine, a mandatory misdemeanour warrant may impose seizure of an item of a misdemeanour, confiscation of a pecuniary advantage, reimbursement of up to HRK 200.00 of fixed costs for the issue of the misdemeanour warrant and of the actual costs incurred in determining a misdemeanour by technical means or by performing the necessary analyses and expert examinations. Where a misdemeanour is punishable by a fine of between HRK 2,000.00 and HRK 5,000.00, a perpetrator may also be imposed the protective measure of prohibition to drive a motor vehicle or use a foreign driving licence in the territory of the Republic of Croatia.
- (5) The provisions of this Act relating to the issue of the misdemeanour warrant shall apply accordingly to the procedure for the issue of the mandatory misdemeanour warrant referred to in paragraphs 1 and 2 of this Article, unless the provisions of this Act relating to the issue of the mandatory misdemeanour warrant provide otherwise.
- (6) Where, instead of the misdemeanour warrant referred to in paragraph 1 of this Article, an authorised prosecutor files a motion to indict, the court shall reject such motion to indict.



(7) A mandatory misdemeanour warrant may not be issued against a perpetrator of a misdemeanour who at the time of committing the misdemeanour was juvenile.«.

#### Article 57

In Article 245, paragraphs 1 and 2 shall be amended to read as follows:

»(1) Unless the law provides otherwise, an on-the-spot fine may be collected amounting to half the prescribed minimum amount or half the specified fine amount prescribed by a misdemeanour regulation for a misdemeanour punishable only by a fine of up to HRK 2,000.00, HRK 5,000.00, and HRK 15,000.00 for, respectively, a natural person or the responsible person within a legal entity, a defendant natural person-craftsperson or another sole trader, and a legal entity or entity equated therewith if an official person of the authorised prosecutor, excluding the injured party, determines a misdemeanour:

1. by performing an inspection within the area of its competence;
2. by first-hand observation;
3. by means of a technical device;
4. by examining certified documents.

(2) Where a misdemeanour is committed by both a legal entity and the responsible person therein, a fine may be collected under the rules referred to in paragraph 1 of this Article from both the legal entity and the responsible person therein also where the conditions therefor, referred to in paragraph 1 of this Article, are met only in respect of the legal entity.«.

### TRANSITIONAL AND FINAL PROVISIONS

#### Article 58

Any cases which under this Act fall within the subject-matter jurisdiction of misdemeanour courts shall be delivered to such courts by the High Misdemeanour Court of the Republic of Croatia as of the date of the entry into force of this Act.

The provisions of this Act relating to the statute of limitations for enforcing confiscation of a pecuniary advantage, seizure of items of a misdemeanour, or collection of the costs of a misdemeanour proceeding shall also apply to such enforcement proceedings that on the date of the entry into force of this Act are ongoing.

All misdemeanour sanctions that were finally imposed under the provisions of the Misdemeanour Act (Official Gazette 107/07) but whose enforcement has not yet started or is ongoing shall be enforced under the provisions of this Act as of the date of its entry into force.

The provisions of this Act relating to the mandatory misdemeanour warrant shall likewise apply to misdemeanours committed before the entry into force of this Act provided the authorised prosecutor has not yet instituted misdemeanour proceedings for these misdemeanours by filing motions to indict to the authorities competent to conduct proceedings or has not yet issued misdemeanour warrants.

The provisions of this Act relating to opportunistic behaviour by the authorised prosecutor and negotiations and deal-making between the authorised prosecutor and a perpetrator of a misdemeanour before the initiation of misdemeanour prosecution shall likewise apply to misdemeanours committed before the entry into force of this Act provided the authorised prosecutor has not yet instituted misdemeanour proceedings for these misdemeanours by filing motions to indict to the authorities competent to conduct proceedings or has not yet issued misdemeanour warrants.

The provisions of this Act relating to opportunistic behaviour by the authorised prosecutor and the court in the course of proceedings and the provisions on negotiations and deal-making between the authorised prosecutor and a perpetrator of a misdemeanour in the course of proceedings shall likewise apply to misdemeanours committed before the entry into force of this Act in proceedings that are ongoing.

The provision of Article 41 of this Act shall likewise apply to proceedings already in progress on the date of the entry into force of this Act, provided a defendant's objection or appeal was filed after the entry into force of this Act.

#### Article 59

The minister responsible for judicial affairs shall:

1. within one month from the date of entry into force of this Act issue the Ordinance on the performance of community service in misdemeanour proceedings;
2. within six months from the date of entry into force of this Act issue the Ordinance on the register of finally imposed but unpaid fines.

#### Article 60

The Act on the Performance of Community Service at Liberty and Enforcement of Suspended Sentences with Protective Supervision in Misdemeanour Proceedings (Official Gazette 75/09) shall cease to have effect by virtue of the entry into force of this Act.

#### Article 61

The Legislation Committee of the Croatian Parliament shall hereby be authorised to prepare and publish the consolidated text of the Misdemeanour Act.

#### Article 62

This Act shall be published in the Official Gazette and shall enter into force on 1 June 2013, with the exception of Articles 152j and 152k in Article 44 thereof, which shall enter into force on 1 January 2014.

Class: 740-04/12-01/01

Zagreb, 22 March 2013

THE CROATIAN PARLIAMENT

President of the  
Croatian  
Parliament

**Josip Leko, m. p.**

PROVISIONAL TRANSLATION