

# THE CROATIAN PARLIAMENT

3053

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

## DECISION

### PROMULGATING THE ACT ON AMENDMENTS TO THE STATE ATTORNEY'S OFFICE ACT

I hereby promulgate the Act on Amendments to the State Attorney's Office Act, passed by the Croatian Parliament at its session on 1 October 2010.

Class: 011-01/10-01/94

Reg. No: 71-05-03/1-10-2

Zagreb, 05 October 2010

President  
of the Republic  
of Croatia  
**Ivo Josipović**,  
m.p.

## ACT

### ON AMENDMENTS TO THE STATE ATTORNEY'S OFFICE ACT

#### Article 1

In the State Attorney's Office Act (Official Gazette 76/09 and 153/09), in Article 12, after subparagraph 1, a new subparagraph 2 is added which reads:

“– proposes candidates for election as members of the State Attorney Council from the ranks of deputy state attorneys;”.

The former subparagraphs 2, 3, 4 and 5 shall become subparagraphs 3, 4, 5 and 6.

#### Article 2

In Article 13, a new paragraph 3 is added which reads as follows:

“(3) The collegiate body of the State Attorney's Office of the Republic of Croatia shall undertake actions laid down in this Act regarding the election and dismissal of members of the State Attorney Council.”

The former paragraph 3, which now becomes paragraph 4, is amended to read as follows:

“(4) In addition to the tasks referred to in Article 12 of this Act, the collegiate body of the State Attorney’s Office of the Republic of Croatia shall perform the following tasks:

- provide opinions on draft acts or other regulations important for the work of the state attorney office and for the carrying out of state attorney office duties;
- provide opinions and positions in proceedings before the Constitutional Court of the Republic of Croatia;
- provide general instructions to state attorney offices;
- consider reports submitted to the Croatian Parliament;
- provide opinions on the existence of grounds for the dismissal of a county or municipal state attorney;
- perform other tasks pursuant to the Rules of Procedure of the State Attorney's Office.”

The former paragraphs 4 and 5 shall become paragraphs 5 and 6.

#### Article 3

In Article 25, paragraphs 5 and 6 are amended to read as follows:

“(5) In performing state attorney administration tasks, besides the ministry responsible for judicial affairs, the records referred to in paragraph 1 of this Article shall be kept by the State Attorney Council for state attorneys and deputies and for advisors who attend the State School for Judicial Officials, and by the State Attorney’s Office of the Republic of Croatia for state attorney trainees and other staff of state attorney offices.

(6) The manner of delivery of data and the keeping of records shall be regulated in compliance with special data protection regulations and the Rules of Procedure of the State Attorney's Office.”

#### Article 4

In Article 26, paragraph 4, after the words: “the ministry competent for judicial affairs”, the words “and to the State Attorney Council” are added.

#### Article 5

In Article 27, paragraph 1 the word: “cases” is replaced by the words: “judicial administration tasks”.

#### Article 6

In Article 30, a new paragraph 2 is added which reads as follows:

“By way of derogation from the provision of paragraph 1 of this Article, if a request to carry out special evidentiary actions is submitted to a judge of investigation, or a motion to impose investigative imprisonment and to hold an evidentiary hearing, and to carry out other actions which, in conformity with the Criminal Procedure Act, are performed by a judge of investigation, the municipal state attorney office shall appear before the county court when dealing with criminal offences under the jurisdiction of a municipal court.”

The former paragraphs 2 and 3 shall become paragraphs 3 and 4.

#### Article 7

The title above Article 40 is amended to read as follows: “1. Reports to the Croatian Parliament”.

Article 40 is amended to read as follows:

“(1) The State Attorney’s Office of the Republic of Croatia shall submit a report to the Croatian Parliament on the situation and trends in reported crimes in the previous year, on cases concerning the protection of assets of interest to the Republic of Croatia, on specific legal issues, and on the organisation and situation of personnel.

(2) The annual report may highlight the condition and functioning of the legal system, flaws in the legislation and in the internal operation of state attorney offices, and may provide proposals for improvement.

(3) After considering the report, the Croatian Parliament shall, if it deems it necessary, take positions concerning the situation and trends in crime and shall impose obligations on competent ministries and other state administration bodies to improve the efficiency of criminal prosecution with a view to preventing crime and improving the protection of the assets of interest to the Republic of Croatia.”

#### Article 8

Article 42 is amended to read as follows:

“(1) In cases of special state interest or where complex factual and legal issues arise, a lower state attorney office shall notify a higher state attorney office of actions taken, and of its further intentions.

(2) The State Attorney General shall inform the minister responsible for judicial affairs about criminal proceedings instituted against judges and state attorneys.

(3) Upon the request of the minister responsible for judicial affairs, the State Attorney General shall submit a report on individual types of criminal proceedings.

(4) The time and manner for the submission of special reports shall be regulated by the Rules of Procedure of the State Attorney’s Office.”

#### Article 9

Article 94 is amended to read as follows:

(1) A county state attorney shall be appointed by the State Attorney Council, on the basis of a prior opinion of the collegiate body of the State Attorney's Office of the Republic of Croatia, and upon a proposal of the State Attorney General for a term of office of four years and with the possibility of reappointment after the expiry of his term of office. County state attorneys shall be appointed from the ranks of state attorneys and deputy county state attorneys or higher-ranked state attorney offices with a minimum of five years experience in performing state attorney duties.

(2) To be appointed county state attorney, in addition to the requirements referred to in paragraph 1 of this Article, a municipal state attorney must fulfil the requirements for appointment to the position of deputy county state attorney.

(3) A municipal state attorney shall be appointed by the State Attorney Council upon a proposal of the State Attorney General and on the basis of a prior opinion of the collegiate body of the county state attorney office and the county state attorney, from among the ranks of state attorneys and deputy state attorneys from that state attorney office or another state attorney office for a term of office of four years and with the possibility for reappointment after the expiry of his term of office.

(4) If a municipal or county state attorney is not reappointed after the expiry of his mandate, he shall continue to work as deputy state attorney in the same state attorney office or, if more favourable for him, he shall return to the position of deputy state attorney in a state attorney office in which he performed his duties before the appointment.

(5) The term of office of a state attorney shall start on the day he assumes his office.”

#### Article 10

Article 97 is amended to read as follows:

(1) After the expiry of the term referred to in Article 96, paragraph 1 of this Act, the State Attorney General shall request an opinion of the collegiate body of the State Attorney's Office of the Republic of Croatia concerning a candidate for county state attorney, and an opinion of the collegiate body of the county state attorney office and the county state attorney concerning a candidate for municipal state attorney. In addition to the request for an opinion, the State Attorney General shall submit the applications with all the evidence and information submitted by the candidates, the performance assessment and other information relating to the candidates available *ex officio* to the State Attorney's Office of the Republic of Croatia.

(2) In addition to the opinions referred to in paragraph 1 of this Article, the State Attorney General shall request background checks to be carried out for candidates who have given their consent.

(3) Before giving his opinion, the competent state attorney shall invite the candidates to an interview which will be conducted with that candidate by the state attorney and at least two members of the collegiate body of the state attorney office. The state attorney and two members of the collegiate body may interview the candidate together or separately.

(4) The opinion of the collegiate body of the State Attorney's Office of the Republic of Croatia on candidates for the position of county state attorney, and the opinion of the collegiate body of the county state attorney office and the county state attorney on candidates for municipal state attorney shall be given within 15 days.

(5) When giving the opinion, they shall take into account, *mutatis mutandis*, the criteria referred to in Article 130 of this Act, and in particular the ability to perform the tasks of state attorney and judicial administration.

(6) After having obtained the opinion referred to in paragraph 4 of this Article and the data from the background checks, the State Attorney General shall deliver to the State Attorney Council his proposal with the applications containing the evidence and data enclosed by the candidates, and the data on the candidates' performance which are held by the State Attorney's Office of the Republic of Croatia.

(7) The State Attorney Council shall render a decision within 60 days from the date of receipt of the proposal of the State Attorney General.

(8) If no candidate responds to the vacancy announcement or if the State Attorney General does not propose any candidates or if the State Attorney Council does not appoint a state attorney from among the candidates who applied, the procedure shall be repeated."

#### Article 11

In Article 98, paragraph 1 is amended to read as follows:

"(1) The decision of the State Attorney Council with a written statement of reasons shall be delivered to all candidates within 15 days of the publication of the appointment."

#### Article 12

In Article 99, paragraph 2 is amended to read as follows:

(2) The decision on the termination of office of the State Attorney General pursuant to paragraph 1, item 4 of this Article shall be adopted by the Croatian Parliament, and the decision on the occurrence of circumstances referred to in paragraph 1, items 1 to 3 of this Article shall be rendered by the State Attorney Council. The decision on the termination of office of a county and municipal state attorney referred to in paragraph 1.4 and the decision on the occurrence of circumstances referred to paragraph 1, items 1 to 3 of this Article shall be adopted by the State Attorney Council."

#### Article 13

Article 102 is amended to read as follows:

(1) The State Attorney General shall submit to the State Attorney Council a motion for the dismissal of a county and municipal state attorney if he establishes, on the basis of a written report on the evaluation of work of the county or municipal state attorney office or in some other manner, that there are grounds for dismissal referred to in Article 100, items 1 to 5 of this Act.

(2) If there are grounds for dismissal of a municipal state attorney referred to in Article 100, items 1 to 5 of this Act, the competent county state attorney may propose that the State Attorney General submit a proposal for dismissal to the State Attorney Council. In his proposal, the county state attorney must state the grounds and reasons for dismissal.

(3) The President of the State Attorney Council shall inform in writing the state attorney against whom the dismissal procedure was initiated about the grounds and reasons for dismissal and he shall give him a deadline to provide a written statement on all crucial facts. The deadline for the delivery of the statement may not be shorter than eight days from the date of receipt of the notification. Following the receipt of the written statement, the State Attorney Council may invite the state attorney to provide for official records additional explanations and reasons concerning the grounds for dismissal.

#### Article 14

Article 103 is amended to read as follows:

(1) Before adopting a decision, the State Attorney Council shall ask for the opinion of the collegiate body of the State Attorney's Office of the Republic of Croatia. The collegiate body of the State Attorney's Office of the Republic of Croatia shall give its opinion on the grounds for dismissal of the county or municipal state attorney referred to in Article 100, items 1 to 5 of this Act.

(2) If, after having obtained an opinion of the collegiate body of the State Attorney's Office of the Republic of Croatia, the State Attorney Council establishes that there are grounds for dismissal referred to in Article 100, items 1 to 5 of this Act, it shall dismiss the county or municipal state attorney.

(3) The decision of the State Attorney Council on the dismissal of the county or municipal state attorney shall be adopted in writing and shall contain a statement of reasons. The state attorney may initiate an administrative dispute against the decision on dismissal”.

#### Article 15

In Article 104, paragraph 2 is amended to read as follows:

“(2) The State Attorney General shall submit to the State Attorney Council a motion to initiate disciplinary proceedings against a dismissed state attorney who continued performing his duties as deputy state attorney in the state attorney office referred to in paragraph 1 of this Article if the state attorney was dismissed for having committed a disciplinary offence.”

#### Article 16

Article 108 is deleted.

#### Article 17

In Article 112, paragraph 1, subparagraph 3 is deleted.

The former subparagraph 4 shall become subparagraph 3.

## Article 18

In Article 115, paragraph 6, the second sentence is deleted.

## Article 19

In Article 116, paragraph 2 is added to read:

“(2) The decision referred to in paragraph 1 of this Article shall be rendered in writing and the deputy from whom the file was withdrawn shall be informed thereof.”

## Article 20

Article 124 is amended to read as follows:

“(1) A state attorney or deputy state attorney of a municipal or a county state attorney office may temporarily, where necessary for the performance of duties in another state attorney office of the same or lower level, be seconded to work in that state attorney office on a certain case or for a certain period of time for a maximum of six months.

(2) The decision on temporary secondment shall be adopted by an immediately higher-ranked state attorney with a decision including a statement of reasons.

(3) A deputy state attorney may object to the State Attorney Council to a decision on temporary secondment within eight days from the date of delivery of the decision. When deciding on the objection, the Council may reject the objection and confirm the state attorney's decision or annul the decision. The decision of the State Attorney Council on the objection shall be final.”

## Article 21

In Article 126, paragraph 1 the word: “or director” is deleted.

In paragraph 2, after the words: “ministry responsible for judicial affairs”, the words “or to the Judicial Academy” are added.

## Article 22

Article 131 is amended to read as follows:

“A state attorney shall provide an assessment of the performance of state attorney duties of the deputy of that state attorney office. The state attorney shall be assessed by the immediately higher-ranked state attorney.”

## Article 23

Article 135 is amended to read as follows:

(1) A county and municipal state attorney or a deputy state attorney who does not agree with the grade shall be entitled to submit an objection to the State Attorney Council within eight days from the date of delivery of the grade.”

#### Article 24

Article 136 is amended to read as follows:

(1) If an objection against the grade has been submitted, the state attorney who issued the grade shall request the opinion of the collegiate body of that state attorney office and the objection shall be forwarded, together with the opinion of the collegiate body and the personal file of the deputy, to the State Attorney Council for a decision.

(2) The State Attorney Council may adopt a decision confirming the grade, amending it or returning it for re-evaluation.”

#### Article 25

In Article 137 paragraph 2, a new item 8 is added which reads:

“ 8. failure to submit a declaration of assets or untruthful presentation of data in the declaration of assets;”.

The former item 8 shall become item 9.

#### Article 26

Article 142 is amended to read as follows:

“(1) Members of the Council shall be elected for a period of four years. Nobody may be elected member of the Council for two consecutive terms.

(2) If the office of a member of the Council is terminated before the term to which he was elected has expired, another member shall be elected to his position until the expiry of the term of office of the Council.”

#### Article 27

After Article 142, the following subtitle and Articles 142a to 142d are added which read:

“1. Bodies responsible for the election of members of the State Attorney Council

#### Article 142a

The bodies conducting the election of members of the State Attorney Council from the ranks of deputy state attorneys (hereinafter: the Council) are the Commission for the election of members of the Council (hereinafter: the Commission), nominating committees and electoral committees.

#### Article 142b



(1) The Commission shall consist of five members who are appointed from among the ranks of deputies of the State Attorney General of the Republic of Croatia for a period of five years.

(2) The Commission shall be appointed by an extended collegiate body of the State Attorney's Office of the Republic of Croatia.

(3) Members of the Commission may not stand as candidates for members of the Council.

#### Article 142c

The Commission for the election of members of the Council:

1. appoints members of the electoral committees and provides instructions for their work;
2. provides instructions to nominating committees in the procedure for the nomination of members;
3. ensures that the elections for members of the Council are conducted in conformity with the law;
4. sets up polling stations at state attorney offices;
5. establishes the results of the election for members of the Council and publishes them in the Official Gazette.

#### Article 142d

(1) The nominating committee of the State Attorney's Office of the Republic of Croatia shall be a collegiate body of the State Attorney's Office of the Republic of Croatia, and nominating committees of county state attorney offices shall be extended collegiate bodies of county state attorney offices consisting of state attorneys and all deputies of the competent county state attorney office, and municipal state attorneys and their deputies in the jurisdiction of that county state attorney office.

(2) The nominating committees shall collect nominations for members of the Council and perform the nomination procedure.

(3) County state attorneys shall submit to the Commission proposals for members of electoral committees.

(4) The electoral committee shall consist of a president and two members.

(5) Electoral committees shall directly organise the voting of state attorneys and deputy state attorneys at voting places and ensure the regularity and secrecy of voting.

(6) Members of electoral committees may not be candidates on the list for the election of members of the Council.”

#### Article 28

Article 144 is amended to read as follows:

“(1) At the latest six months before the term of office of the Council members expires, the Council shall request the nominating committee of the State Attorney’s Office of the Republic of Croatia and the nominating committees of the county state attorney offices to propose candidates for Council members from among the ranks of deputy state attorneys.

(2) At the latest six months before the term of office of the Council members expires, the Council shall notify deans of all faculties of law in the Republic of Croatia and the Croatian Parliament of the expiry of the term of office of members of the Council appointed by them.”

#### Article 29

After Article 144, new Articles 144a to 144f are added to read as follows:

#### “Article 144a

(1) The date for elections for members of the Council from among the ranks of deputy state attorneys shall be set by a decision of the Council on the announcing of elections, which shall be published in the Official Gazette.

(2) A minimum of 30 days must elapse from the day of the announcement to the day of the election of members of the Council.

(3) All state attorneys and deputy state attorneys shall have the right to vote in the elections.

#### Article 144b

1) Any deputy state attorney, except one against whom a disciplinary measure has been pronounced in the previous four years, may stand as candidate for Council member.

(2) Each candidate for Council member must provide a written agreement on his candidacy.

#### Article 144c

(1) Heads of state attorney offices may not be elected members of the State Attorney Council. Proposals from candidates from among the ranks of deputy state attorneys must ensure appropriate representation of candidates from the State Attorney's Office of the Republic of Croatia, and from county and municipal state attorney offices.

(2) All state attorneys and deputies shall be entitled to propose candidates for members of the Council at a session of the Nominating Committee of the State Attorney’s Office of the Republic of Croatia and at sessions of the nominating committees of county state attorney offices.

(3) On the basis of the proposal referred to in paragraph 2 of this Article, the Nominating Committee of the State Attorney's Office of the Republic of Croatia and the nominating committees shall appoint by voting three candidates with the highest number of votes for individual positions of members of the Council from among the ranks of deputy state attorneys.

(4) The proposal of candidates for members of the Council must be delivered to the Commission by the Nominating Committee of the State Attorney's Office of the Republic of Croatia and the nominating committees of county state attorney offices at the latest within 15 days from the date of the announcement of the elections.

(5) The proposal for candidate must contain the name of the state attorney office in which the deputy state attorney exercises his duties.

#### Article 144d

(1) Based on the proposal of the Nominating Committee of the State Attorney Office of the Republic of Croatia and of the nominating committees of county state attorney offices, the Commission shall compile separate lists for members of the Council from the ranks of deputies of the State Attorney General, separate lists for members of the Council from the ranks of deputy county state attorneys, and separate lists for members of the Council from the ranks of deputy municipal state attorneys.

(2) Candidates shall be entered on the list in alphabetical order by surname. In addition to the name and surname of the candidate, the state attorney office in which the candidate performs his or her state attorney office shall also be stated.

(3) After the publication of the list of candidates, the candidates shall not be allowed to withdraw from the list.

(4) Within forty-eight hours of the submission of the candidature, the Commission shall publish the lists of all valid candidate proposals on the website of the State Attorney's Office of the Republic of Croatia.

#### Article 144e

All state attorneys and deputy state attorneys shall vote on the lists of candidates for members of the Council.

#### Article 144f

(1) Members of the Council from among the ranks of university professors of law, on the proposal of faculty councils, shall be elected by all the professors of faculties of law in the Republic of Croatia.

2) The procedure of electing the Commission for conducting the elections and the manner of conducting the elections shall be regulated by the Rules of Procedure adopted by the deans of the faculties of law.

(3) Two members of the Council shall be appointed by the Croatian Parliament from the ranks of its members, of whom one shall be from the opposition.”

#### Article 30

Article 145 is amended to read as follows:

“(1) The Council shall have eleven members.

(2) Seven members of the Council shall be elected from among the ranks of state attorneys, two members from among the members of the Croatian Parliament and two members from among the ranks of university professors of law.

(3) Members of the Council from the ranks of deputy state attorneys shall consist of:

– two deputies of the State Attorney General of the Republic of Croatia;

– two deputies of county state attorneys;

– three deputies of municipal state attorneys.

(4) Members of the Council shall elect the president and deputy president from among themselves. The president of the Council must be a deputy state attorney.

(5) The president and deputy president shall be elected by secret vote for a period of four years.”

#### Article 31

After Article 145, the following subtitle and Articles 145a to 145o are added which read:

#### “2. Conducting the elections

##### Article 145a

(1) The Commission shall set up polling stations. As a rule one polling station shall be set up for the area of a county state attorney office.

(2) The Commission shall announce the polling stations and the premises of the state attorney offices where they are located at the latest eight days before the elections and deliver to the electoral committees a list of state attorneys and deputies who vote at particular polling stations.

##### Article 145b

(1) Voting shall be done in person on ballot papers. No one may vote on another person’s behalf.

(2) There shall be a separate ballot paper for each candidate list referred to in Article 144d, paragraph 1 of this Act and it shall contain:

1. the name and surname of candidates, and the state attorney office in which they discharge their state attorney office;

2. the number of candidates which are to be elected from that list for the Council.

(3) Candidates shall be entered on the list in alphabetical order by surname.

(4) The printing of ballot papers shall be directly supervised by the Commission.

#### Article 145c

(1) A ballot paper shall be completed by circling the number of one candidate who is selected for the position of member of the Council for each individual member of the Council.

(2) A ballot paper shall be valid if it may be determined with certainty and without doubt for which candidates the state attorney or deputy has voted.

#### Article 145d

An invalid ballot paper shall be one:

1. which has not been completed;
2. which has been completed in such a way that it is impossible to determine with certainty the will of the voter and for which candidate he has voted;
3. on which more candidates have been circled for an individual member of the Council than are to be elected from the list.

#### Article 145e

(1) Voting shall last continuously from 9 a.m. to 4 p.m.

(2) A minimum of three members of the electoral committee or their deputies must continuously be present at the polling station.

(3) A member of the electoral committee shall circle the number on the list before the name and surname of the state attorney or deputy who voted at that polling station.

(4) With the agreement of the electoral committee under whose authority the state attorney or deputy was due to vote, he may vote at another polling station, which shall be separately noted in the official records.

#### Article 145f

(1) When the voting is completed, the electoral committee shall first count the unused ballot papers and place them in a special envelope, which shall be sealed.

(2) Thereafter, the electoral committee shall, on the basis of the official records, establish the total number of voters who have voted, according to the list of voters, or according to an excerpt from the list of voters.

(3) After establishing the number of voters who have voted, the committee shall open the ballot boxes and count the votes.

(4) If it is established when counting the votes at the polling station that the number of votes according to the list of voters is larger than the number of votes according to the ballot papers, the result of the vote according to the ballot papers shall be valid.

(5) If it is established when counting the votes at the polling station that a smaller number of voters voted than the number of votes in the ballot box, the electoral committee shall immediately cease to operate and deliver the material, accompanied by a report, to the Commission.

(6) The Commission shall invalidate the voting at this particular polling station, dismiss the electoral committee, appoint a new one and order the elections to be held at that polling station within eight days if it establishes that the irregularities referred to in paragraph 4 of this Article could have affected the election results.

#### Article 145g

(1) When the electoral committee determines the voting results at the polling station, it shall record the following in the official record of its work:

- the number of voters according to the excerpt from the list of voters;
- the number of votes received by individual candidates from the lists for the election of Council members;
- the number of ballot papers which have been found invalid,
- whether a state attorney or deputy who was supposed to vote at another polling station has voted (Article 145e, paragraph 4).

(2) The official records shall be signed by all the members of the electoral committee.

(3) The electoral committee shall deliver the official records of its work together with other electoral material to the Commission at the latest within 24 hours of the closing of the polling station.

#### Article 145h

(1) If candidates who are included on the list for the election of members of the Council have an equal number of votes, the voting shall be repeated.

(2) The Commission shall determine repeated voting at all polling stations for this particular list of candidates within eight days.

(3) At the repeated elections, only candidates with an equal number of votes shall be included on the list.

#### Article 145i

(1) The Commission shall determine the results of the elections for members of the Council.

(2) When the Commission determines the results of the voting for members of the Council, it shall announce:

1. the number of voters included in the electoral lists, the number of voters who voted, the number of votes received by individual candidates from the list of candidates, and the number of invalid ballot papers;

2. the name and surname of the candidates who have been elected as Council members.

(3) The candidates who receive the highest number of votes shall be elected as Council members.

#### Article 145j

(1) Any candidate may file a complaint concerning irregularities in the procedure of proposing and electing candidates.

(2) Complaints shall be filed with the Commission within 48 hours from the end of the day when the action against which the complaint has been filed was carried out.

(3) The Commission shall adopt a decision on the complaint within 48 hours from the end of the day when the complaint was filed.

#### Article 145k

(1) If the Commission, when deciding upon the complaint, establishes the existence of irregularities which significantly affected or could have affected the results of the elections, all actions shall be invalidated and it shall be prescribed that these actions be repeated within a determined period which must allow for the elections to be held on the day when they are announced.

(2) If the invalidated actions cannot be repeated or if the irregularities concern the voting procedure and they have had a significant effect, or could have had an effect on the results of the elections, the Commission shall invalidate the elections and determine a period in which the elections are to be repeated.

#### Article 145l

(1) A complainant shall be entitled to appeal against the decision of the Commission to the collegiate body of the State Attorney's Office of the Republic of Croatia.

(2) Complaints shall be filed with the Commission within 48 hours from the date of receipt of the appealed decision.

(3) The collegiate body of the State Attorney's Office of the Republic of Croatia shall render a decision upon the appeal within 48 hours from the day of its receipt.

#### Article 145m

The filing of a complaint or an appeal in the procedure of protecting the elections shall not suspend the performance of the electoral actions laid down in this Act.

#### Article 145n

The funds to cover the costs of the elections shall be earmarked in the budget of the State Attorney Council.

#### Article 145nj

(1) Members of the Council from among the ranks of university professors of law, on the proposal of faculty councils, shall be elected by all the professors of faculties of law in the Republic of Croatia.

(2) Faculty councils shall establish the electoral lists of candidates for Council members.

(3) The procedure of electing the Commission for conducting the elections and the manner of conducting the elections shall be regulated by the Rules of Procedure adopted by the deans of the faculties of law.

#### Article 145o

(3) Two members of the Council shall be appointed by the Croatian Parliament from the ranks of its members, of whom one shall be from the opposition.”

#### Article 32

In Article 146, paragraph 1 is deleted.

Paragraphs 2 to 4 shall become paragraphs 1 to 3.

#### Article 33

In Article 147, paragraph 2 is amended to read as follows:

“(2) When the office of a member of the Council is terminated before the expiration of the term for which he was elected, the president of the Council shall, at the latest within 30 days, request the authorised body to institute a procedure for the election of another member of the Council.”

After paragraph 2, a new paragraph 3 is added which reads as follows:

“(3) When the office of a member of the Council from the ranks of university professors and Members of Parliament is terminated before the expiration of the term to which he was elected, the Council shall, at the latest within 30 days, request the authorised body to institute a procedure for the election of another member of the Council.”

#### Article 34



In Article 148, the words: “President of the Croatian Parliament” are replaced by the words: “State Attorney General”.

#### Article 35

After Article 148, Article 148a is added which reads as follows:

#### “Article 148a

During the time deputy state attorneys are in office as members of the Council, they may not be appointed to a state attorney position in a higher state attorney office, nor may they be elected as state attorneys.”

#### Article 36

Article 149 is amended to read as follows:

“(1) The term of office of the president or a member of the Council shall cease *ex officio* when his duty performed at the time when he was elected president or member of the Council terminates.

(2) If a member of the Council is appointed deputy state attorney in a different state attorney office of the same level this shall not be deemed termination of duty.

(3) The decision establishing the termination of office of a member shall be adopted by the president of the Council, and for the president by the deputy president.

(4) The president or a member of the Council shall be dismissed before the expiry of his term of office in the following cases:

1. at his own request;
2. if he is convicted of a criminal offence;
3. in the case of the permanent loss of capacity to discharge his office.

(5) The proposal for the dismissal of a member of the Council before the expiry of the term for which he was elected for reasons laid down in paragraph 4 of this Article may be submitted by the State Attorney General for members of the Council from among the ranks of deputy state attorneys and by any proponent for members of the Council proposed as candidates for president and members of the Council.

(6) The decision on the dismissal of a member of the Council shall be adopted by a majority vote of all members of the Council.

(7) The decision on the dismissal of members of the Council from among the ranks of members of Parliament and university professors shall be adopted by the body that appointed or elected them, and the decision on the dismissal of members of the Council from among the ranks of deputy state attorneys shall be adopted by the Council.

(8) A member of the Council against who criminal proceedings have been instituted for a criminal offence prosecuted *ex officio* and punishable by five years imprisonment or by a more severe sentence may not participate in the work of the Council until those proceedings are concluded with a final judgment. The decision on removal from office shall be adopted by the Council.”

#### Article 37

Article 150 is amended to read as follows:

“(1) If the president or a member of the Council requests dismissal from office, and the Council does not adopt a decision on that request within three months from the date of submission thereof, the Council shall determine, upon the request of the president or the member, that his term of office terminated on the lapse of three months from the date the request for dismissal was filed.

(2) The court that imposes a prison sentence on the president or a member of the Council shall immediately deliver the final judgment to the Council which shall inform immediately the collegiate body of the State Attorney's Office of the Republic of Croatia thereof.

(3) The proposal to institute proceedings to determine the permanent loss of capacity of a member of the Council to discharge his office shall be submitted to the collegiate body of the State Attorney's Office of the Republic of Croatia by the president of the Council, and in relation to the president, by at least three members of the Council.”

#### Article 38

Article 152 is amended to read as follows:

“The Council shall be competent for the following:

- the appointment and dismissal of deputy state attorneys;
- the appointment and dismissal of county and municipal state attorneys;
- the conducting of proceedings and deciding on the disciplinary responsibility of deputy state attorneys;
- the secondment of deputy state attorneys;
- calling elections for members of the Council from among deputies state attorneys;
- participation in the training of state attorneys, deputy state attorneys and state attorney employees;
- deciding on objections against grades;
- conducting the procedure of enrolment of candidates in the State School for Judicial Officials and the procedure of the final examination;

- resolving complaints related to the final assessment of candidates in the State School for Judicial Officials;
- managing the personal files of state attorneys and deputies;
- managing the declarations of assets of state attorneys and deputy state attorneys;
- carrying out other activities pursuant to the law.”

#### Article 39

Article 155 is amended to read as follows:

“(1) The manner of work of the Council shall be laid down in the Rules of Procedure published in the Official Gazette.

(2) The Rules of Procedure shall be adopted by the Council on the basis of the votes of at least eight members of the Council.

(3) Professional, administrative and accounting activities for the Council shall be performed by a Secretariat headed by the secretary of the Council.

(4) The regulations that relate to civil servants and employees shall apply to the position, rights and obligations of civil servants and employees performing the activities referred to in paragraph 1 of this Article.

(5) The secretary of the Council, who is appointed by the Council through a public announcement procedure, shall hold the position of head of sector in the ministry responsible for judicial affairs.

(6) The conditions for the appointment of the secretary shall be prescribed in the Rules of Procedure of the Council.

#### Article 40

Article 156 is amended to read as follows:

“(1) The State Attorney General shall adopt a plan to fill vacancies for the positions of deputy state attorneys in municipal state attorney offices and deliver it to the minister responsible for judicial affairs and to the president of the Council at the latest by the end of the calendar year for the next year.

(2) The plan referred to in paragraph 1 of this Article shall be amended in the course of the year if the facts based on which it was adopted change significantly.

(3) A maximum of 30% of deputy state attorney positions provided for in the plan may be filled by permanently reassigning deputy state attorneys from state attorney offices of the same instance and same type.

(4) Before announcing vacancies for deputies, the Council shall publish in the Official Gazette an invitation to state attorneys to file an application for permanent reassignment within 30 days.

(5) The Council shall request an assessment of the performance of the office of state attorney for deputy state attorneys who have submitted an application for permanent reassignment.

(6) The Council shall determine a list of candidates based on the total number of points achieved in the assessment of performance of the state attorney office.

(7) The decision on the permanent reassignment of a deputy state attorney must be based on the list of merit of candidates.”

#### Article 41

In Article 157, paragraphs 1 and 2 are amended to read as follows:

“(1) A vacancy for deputy state attorney shall be published by the Council at the proposal of the State Attorney General.

(2) A state attorney in the state attorney office where there is a need to appoint a deputy state attorney or an immediately higher-ranked state attorney shall notify the General State Attorney thereof.”

Paragraphs 4 and 5 are deleted.

In previous paragraph 6, which becomes paragraph 4, the words: “State Attorney General” are replaced by the words: “State Attorney Council”.

#### Article 42

After Article 157, Article 157a is added which reads as follows:

##### “Article 157a

(1) When appointing a deputy state attorney for the first time, the Council shall conduct a test of knowledge for candidates fulfilling the conditions for the position of deputy state attorney.

(2) The test shall consist of a written paper which represents the rendering and drafting of a state attorney office decision. The candidates shall write their paper under a personal code name.

(3) The candidates may be awarded a maximum of 100 points for the written paper.

(4) After the written test, candidates shall be invited for an oral interview in which the candidates’ motivation for work in the state attorney office is assessed, as well as their ability to communicate with others, resolve conflicts and render decisions, and their motivation to collect data and evidence necessary to render a decision. A maximum of 50 points may be awarded for the oral interview.

(5) Based on the results of the written test and the oral interview, the Council shall compile a list of candidates in order of merit and render a decision on appointment. If several candidates are awarded the same number of points, the candidate with a better grade shall have priority.

(6) Within 60 days of the coming into force of this Act, the Council shall adopt an ordinance on the manner of conducting and assessing the written test and the oral interview.”

#### Article 43

In Article 161, paragraph 2 is deleted.

Paragraphs 3, 4, 5 and 6 shall become paragraphs 2, 3, 4 and 5.

#### Article 44

Article 164 is amended to read as follows:

(1) State attorneys and deputy state attorneys shall, within 30 days from the date when they assume their duties, submit to the Council a declaration of their assets, regular income and the assets of their spouse and minor children as on that day, and after the expiry of their term of office as state attorney, if significant changes have occurred during the performance of their duties, at the end of the year in which such change occurred.

(2) State attorneys and deputy state attorneys shall include in the declaration referred to in paragraph 1 of this Article information about monetary savings if they exceed the annual amount of net income of state attorneys or deputy state attorneys.

(3) An official may not receive a salary before having fulfilled his obligation referred to in paragraph 1 of this Article.

(4) If a state attorney or a deputy state attorney fails to fulfil his obligation referred to in paragraphs 1 and 2 of this Article, the Council shall notify the State Attorney General thereof, who shall invite the state attorney or a deputy state attorney to deliver the requested data or to supplement the delivered data within the further time limit of 15 days. If a state attorney or a deputy state attorney fails to deliver the requested data within the requested time limit, the State Attorney General shall institute disciplinary proceedings against the state attorney or deputy state attorney for the disciplinary offence referred to in Article 137, paragraph 2, item 8 of this Act.

(5) The form and content of the declaration of assets shall be prescribed by the Council in an ordinance.

(6) The public shall have the right to view the declaration of assets in conformity with special laws.”

#### Article 45

After Article 164, Article 164a is added which reads as follows:

#### Article 164a

(1) The Council shall manage and control the declarations of assets of state attorneys and deputy state attorneys.

(2) When it receives the declaration of assets from a state attorney or deputy state attorney for the first time, the Council shall ask the tax administration and other bodies for data about these assets and compare them to the data in the declaration of assets.

(3) If a state attorney or deputy state attorney fails to state in the declaration of assets the manner of acquisition of such assets, the Council shall request a written statement from that state attorney or deputy state attorney.

(4) If data in the declaration of assets obtained by the Council in the manner described in paragraph 1 of this Article differ from data stated by the state attorney or deputy state attorney in the declaration of assets, and if from the declarations given by the state attorney or deputy state attorney there results a disproportion between his income and his assets, the Council shall notify thereof the state attorney office where the deputy state attorney exercises his duties or the immediately higher-ranked state attorney with a view to instituting disciplinary proceedings.”

#### Article 46

In Article 185, paragraph 1 the words: “vacancies for advisors” are replaced by the words: “vacancies for senior advisors”.

In paragraph 2, before the word: “advisor” the word: “senior” is added.

Paragraph 4 is amended to read:

“(4) After completing the State School for Judicial Officials, the senior advisors referred to in paragraph 1 of this Article shall remain employed in the state attorney office until they are appointed as deputies in municipal state attorney offices.”

#### Article 47

(1) Deputy state attorneys who were appointed for a term of five years in accordance with regulations that were in force until the entry into force of this Act shall continue to perform their state attorney duties permanently.

(2) Individual decisions on permanent appointment referred to in paragraph 1 of this Article shall be adopted by the Council within three months from the date of entry into force of this Act.

#### Article 48

(1) Procedures for the appointment of municipal and county state attorneys that are pending at the moment of the entry into force of this Act shall continue pursuant to the provisions of this Act.

(2) County and municipal state attorneys appointed pursuant to regulations that were in force before the entry into force of this Act shall remain in office until the expiry of the term of office for which they were appointed.

#### Article 49

(1) All the appointment procedures of deputy state attorneys which are pending shall be continued pursuant to the provisions of the Act that was in force before this Act came into force, except that deputy state attorneys shall be appointed permanently.

(2) All procedures before the Council shall be conducted and completed pursuant to the provisions of the Act that was in force before the entry into force of this Act.

#### Article 50

With the entry into force of Articles 1 – 230, 232 – 496 and 509 – 569 of the Criminal Procedure Act (Official Gazette 152/08), state attorneys and deputy state attorneys who work on investigation duties shall be entitled to a beneficial insurance period, so that each 12 months of work on such duties shall count as an insurance period of 15 months.

#### Article 51

(1) The Council shall align the Rules of Procedure of the Council referred to in Article 39 of this Act and the ordinance referred to in Article 42 of this Act with the provisions of this Act within three months of its coming into force.

(2) The Council shall establish a Secretariat within six months from the entry into force of this Act.

#### Article 52

(1) The election of members of the Commission shall be carried out within three months from the entry into force of this Act.

(2) Deans of law faculties shall adopt the Rules of Procedure for the work of the electoral committees within three months from the date of entry into force of this Act.

#### Article 53

(1) The election of Council members pursuant to the provisions of this Act shall be conducted at the latest within a year from the entry into force of this Act.

(2) Thirty days after the elections for members of the Commission, the State Attorney General of the Republic of Croatia shall convene the first founding session of the Commission.

(3) The Council shall deliver a decision on announcing elections for members of the Council, and shall notify the Croatian Parliament to appoint two members of Parliament as Council members, and deans of law faculties to appoint members of the Council from the ranks of university professors of law.

Article 54

(1) The Council shall adopt the ordinance referred to in Article 44 of this Act within three months after the entry into force of this Act.

(2) Until the adoption of the ordinance referred to in paragraph 1 of this Article, the Ordinance on the manner of proceeding with reports on the assets of judges, state attorneys and deputy state attorneys (Official Gazette 24/07 and 20/10) shall continue to apply.

Article 55

Article 42 of this Act by which Article 157a is added shall cease to be in effect on 31 December 2012.

Article 56

This Act shall enter into force on the eighth day after the day of its publication in the Official Gazette.

Class: 701-01/10-01/01

Zagreb, 01 October 2010

THE CROATIAN PARLIAMENT

President of the  
Croatian  
Parliament  
**Luka Bebić, m.p.**