

THE CROATIAN PARLIAMENT

1833

Pursuant to Article 88 of the Constitution of the Republic of Croatia, I hereby issue the

DECISION

PROMULGATING THE STATE ATTORNEY'S OFFICE ACT

I hereby promulgate the State Attorney's Office Act, passed by the Croatian Parliament at its session on 30 June 2009.

Class: 011-01/09-01/111

Reg. No: 71-05-03/1-09-2

Zagreb, 30 June 2009

President
of the Republic
of Croatia
Stjepan Mesić,
m.p.

STATE ATTORNEY'S OFFICE ACT

PART ONE GENERAL PROVISIONS

Article 1

(1) This Act regulates the following: the organisation and jurisdiction of state attorney offices, the requirements and procedure for the appointment and dismissal of state attorneys and their deputies, their authority, their rights and obligations, including their disciplinary responsibility, the performance of duties relating to judicial administration and the state attorney's administration in state attorney offices, conditions for the employment of civil servants and employees, the keeping of confidential information and the ensuring of funds for the operation of state attorney offices, and other issues relevant for their work.

(2) This Act also regulates the organisation and work of the State Attorney Council, the requirements and procedure for the election of its president and members, and other issues relevant for the operation of the State Attorney Council.

(3) The terms used in this Act in the masculine gender shall refer equally to both male and female persons.

Article 2

(1) The State Attorney's Office is an autonomous and independent judicial body authorised and obliged to act against perpetrators of criminal offences and other punishable offences, to undertake legal actions in order to protect the assets of the Republic of Croatia and to file legal remedies for the protection of the Constitution and law.

(2) The State Attorney's Office executes its powers on the basis of the Constitution, acts, international treaties that constitute a part of the legal order of the Republic of Croatia, and other provisions adopted in compliance with the Constitution, international treaties and laws of the Republic of Croatia.

(3) Any kind of influence shall be prohibited, in particular any form of coercion against state attorneys, abuse of public authority and personal influence and use of the media and public appearances in criminal cases prosecuted *ex officio* and in cases where a state attorney is legally executing his rights and obligations in protecting the assets of the Republic of Croatia.

Article 3

The State Attorney's Office is established as an integral judicial body whose competence, powers and jurisdiction are established by law.

Article 4

A state attorney is responsible for performing activities under the competence of the state attorney office which he represents and manages.

Article 5

Any person is entitled to submit petitions or complaints to the ministry responsible for judicial affairs or to the competent state attorney concerning the work of the latter or the work of a lower state attorney office and to receive replies thereto within an appropriate time.

Article 6

The State Attorney General of the Republic of Croatia (hereinafter: the State Attorney General), a state attorney and the Deputy State Attorney General or a deputy state attorney (hereinafter: deputy state attorney) shall not be held accountable for any legal opinion expressed in a case that was assigned to them, unless the State Attorney General, the state attorney or the deputy state attorney have thereby broken the law and committed a criminal offence.

Article 7

(1) The State Attorney's Office shall have a seal bearing the name of the State Attorney's Office and the name and coat of arms of the Republic of Croatia.

(2) The headquarters of the State Attorney's Office must bear the name of the State Attorney's Office, the coat of arms and the flag of the Republic of Croatia.

(3) The State Attorney's Office shall have its emblem whose form and content is established in the Ordinance on internal organisation.

PART TWO ORGANISATION, COMPETENCE AND WORK

Title I ORGANISATION

1. Organisation of state attorney offices

Article 8

(1) The State Attorney's Office of the Republic of Croatia shall be established for the entire territory of the Republic of Croatia.

(2) The following may be established in the Republic of Croatia:

- for the jurisdiction of one or more municipal courts – a municipal state attorney office;
- for the jurisdiction of a county or commercial court – a county state attorney office.

Article 9

(1) Every state attorney office shall act in compliance with its subject matter and territorial jurisdiction, unless otherwise laid down in an act.

(2) Municipal state attorney offices shall be subordinate to county state attorney offices, and the latter shall be subordinate to the State Attorney's Office of the Republic of Croatia.

Article 10

(1) Other organisational forms for the criminal prosecution of perpetrators of certain criminal offences may be provided by the law within the framework of the state attorney office. Their competence, authority, organisation and position shall be laid down by law.

(2) Pursuant to paragraph 1 of this Article, a special state attorney office may be established for actions against perpetrators of criminal offences laid down in the law that the Republic of Croatia is obliged to prosecute pursuant to international law.

2. Collegiate body of a state attorney office

Article 11

(1) The collegiate body of a state attorney office shall be composed of the state attorney and all deputy state attorneys in that state attorney office.

(2) If a state attorney office does not have a deputy or has fewer than three deputies, the issues referred to in Article 12 of this Act shall be decided upon by the collegiate body of a higher

state attorney office in which the state attorney and deputies of the lower state attorney office are equally represented and vote.

Article 12

The collegiate body of a state attorney office:

- issues opinions on the carrying out of state attorney duties on the basis of an objection in the evaluation procedure;
- issues opinions on candidates for deputy state attorney in its own or in the immediately lower state attorney office;
- issues opinions on candidates for state attorney in the immediately lower state attorney office;
- issues opinions on the annual allocation of tasks;
- carries out other activities laid down in this Act.

Article 13

(1) The collegiate body of the State Attorney's Office of the Republic of Croatia shall consist of the State Attorney General and all deputies of that state attorney office.

(2) The collegiate body of the State Attorney's Office of the Republic of Croatia shall decide on the exclusion of the State Attorney General.

(3) In addition to tasks referred to in Article 12 of this Act and paragraph 2 of this Article, 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 or 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 and the Government of the Republic of Croatia;
- provide opinions on the existence of grounds for the dismissal of a county or municipal state attorney (Article 102, paragraph 3);
- adopt decisions on objections against the evaluation of the performance of duties submitted by a county state attorney or the Deputy State Attorney General;
- perform other tasks pursuant to the Rules of Procedure of the State Attorney's Office.

(4) The decision referred to in paragraph 2 of this Article shall be adopted by the collegiate body of the State Attorney's Office of the Republic of Croatia by a majority vote of all members present.

(5) The opinion on issues referred to in paragraph 3 of this Article shall be adopted at the session of the collegiate body by a majority vote of its members.

Article 14

(1) The State Attorney General may convene an expanded collegiate body of the State Attorney's Office of the Republic of Croatia. The expanded collegiate body shall consist of all deputies of the State Attorney General, county state attorneys and heads of special state attorney offices.

(2) The expanded collegiate body shall discuss draft acts and other regulations establishing the authority of a state attorney office or regulating other issues important for the work of a state attorney office or for the performance of state attorney duties.

Article 15

(1) The session of a collegiate body shall be convened by the State Attorney General, by a state attorney, or by a deputy state attorney.

(2) The State Attorney General and a state attorney shall participate in the work of the collegiate body without voting rights when providing opinions on the performance of state attorney duties, providing opinions on candidates for deputy state attorney and providing opinions on candidates for the position of lower-level state attorney.

(3) An opinion on the issues referred to in paragraph 2 of this Article shall be adopted at the session of the collegiate body by a majority vote of its members with voting rights.

(4) Minutes shall be kept on the work of the collegiate body.

3. Departments and Sections

Article 16

(1) State attorney offices shall have a criminal law department for criminal cases and a civil and administrative law department for civil and administrative cases.

(2) The State Attorney General may decide that an investigation department be established in a county or municipal state attorney office.

(3) A state attorney shall appoint the head of an investigation department bearing in mind the person's abilities to carry out pre-trial criminal proceedings and to exercise the state attorney's rights and obligations in that part of proceedings as laid down in Article 38, paragraph 2 of the Criminal Procedure Act.

(4) The investigation department shall consist of deputy state attorneys and advisors with distinguished abilities and capacities for investigating criminal offences and for cooperation with other state bodies participating in criminal prosecution.

Article 17

(1) Departments may be divided into sections as professional bodies with at least three deputy state attorneys specialised in certain types of cases.

(2) The assignment of deputy state attorneys into departments and sections and the heads of the departments and sections shall be determined in the annual assignment of tasks.

Article 18

(1) If a state attorney office includes a special investigation department, deputies in that department shall perform the following:

- carry out evidentiary actions in relation to which there is a risk of delay;
- upon the proposal of a state attorney or deputy state attorney in charge of the file, they shall carry out individual evidentiary actions in cases where no investigation is carried out;
- on the basis of a decision adopted by a state attorney and in agreement with the deputy state attorney in charge of the case, they shall carry out individual evidentiary actions during the investigation;
- provide legal assistance to other state attorney offices and participate in procedures for the granting of international legal assistance.

(2) The state attorney or deputy state attorney in charge of the case may decide carry out evidentiary actions referred to in subparagraphs 2 and 3 of this Article himself.

(3) The State Attorney General may set out in the Rules of Procedure of the State Attorney's Office other issues under the competence of the investigation department.

Article 19

The issues discussed at meetings of the criminal law and civil and administrative law departments shall include issues important for the work of the department, in particular the monitoring of work, discussing legal issues, coordinating actions and other issues provided for in the Rules of Procedure of the State Attorney's Office.

Title II

TASKS OF STATE ATTORNEY OFFICE AND JUDICIAL ADMINISTRATION

1. Tasks of state attorney office administration

Article 20

(1) The tasks of state attorney office administration shall include ensuring the conditions for the regular work and operations of a state attorney office, in particular: the organisation of internal operations of a state attorney office, the management of the regular and timely performance of activities of the state attorney office, tasks related to petitions and complaints against the work of the state attorney office, professional tasks related to the execution of duties and rights of civil servants and employees in the state attorney office, the organisation of in-service training of state attorneys, deputy state attorneys, advisors, trainees and other civil servants and employees in the state attorney office, the keeping of statistics, financial and material operations of the state attorney office and other tasks laid down in the law and in the Rules of Procedure of the State Attorney's Office.

(2) With a view to facilitating the performance of tasks referred to in paragraph 1 of this Article, in particular in order to register crime reports, to monitor the movements and structure of criminal and other types of cases, to monitor the work of state attorney offices and individual officials in state attorney offices and their evaluation, the State Attorney General shall establish and supervise the information system of the State Attorney's Office, as an interactive database in real time.

Article 21

(1) A state attorney shall carry out state attorney administration tasks pursuant to the law and the Rules of Procedure of the State Attorney's Office.

(2) If a state attorney is unable to carry out state attorney administration tasks or other tasks entrusted to him or is absent, he shall be substituted by the deputy state attorney as determined in the annual assignment of tasks.

(3) In the case of the absence or incapacity of a state attorney in a state attorney office in which there are no deputy state attorneys or when a state attorney has not been appointed, the state attorney of the immediately superior state attorney office may designate a deputy state attorney from that state attorney office, or a state attorney, or a deputy state attorney, of the regional state attorney office to temporarily perform the tasks of state attorney or deputy state attorney for a maximum of six months in one year.

(4) In the case of the absence or incapacity of the State Attorney General to carry out his tasks, and when no State Attorney General has been appointed, his tasks shall be temporarily carried out by a deputy as determined in the annual assignment of tasks.

(5) The State Attorney General shall be assisted in the carrying out of his tasks by deputies – heads of departments and the secretary of the State Attorney's Office. In other state attorney offices, the state attorney shall be assisted by deputies – heads of departments, the secretary of the state attorney office or an official appointed by the state attorney.

Article 22

(1) An Internal Control Department shall be established to supervise the work of state attorney offices, to overview the work of the regional state attorney offices, to keep monthly and annual statistics and organise in-service training of state attorneys, deputy state attorneys, advisors, trainees and other civil servants and employees in the State Attorney's Office of the Republic of Croatia.

(2) A Department for International Legal Assistance and Cooperation shall be established to direct international cooperation, provide legal assistance and work in bodies of international and regional organisations of which the Republic of Croatia is a member and with which it cooperates on the basis of a special agreement.

(3) Issues concerning the work of the Internal Control Department and of the Department for International Legal Assistance and Cooperation shall be regulated by the Rules of Procedure of the State Attorney's Office.

2. Judicial administration

Article 23

(1) Tasks of judicial administration shall be performed by the ministry responsible for judicial affairs.

(2) In relation to performing the tasks of judicial administration, the ministry responsible for judicial affairs shall inform the State Attorney's Office of the Republic of Croatia, which shall forward the requests to the appropriate state administration offices.

(3) While carrying out its judicial administration tasks, the ministry responsible for judicial affairs may annul or revoke an unlawful act adopted during the carrying out of administration tasks or adopt an act that was not adopted or was untimely adopted during the performance of administration tasks.

Article 24

Judicial administration shall include tasks related to the carrying out of the authority of state administration offices, in particular the drafting of acts and other regulations for the establishment, scope and organisation of state attorney offices, the organisation of education and in-service training of state attorneys, deputy state attorneys and other civil servants and employees, ensuring the material, financial, spatial and other conditions for the work of state attorney offices, the collection of statistical and other data on the activities of state attorney offices, the examination of petitions and complaints submitted by citizens against the work of state attorney offices related to delays in assessing the grounds of an issued crime report or against the actions of a state attorney, deputy state attorney or another employee in a state attorney office towards a party in the proceedings or the carrying out of other official actions, the supervision of the financial and material affairs of state attorney offices, the supervision of the regular carrying out of tasks in state attorney offices, and other administrative tasks and tasks laid down by law.

Article 25

(1) The ministry responsible for judicial affairs shall keep records of state attorneys, deputy state attorneys and state attorney trainees and other employees in state attorney offices.

(2) The records of state attorney trainees and other employees shall contain data about the name and surname, birth, nationality, residence, completed education, qualifications, knowledge of foreign languages and other data laid down in the law.

(3) The data referred to in paragraph 2 of this Article shall be submitted by state attorney offices to the ministry responsible for judicial affairs in the manner laid down by the minister responsible for judicial affairs.

(4) Data entered in the records shall be regarded as confidential and may be used only for the purposes of the implementation of this Act, and any act regulating the rights, obligations and responsibilities of the state attorney, deputy state attorney and other employees in a state attorney office.

(5) In the carrying out of state attorney office administration tasks, the records referred to in paragraph 1 of this Article shall be kept not only by the ministry responsible for judicial affairs but also by the State Attorney's Office of the Republic of Croatia.

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

Article 26

(1) The state attorney and deputy state attorney records shall include the following information:

1. personal information;
2. information on appointment and dismissal;
3. information on success during studies;
4. information on state attorney traineeships;
5. information on published professional or academic work;
6. evaluation of the performance of state attorney duties;
7. information on career advancement;
8. disciplinary sanctions.

(2) Personal data shall contain the following information: name, surname, personal identification number (OIB), father's name, day, month and year of birth, nationality, data on residence, competed law school, passed bar exam, special interests, personal assets, members of the household (spouse, children and parents).

(3) Data from the records shall be confidential in compliance with special laws.

(4) Bodies holding data on which the records referred to in paragraph 1 of this Article are kept shall deliver them to the ministry competent for judicial affairs.

Article 27

(1) If the State Attorney General does not reply to the request of the ministry responsible for judicial affairs within a reasonable time (Article 23, paragraph 2), or if after having received a reply from the State Attorney General it finds it necessary in a specific case to implement the tasks laid out in this Act, the ministry responsible for judicial affairs may directly ask state attorney offices to submit reports and information about the necessary judicial administration tasks under its competence and it shall conduct direct inspection of the work of state attorney offices and request reports on reasons for the failure to act in individual cases.

(2) Direct inspection of the work of state attorney offices related to the performance of judicial administration tasks referred to in paragraph 1 of this Article shall be carried out by judicial inspectors of the ministry responsible for judicial affairs.

(3) The judicial inspection tasks shall be carried out by senior administrative advisors and deputy state attorneys assigned to the ministry responsible for judicial affairs pursuant to Article 126 of this Act.

(4) Senior administrative advisors carrying out judicial inspection tasks must comply with the requirements of deputy county state attorneys.

Article 28

(1) The minister responsible for judicial affairs shall adopt the Rules of Procedure of the State Attorney's Office upon the proposal of the State Attorney General.

(2) The Rules of Procedure of the State Attorney's Office shall lay down the rules on internal organisation, office management, the keeping of the register and auxiliary books, the keeping of records, forms for work, the rules on press releases, the implementing rules for proceedings and the delivery of decisions in the language and script of an ethnic or national community or minority, the rules on the supervision of material and financial operations and regular activities in state attorney offices, the work time schedule during the working day or week, the rules on the keeping of statistics, the standards on premises and equipment and other issues important for the internal operations of state attorney offices.

(3) The Rules of Procedure of the State Attorney's Office shall lay down the manner of carrying out joint tasks of several state attorney offices, and of other bodies headquartered in the same building.

Article 29

The State Attorney General, state attorneys, deputy state attorneys, advisors and expert associates shall be issued with official ID cards. The minister responsible for judicial affairs shall adopt an ordinance prescribing the form and procedure for issuing the official ID card.

Title III COMPETENCE AND WORK

1. Competence

Article 30

(1) The competent state attorney office shall act in criminal proceedings against perpetrators of criminal offences prosecuted ex officio or upon a motion, and in order to carry out these functions it shall have rights and obligations laid down by law.

(2) The competent state attorney office shall act in misdemeanour proceedings in compliance with its legally prescribed authority.

(3) The competent state attorney office shall represent the Republic of Croatia in all proceedings carried out for the protection of its property rights and interests before courts, administrative and other bodies, unless otherwise prescribed by law or by a decision of a state body based on the law.

Article 31

(1) The subject matter and territorial jurisdiction of a state attorney office shall be determined pursuant to the provisions of the act regulating the competence of courts where they exercise their duties, unless otherwise laid down in this Act.

(2) If a municipal state attorney office has a small number of officials, the State Attorney General may decide that tasks in pre-trial criminal proceedings for the purposes of that state attorney office shall be carried out by a county state attorney office.

(3) The state attorney office competent for proceedings before a commercial court with territorial jurisdiction in the area where two or more county state attorney offices share territorial competence shall be the county state attorney office according to the registered seat of the legal person or the registered seat or residence of an individual trader or sole proprietor who is a party to the proceedings, or against whom bankruptcy or liquidation proceedings are under way.

(4) When parties in proceedings include several persons referred to in paragraph 3 of this Article in the area of the territorial jurisdiction of several county state attorney offices or foreign legal or natural persons, the competent county state attorney office is the one where the seat of the commercial court competent for the proceedings is located.

(5) The county state attorney office that initiated representation in proceedings before the commercial court shall continue with the representation until the end of the proceedings unless the circumstances referred to in paragraphs 3 and 4 of this Article on which its competence was based cease to exist.

Article 32

(1) Municipal state attorney offices shall represent the Republic of Croatia in all proceedings conducted before municipal courts and administrative bodies, unless otherwise prescribed by law or by a decision of a state body based on the law. Municipal state attorney offices shall institute actions before the Administrative Court of the Republic of Croatia in administrative disputes under their competence.

(2) County state attorney offices shall represent the Republic of Croatia in proceedings conducted before county and commercial courts, unless otherwise prescribed by law or by the decision of a state body based on the law.

(3) The State Attorney's Office of the Republic of Croatia shall undertake legal actions under its competence to protect the Constitution of the Republic of Croatia and legality before the Constitutional Court of the Republic of Croatia, it shall undertake actions under its competence before the Supreme Court of the Republic of Croatia, the Administrative Court of the Republic of Croatia and the High Commercial Court of the Republic of Croatia, as well as before international and foreign courts and other bodies.

Article 33

(1) The state attorney office competent pursuant to Article 32 of this Act shall be competent in proceedings to which the state attorney office is a party pursuant to a special law.

(2) In enforcement proceedings for the collection of costs of criminal proceedings or the seizure of proceeds of crime, the state attorney office shall have the rights and responsibilities of an enforcement officer.

(3) The state attorney office competent for proceedings for the amicable settlement of disputes shall be the office that is competent pursuant to Article 32 of this Act to participate in the dispute.

Article 34

(1) The State Attorney General may decide that tasks of representation in certain types of civil and administrative disputes shall be carried out by one state attorney office for the area of several courts with territorial and subject matter jurisdiction and in compliance with Article 54, paragraphs 2 and 3 of this Act, for reasons of expediency and cost effectiveness.

(2) The decision referred to in paragraph 1 of this Article shall be delivered without delay to the competent court or to an administrative body.

2. Work

Article 35

(1) A state attorney shall perform the tasks under the competence of a state attorney office, he shall represent the state attorney office, be responsible for the work of the state attorney office and shall manage the state attorney office.

(2) A state attorney office may appoint one or several deputy state attorneys.

(3) Deputy state attorneys shall be assigned individual cases in the areas of criminal, civil or administrative law in a manner ensuring the impartial and independent assignment of cases. The manner of assigning cases shall be regulated by the Rules of Procedure of the State Attorney's Office.

(4) A deputy state attorney shall be responsible for work on the case that was assigned to him and shall be authorised to undertake all actions that a state attorney is authorised to take pursuant to the law. Independence in work and the adoption of decisions may be restricted by law or in the manner laid down in Article 54 of this Act.

(5) A deputy state attorney shall be authorised, when substituting the state attorney, to perform all tasks in proceedings before the court or another state body which the state attorney is authorised to perform. The state attorney may instruct him to act in the manner laid down in Article 54 of this Act.

(6) A deputy state attorney must inform the state attorney upon his request about his work in an individual case and the decision he intends to adopt, and he must also inform the state attorney about the work on an individual case of special state interest or in which complex factual or legal issues occur.

(7) A deputy state attorney shall also perform other tasks pursuant to this Act and the competent state attorney's instructions.

3. Maintaining the confidentiality of data

Article 36

(1) State attorneys, deputy state attorneys, advisors, expert associates, trainees, civil servants and employees shall maintain the confidentiality of classified data or data proclaimed confidential pursuant to the law, regardless of the manner in which they learned about such information.

(2) Classified data shall be data designated as such by a competent authority in prescribed procedures and for which a degree of confidentiality has been established, and data submitted to the Republic of Croatia and designated as such by another country, international organisation or institution with which the Republic of Croatia cooperates.

(3) The following shall be regarded as confidential in the work of a state attorney office:

1. cases under the competence of the state attorney for youth;
2. files of the state attorney office during inquiries and other actions conducted by the state attorney office up to the adoption of a decision on the report;
3. files of the state attorney office concerning the evidentiary actions prior to launching an investigation and when an investigation is not carried out;
4. files of the state attorney office during the investigation;
5. data and documents in criminal, civil and administrative and other cases classified by the state attorney or deputy state attorney.

(4) The Rules of Procedure of the State Attorney's Office shall lay down the degrees of confidentiality of data designated as confidential pursuant to paragraph 3 of this Act, the procedure for classification and declassification, access to the data, and their protection and supervision.

Article 37

(1) The obligation to maintain the confidentiality of data shall be laid down in this Act and in the Data Confidentiality Act.

(2) The termination of the obligation to maintain the confidentiality of data shall be regulated by a special law. The decision concerning a state attorney shall be adopted by the state attorney belonging to an immediately higher state attorney office and the decision concerning the State Attorney General shall be adopted by the Government of the Republic of Croatia.

Article 38

(1) Press releases concerning proceedings in an individual case, and concerning the work of a state attorney office, shall be issued by the state attorney or by a deputy state attorney authorised by him.

(2) The State Attorney General of the Republic of Croatia may authorise another person to deal with media relations and to provide information concerning the work of the State Attorney's Office.

Article 39

(1) The keeping of, viewing and correcting of personal data kept in registers of a state attorney office and supervision of the collection of personal data shall be regulated by the Personal Data Act, the Regulation on the manner of storing and special measures for technical protection of special categories of personal data (Official Gazette 139/04) and the Rules of Procedure of the State Attorney's Office.

(2) A state attorney, deputy state attorney, official or employee may not release to unauthorised individuals information about the personal, family or financial situation of natural persons or about the financial situation of legal persons learned during proceedings.

(3) A record shall be kept of every collection of personal data pursuant to special regulations.

(4) Approval for the viewing, transcribing or copying of a state attorney office file shall be given by a state attorney pursuant to the provisions of the Rules of Procedure of the State Attorney's Office.

Title IV REPORTS

1. Reports to the Croatian Parliament and to the Government of the Republic of Croatia

Article 40

(1) The State Attorney's Office of the Republic of Croatia shall submit an annual activity report to the Croatian Parliament and to the Government of the Republic of Croatia.

(2) The annual report shall contain information on the situation and trends of criminal activities, an overview of cases concerning the protection of assets of interest to the Republic of Croatia, the work of state attorney offices in the area of criminal, civil and administrative

law, legal issues in certain areas, an overview of the organisation and situation of personnel, and proposals for the improvement of work.

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

2. Monthly and annual reports of state attorney offices

Article 41

(1) State attorney offices shall submit monthly reports to a higher state attorney office. This report shall contain information on completed proceedings, pending proceedings and actions that have been taken or will be taken. A higher state attorney office may request the reports to be prepared per type of cases.

(2) The annual report submitted by state attorney offices to a higher state attorney office shall contain an overview of received, resolved and unresolved cases, an overview of the structure of criminal, civil and administrative cases, indictments issued and tasks of representation, and an overview of submitted legal remedies and the success thereof.

(3) The State Attorney General shall submit an annual report to the ministry responsible for judicial affairs on received, resolved and unresolved cases with a statement of reasons, and on disciplinary proceedings instituted for serious disciplinary offences of officials and on disciplinary proceedings against civil servants and employees in state attorney offices.

(4) State attorney offices may indicate in their annual reports the types of difficulties encountered in their work, deficiencies in legislation, in the internal operations of the state attorney office or courts and, where necessary, they may submit appropriate proposals for amendments.

3. Special reports

Article 42

(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 the actions taken and of its further intentions.

(2) The State Attorney General shall inform the minister responsible for judicial affairs about cases of general importance and about crime reports against judges of the Constitutional Court of the Republic of Croatia, members of the Croatian Parliament, members of the Government of the Republic of Croatia, judges and state attorneys.

(3) The State Attorney General shall submit a report on individual types of criminal proceedings upon the request of the minister responsible for judicial affairs. Upon the request of the minister responsible for judicial affairs, he shall also submit a special report in individual cases.

(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. The obligation to submit reports on intended

actions shall not prevent action that must be taken immediately to avoid the expiry of the statute of limitations, delay or expiry of a time limit.

Title V OPERATING FUNDS AND ASSETS OF STATE ATTORNEY OFFICES

1. Operating funds

a) Ensuring means

Article 43

(1) Funds necessary for the operation of a state attorney office shall be secured from the State Budget of the Republic of Croatia.

(2) The amount of operating funds shall be ensured pursuant to the regulations applicable to ensuring funds for operation of courts.

(3) The operating funds referred to in paragraph 2 of this Article shall be ensured in an amount to ensure the undisturbed performance of all tasks of the state attorney's office.

Article 44

(1) The amount of funds for the operation of a state attorney office shall be established on the basis of a state attorney's proposal to ensure funds.

(2) The proposal to ensure funds for the state attorney's office shall contain an assessment of regular or occasional activities, the necessary number of officials, civil servants and employees and other indicators important for establishing a proposal for the amount of funds.

Article 45

Funds for the salaries of state attorneys, their deputies, civil servants and employees shall be ensured pursuant to the law.

b) Funds for special purposes

Article 46

(1) Funds for special purposes shall include the following:

1. funds for trainees;
2. funds for in-service training of state attorneys, deputy state attorneys, civil servants and employees in state attorney offices.
3. funds for special purposes comprising the following:
 - compensation for carrying out activities of pre-trial criminal proceedings;

- costs of criminal proceedings;
- advance payments for costs of civil proceedings and enforcement of court decisions;
- other costs concerning the carrying out of tasks under the competence of state attorney offices.

(2) The conditions and amount of the fee for the performance of tasks of pre-trial criminal proceedings shall be prescribed by the minister competent for judicial affairs.

c) Investments

Article 47

The Republic of Croatia shall ensure special funds for technical equipment and premises pursuant to standards for state attorney offices prescribed by the minister responsible for judicial affairs.

d) Financial and material operations

Article 48

(1) Financial and material operations of state attorney offices shall be performed in the manner laid down for state administration bodies.

(2) The amount of funds for the operation of state attorney offices shall be ensured pursuant to the regulations applicable to ensuring the funds for the operation of courts.

2. Protection of Persons, Assets and Facilities of State Attorney Offices

Article 49

(1) The protection and safety of persons, assets and buildings of state attorney offices and the maintenance of order in state attorney offices shall be performed by the justice police.

(2) Members of the justice police shall perform the tasks referred to in paragraph 1 of this Article by carrying out physical and technical protection on the basis of an order and instructions of the competent state attorney.

(3) Physical protection shall mean the direct protection and safeguarding of persons and assets by the direct application of security measures and coercion.

(4) Technical protection shall be performed by technical means and devices to prevent illegal actions against the persons, facilities or properties referred to in paragraph 1 of this Article and to prevent the introduction of weapons, tools, explosive devices and other dangerous substances or the alienation of property.

PART THREE POWERS, DUTIES AND ACTIONS OF STATE ATTORNEYS

Title IV GENERAL POWERS

1. Legal assistance

Article 50

(1) The state attorney office shall receive reports, submissions and statements on issues under its competence from citizens, state bodies and legal persons in order to undertake actions pursuant to its authority.

(2) The state attorney office may request from citizens information concerning their reports, submissions, complaints and petitions.

Article 51

State attorney offices shall provide assistance to one another in the performance of their tasks. State bodies and legal persons shall provide assistance to the state attorney office in the performance of its tasks.

Article 52

(1) A state attorney office may request from other state bodies or legal persons the delivery of files and reports concerning the actions under its competence.

(2) State bodies and other legal persons shall deliver to the state attorney office the requested documents, unless legal obstacles exist.

(3) State bodies shall provide assistance to the state attorney office on the basis of its official request, unless legal obstacles exist.

(4) State bodies shall notify the state attorney office of all procedures where the state attorney office is bound or authorised by law to undertake certain actions or file legal remedies.

(5) State bodies and legal persons shall act without delay on the basis of a written request submitted by a state attorney office and shall undertake individual actions when laid down in special laws.

(6) Courts shall be obliged to allow state attorneys and their deputies to examine their files. Upon the request of a state attorney office, the courts shall provide completed and legally effective files to be examined.

Article 53

The competent state attorney may employ experts in individual cases, even outside the legal area, to participate in proceedings as advisors and to provide professional assistance to the state attorney office.

2. Obligatory instructions for work

Article 54

- (1) A state attorney shall be authorised to provide obligatory instructions for work to a deputy state attorney in the same state attorney office or a lower state attorney office whenever required to ensure the unified application of the law, or an order to act and instructions for the resolution of particular cases.
- (2) A state attorney shall be authorised to take over the performance of all or particular tasks from a deputy state attorney in the same state attorney office or from a lower state attorney office. For justified reasons, the state attorney may entrust the performance of tasks in a particular case to another deputy state attorney in the same state attorney office or in another lower state attorney office.
- (3) Obligatory instructions in a particular case or a decision on the taking over of a particular case from a lower state attorney office or on its delegation to another lower attorney office shall be provided in writing, accompanied by a statement of reasons.
- (4) If, for special reasons and specifically due to the danger of delay, the obligatory instructions or the decision referred to in paragraph 3 of this Article could not have been given in writing, such an oral instruction shall be subsequently confirmed in writing.

Article 55

- (1) A deputy state attorney or a state attorney in a lower state attorney office who believes that the delivered obligatory instructions for action in a particular case are unlawful, may, except in the case of an action that may not be delayed, inform the state attorney thereof and ask for written instructions if oral instructions were provided, or ask for new written instructions. The state attorney shall provide the written instructions or repeat the written instructions with a statement of reasons. Otherwise, the instructions shall be regarded as withdrawn.
- (2) If a deputy state attorney in a state attorney office or a state attorney in a lower state attorney office finds the instructions unlawful, unfounded for performing actions in the case or inappropriate for achieving the expected legal effects, the state attorney may, upon a written request accompanied with reasons, excuse the deputy state attorney or a state attorney in a lower state attorney office from proceeding further in the case if there is no risk of delay or may assign the case for resolution to another deputy state attorney or to another lower ranking state attorney.
- (3) A deputy state attorney or a lower ranking state attorney may not be held accountable for an expressed opinion referred to in paragraph 1 of this Article and for the request submitted pursuant to paragraph 2 of this Article.
- (4) Data and information on instructions and decisions referred to in Article 54 of this Act intended for the adoption of a certain court decision may be conveyed to the public only by the state attorney pursuant to Article 38 of this Act. Following a court decision, a deputy state attorney or a deputy state attorney of a lower state attorney office, who submitted a request within the meaning of paragraph 2 of this Article, shall not be bound by the obligation to maintain confidentiality referred to in Articles 36 and 118 of this Act.

3. Supervision of work

Article 56

(1) In exercising its right to perform supervision of the work of state attorney offices, the State Attorney's Office of the Republic of Croatia shall undertake appropriate measures, and in particular direct inspection of the entire work and operation of each state attorney office.

(2) County state attorney offices shall be bound to examine the work of regional state attorney offices once every two years.

(3) A higher state attorney office shall submit to a lower state attorney office objections to any deficiencies noted when adopting a decision on a legal remedy or in some other manner.

Title VII

POWERS AND DUTIES OF STATE ATTORNEYS IN CRIMINAL PROCEEDINGS

1. Deciding on a Crime Report and Preparation of an Indictment

a) Deciding on a crime report

Article 57

A state attorney office shall decide independently on the criminal prosecution of a perpetrator of a criminal offence prosecuted *ex officio* and shall prepare an indictment for trial before a competent court.

Article 58

(1) When undertaking actions and tasks referred to in Article 30, paragraph 1 of this Act, a state attorney office shall be obliged to criminally prosecute a perpetrator of a criminal offence prosecuted *ex officio* or upon a motion, in compliance with the conditions laid down by law and regulations adopted on the basis of law.

(2) The resolution of a legal issue concerning the existence of a criminal offence or guilt of the perpetrator, which was accepted at the sitting of the Criminal Department of the Supreme Court of the Republic of Croatia, shall be binding on the state attorney deciding on a crime report, unless the state attorney believes that its resolution requires a decision adopted by the Court of Justice of the European Union on the validity or interpretation of European Union regulations and measures, in which case it will act in compliance with the provision of Article 18, paragraph 3 of the Criminal Procedure Act.

(3) If criminal prosecution depends on the resolution of a legal issue under the competence of a court in other proceedings or on another state administration body, the state attorney may impose on the person submitting the crime report and on other interested persons an appropriate deadline for instituting proceedings before the court or that body. Following the unsuccessful expiry of that time limit, the state attorney may dismiss a crime report.

Article 59

(1) A state attorney shall decide on a crime report, entered in one of the registers of crime reports, on the basis of a reasoned assessment of conditions and impediments to the initiation and conducting of criminal proceedings laid down in the Criminal Procedure Act or in a special law. Criminal prosecution of a person may not be based on the free choice of whether or not to initiate criminal prosecution.

(2) Anonymous, pseudo anonymous and unfounded crime reports shall be assessed by the state attorney pursuant to legal requirements (Article 206, paragraph 1 of the Criminal Procedure Act). They may be immediately dismissed with a short statement of reasons if they are obviously unfounded or lack credibility or for the most part repeat the contents of a previously dismissed crime report.

(3) More detailed provisions on the handling of the report and the submitter by the state attorney, the contents of the records of the oral crime report, the manner of verification of the charge in the information system of the state attorney office, an invitation to the submitter to correct and supplement the report, notes to and amendments of the register of crime reports, the form and content of state attorney forms shall be laid down in the Rules of Procedure of the State Attorney's Office.

Article 60

(1) If the conditions have been fulfilled under which, pursuant to the Criminal Code, the competent court must remit the punishment of the perpetrator of a criminal offence, a state attorney may desist from criminal prosecution.

(2) If the conditions have been fulfilled under which, pursuant to the Criminal Code, the competent court may remit the punishment of the perpetrator, a state attorney may, upon the consent of the judge of investigation or other competent judge in the proceedings, desist from criminal prosecution. Before giving his consent, the judge will interrogate the witness or the injured party. This decision may not be appealed.

(3) A state attorney may, pursuant to paragraph 2 of this Article, desist from criminal prosecution for a criminal offence against a citizen of the Republic of Croatia committed abroad or when criminal proceedings have been instituted against a citizen of the Republic of Croatia before a domestic or international criminal court.

Article 61

During the time when a state attorney has conditionally desisted from criminal prosecution, the statute of limitations for criminal prosecution shall not run.

Article 62

(1) When deciding on a crime report for a criminal offence with elements of violence between relatives or other close persons for which a fine or up to five years of imprisonment have been prescribed, a state attorney may dismiss a crime report if he finds that the initiation of criminal prosecution would not be meaningful considering the nature of the criminal offence, the circumstances in which the criminal offence was committed, the personal characteristics of the perpetrator and the injured party and the degree of their connection in life.

(2) In order to establish these circumstances, a state attorney may summon the submitter, the victim and the suspect to a hearing. The hearing may include mediation with the assistance of expert associates in the state attorney office and advisors of the competent social welfare centre. Mediation may also be assigned to a social welfare institution pending the preferment of the indictment before a municipal court, and the institution should be warned to maintain the confidentiality of data collected by the institution. In the order on the assignment of mediation, the state attorney shall state the deadline by which the attempt at mediation must be performed and by which he must be informed by the institution of the result of the mediation.

b. Inquiries and evidentiary actions

Article 63

(1) The state attorney shall perform inquiries himself when he finds it necessary to concentrate actions and measures in pre-trial proceedings, for the quicker and more successful implementation of pre-trial proceedings and for the efficient resolution of issues.

(2) The police and other state administration bodies submitting requested data to the state attorney and the police when carrying out inquiries ordered by the state attorney may request an advisory meeting. The state attorney shall schedule the meeting without delay. The state administration body that requested the meeting shall first present at the meeting the issues that are questionable or may not be implemented but were requested by the state attorney, and the state attorney will explain the order and amend it, where necessary. If the meeting is held on the basis of an order given to the police, the state attorney shall explain the order, discuss the progress of the inquiry and give an order for further inquiry. Other issues of importance for the inquiry may be discussed at the meeting as well.

(3) When working on complex cases in which inquiries are performed by the police and other state investigation bodies, the state attorney shall convene a meeting at least once. The meeting shall focus on the determination and verification of ways of cooperation, on the exchange of collected information and on the coordination of police and other state administration bodies' activities during the inquiry.

(4) The attorney may convene the meeting referred to in paragraph 2 of this Article when necessary.

(5) The invited state administration bodies must ensure in good time that their representatives attend the meeting. A special agreement shall regulate the consequences of unjustified absences.

(6) A state attorney may order police officers carrying out more complex inquiries to request an advisory meeting before arresting the suspect.

Article 64

(1) An annual list of investigators that may be entrusted with the evidentiary actions in pre-trial criminal proceedings (Articles 213, paragraphs 1 and 2 and Article 219, paragraph 2 of the Criminal Procedure Act) shall be defined by a county state attorney for the area of competence of that state attorney office.

(2) Before preparing the annual list of investigators, the county state attorney shall request the police and other state administration bodies to deliver a list of investigators that have been appointed (designated) to perform these tasks in compliance with a special law.

(3) The State Attorney's Office of the Republic of Croatia shall submit the annual lists of investigators to heads of state administration bodies whose employees are on those lists.

(4) The annual list of investigators shall contain persons who, considering the cases that are being investigated and special applicable regulations, have the appropriate experience and skills for investigating criminal offences in relation to which the evidentiary actions are carried out, and for cooperation with other state administration bodies participating in the carrying out of pre-trial proceedings.

Article 65

(1) The order to the investigator shall be given by the state attorney. Before issuing the order, the state attorney shall, when possible, obtain an opinion of the competent organisational unit of the state body of the investigator.

(2) The investigator shall carry out evidentiary actions in compliance with the provisions of the Criminal Procedure Act and the rules of the profession.

(3) In the order in which the investigator is entrusted with carrying out of evidentiary actions, the state attorney may warn the investigator of the criminal provisions that he must abide by and he shall define the time limits for the investigator to carry out those actions.

(4) If the investigator fails to abide by the order or acts contrary to the order, the state attorney shall inform thereof the superior officer of the investigator.

(5) If the investigator was unable to act in compliance with the order, he shall notify the state attorney thereof. In that case, the state attorney shall collect the evidence himself or issue an order to another investigator and inform the superior officer thereof.

(6) The exclusion of the investigator shall be decided upon by a higher state attorney.

Article 66

(1) The order to the investigator shall be given in writing, and if it is not possible to give the order in writing due to the risk of delay, it may be given orally. Such an oral order must be confirmed in writing within 24 hours.

(2) The state attorney shall state in the order the personal information of the investigator, actions to be carried out and may give other orders that must be complied with by the investigator.

(3) If the investigator must perform the ordered task in cooperation with another investigator or the police, the state attorney shall mention that fact in the order.

c. Deadlines for state attorney actions

Article 67

(1) A state attorney or deputy state attorney shall, without delay, adopt decisions concerning the crime report that was assigned to him.

(2) If he fails to adopt a decision or undertake an action, without a justified reason, within fifteen days from the date of receipt of a new report, or in a case in which inquiries were performed and evidentiary actions carried out, the state attorney shall notify the state attorney or a higher-ranked state attorney thereof, who will then undertake the necessary actions to act in the case without delay.

(3) If a crime report was submitted against a police officer, the state attorney shall perform the investigation himself or, if there is no investigation, he shall carry out all evidentiary actions necessary to adopt a decision on the indictment. The state attorney shall act in the same manner as if the report was submitted against another official person who is authorised and obliged to discover and report criminal offences that are prosecuted *ex officio*.

Article 68

(1) The decision on the crime report for offences tried in regular proceedings shall be adopted within the time limit laid down in the Criminal Procedure Act or another law.

(2) If the crime report was submitted for a criminal offence for which the state attorney may not order an investigation (summary proceedings), the state attorney shall adopt a decision on the crime report within six months from the entry of the crime report in the crime report register.

(3) If the state attorney does not adopt a decision on the report within the time limit referred to in paragraph 2 of this Article, he shall notify a higher state attorney about the reasons for which the decision on the report was not adopted.

(4) The higher state attorney may extend the time limit referred to in paragraph 2 of this Article for another six months upon the reasoned proposal of the state attorney.

(5) If the perpetrator of a criminal offence is unknown even after the expiry of the period of six months from the date of the entry of the crime report into the crime report register, the file shall be entered into the records.

(6) If a crime report for a criminal offence punishable by more than five years of imprisonment was entered into the records, the state attorney shall verify within one year from the date of entry of the report into the register whether actions were undertaken to find the perpetrator and which actions were taken.

d. Specificities of State Attorney Inquiries and Evidentiary Actions

Article 69

(1) Unless, pursuant to the Criminal Procedure Act, a state attorney is obliged to interrogate the suspect before completing the investigation, the state attorney shall interrogate him as soon as possible after the issuing of the investigation order or after carrying out of the first

evidentiary action, in particular if the suspect is a minor or if he was arrested based on the suspicion that he committed a criminal offence punishable by more than eight years of imprisonment or in the case of criminal prosecution against a legal person.

(2) When the Criminal Procedure Act provides for the interrogation of the suspect before the termination of the investigation or before the preferment of the indictment in regular proceedings, the interrogation shall be carried out by the state attorney. Before preferment the indictment in summary proceedings, the state attorney shall perform the interrogation himself, unless this is not possible because of the urgency of proceedings or for some other justified circumstances.

(3) If the state attorney office is not equipped for audio and video recording, or if there is no person trained to operate the devices, the state attorney shall perform the interrogation in the competent police administration or in the higher state attorney office.

(4) The Rules of Procedure of the State Attorney's Office shall lay down the form and content of the record of the interrogation of the suspect, the accused person and witnesses, the measures for the protection of the authenticity of the audio and video recordings and the manners of their use.

Article 70

(1) Where possible, a state attorney shall issue an order entrusting the tasks of an expert witness to an expert institution or a state administration body. In other cases, the state attorney shall issue an order designating an expert witness from a list of expert witnesses and, if that is not possible, he shall designate another expert witness.

(2) Compensation for the expert witness shall be determined and paid in compliance with regulations on compensations in court proceedings.

Article 71

Unless regulated by a special law, on the basis of a decision of a state attorney in complex cases, state attorney advisors and expert associates may prepare the carrying out of evidentiary actions, receive statements and proposals and perform independently the evidentiary actions entrusted to them by the state attorney. The record of such actions shall be verified by the state attorney at the latest within forty-eight hours following their performance.

e. Adoption of Decisions on the Report, Termination of State Attorney Inquiries and Decision on the Preferment of an Indictment

Article 72

(1) Where a special law lays down that a crime report may be dismissed for reasons of lack of purpose, a deputy state attorney shall notify the state attorney thereof before adopting a decision.

(2) The deputy state attorney shall act in the manner described in paragraph 1 of this Article even before signing the statement for the adoption of a decision on the basis of the agreement between the parties.

(3) The issuing of the statement referred to in Article 286, paragraph 2 of the Criminal Procedure Act shall be based on the prior consent of a higher-ranked state attorney.

Article 73

Before the completion of the investigation, and if an investigation was not conducted before the preferment of the indictment, the state attorney prepares a list of evidence, a list of documents, cases, videos and other files that may be used as evidence. The evidence shall be entered on the list in chronological order of receipt and with numbers under which they were entered into the list of the file.

2. Agreement on Conditions for the Admission of Guilt and Sanctions

Article 74

(1) If the state attorney acts in compliance with the provisions of the Criminal Procedure Act concerning the opportunity principle of criminal prosecution, which allows plea bargaining with the defendant regarding a positive plea on the indictment based on which the selection and determination of a more lenient sentence is expected (Article 360, paragraph 1 of the Criminal Procedure Act), he shall be obliged to assess whether such admission of guilt:

1) will enable the hearing to be avoided and make it possible for other cases to be resolved more quickly;

2) shortens the expected duration of criminal proceedings from the filing of crime report to the final judgment imposing a sentence of imprisonment;

3) enables significant savings on the costs of proceedings;

4) protects the victims and other sensitive witnesses from the negative impacts of public testimony at a hearing;

5) enables the application of precautionary measures or the substitution of a sentence of imprisonment with community service;

6) enables the discovery of other criminal offences or other perpetrators of criminal offences.

(2) The assessment of the application of one of the circumstances laid down in paragraph 1 of this Article shall contain a statement of reasons.

(3) The full confession of the suspect provided within a short time from the commission of the offence shall be considered for the benefit of the agreement referred to in paragraph 1 of this Article, regardless of other mitigating or aggravating circumstances that should be taken into account by the court in the specific case.

(4) The agreement may not influence the effects of the legal provisions on the seizure of the proceeds of crime.

Article 75

The State Attorney General shall provide instructions for the agreement on the sanctions with the defendant. The instructions shall prescribe the manner of organising the negotiations, the written form and content of the agreement consisting of a statement for the adoption of a judgment on the basis of an agreement reached between the parties, and the manner for calculating the reduced legal sentence that should be applied in the specific case. The instructions may lay down cases in which the state attorney may not reach agreements on the adoption of the judgment on the basis of agreement between the parties.

Article 76

The state attorney may withdraw an indictment before it is confirmed by submitting a letter with a statement of reasons to the competent court.

3. State attorney's actions when using coercive measures in proceedings

Article 77

Custody shall be imposed by a state attorney or deputy state attorney with the consent of the State Attorney General.

Article 78

(1) In order to collect the necessary information, a state attorney may summon the submitter and other persons whose statements might contribute to assessing the credibility of claims in the crime report. The summons shall specify the reasons. The suspect shall be warned in the summons that he shall be brought in by force if he fails to appear.

(2) The state attorney may issue a warrant for a person's bringing in if the suspect who had been warned in the manner laid down in paragraph 1 of this Article failed to respond or if the circumstances clearly show that he refuses to be served with the summons.

Article 79

(1) Before submitting the request for a search, the state attorney shall collect data and information to assess the probability that the perpetrator of the criminal offence, items and leads important for the criminal proceedings are located in a certain building, with a certain person or on that person's body.

(2) If the Criminal Procedure Act lays down that the search of the person and means of transport may be ordered by a state attorney, the search warrant shall be issued by the state attorney or the deputy state attorney on duty.

(3) The deputy state attorney on duty must notify the state attorney before issuing the warrant referred to in paragraph 2 of this Article, or, if he was unable to do so, he must notify him immediately following the search.

Article 80

(1) Before submitting the request for the issuing of an order for taking of special evidentiary actions temporarily restricting certain constitutional rights of citizens, the state attorney shall summon the police officers carrying out the inquiries and assess on the basis of their information and data he possesses whether the investigation or inquiry may be conducted in some other manner or if that would be possible only with disproportionate difficulties. Where necessary, the police officers will be requested to submit additional documents and written information necessary for the drafting of a written request to be submitted to the judge of investigation.

(2) Where the Criminal Procedure Act states that a state attorney may issue an order for taking of special evidentiary actions for a period of twenty-four hours, this order may be issued by the deputy state attorney on duty only with the state attorney's consent.

(3) If the state attorney is absent, and the order referred to in paragraph 2 of this Article must be issued immediately, the deputy state attorney shall issue an order and notify thereof the state attorney as soon as possible.

(4) The written order shall contain the circumstances indicating the need for the immediate execution of actions.

Article 81

Before initiating criminal proceedings, the state attorney may propose to the court, in compliance with the provisions applicable to enforcement proceedings, to adopt temporary measures to ensure the confiscation of proceeds of crime.

4. State attorney actions when preferring and defending the indictment before the competent court

Article 82

(1) The state attorney shall undertake measures and actions contributing to the quicker termination of criminal proceedings.

(2) If he believes that the admission of guilt and agreement on sanctions could contribute to the shortening of proceedings, in particular if the defendant has pleaded guilty to all or some of the charges, the state attorney may notify the defendant and the defence attorney, if there is one, that he is ready to negotiate the conditions for the admission of guilt of the defendant, that is, for the conclusion of an agreement on the type and measure of the criminal law sanction.

(3) Before signing the statement for the adoption of the judgment on the basis of an agreement between the parties, the deputy shall notify the state attorney thereof.

5. State attorney actions in the case of legal remedies

Article 83

(1) If they believe that a final court decision in criminal or misdemeanour proceedings was adopted contrary to the law or that it was adopted in proceedings where fundamental human rights and freedoms guaranteed by the Constitution, the law and international law had been violated, the state attorney of a lower state attorney office shall procure the file in which such a decision was adopted and submit it to the State Attorney's Office of the Republic of Croatia together with a statement of reasons.

(2) When working on cases or supervising the work of lower state attorney offices, Deputy State Attorneys General shall pay special attention to verify whether in a certain case a final court decision in criminal or misdemeanour proceedings violated the law or whether the final court decision was adopted in proceedings in which fundamental human rights and freedoms guaranteed by the Constitution, the law or international law had been violated.

(3) If the Deputy State Attorney General establishes a violation which is grounds for the submission of a motion for the protection of legality, he shall request a meeting of the session of the Criminal Law Department of the State Attorney's Office of the Republic of Croatia.

Article 84

(1) The decision on the motion for the protection of lawfulness shall be rendered by the State Attorney General after having obtained an opinion of the session of the Criminal Law Department of the State Attorney's Office of the Republic of Croatia.

(2) The session of the Criminal Law Department shall start with a Deputy State Attorney's report that contains information on who proposed the motion for the protection of lawfulness, the opinion of the state attorney who was a representative in the case and his opinion on the existence of legal conditions for the submission of a motion for the protection of lawfulness.

(3) The session of the Criminal Law Department shall give its opinion on the grounds for the motion for the protection of lawfulness by a majority vote of all the present deputies.

(4) The head of the Criminal Law Department shall inform the State Attorney General of the opinion of the session. If he does not accept the opinion, the State Attorney General shall inform the deputies at the Criminal Law Department session of the reasons for it.

6. State attorney actions in summary proceedings

Article 85

In summary proceedings, the state attorney shall in particular assess whether the conditions for the application of the principle of opportunity of criminal prosecution have been fulfilled, as well as the conditions implying that the perpetrator may be convinced not to commit other criminal offences without the need to conduct criminal proceedings.

Article 86

Before proposing the type and the extent of a criminal law sanction in summary proceedings, the state attorney shall take into account the framework for the choice and the extent of that sanction envisaged in the instructions of the State Attorney General. In that case, he shall particularly assess the attitude of the defendant towards the committed criminal offence.

Title VIII
POWERS AND DUTIES OF STATE ATTORNEY'S OFFICES IN CIVIL,
ADMINISTRATIVE AND OTHER PROCEEDINGS

1. Representation on the basis of a power of attorney and giving of opinion

Article 87

(1) In addition to the tasks referred to in Article 30, paragraph 2 and Articles 32 and 33 of this Act, the competent state attorney offices may perform the following:

– represent, on the basis of a special power of attorney, legal persons owned or partially owned by the Republic of Croatia in civil and administrative cases where justified considering the subject matter of the case, and if the competent state attorney refuses the power of attorney, he shall notify thereof a higher-ranked state attorney who shall adopt a final decision;

– follow and research implementation of legislation important for the protection of property and other interests of the Republic of Croatia, and other regulations important for the work of the state attorney office and inform the State Attorney's Office of the Republic of Croatia of the observed developments, who shall then, if it finds it to be of interest for the Republic of Croatia, inform thereof the Government of the Republic of Croatia.

(2) The competent state attorney office shall adopt opinions on certain legal affairs if so provided in other laws.

(3) The State Attorney's Office of the Republic of Croatia shall adopt opinions on draft proposals of laws and other regulations at the request of state administration bodies.

(4) Before engaging in a legal transaction concerning the acquisition or alienation of assets, competent state administration bodies of the Republic of Croatia shall obtain from the competent state attorney office an opinion on the lawfulness of such a legal transaction. State administration bodies which have their own legal departments shall be obliged to enclose with the request the opinion of their legal department.

(5) The state attorney office must provide the opinion referred to in paragraph 4 of this Article within 30 days from the receipt of all the necessary documents.

Article 88

(1) In cases concerning property issues of particular importance for the Republic of Croatia or of exceptional value, competent state attorney offices shall be obliged to renounce the request, accept the other party's request, reach a settlement, waive a legal remedy or adopt a decision in out-of-court proceedings indicating the giving up of rights and inform thereof the State Attorney's Office of the Republic Croatia which shall, without delay, give its opinion to the Government of the Republic of Croatia.

(2) The Government of the Republic of Croatia may provide its opinion for actions in cases referred to in paragraph 1 of this Article.

2. Representation in property disputes before foreign courts

Article 89

- (1) The State Attorney's Office of the Republic of Croatia shall represent the Republic of Croatia in property disputes before foreign courts, institutions and other bodies.
- (2) In proceedings before international or foreign courts or other bodies where the State Attorney's Office of the Republic of Croatia may not represent the Republic of Croatia pursuant to the relevant law, the State Attorney General may authorise an appropriate foreign expert with the consent of the Government of the Republic of Croatia.
- (3) If the Republic of Croatia is a party in proceedings before international or foreign courts or other bodies, the Government of the Republic of Croatia may decide that it shall be represented by an appropriate Croatian or foreign expert, with or without the participation of the State Attorney's Office of the Republic of Croatia in proceedings.
- (4) In cases referred to in paragraph 1 of this Article requiring specific professional knowledge, the State Attorney General may employ a distinguished expert to participate in proceedings as a counsel for the State Attorney's Office of the Republic of Croatia.

3. Delivery and cost of proceedings

Article 90

- (1) Decisions rendered by courts and administrative bodies and other documents must be delivered to the competent state attorney office.
- (2) Delivery executed contrary to paragraph 1 of this Article shall have no legal effect.
- (3) In cases where the Republic of Croatia submitted a motion for the amicable resolution of a dispute against a person who has residence or a seat in the Republic of Croatia, the motion shall be delivered by registered mail with a confirmation of receipt to the address of the natural person or seat of the legal person. Unsuccessful delivery shall be repeated after fifteen days. In the case of a repeated unsuccessful delivery, the delivery shall be executed by placing the motion on the bulletin board of the state attorney office that sent the document.
- (4) The delivery shall be deemed to have been executed after eight days from the date of placement of the document on the bulletin board.

Article 91

- (1) The costs of representation before courts and other competent bodies shall be recognised with regard to the competent state attorney office in accordance with regulations on compensation and remuneration for the work of attorneys.
- (2) Funds collected to cover the costs of representation shall be paid into the State Budget.

PART FOUR STATE ATTORNEY OFFICIALS, CIVIL SERVANTS AND EMPLOYEES

Title IX
STATE ATTORNEYS AND THEIR DEPUTIES

1. Appointment and dismissal of state attorneys

a) Appointment of state attorneys

Article 92

Any person fulfilling the general and special requirements for appointment as deputy in the State Attorney's Office of the Republic of Croatia may be appointed State Attorney General.

Article 93

(1) The State Attorney General shall be appointed for a term of office of four years by the Croatian Parliament upon a proposal of the Government of the Republic of Croatia on the basis of a prior opinion of the Justice Committee of the Croatian Parliament with the possibility of reappointment after the expiry of his term of office.

(2) If the State Attorney General is not reappointed to the same duty or is dismissed, he shall continue to serve as deputy state attorney in the State Attorney's Office of the Republic of Croatia.

Article 94

(1) A county state attorney shall be appointed by the State Attorney General on the basis of a prior opinion of the minister responsible for judicial affairs and on the basis of the opinion of the collegiate body of the State Attorney's Office of the Republic of Croatia 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 state attorneys in a county state attorney office or a higher state attorney office 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 also fulfil the requirements for appointment to the position of deputy county state attorney (Article 110, paragraph 2).

(3) A municipal state attorney shall be appointed by the State Attorney General from the ranks of state attorneys and deputy state attorneys from that state attorney office or another state attorney office on the basis of a prior opinion of the minister responsible for judicial affairs and on the basis of the opinion of the collegiate body of the county state attorney office and the county state attorney for a term of office of four years with the possibility of 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 his appointment.

(5) The term of office of an appointed state attorney shall start from the date he assumes office.

Article 95

(1) The procedure for the appointment of the State Attorney General shall be instituted by the Government of the Republic of Croatia no later than three months before the expiry of the term of office of the State Attorney General or no later than 30 days upon the termination of office of the State Attorney General for other reasons prescribed by law.

(2) The procedure for the appointment of a county or municipal state attorney shall be instituted by the State Attorney General no later than three months before the expiry of the term of office of the state attorney or no later than 30 days upon the termination of office of the state attorney for other reasons prescribed by law.

Article 96

(1) A vacancy for the position of county or municipal state attorney shall be announced by the State Attorney's Office of the Republic of Croatia. The vacancy announcement shall be published in the Official Gazette and, where necessary, in some other manner, and it shall contain an invitation for candidates to submit within a term not shorter than 15 days and not longer than 30 days their application with proof of meeting the requirements prescribed for the appointment of state attorney and information about their work experience.

(2) The State Attorney General shall request the candidate to provide a written statement that he agrees to all background checks in compliance with a special law. Information obtained during the background check shall be confidential. Such information may be used only in the process of appointment of state attorneys. If background checks have been requested, the candidate shall be entitled to be informed of the results in compliance with special regulations on the performance of background checks.

(3) The decision on the announcement of vacancies referred to in paragraph 1 of this Article, and the decision on the cancellation of the published announcement shall be adopted by the State Attorney General.

Article 97

(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 on candidates from the minister responsible for judicial affairs. He shall also 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 from 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) The minister responsible for judicial affairs shall give his opinion on the candidates for county or municipal state attorneys within 30 days.

(4) Before giving his opinion, the competent state attorney shall invite the candidates for 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.

(5) 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 attorneys, 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.

(6) When giving their 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.

(7) The State Attorney General shall be obliged to adopt a decision within 15 days from the expiry of the term referred to in paragraph 2 of this Article.

(8) If no candidates respond to the vacancy announcement or if the State Attorney General does not appoint a state attorney from among the candidates, the procedure shall be repeated.

Article 98

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

(2) A state attorney shall be obliged to assume office within a term determined by the State Attorney General, which may not exceed six months.

(3) If a state attorney fails to assume office within the term referred to in paragraph 2 of this Article, it shall be deemed that he had not been appointed.

b) Termination of a state attorney's appointment

Article 99

(1) A state attorney's appointment shall terminate in the following cases:

1. in the case of death;

2. when he turns 70 years of age;

3. on the date of the start of service in another state attorney office or in a judicial or state administration body;

4. on dismissal.

(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 by the minister responsible for judicial affairs. The decision on the termination of office of a county and municipal state attorney referred to in paragraph 1, item 4 and the decision on the occurrence of circumstances referred to in paragraph 1, items 1 to 3 of this Article shall be adopted by the State Attorney General.

Article 100

The State Attorney General, the county and municipal state attorney shall be released from duty in the following cases:

1. if he performs his duties in an unlawful, untimely or unprofessional manner;
2. if the state attorney's office he represents and manages does not achieve satisfactory results;
3. if he does not perform the tasks of state attorney and judicial administration in compliance with the regulations or if he fails to perform them in due time;
4. if he fails to file requests for the initiation of disciplinary proceedings in cases laid down by law;
5. if he commits an action which corresponds to an action referred to in Article 137 of this Act;
6. if there are grounds for dismissal referred to in Article 113, paragraph 1, items 1 to 4 of this Act.

Article 101

(1) The proposal for the dismissal of the State Attorney General may be submitted by the Government of the Republic of Croatia. The proposal shall contain the grounds and reasons for dismissal.

(2) The proposal referred to in paragraph 1 of this Article shall be decided upon by the Croatian Parliament on the basis of a prior opinion of the Justice Committee of the Croatian Parliament.

Article 102

(1) The State Attorney General shall initiate the procedure for the dismissal of a county and municipal state attorney if he establishes, on the basis of a written report on the evaluation of the work of the county or municipal state attorney office (Article 56) 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 grounds for dismissal of the municipal state attorney referred to in Article 100, items 1 to 5 of this Act exist, the proposal for dismissal may also be submitted to the State Attorney General by the competent county state attorney. The proposal must state and explain the grounds for dismissal.

(3) The State Attorney General 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 time limit to provide a written statement on all the 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 General may invite the state attorney to provide for official records additional explanations and reasons concerning the grounds for dismissal.

Article 103

(1) Before adopting a decision, the State Attorney General 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 General finds that there are grounds for dismissal referred to in Article 100, items 1 to 5 of this Act, he shall dismiss the county or municipal state attorney.

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

Article 104

(1) A dismissed state attorney shall continue to perform his duties as deputy state attorney in the state attorney office where he was appointed deputy state attorney.

(2) If the State Attorney General finds that a dismissed State Attorney General or state attorney who continued to perform his duties as deputy state attorney should be dismissed for the commission of a serious disciplinary offence (Article 138, paragraph 2), he shall submit a motion for the institution of disciplinary proceedings and adopt a decision on the state attorney's removal from office or propose the adoption of such a decision (Article 173).

Article 105

If a state attorney is dismissed due to the permanent loss of capacity to perform the office of state attorney, the provision of Article 176, paragraph 3 of this Act shall apply.

Article 106

If a county or municipal state attorney ceases to perform his duties before the expiry of his term of office for any reason, the State Attorney General shall authorise a deputy state attorney in the same or in another state attorney office to perform the office of state attorney pending the appointment of a new state attorney.

2. Appointment and dismissal of deputy state attorneys

a) Appointment of deputy state attorneys

Article 107

- (1) The number of deputy state attorneys in a state attorney office shall be determined by the minister responsible for judicial affairs upon the proposal of the State Attorney General in compliance with the framework criteria for the operation of state attorney offices.
- (2) The framework criteria shall be laid down by the minister responsible for judicial affairs upon the proposal of the State Attorney General.

Article 108

- (1) The term of office of deputy state attorneys at the moment of their first appointment shall be five years.
- (2) After reappointment, a deputy state attorney shall carry out his duties permanently.
- (3) A deputy state attorney who is not reappointed after this first term of office shall be entitled to compensation amounting to his last salary until he finds another employment or until his retirement, but for a maximum of six months after the termination of his term of office.

Article 109

- (1) Deputy state attorneys shall be appointed in the manner, under the conditions and in procedures ensuring their expertise, independence and worthiness to discharge the office of state attorney.
- (2) Deputy state attorneys shall be Croatian citizens who have obtained a law degree, passed the bar exam and who fulfil the requirements laid down in Article 110 of this Act.

Article 110

- (1) Any person who has finished the State School for Judicial Officials may be appointed deputy state attorney in a municipal state attorney office.
- (2) Any person who has performed judicial tasks in judicial bodies as an official for a minimum of eight years may be appointed deputy state attorney in a county state attorney office.
- (3) Any person who has performed judicial duties in judicial bodies as an official for a minimum of fifteen years or a distinguished lawyer who has passed the bar exam and has at least twenty years of work experience in the legal profession may be appointed deputy state attorney in the State Attorney's Office of the Republic of Croatia.
- (4) In the procedure for the appointment of a deputy state attorney, members of national minorities shall be properly represented pursuant to the provisions of Article 22, paragraph 2 of the Constitutional Act on the Rights of National Minorities.

(5) Members of national minorities who submit their application for the position of deputy state attorney may invoke in their application the exercise of rights they are entitled to pursuant to the provisions of the Constitutional Act on the Rights of National Minorities.

Article 111

(1) To be appointed to a higher state attorney office, a deputy state attorney, in addition to fulfilling the requirements referred to in Articles 109 and 110 of this Act, shall have received in the last assessment prior to appointment the minimum grade referred to in Article 132, paragraph 1, item 3 of this Act, or a higher grade.

(2) At the moment of appointment, all other things being equal, priority shall be given to candidates who have obtained better grades in the last two assessments.

b) Termination of office of deputy state attorneys

Article 112

(1) A deputy state attorney's term of office shall be terminated by force of law in the state attorney office to which he was appointed in the following cases:

- in the case of death;
- when he turns 70 years of age;
- after the expiry of five years, if he is not reappointed to the position of state attorney;
- on the date of the start of service in another state attorney office, or in a judicial or state body.

(2) The decision on the occurrence of circumstances referred to in paragraph 1 of this Article shall be rendered by the state attorney in the state attorney office in which the deputy state attorney performed his duties and it shall be delivered to the State Attorney Council and the ministry responsible for judicial affairs.

Article 113

(1) The deputy state attorney shall be dismissed in the following cases:

1. upon his own request;
2. due to the permanent loss of capacity to perform his office;
3. if he is convicted of a criminal offence that makes him unworthy of performing state attorney duties;
4. if he is given an unsatisfactory grade for the performance of the office of state attorney twice in a row (Article 132, paragraph 2, item 1);
5. if a decision is rendered on the disciplinary sanction of dismissal.

(2) The dismissal of a deputy state attorney shall be decided upon by the State Attorney Council on the basis of a request from an authorised state attorney and following a procedure performed pursuant to this Act. In the case of dismissal on the basis of a decision on the disciplinary sanction of dismissal, no special procedure is required but the dismissal occurs when the decision becomes final.

3. Duties and rights of state attorneys and their deputies

Article 114

A state attorney and deputy state attorney shall discharge state attorney duties in the state attorney office to which they were appointed.

Article 115

(1) Tasks in a state attorney office shall be assigned at the beginning of each calendar year according to types of cases, taking into account that the burden is equally distributed.

(2) Before establishing the schedule of tasks, the state attorney shall procure the opinion of the collegiate body of the state attorney office.

(3) Before its entry into force, the annual schedule of tasks shall be delivered to a higher state attorney office which, for justified reasons, may order amendments to the schedule.

(4) The annual schedule may be amended if justified by special circumstances.

(5) Individual cases shall be assigned on the basis of the Rules of Procedure of the State Attorney's Office.

(6) By way of derogation from the provision of paragraph 1 of this Article, the minister responsible for judicial affairs may request that priority be given to a certain type of case on the basis of a prior opinion of the State Attorney General. In that case, the state attorney shall immediately assign such tasks to the appropriate deputy state attorney pursuant to paragraph 1 of this Article.

Article 116

A case assigned to a deputy state attorney in the manner laid down in Article 115, paragraph 5 of this Act may be withdrawn if the deputy state attorney is excluded, if he cannot timely undertake actions in proceedings due to long-lasting absence, or when necessary for special reasons.

Article 117

A state attorney and deputy state attorney shall act in a manner that does not harm their reputation or the reputation of the state attorney office or that does not bring into question their diligence or the independence of the state attorney office.

Article 118

A state attorney or deputy state attorney shall keep confidential all the information they have learnt about the parties and their rights, the obligations and legal interests when discharging the duties of office, unless it constitutes a criminal offence, and they must maintain the confidentiality of all data which are not accessible to the public.

Article 119

The State Attorney General, state attorneys and deputy state attorneys may not be members of any political party or participate in its activities.

Article 120

(1) A state attorney or deputy state attorney may not use their official position or the reputation of the state attorney office to exercise their rights before state bodies or local and regional self-government bodies.

(2) A state attorney or deputy state attorney may not discharge the duties of judge, practising attorney or notary public or the duties of a member of a management or supervisory board of a company or some other legal person earning profit.

(3) A state attorney or deputy state attorney may not discharge any other duties or work which might influence his independence and objectivity or harm his social reputation or which in some other way is incompatible with the discharging of the duties of the state attorney office.

(4) A state attorney or deputy state attorney may write professional or scholarly papers, participate in professional or scientific gatherings, draft legislation or participate in other similar activities.

Article 121

(1) A state attorney shall inform in advance in writing a directly superior state attorney of any work he performs except for the work referred to in Article 120, paragraph 4 of this Act, and a deputy state attorney shall inform thereof the state attorney.

(2) The state attorney shall decide on the incompatibility of office or work with the duties of the office of state attorney in the case of a deputy state attorney, a directly superior state attorney from a higher state attorney office shall decide in the case of a state attorney, and the Government of the Republic of Croatia shall decide in the case of the State Attorney General.

Article 122

(1) A municipal state attorney, county state attorney and deputy state attorney shall be obliged to continuously participate in professional and in-service education and training programmes of the Judicial Academy, and they may also participate in other types of education or professional training.

(2) Deputy state attorneys shall be obliged to respond to invitations by the Judicial Academy to participate as lecturers or participants in professional training programmes.

(3) On the basis of a previously obtained opinion of the State Attorney General, the minister of justice shall be authorised to adopt an ordinance imposing an obligation on deputy state attorneys to attend professional training programmes at the Judicial Academy by prescribing the type, manner, duration and evaluation of the training.

Article 123

A state attorney and deputy state attorney shall be entitled to the following:

- a salary determined for a state attorney or deputy state attorney in the state attorney office to which he was appointed,
- compensation instead of a salary if he is incapacitated to discharge his duties;
- pension, disability, health insurance and rights arising from them according to general provisions;
- rests and leaves prescribed for civil servants and employees in state attorney offices and an annual holiday lasting 30 working days;
- the right to the coverage of material expenses under the conditions laid down by law and other provisions;
- separation allowance and travelling expenses to a family place of residence during weekly breaks and public holidays,
- compensation for business trips and travel expenses related to the discharge of the duties of the state attorney office;
- professional training and specialised training within the resources provided for that purpose.

Article 124

(1) A state attorney or deputy state attorney of a municipal or a county state attorney office, if the need of service so requires, may be temporarily seconded to work in another state attorney office of the same or lower level to work on a certain case or for a certain period for a maximum of six months.

(2) A state attorney or deputy state attorney may be seconded to work in another state attorney office of the same level for a longer period of time or may be permanently reassigned to work there, provided that he has given his consent.

(3) A deputy state attorney in a municipal state attorney office who was appointed pursuant to Article 161, paragraph 2 of this Act on the basis of a proposal referred to in Article 157, paragraph 4 of this Act shall be temporarily assigned, on the basis of a decision adopted by the State Attorney General, to a vacancy in a different municipal state attorney office until a vacancy opens up in the municipal state attorney office in which he was appointed deputy, and for a maximum of two years. Exceptionally, if a deputy position does not become available after the expiry of two years, he may be seconded to work in another state attorney office for another two years.

(4) A deputy municipal state attorney who has been temporarily seconded on the basis of a decision adopted by the State Attorney General referred to in paragraph 3 of this Article may be permanently posted to that or another state attorney office, provided that he has given his consent.

(5) A decision on temporary secondment to another state attorney office shall be adopted by the State Attorney General, and a decision on permanent posting shall be adopted by the State Attorney Council.

(6) A request for the permanent posting of a deputy state attorney shall be delivered to the State Attorney's Office of the Republic of Croatia by the county state attorney office to which the deputy has been posted or in whose jurisdiction the municipal state attorney office to which the deputy is being posted is located. The request shall be accompanied by the written consent of the deputy to permanent posting and the consent of the state attorney in the state attorney office of the deputy's employment.

(7) If he agrees to the permanent posting, the State Attorney General shall submit to the State Attorney Council a request for permanent posting. The request shall be accompanied by the written consent of the deputy and the approval referred to in paragraph 4 of this Article.

(8) A state attorney or a deputy state attorney may object to the decision on temporary secondment to work in another state attorney office to the State Attorney General within eight days from the date of delivery of the decision. The State Attorney General's decision on the objection shall be final.

(9) In the event of the dissolution or reorganisation of a state attorney office, the State Attorney General shall reassign the state attorney or deputy state attorney to a position of a deputy state attorney in a state attorney office of the same level.

Article 125

(1) A state attorney or deputy state attorney of a municipal or county state attorney office may, provided that he had given his consent, be seconded to work in another state attorney office of a higher level for a maximum of four years.

(2) A state attorney of a higher state attorney office shall task him with the drafting of decisions under the competence of that state attorney office or with some other appropriate duties.

(3) A state attorney or a deputy state attorney who has been temporarily seconded to work in a higher state attorney office shall have the same obligations and duties as a senior state attorney advisor when participating in proceedings or working on cases.

Article 126

(1) If a state attorney or a deputy state attorney is appointed minister or state secretary in the ministry responsible for judicial affairs, or to an office in international judicial bodies or international missions, his state attorney duties shall be suspended while he is exercising the duties he was appointed to in the executive branch of power.

(2) A state attorney or deputy state attorney may be posted to other duties in the ministry responsible for judicial affairs, at his consent, but for a maximum of two years during which his state attorney duties shall be suspended.

(3) In the case referred to in paragraphs 1 and 2 of this Article, a state attorney or deputy state attorney shall be entitled to whichever salary is more beneficial.

(4) A decision on the posting of a state attorney or deputy state attorney pursuant to paragraph 2 of this Article shall be adopted by the minister responsible for judicial affairs with the consent of the State Attorney General.

(5) The minister of justice shall adopt a special ordinance establishing the conditions for the seconding of state attorneys and deputy state attorneys to international judicial bodies and international missions.

Article 127

If a state attorney or a deputy state attorney is appointed head or deputy of a special organisational unit referred to in Article 10 of this Article, his state attorney duties in the state attorney office in which he was employed before his reassignment shall be suspended.

Article 128

(1) The Republic of Croatia shall be responsible for the damage caused to a citizen or a legal person by a state attorney or deputy state attorney as a result of the improper or unlawful discharge of his duties.

(2) The Republic of Croatia may request compensation of the paid amount from the state attorney or deputy state attorney only if the damage was caused deliberately or as a result of gross negligence.

(3) The statute of limitations relating to the request for the compensation of damage referred to in paragraph 2 of this Article shall expire six months after the date of payment of the compensation to the injured person.

4. Assessment of the performance of duties

Article 129

(1) The performance of the duties of a deputy state attorney who has been appointed to a state attorney office for the first time shall be assessed each year. Other deputy state attorneys shall be assessed every three years.

(2) State attorneys shall be assessed every two years.

Article 130

(1) The performance of the duties of attorneys and deputy state attorneys shall be assessed on the basis of the following criteria:

1. demonstrated diligence in the handling of assigned cases compared to the average level of performance of county or municipal state attorney offices in the year preceding the year of assessment,

2. the use of legal remedies;

3. demonstrated professional knowledge and work results;

4. quality of work and ability to express oneself orally and in writing;

5. observing procedural deadlines;

6. ability and expressed readiness to learn and acquire new knowledge, active participation and success in professional training programmes, published academic and professional papers and participation in teaching of legal subjects and in other relevant academic and professional events.

7. cooperation and relationship with other employees;

8. ability to perform administrative work and state attorney work, if assigned to such duties.

(2) The State Attorney General shall adopt special instructions laying down rules on the keeping of records of the work of state attorneys and deputy state attorneys, the assessment procedure, the manner applying the criteria for assessment and the grading scale, the submission of objections against the grade and the procedures in the event of objections and other issues important for assessment.

(3) Average performance results of county or municipal state attorney's offices shall be established by the State Attorney General for the previous year at the latest by 1 March of the current year and he shall inform all state attorney offices thereof.

Article 131

A state attorney shall assess the performance of the state attorney duties of a deputy state attorney.

Article 132

(1) The following grades shall apply to the performance of deputy state attorney duties:

1. unsatisfactory performance of state attorney duties;

2. satisfactory performance of duties;

3. conscientious, professional and appropriate performance of duties;

4. conscientious, professional and appropriate performance of duties and achievement of above average results;

5. conscientious, professional and appropriate performance of duties and achievement of above average results, showing special commitment and extraordinary legal knowledge.

(2) The following grades shall apply to the performance of state attorney's duties:

1. unsatisfactory performance of state attorney duties;
2. satisfactory performance of duties;
3. conscientious, professional and appropriate performance of state attorney duties;
4. conscientious, professional and appropriate performance of state attorney duties with above average leadership skills.

Article 133

Before delivering the grade, the state attorney shall invite a state attorney or a deputy state attorney who is being assessed and inform him of the indicators that will be used for the assessment. A state attorney or a deputy state attorney shall be entitled to give information about the circumstances that might affect the grade, and which were not taken into account by the state attorney or which might result in adopting wrong conclusions.

Article 134

- (1) The grade shall be given on a special form prescribed in the instructions for the assessment.
- (2) The grade shall be delivered to the deputy state attorney in question and its contents shall be confidential.
- (3) The state attorney shall explain the manner of assessment according to individual criteria and specify on which indicators the assessment was based and he shall also mention all other important information. The assessment shall be delivered with an instruction on the right to make an objection.

Article 135

- (1) A municipal state attorney, deputy county or municipal state attorney who does not agree with the grade shall be entitled to submit an objection to a higher-ranked state attorney within eight days from the date of delivery of the grade.
- (2) A county state attorney or a Deputy State Attorney General who does not agree with the grade shall be entitled to submit an objection to the collegiate body of the State Attorney's Office of the Republic of Croatia within eight days from the date of delivery of the grade.

Article 136

- (1) If an objection against the grade has been submitted by a municipal state attorney, deputy municipal or a county state attorney, the state attorney who issued the grade shall request an 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, for a decision by a higher-ranked state attorney.

(2) An objection against a county state attorney's or Deputy State Attorney General's grade shall be delivered to the collegiate body of the State Attorney's Office of the Republic of Croatia together with his personal file.

(3) A higher-ranked state attorney or the collegiate body of the State Attorney's Office of the Republic of Croatia may confirm the grade, amend it or remand it for re-assessment.

5. Disciplinary offences

Article 137

(1) A deputy state attorney shall be held accountable for any committed disciplinary offences.

(2) The following shall represent disciplinary offences:

1. abuse of position or exceeding official authority;
2. unjustifiable omission to discharge state attorney duties or improper discharge of duties;
3. exercise of office, tasks or activities incompatible with state attorney duties;
4. causing disorder in the work of the state attorney office which has a significant impact on the operation of the state attorney office;
5. any breach of official secrets in relation to the discharge of state attorney duties;
6. conduct or actions which are contrary to the fundamental principles of the Code of Ethics of state attorneys and deputy state attorneys causing damage to the reputation of the state attorney office or to the state attorney's duty.
7. insulting or disruptive conduct during representation before a court or an administrative body;
8. any action in contravention to Article 119 of this Act.

(3) Abuse of position exists in particular in the following cases where a deputy state attorney:

1. following a previous notification to a higher-ranked state attorney, fails, without justification, to undertake actions in proceedings within a legally prescribed term, resulting in the court's decision on the termination of custody;
2. fails to render a decision within fifteen days from the completion of investigation, if it was established during the investigation that there was a well-founded suspicion that the defendant committed the offence which is the subject of the investigation, or does not request an extension of the term for preferment of the indictment (Article 299, paragraph 2 of the Criminal Procedure Act);

3. fails to enclose with the indictment a list of evidence that will not be presented in court but which prove that the defendant is innocent or that diminish his guilt or that represent mitigating circumstances.

(4) It shall be considered that a deputy state attorney has unjustifiably omitted to discharge his state attorney duties in particular in the following cases:

1. he did not put into the case file the documents he was obliged to insert by law;

– he unjustifiably fails to take actions in the proceedings within a legally prescribed term (Article 125, paragraph 5 of the Criminal Procedure Act) and thus causes a delay or discontinuance of proceedings;

2. he fails to timely submit proposals to the court or undertakes other actions in proceedings with significant delay, thus causing a delay in the proceedings (Article 397 of the Criminal Procedure Act);

3. where the court has not confirmed the indictment in its entirety or partially within eight days from the delivery of the ruling, he fails to issue an order for the supplementation of the investigation or carrying out the evidentiary action within eight days, or he does not desist from prosecution or request an extension of the deadline from the indictment panel,

4. he fails to draft state attorney decisions or documents within a legally prescribed term without a justified reason;

5. where the number of decisions adopted in a period of one year, without any justified reason, is significantly below the average in the Republic of Croatia.

(5) Improper discharge of state attorney duties shall exist in particular where:

1. a state attorney fails to render a decision within fifteen days from the completion of the investigation or fails to request an extension of the deadline for the preferment of the indictment (Article 229, paragraph 1 of the Criminal Procedure Act).

2. if the investigation was not completed within six months, he fails to notify thereof a higher-ranked state attorney (Article 230 of the Criminal Procedure Act).

3. a state attorney has given a negative evaluation of his work (Article 132, paragraph 2, item 1).

Article 138

(1) The following disciplinary measures may be imposed for the committed disciplinary offences:

1. a reprimand;

2. a fine amounting to up to one third of the salary earned in the previous month for a maximum of six months;

3. the suspension of promotion for up to three years,

4. dismissal.

(2) The disciplinary measure referred to in paragraph 1, item 4 of this Article may be imposed only for a disciplinary offence referred to in Article 137 of this Act if it was committed under particularly aggravating circumstances.

(3) The disciplinary measure imposed for a disciplinary offence shall in particular depend on the following: the gravity of the offence and the consequences caused, the degree of responsibility, the circumstances under which the offence was committed, the previous work and behaviour of the deputy state attorney and other circumstances that may influence the imposition of the disciplinary measure.

(4) The decision on responsibility and disciplinary measure for a disciplinary offence shall be based on the provisions of the Criminal Code.

(5) The state attorney office where the deputy state attorney discharges his state attorney duties and the ministry responsible for judicial affairs that keeps records of imposed disciplinary measures shall be notified of the disciplinary measure within 24 hours.

Article 139

(1) Disciplinary proceedings may not be initiated six months from the date the disciplinary offence and the perpetrator became known, or three years following the commission of the disciplinary offence.

(2) A disciplinary measure may not be imposed after the expiry of one year from the date of the institution of disciplinary proceedings.

(3) If a disciplinary offence implies criminal liability, disciplinary proceedings may be instituted after the expiry of the statute of limitations for the institution of criminal proceedings provided that such proceedings have been instituted.

(4) The statute of limitations for the execution of a disciplinary measure shall expire one year after it becomes final.

(5) A reprimand shall be deleted from the records *ex officio* two years after the date the decision on the reprimand became final, and the fine shall be deleted after three years.

6. Code of Ethics of state attorneys and deputy state attorneys

Article 140

(1) The Code of Ethics of state attorneys and deputy state attorneys (hereinafter: the Code) shall lay down the principles and rules of behaviour of state attorneys and deputy state attorneys that they must abide by in order to maintain and further develop the dignity and reputation of the state attorney office as an independent and autonomous judicial body.

(2) The Code shall be adopted by the collegiate body of the State Attorney's Office of the Republic of Croatia in an extended session together with county and municipal state attorneys and representatives of collegiate bodies of county and municipal state attorney offices. The Code shall be published in the Official Gazette.

(3) The collegiate bodies of county and municipal state attorneys shall elect their representatives at a session by a public majority vote of all members.

(4) The meeting of the collegiate body referred to in paragraph 2 of this Article shall be convened and presided over by the State Attorney General.

(5) The collegiate body referred to in paragraph 2 of this Article shall adopt decisions by a public majority vote of all members.

Article 141

(1) The collegiate body of the State Attorney's Office of the Republic of Croatia shall appoint a working group for the drafting of the Code. The working group shall consist of at least eleven members of which five deputy municipal state attorneys, four deputy county state attorneys and three deputies of the State Attorney General. The work of the working group shall be managed by the Deputy State Attorney General determined by the collegiate body.

(2) When the working group prepares the draft Code, the collegiate body of the State Attorney's Office of the Republic of Croatia shall forward the draft Code to county and municipal state attorneys who are obliged to familiarise all deputies with the text of the draft and convene sessions of the collegiate body in order to give proposals and objections within a prescribed time limit.

(3) Thereafter, the collegiate body of the State Attorney's Office of the Republic of Croatia shall establish a proposal for the Code, deliver it to county and municipal state attorney offices and invite the collegiate bodies of county and municipal state attorney offices to appoint their representatives within 30 days. The meeting of the collegiate body referred to in Article 140, paragraph 2 of this Act must be held within the next 30 days.

(4) The draft and proposal of the Code shall be delivered for opinion to the minister responsible for judicial affairs.

(5) The Code shall be amended following the same procedure in which it was adopted upon the proposal of the collegiate body of the State Attorney's Office of the Republic of Croatia, the extended collegiate body of the State Attorney's Office of the Republic of Croatia, the State Attorney General, the minister responsible for judicial affairs and at least ten state attorneys or deputy state attorneys.

Title X STATE ATTORNEY COUNCIL

Article 142

Deputy state attorneys shall be appointed and dismissed by the State Attorney Council which also decides on their disciplinary responsibility.

Article 143

The State Attorney Council (hereinafter: the Council) shall have a seal bearing its name and the name and coat of arms of the Republic of Croatia.

1. Election and dismissal of members of the State Attorney Council

Article 144

(1) In the procedure for the election of members of the State Attorney Council, the Justice Committee of the Croatian Parliament shall request the State Attorney General and deans of faculties of law to institute a nomination procedure for members of the Council.

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

(3) The State Attorney General shall request state attorney offices to propose deputy state attorneys as candidates from state attorney offices. On the basis of the collected proposals, the State Attorney General shall, with the consent of the extended collegiate body of the State Attorney General, designate candidates and submit the proposal to the Croatian Parliament.

(4) Candidates from among the ranks of university professors of legal sciences shall be designated at a session of deans of faculties of law and the list shall be submitted to the Croatian Parliament.

(5) Candidates from among the ranks of the Croatian Parliament shall be designated by the Justice Committee of the Croatian Parliament.

(6) A minimum of three candidates must be proposed for each seat on the Council.

Article 145

(1) Members of the Council shall be elected by the Croatian Parliament.

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

(3) 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.

(4) The president and deputy president shall be elected by a secret vote for a period of two years and may be re-elected.

Article 146

(1) The members of the Council shall be elected for a period of four years. Nobody may be elected member of the Council more than two times in a row.

(2) The elected member of the Council must assume his duty within 30 days from the date of election.

(3) If the elected member of the Council fails to assume office within the time limit referred to in paragraph 1 of this Article without any justifiable reason, it shall be deemed that he had not been elected.

(4) The president and members of the Council shall be issued with an identification document whose form and content shall be prescribed by the minister responsible for judicial affairs.

Article 147

(1) The term of office of a member of the Council shall start on the date of election.

(2) The president of the Council shall inform the Justice Committee of the Croatian Parliament six months before the expiry of the term of office for which the member of the Council was elected.

Article 148

Before assuming his duties, a member of the Council shall give the following oath before the President of the Croatian Parliament:

"I hereby swear, on my honour, that in discharging the duties as a member of the State Attorney Council I shall abide by the Constitution and laws of the Republic of Croatia and that I shall conscientiously discharge my duties."

Article 149

(1) The term of office of the president or a member of the Council shall cease by operation of law 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 or if employed as a lecturer at a different faculty of law this shall not be deemed termination of duty.

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

- at his own request;
- if he is appointed state attorney, on the date when he assumes office;
- if he is convicted of a criminal offence that renders him unworthy of performing this duty;
- in the case of permanent loss of capacity to discharge his office;
- if he becomes a citizen of another country.

(4) The president or a member of the Council shall be dismissed from office before the expiry of his term for the unjustifiable failure to discharge his duties as president or as a member of the Council or for the improper discharge thereof.

(5) The proposal for dismissal from office of a member of the Council before the expiry of his term may be submitted by the State Attorney General, with the consent of the collegiate body of the State Attorney's Office of the Republic of Croatia extended by county state attorneys and the session of deans of faculties of law in respect of members of the Council they had proposed in the designation of candidates for president and members of the Council. The proposal for dismissal may also be submitted by the Justice Committee of the Croatian Parliament and the minister responsible for judicial affairs.

(6) The existence of reasons for the dismissal from office of a member of the Council before the expiry of his term shall be established by the Justice Committee of the Croatian Parliament and he shall be dismissed by the Croatian Parliament.

Article 150

(1) If the president or a member of the Council requests dismissal from office, and the Croatian Parliament does not adopt a decision on that request within three months from the date of submission of the request, the Council shall decide, upon the request of the president or the member, that his term 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 immediately inform the Croatian Parliament thereof.

(3) A 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 Justice Committee of the Croatian Parliament by the president of the Council, and in relation to the president by at least three members of the Council.

(4) The decision on the dismissal from office of the president or a member of the Council shall be adopted by the Croatian Parliament by a majority vote of all of its representatives.

Article 151

(1) If the procedure referred to in Article 149, paragraph 3, items 3 and 4 of this Act has been instituted in relation to a criminal offence that is punishable by imprisonment, the president or a member of the Council may be removed from office on the basis of a Council decision adopted by a majority vote of all members.

(2) A decision on removal from office shall be adopted by the Council:

- for a member, at the proposal of the president of the Council;
- for the president, at the proposal of three members of the Council.

(3) The Council may decide by a majority vote that the president or a member, against whom criminal proceedings have been instituted, may not discharge his duties in the Council for the duration the proceedings.

2. Competence and manner of work

a) Competence

Article 152

The competence of the Council shall include:

- the appointment of deputy state attorneys;
- the conducting of proceedings and deciding on disciplinary responsibility and dismissal of deputy state attorneys;
- the discharge of other activities pursuant to the law.

b) Manner of work

Article 153

- (1) The Council shall adopt decisions at a session.
- (2) The decision of the Council on the dismissal of a deputy state attorney shall be prepared in writing and it shall contain a statement of reasons explaining the facts on the basis of which the Council, after a discussion, decided that there are grounds for dismissal.
- (3) The decision referred to in paragraph 2 of this Article shall be signed by the president of the Council and it shall be published in the Official Gazette.
- (4) The sessions shall be convened by the president or, in his absence, by the member standing in for the president.
- (5) By way of exception, the session shall be convened upon the proposal of at least three members of the Council.

Article 154

The president of the Council:

1. represents the Council;
2. convenes and chairs the meetings of the Council;
3. proposes the agenda for the sessions;
4. publishes the results of voting;

5. signs documents adopted by the Council;
6. ensures the execution of the Council's decisions;
7. discharges other duties laid down by law or by a general act.

Article 155

- (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 votes of at least eight members of the Council.
- (3) The Council shall have an administrative service in charge of administrative, technical and accounting affairs.

Article 156

- (1) At the beginning of the calendar year, the State Attorney General shall request county state attorneys to deliver information on the number of vacancies for positions of deputies for the following two calendar years in municipal state attorney offices under their jurisdiction.
- (2) On the basis of data submitted by county state attorney offices, the State Attorney General shall submit to the minister responsible for judicial affairs a proposal to publish an announcement for candidates for the State School for Judicial Officials. The proposal must contain the name of the state attorney office that requires the employment of deputies and the number of vacant positions for deputy state attorney.

3. Procedure for the appointment and dismissal from office of deputy state attorneys

Article 157

- (1) A vacancy for deputy state attorney shall be announced by the State Attorney's Office of the Republic of Croatia *ex officio* or at the proposal of authorised persons.
- (2) The proposal for the announcement of vacancies referred to in paragraph 1 of this Article may be submitted by a state attorney in a state attorney office to which a deputy state attorney is to be appointed or by an immediately higher-ranked state attorney.
- (3) The vacancy announcement referred to in paragraph 1 of this Article shall be published, as a rule, in the Official Gazette and, where necessary, in some other manner, and it shall contain an invitation to candidates to submit, within a deadline of no less than 15 days and no more than 30 days, their application containing proof of the fulfilment of the requirements prescribed for the appointment of deputy state attorney and information on their work experience and a written statement of consent to all background checks carried out pursuant to a special regulation. If background checks have been requested, the candidate shall be entitled to be informed of the results in compliance with special regulations on the performance of background checks.

(4) By way of exception, if there are no vacancies in a municipal state attorney office for the purposes of which an advisor has successfully completed the State School for Judicial Officials, the State Attorney General shall propose that the State Attorney Council adopt a decision on the appointment of a deputy state attorney at that municipal state attorney office.

(5) Three months before the expiry of a period of five years from the date of first appointment (Article 108, paragraph 1), the State Attorney General shall notify the State Attorney Council that a decision needs to be adopted on the permanent appointment of a deputy state attorney. In addition to the notification, he shall also deliver the assessment of the performance of state attorney duties, the opinion of competent state attorneys and the collegiate body, the record of the assessment of performance of the deputy state attorney, and his opinion.

(6) The decision on the announcement of vacancies referred to in paragraph 1 of this Article, and the decision on the annulment of the published announcement, shall be adopted by the State Attorney General.

Article 158

(1) After the expiry of the time limit referred to in Article 157, paragraph 3 of this Act, or before the expiry of the time limit referred to in Article 157, paragraph 4 of this Act, the State Attorney General shall request opinions on all candidates for deputy state attorney from the competent state attorneys and collegiate bodies. In addition to the request for the opinion, the State Attorney General shall also submit the applications with proof and information submitted by the candidates and information on the candidates' job performance of which the State Attorney's Office of the Republic of Croatia has evidence.

(2) Opinion on candidates shall be given:

- for a deputy municipal state attorney, by the county state attorney, the state attorney in the state attorney office in question and the collegiate body of the municipal state attorney office in which the vacancy was announced;
- for a deputy county state attorney, by the State Attorney General, the state attorney in the state attorney office in question and the collegiate body of the county state attorney office in which the vacancy was announced;
- for a Deputy State Attorney General, by the State Attorney General and the collegiate body of the State Attorney's Office of the Republic of Croatia.

(3) The State Attorney General shall request the competent state body to conduct a background check of the candidates that have provided their written consent. Information on the results of the background check is confidential and may be used only in the procedure for the appointment of deputy state attorneys.

(4) The State Attorney General shall submit to the Council a list of candidates fulfilling the requirements for appointment with the opinions referred to in Article 159, paragraph 3 of this Act. In addition to the list of candidates fulfilling the requirements, the Council shall also be informed of all candidates that have applied and it shall be given the candidates' applications with all the relevant data collected in the procedure for the issuing of opinions.

Article 159

(1) In the procedure for the issuing of opinions, the state attorney of the state attorney office in which the vacancy for a deputy state attorney was announced shall request information on the candidates from:

– the president of the court, if the candidate has already served as a judge, a judicial advisor or a court trainee, or fulfilled any other office in the justice system;

– other state bodies and organisations as well as legal persons that may provide information relevant for the fulfilment of general and special conditions for the appointment of a deputy state attorney in the relevant state attorney office.

(2) Following the gathering of information, the candidates shall be invited for an interview with the state attorney and a minimum of 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.

(3) The opinion on candidates applying for state attorney duty shall be drafted in writing and shall contain a statement of reasons on the fulfilment of the general and special conditions for the appointment of deputy state attorney in the relevant state attorney office. The criteria referred to in Article 130 of this Act shall be taken into account in the drafting of the statement of reasons.

(4) The statement of reasons for the deputy municipal state attorney must include information on success in the State School for Judicial Officials.

(5) Opinions must be delivered at the latest within 60 days from the day when they were requested. If the opinion is not delivered, the State Attorney General shall submit to the Council a list of all the candidates fulfilling the requirements for the position of deputy state attorney together with his opinion and information at his disposal *ex officio*.

Article 160

(1) During the appointment procedure, the Council may adopt a decision to invite all or some candidates for interview. In such a case, the Council shall designate three members of the Council who shall talk with the candidates and decide whether the interviews with the candidates will be held jointly or individually.

(2) If the performance of the candidate has already been assessed, the Council shall take into account such assessment when adopting the decision, and, if it does not have the assessments at its disposal, it shall procure them from the State Attorney's Office of the Republic of Croatia or from the ministry responsible for judicial affairs.

Article 161

(1) In the process of appointment of a deputy state attorney, the Council shall take into account the criteria referred to in Article 130 of this Act bearing in mind the opinion of the state attorney and the competent collegiate body, and the assessment of the discharge of duties.

(2) Candidates who have completed the State School for Judicial Officials shall be appointed by the Council to the municipal state attorney office for which they were accepted into the State School for Judicial Officials.

(3) The decision of the Council on the appointment of a deputy state attorney containing a written statement of reasons shall be delivered to all candidates within 15 days from the announcement of the appointment.

(4) The decision on the appointment shall be published in the Official Gazette.

(5) The deputy state attorney shall assume his office within the term laid down by the Council, and at the latest within six months from the date of appointment.

(6) If the deputy state attorney fails to assume his office within the term referred to in paragraph 3 of this Article, it shall be deemed that he had never been appointed.

Article 162

The Council shall annul the decision on appointment upon the request of the State Attorney General or *sua sponte* if it finds:

- that the appointed deputy state attorney has not fulfilled the requirements for appointment;
- that the decision was based on false information and evidence;
- that the deputy state attorney did not, without any justifiable reason, take his oath within six months from the date of appointment;
- that the appointment was the result of a criminal offence committed by the candidate or the president or a member of the Council.

Article 163

(1) Before assuming his office, a deputy state attorney shall give an oath of office before the president of the Council or a member of the Council designated by him.

(2) A county state attorney and a municipal state attorney shall give their oath before the State Attorney General.

(3) The State Attorney General shall give his oath before the President of the Croatian Parliament.

(4) The oath shall read as follows:

"I hereby swear that while discharging my office I shall abide by the Constitution and by the law and that I will protect the integrity, sovereignty and the legal order of the Republic of Croatia."

Article 164

(1) State attorneys and deputy state attorneys shall, within 30 days from the date when they assume their duties, submit to the Minister of Justice and the State Attorney General 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, a report, 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 on savings if they exceed the annual 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 State Attorney General shall invite him to deliver the requested data or to supplement the delivered data within a 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 or the minister responsible for judicial affairs shall institute disciplinary proceedings against the state attorney or deputy state attorney for the disciplinary offence referred to in Article 137, paragraph 2, item 2 of this Act.

(5) The form and content of the declaration of assets shall be prescribed in an ordinance by the minister responsible for judicial affairs.

4. Disciplinary proceedings, removal from office and dismissal proceedings

a) Disciplinary bodies

Article 165

(1) The Council shall decide in first-instance disciplinary proceedings by a majority vote of all its members.

(2) If disciplinary proceedings are conducted against a member of the Council, that member shall be excluded from decision making in those disciplinary proceedings.

Article 166

(1) In the case of a well-founded suspicion that a deputy state attorney has committed a disciplinary offence, the state attorney in the state attorney office in which the deputy state attorney carries out state attorney duties shall file a motion to institute disciplinary proceedings against him.

(2) The motion to institute disciplinary proceedings for the commission of a disciplinary offence may also be submitted by the immediately higher state attorney or the State Attorney General or by the minister responsible for judicial affairs.

(3) The motion to institute disciplinary proceedings is represented before the Council by the authorised submitter referred to in paragraphs 1 and 2 of this Article or by a person authorised by him.

(4) If the decision on the institution of disciplinary proceedings requires an inquiry, the inquiry shall be conducted by the deputy state attorney appointed by the president of the Council.

b) The course of disciplinary proceedings

Article 167

(1) The motion to institute disciplinary proceedings shall be submitted in writing and it shall contain personal information on the deputy state attorney whose disciplinary accountability is being requested, a description of the disciplinary offence, the proposal for the imposition of a disciplinary measure and the statement of reasons containing the grounds for suspicion.

(2) Immediately upon receipt of the motion, a hearing shall be scheduled to which the deputy state attorney and the submitter will be summoned. The deputy state attorney against whom the motion to institute disciplinary proceedings has been filed shall receive the summons and the motion to institute disciplinary proceedings, and he shall be informed in the summons that he may have an attorney present at the hearing and that the hearing may be held in his absence as well.

(3) If the deputy state attorney who received the summons personally does not appear at the hearing and does not justify his absence, the Council may adopt a decision on the motion to institute disciplinary proceedings. The Council may decide on the motion to institute disciplinary proceedings in the absence of the deputy state attorney where it is evident that he is avoiding making an appearance.

(4) The hearing shall be closed unless otherwise requested by the deputy state attorney against whom the motion was submitted.

(5) If, after the hearing, the Council establishes the existence of a well-founded suspicion that a disciplinary offence has been committed, it shall adopt a decision on the institution of disciplinary proceedings. In such case, the Council may request the undertaking of certain inquiries by a deputy state attorney selected for that purpose.

(6) The decision on the institution of disciplinary proceedings may not be appealed.

Article 168

(1) If the authorised submitter suggested in his motion the imposition of a disciplinary sentence of dismissal from office, the Council shall decide, without delay, on the motion for temporary removal from office. The decision on temporary removal must be made in writing including a statement of reasons.

(2) The decision on temporarily removal from office may not be appealed.

Article 169

(1) The authorised submitter may amend or supplement his motion. If the submitter amends or supplements the motion outside the hearing, the Council shall schedule a hearing at the latest within 15 days from the date of receipt of the motion. The authorised submitter, the deputy state attorney and his defence counsel shall be invited to the hearing.

(2) Before the hearing, all evidence on which a decision in disciplinary proceedings may not be based shall be excluded from the file.

Article 170

(1) During the disciplinary proceedings, the deputy state attorney who is the defendant in the proceedings shall be given the opportunity to state his defence in person or with the defence counsel of his choice.

(2) If the defence attorney who personally received the summons does not appear at the hearing without justifying his absence, the Council may carry out the proceedings in his absence if it is evident that he is avoiding making an appearance.

(3) The voting and the rendering of a decision on disciplinary responsibility shall be closed to the public. The decision shall always be publicly pronounced.

(4) The decision establishing the disciplinary responsibility of the deputy state attorney and imposing a disciplinary measure on the deputy state attorney may refer only to a disciplinary offence and to the person designated in the submitter's motion.

(5) The decision must be prepared and sent to the parties within 15 days following its rendering.

Article 171

An administrative dispute may be instituted against the decision on disciplinary responsibility of the deputy state attorney.

Article 172

(1) Disciplinary proceedings shall be conducted pursuant to the provisions of the Criminal Procedure Act on summary proceedings, unless otherwise laid down in this Act.

(2) No charges shall be associated with the disciplinary proceedings and the costs of proceedings shall be borne by the state attorney's office in which the deputy state attorney discharges his office.

c) Removal from office

Article 173

(1) A deputy state attorney shall be removed from office in the following cases:

– if criminal proceedings have been instituted against him for a criminal offence punishable by five years' imprisonment or more or while he is in custody;

– if he is convicted of a criminal offence that makes him unworthy of discharging the office of state attorney;

– for having committed a serious disciplinary offence.

(2) A deputy state attorney may be removed from office in the following cases:

– if criminal proceedings have been instituted against him for a criminal offence punishable by up to five years' imprisonment;

– if he carries out a duty, job or activity that is incompatible with discharging the office of state attorney without a previous written approval of the state attorney.

(3) The decision on the removal from office in the cases referred to in paragraph 1 of this Article shall be adopted by the State Attorney General.

(4) The motion for the removal from office in the cases referred to in paragraph 2 of this Article shall be submitted to the Council by the state attorney where the deputy state attorney performs his duties, by the state attorney of an immediately higher state attorney office or by the State Attorney General.

(5) The deputy state attorney may object to the Council against the decision on removal from office referred to in paragraph 3 of this Article within three days and the Council shall adopt a decision on his objection within 15 days. If the Council does not adopt a decision within the above-mentioned time limit, the removal from discharging state attorney duty shall be deemed to have ceased.

Article 174

(1) The decision on temporary removal must be made in writing and must include a statement of reasons.

(2) The Council's decision on temporary removal may not be appealed.

Article 175

(1) Temporary removal from office shall be imposed for a period of three months and after the expiry of that period, the Council may, for justifiable reasons, prolong it for another three months in the same manner. Temporary removal from office may continue until the final termination of disciplinary proceedings, which in this case must be carried out by the Council within one year.

(2) During the temporary removal from office, the deputy state attorney shall be entitled to receive one half of his salary.

(3) If disciplinary proceedings end in an acquittal, the decision on temporary removal from office shall cease to be valid by operation of law on the date when the Council decision becomes final. In such a case, or if a disciplinary measure of a fine or a reprimand has been imposed, the deputy state attorney shall be entitled to the difference in unpaid salaries for the duration of the consequences of the decision on the removal from office.

d) Dismissal procedure

Article 176

- (1) The motion for dismissal of a deputy state attorney may be filed by the state attorney in the state attorney office in which the deputy state attorney performs his duties, by a higher-ranked state attorney or by the State Attorney General.
- (2) The deputy state attorney may file a request for his own dismissal with the state attorney for whom he acts as deputy.
- (3) The motion for dismissal of a deputy state attorney because of a permanent loss of capacity to discharge his office may be based only on a final court decision on the divesting of disposing capacity or on a final decision rendered by a competent authority that the mental or physical state of the deputy state attorney is such that it prevents him from discharging his state attorney office. If the deputy state attorney refuses to undergo appropriate medical examination, the Council shall order the deputy state attorney, upon the proposal of the submitter of the motion for dismissal from office, to undergo the appropriate examinations and, if he fails to do so, he shall be dismissed from office.

Article 177

- (1) In the dismissal procedure the Council collects evidence alone or entrusts the collection of evidence to the relevant state attorney office.
- (2) The deputy state attorney whose dismissal is requested must be able to comment on the motion, unless he submitted the motion himself.
- (3) The decision on dismissal shall be rendered by a majority vote of all members of the Council.
- (4) The decision on dismissal shall be made in writing and shall include a statement of reasons.
- (5) The deputy state attorney may institute an administrative dispute against the decision on dismissal from office on grounds laid down in Article 113, paragraph 1, items 1 to 4.

Article 178

If the deputy state attorney requested to be dismissed from office and the Council did not render a decision on dismissal within three months from the date of the submission of the motion, the State Attorney General shall adopt a decision establishing that the deputy state attorney's office ended on the day following three months from the submission of the motion for dismissal.

5. Funding of the State Attorney Council

Article 179

(1) The operation of the Council shall be funded from the State Budget of the Republic of Croatia.

(2) The president of the Council shall execute the financial plan for the funds referred to in paragraph 1 of this Article.

Article 180

(1) The president and members of the Council shall be entitled to compensation of costs incurred, compensation for unpaid salary or earnings, and to fees.

(2) The decision on the conditions and amount of compensation and fees referred to in paragraph 1 of this Article shall be adopted by the Government of the Republic of Croatia.

Article 181

(1) The Council shall establish a professional staff within three months in conformity with the Rules of Procedure of the Council.

(2) The position, rights, obligations and responsibilities of the civil servants and employees in the professional staff shall be regulated in compliance with the regulations applicable to civil servants and employees.

(3) Before the professional staff of the Council starts to operate, administrative, technical and accounting tasks shall be carried out by the State Attorney's Office of the Republic of Croatia.

Title XI

CIVIL SERVANTS AND EMPLOYEES IN THE STATE ATTORNEY'S OFFICE

1. Beginning and termination of employment, salaries and other rights

Article 182

(1) The number of civil servants and employees for the performance of expert clerical and technical tasks shall be established by the state attorney on the basis of the prior consent of the minister responsible for judicial affairs.

(2) The employment and termination of employment of civil servants and employees, salaries and other rights, obligations and responsibilities, the necessary level of education, the duration and performance of traineeships, conditions for taking the state exam, the programme and manner of taking the exam and other related issues shall be regulated by the regulations applicable to civil servants and employees.

(3) In the process of the employment of civil servants and employees in state attorney offices, the representation of civil servants and employees who are members of national minorities must be taken into account.

(4) In the case of a merger of state attorney offices, civil servants and employees from the merging of state attorney offices shall be taken over in compliance with the provisions of the Civil Servants Act.

2. The secretary of a state attorney office

Article 183

- (1) A state attorney office with more than ten deputy state attorneys may have a secretary. The secretary of a state attorney office shall assist the state attorney with the performance of administrative tasks.
- (2) Any person holding a law degree may be appointed secretary of a state attorney office.
- (3) A person fulfilling the requirements of a senior advisor or an advisor in a municipal or county state attorney office may be appointed Secretary of the State Attorney's Office of the Republic of Croatia.

3. State attorney advisors

Article 184

- (1) A state attorney office may have advisors and senior advisors.
- (2) Advisors shall assist the state attorney or his deputy in their work, prepare draft decisions, register crime reports, pleadings and statements of citizens, and perform, independently or under supervision and in accordance with the instructions given by the state attorney or his deputy, other expert tasks envisaged by law or by regulations adopted on the basis of law.
- (3) A person who graduated from law school and has passed the bar exam may be employed as an advisor in a municipal and county state attorney office.
- (4) A senior state attorney advisor in a municipal or county state attorney office may be any person who has graduated from law school, passed the bar exam and who has worked for a minimum of two years as a state attorney or judicial advisor, a state attorney or a deputy state attorney, an attorney or a notary public, or a person who has worked in the legal profession for at least five years after having passed the bar exam.
- (5) A state attorney advisor in the State Attorney's Office of the Republic of Croatia may be any person who has passed the bar exam and who has worked as state attorney advisor for a minimum of two years.
- (6) A senior state attorney advisor in the State Attorney's Office of the Republic of Croatia may be any person who has worked as a judicial official for a minimum of six years or as a state attorney advisor for a minimum of eight years after having passed the bar exam.

Article 185

- (1) In addition to advisors performing the duties referred to in Article 184, paragraph 2 of this Act, the minister responsible for judicial affairs shall establish every year the number of vacancies for advisors in municipal state attorney offices in which deputy municipal state attorneys are needed, who are then sent to the State School for Judicial Officials.

(2) The advisor referred to in paragraph 1 of this Article may be any person who has graduated from a law school and has passed the bar exam and who has achieved the highest score at the entry exam for the State School for Judicial Officials.

(4) The conditions and manner of employment of advisors in municipal state attorney offices and the manner of attending the State School for Judicial Officials shall be laid down by the minister responsible for judicial affairs by a special act.

(5) Advisors referred to in paragraph 1 of this Article shall be employed at a municipal state attorney office for two years. After completing the State School for Judicial Officials, the two-year employment of advisors shall be extended until their appointment as deputies in municipal state attorney offices.

(6) During their education at the State School for Judicial Officials, the advisors referred to in paragraph 1 of this Article shall be entitled to a salary of a higher state attorney advisor and they shall have other rights in accordance with a special ordinance adopted by the minister responsible for judicial affairs.

(7) If the advisor referred to in paragraph 1 of this Article does not finish the State School for Judicial Officials within the time limit laid down in a special ordinance, his employment at the state attorney office in which he was employed in order to be sent to the State School for Judicial Officials shall be terminated.

(8) If an advisor and higher advisor referred to in Article 184 of this Act who was employed in the state attorney office attends the State School for Judicial Officials and does not finish the education at that School within the time limit laid down in a special ordinance, he shall continue to work at the state attorney office in which he was employed.

Article 186

(1) State attorney advisors in criminal law departments may represent indictments in summary proceedings for criminal offences punishable by a prison sentence of up to five years.

(2) On the basis of a special power of attorney given by the competent state attorney, state attorney advisors in civil and administrative law departments of state attorney offices may represent before courts and administrative and other bodies.

(3) The power of attorney shall authorise state attorney advisors to perform all actions in proceedings, save for the authorisation to bring an action, withdraw a claim, admit the merits of a claim, waive a claim, reach a settlement, file a legal remedy, waive the right to raise a legal remedy or withdraw from a raised legal remedy.

(4) State attorney advisors in civil and administrative law departments of municipal state attorney offices may independently represent, on the basis of the power of attorney referred to in paragraph 2 of this Article, in disputes where the claim value of the subject matter amounts to up to HRK 100,000 and in civil and administrative law departments of county state attorney offices in disputes where the claim value of the subject matter does not exceed HRK 500,000.

4. Expert associates

Article 187

(1) A state attorney office may employ others from other professions with higher or postsecondary education and appropriate work experience in criminology, special education, sociology, educational science, economics, accounting and finance, and other appropriate fields of knowledge.

(2) Expert associates referred to in paragraph 1 of this Article shall assist the state attorney or deputy state attorney as expert assistants in work in areas requiring expert knowledge and may independently perform other tasks laid down by law or by some other regulation.

5. State attorney trainees

Article 188

(1) The number of trainees in state attorney offices shall be determined by the State Attorney General of the Republic of Croatia on the basis of prior consent by the minister responsible for judicial affairs.

(2) The conditions and manner of employment of state attorney trainees in state attorney offices and the duration and the manner of carrying out traineeships shall be regulated by a special law.

PART FIVE TRANSITIONAL AND FINAL PROVISIONS

Article 189

(1) State attorneys and deputy state attorneys appointed pursuant to regulations that were in force before the entry into force of this Act shall continue to perform state attorney duties in the state attorney offices to which they were appointed.

(2) The procedures for the appointment of state attorneys that are pending at the moment of entry into force of this Act shall continue pursuant to the provisions of this Act.

(3) Pending disciplinary proceedings shall be completed pursuant to the provisions of the act under which they were instituted, unless this Act is more favourable.

Article 190

(1) State attorney regulations that are in force shall apply to the extent to which they are not contrary to this Act until the adoption of regulations that are to be adopted by the minister responsible for judicial affairs pursuant to the provisions of this Act.

(2) Regulations that are to be adopted by the minister competent for judicial affairs pursuant to the provisions of this Act shall be adopted within six months from the date of entry into force of this Act.

Article 191

(1) State attorneys in state attorney offices that are being merged shall cease to perform their duties on the date of merger of the state attorney offices and shall continue their employment as deputy state attorneys in the merged state attorney's office.

(2) When state attorneys cease to perform their duties as a result of the merger of state attorney offices, a state attorney from an immediately higher state attorney office shall designate a deputy state attorney from those state attorney offices, or a deputy state attorney from an immediately higher state attorney office to perform the duties of state attorney administration pending the appointment of a new state attorney in the merged state attorney office and for a maximum of one year.

Article 192

A Deputy State Attorney of the Republic of Croatia shall be seconded to Eurojust as a liaison state attorney in order to perform the duties laid down in the Agreement between the Republic of Croatia and Eurojust of 9 November 2007.

Article 193

State attorneys and deputy state attorneys appointed pursuant to regulations that were in force until 1 January 2014 shall not be obliged to attend the State School for Judicial Officials and shall continue to perform their state attorney duties.

Article 194

On the date of entry into force of this Act, the State Attorney's Office Act (Official Gazette 51/01, 58/06, 16/07, 20/07 and 146/08) shall cease to be valid, except for Article 14, paragraph 2 which shall cease to be valid on 31 August 2011, and Articles 62, 63, 103 to 105 which shall cease to be valid on 31 December 2013.

Article 195

This Act shall be published in the Official Gazette and shall enter into force on 1 July 2009, except for:

- Article 16, paragraph 2, Article 33, paragraph 2 and Articles 57 to 86 which shall enter into force on 1 September 2011 concerning criminal cases not included in Article 21 of the Act on the Suppression of Corruption and Organised Crime and
- Articles 109, 110, 124, paragraphs 3 and 4, Articles 156 to 161 and Article 185 which shall enter into force on 1 January 2014.

Class: 701-01/09-01/03

Zagreb, 30 June 2009

THE CROATIAN PARLIAMENT

President of the
Croatian

Parliament
Luka Bebić, m.p.

PROVISIONAL TRANSLATION