

# THE CROATIAN PARLIAMENT

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

## DECISION

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

I hereby promulgate the Act on Amendments to the State Attorney's Office Act, passed by the Croatian Parliament at its session on 29 November 2013.

Class: 011-01/13-01/271

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

Zagreb, 4 December 2013

The President of  
the Republic of  
Croatia

**Ivo Josipović**, m.  
p.

## ACT

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

#### Article 1

In Article 2, paragraph 3, of the State Attorney's Office Act (Official Gazette 76/09, 153/09, 116/10, 145/10, 57/11, 130/11 and 72/13), the words: »his rights« shall be replaced by the words: »his powers«.

#### Article 2

In Article 8, paragraph 2, subparagraph 1, after the word »one« there shall be inserted the word: »or«.

#### Article 3

Article 16 shall be amended to read as follows:

»(1) Within state attorney offices there shall be set up a criminal department for criminal cases and a civil-administrative department for civil and administrative cases.

(2) The State Attorney General may for the territorial jurisdiction of a county or municipal state attorney office set up an investigation department.

(3) For the territorial jurisdiction of one or more county state attorney offices the State Attorney General shall set up a department for the investigation of the proceeds of crime. The State Attorney General's decision on the setting up of the department for the investigation of the proceeds of crime shall state whether the said department is authorised to conduct property inquests only within the territorial jurisdiction of the county state attorney office within which the said department was set up or within the territorial jurisdictions of a number of county state attorney offices.«

#### Article 4

Article 18 shall be amended to read as follows:

»(1) If within the state attorney office an investigation department was set up, deputies in the said department shall:

- 1) perform such evidentiary actions as are at risk of delay;
- 2) on the recommendation of the state attorney or deputy in charge of the case, perform particular evidentiary actions in cases in which the fact-finding activity is being undertaken;
- 3) following the decision of the state attorney and in agreement with the deputy state attorney in charge of the case, perform particular evidentiary actions during the investigation;
- 4) provide legal assistance to other state attorney offices and take part in the procedure for the provision of international legal assistance.

(2) The state attorney or deputy in charge of the case may always decide that he himself will perform the evidentiary actions referred to in paragraph 1, items 2 and 3 of this Article.

(3) The state attorney shall choose the head of the investigation department. In doing so, he shall take into account the said person's abilities to conduct pre-trial proceedings and within such proceedings exercise the powers and discharge the state attorney duties as referred to in Article 38, paragraph 2 of the Criminal Procedure Act.

(4) The persons assigned to the investigation department shall include deputy state attorneys and advisers showing a marked preference for investigating criminal offences and cooperating with other state bodies participating in criminal prosecution and having the required abilities to do so.

(5) In the Rules of Procedure of the State Attorney's Office the State Attorney General may provide for any other matter that is to fall within the jurisdiction of the investigation department.«

#### Article 5

After Article 18 there shall be inserted the following Article 18a:

## »Article 18a

(1) Where a case involves a criminal offence falling within the jurisdiction of the county court and there are grounds to suspect that the said criminal offence has resulted in a considerable pecuniary advantage, the state attorney shall entrust the conduct of inquiries and the performance of urgent evidentiary actions of temporary seizure of objects to the Department for the Investigation of the Proceeds of Crime, where the complexity of the case so requires.

(2) If the Department for the Investigation of the Proceeds of Crime was set up for the territory of a number of county state attorney offices, the state attorney in charge shall request from the county state attorney at the county state attorney office within which the said Department was set up to entrust the performance of the actions referred to in paragraph 1 of this Article to the said Department.

(3) If the county state attorney at the county state attorney office within which the Department for the Investigation of the Proceeds of Crime was set up deems that the conditions for engaging the said Department in the work on the case are not fulfilled, he shall request that the decision thereon be taken by the State Attorney General.«.

## Article 6

In Article 24, after the words: »conditions for the work of state attorney offices,« there shall be inserted the words: »computerisation of state attorney offices,« and the words: »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« shall be replaced by the words: »examination of citizens' petitions concerning the work of state attorney offices and relating to delays in proceedings«.

## Article 7

In Article 30, paragraph 1, the word »rights« shall be replaced by the word »powers«.

## Article 8

In Article 31, paragraph 2, after the words: »may decide that« there shall be inserted the word »particular«. In the same paragraph the word »criminal« shall be deleted.

## Article 9

In Article 36, paragraph 3 shall be amended to read as follows:

»(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 up until the issuance of the investigation order or the delivery of the notice referred to in Article 213, paragraph 2, of the Criminal Procedure Act or the dismissal of the crime report;
3. files of the state attorney office relating to special evidentiary actions;

4. files compiled during a fact-finding activity if pursuant to Article 213, paragraph 3, of the Criminal Procedure Act the state attorney designated the said fact-finding activity or a part thereof secret;
5. files compiled during an investigation if pursuant to Article 231, paragraph 2, of the Criminal Procedure Act the state attorney designated the said investigation or a part thereof secret;
6. data and documents in criminal, civil, administrative and other cases classified by the state attorney or deputy state attorney;
7. data contained in the state attorney's or deputy state attorney's records;
8. evaluations of the discharge of state attorney duties.«.

#### Article 10

In Article 37, paragraph 1, the words: »Data Confidentiality Act« shall be replaced by the words: »special acts«.

#### Article 11

In Article 38, paragraph 4, after the words: »media and« there shall be inserted the word »for«.

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

»(6) Where the public interest so requires, the state attorney may inform the public of the course of the inquiry. In such a case the public shall be informed only of the actions performed or being performed while the names of the participants in the procedure in question and the contents of the said actions shall not be disclosed.«.

#### Article 12

In Article 39, paragraph 1, the words: »Personal Data Act« shall be replaced by the words: »Personal Data Protection Act«.

#### Article 13

In Article 42, after paragraph 3 there shall be inserted the following new paragraphs 4 and 5:

»(4) The State Attorney General shall inform the Government of the Republic of Croatia – of which the Minister in charge of the judiciary shall be informed – of any special state interest cases in which the state attorney office is authorised and required to perform acts-in-the-law in order to protect the assets of the Republic of Croatia and of the legal remedies for the protection of the Constitution and the law in cases in which the Republic of Croatia is a party. This initial notification shall be followed by another specifying the steps taken in any such case.

(5) The Government of the Republic of Croatia may give its opinion on the steps to be taken in the cases referred to in paragraph 4 of this Article. Where the competent state attorney office does not proceed in line with the opinion of the Government of the Republic of Croatia, it shall inform the Government of the Republic of Croatia thereof and provide reasons for such a decision.«.

Paragraph 4 shall be renumbered 6.

#### Article 14

In Article 51a, paragraph 1, the words: »the Act on International Legal Assistance in Criminal Matters« shall be replaced by the words: »a special act«, and the words: »two or more Member States« shall be replaced by the words: »other states«.

#### Article 15

In Article 51b, paragraph 1 shall be amended to read as follows:

»(1) If the suspect or the defendant has been arrested or is in investigative prison, the request for the establishment of contact shall be deemed urgent.«.

#### Article 16

In Article 51c, paragraph 2, point 1, after the word »whether« the word: »are« shall be deleted.

#### Article 17

Article 57 shall be deleted.

#### Article 18

Article 58 shall be amended to read as follows:

»If the bringing of criminal prosecution depends on the resolution of a question of law, which either a court within the framework of some other proceedings or some other state body has jurisdiction to resolve, the state attorney may set an appropriate time limit by which the person that submitted the crime report or any other interested party must institute proceedings before the court or the said body.«.

#### Article 19

In Article 59, paragraphs 1 and 2 shall be deleted.

Paragraph 3 shall be renumbered 1.

#### Article 20

Article 60 shall be deleted.

Article 21

Article 61 shall be deleted.

Article 22

Article 62 shall be deleted.

Article 23

In Article 64, paragraph 1, shall be amended to read as follows:

»(1) The annual list of investigators that can be entrusted with the performance of evidentiary actions in pre-trial proceedings (Article 212, paragraphs 3 and 4, Article 213, paragraph 1, Article 214, paragraph 1, and Article 219, paragraph 2, of the Criminal Procedure Act) shall be drawn up by the county state attorney for the territorial jurisdiction of that state attorney office.«.

Article 24

In Article 65 paragraph 6 shall be deleted.

Article 25

In Article 67, paragraph 1, a misspelt Croatian word intended to mean »or« shall be corrected.

In paragraph 3, the first sentence shall be amended to read as follows: »If a crime report was filed against a police officer, the investigation or, in cases where there is no investigation, the fact-finding activity shall be conducted by the state attorney himself.«.

Article 26

Article 68 shall be amended to read as follows:

»(1) The state attorney or deputy state attorney shall decide a crime report by the time limit laid down by law. If the state attorney fails to decide the report by the said time limit, he shall inform the higher-ranked state attorney of the reasons for which the decision on the report has not been taken.

(2) If, upon expiry of six months from the entry of the crime report on the crime report register, the perpetrator of a criminal offence is still unknown, the file shall be entered on the register.

(3) If a report of a criminal offence punishable by imprisonment for a term of more than five years has been entered on the register, the state attorney shall, upon expiry of one year from the day the report was entered on the register, check what steps, if any, have been taken in order to detect the perpetrator.«.

Article 27

In Article 69, paragraphs 1 and 2 shall be deleted.

Paragraph 3 shall be renumbered 1.

In paragraph 4, renumbered 2, the word »suspect,« shall be deleted.

#### Article 28

In Article 72, paragraph 3, number »2« shall be replaced by number »5«.

#### Article 29

Article 73 shall be amended to read as follows:

»Before the issuance of the investigation order or the performance of the first evidentiary action pursuant to Article 213, paragraph 1, of the Criminal Procedure Act, the state attorney or deputy state attorney charged with the file shall exclude or mark for exclusion from the state attorney file any documents or objects being entered in the case file.«.

#### Article 30

Article 76 shall be deleted.

#### Article 31

Article 78 shall be deleted.

#### Article 32

In Article 80, paragraph 1, the words: »whether the investigation or inquiry may be conducted in some other manner« shall be replaced by the words: »whether inquiries into criminal offences can be undertaken in some other manner«.

Paragraph 4 shall be deleted.

#### Article 33

Article 81 shall be deleted.

#### Article 34

Both the title immediately preceding Article 85 and reading »6. State attorney actions in summary proceedings« and Article 85 shall be deleted.

#### Article 35

Article 86 shall be deleted.

#### Article 36

In Article 87, paragraph 3, the word »shall« shall be replaced by the word »may«.

#### Article 37

In Article 88, after paragraph 2 there shall be inserted the following paragraphs 3 and 4:

»(3) The Government of the Republic of Croatia may give its opinion on further action to be taken also in any other case in which the state attorney office is both authorised and under a duty to perform acts-in-the-law in order to protect the assets of the Republic of Croatia.

(4) If the competent state attorney office fails to act in accordance with the opinion of the Government of the Republic of Croatia referred to in paragraphs 2 and 3 of this Article, it shall inform the Government of the Republic of Croatia thereof and state the reasons for reaching such a decision.«.

#### Article 38

In Article 88a, paragraph 5, the words: »may inform« shall be replaced by the words: »shall inform«.

#### Article 39

In Article 90, after paragraph 1 there shall be inserted the following new paragraph 2:

»(2) In any case in which following the filing of an appeal the court of second instance schedules a hearing and decides to summon the parties to the session, the service of the summons and the delivery of the decisions and any other documents for the Republic of Croatia shall be made to the state attorney office acting before the said court pursuant to Article 32, paragraphs 2 and 3, of this Act.«.

In paragraph 2, renumbered 3, the words: »paragraph 1« shall be replaced by the words: »paragraphs 1 and 2«.

Paragraphs 3 and 4 shall be renumbered 4 and 5, respectively.

#### Article 40

In Article 98, paragraph 4, number »2« shall be replaced by number »3«.

#### Article 41

In Article 129, paragraph 2, number »6« shall be replaced by number »7«.

#### Article 42

Article 137 shall be amended to read as follows:

»(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. failing to submit one's asset declaration or falsely declaring one's assets in the asset declaration;
9. any action in contravention to Article 119 of this Act.

(3) There shall be committed the disciplinary offence of abuse of position or exceeding official authority where in the course of doing his job a deputy state attorney deliberately causes damage or puts a particular person in a position that is either more favourable or more unfavourable than the one to which in view of the circumstances the said person would be entitled, provided the elements of a criminal offence have not been realised.

(4) It shall be considered that a deputy state attorney has unjustifiably omitted to discharge his state attorney duties if he fails, without justification, to act by the statutory time limit, or the time limit set in any of the regulations adopted pursuant to statute, or the time limit set in a court decision or a higher-ranked state attorney's decision, as a result of which a request made by the state attorney office is refused or dismissed, or the proceedings are stopped, stayed, suspended or delayed, or the measure of securing the defendant's presence or other precautionary measures or temporary security measures are cancelled, in particular if:

1. upon prior notification of the higher-ranked state attorney, he fails without justification to perform a procedural act by the set statutory time limit, as a result of which the court revokes investigative imprisonment and releases the defendant (Article 125, paragraph 1, item 5, of the Criminal Procedure Act);
2. upon completion of the investigation or the fact-finding activity he fails without justification within fifteen days or, in the case of complex cases, thirty days to prefer the indictment or discontinue the investigation or dismiss the crime report or fails to file a motion for the extension of the said time limit (Article 230, paragraphs 1 and 2 of the Criminal Procedure Act);

3. he fails without justification to insert into the case file any documents which under the Rules of Procedure of the State Attorney's Office he is required to insert;
4. he fails without justification to perform by the statutory time limit or the time limit set by the state attorney or the judge of investigation a procedural action (Article 206a, paragraphs 1 and 3, Article 206b, paragraphs 1 and 4, Article 213, paragraph 2, Article 213b paragraph 2, Article 218, paragraph 1, Article 229, paragraphs 1 and 2 and Article 239a, paragraph 4, of the Criminal Procedure Act), as a result of which someone's right is encroached upon or proceedings delayed;
5. in the course of criminal proceedings he fails without justification to file motions to the court in a timely manner or performs other procedural actions with great delay and thus causes delays in the proceedings (Article 397, paragraph 3, of the Criminal Procedure Act);
6. in the case where the indictment panel did not confirm the indictment in full or in part, he fails without justification, within eight days from the service of the order, to issue the order for the supplementing of the investigation or to perform an evidentiary action, or to abandon criminal prosecution or request from the indictment panel that the time limit be extended (Article 356, paragraph 3, of the Criminal Procedure Act);
7. within twelve months from the first withdrawal of the indictment if the indictment was preferred for a criminal offence falling within the jurisdiction of a county court or within six months if the indictment was preferred for a criminal offence falling within the jurisdiction of a municipal court, he fails without justification to prefer a new indictment (Article 365, paragraph 2, of the Criminal Procedure Act);
8. he fails without justification to draw up state attorney office decisions and documents by the statutory time limit;
9. the number of decisions taken by him within a one-year period is, without justification, significantly below the average for the Republic of Croatia.

(5) Improper discharge of state attorney duties shall, in particular, include the following:

1. if, upon learning of a reason for his disqualification, the state attorney continues working on a case or, where there are reasons for his removal, fails to perform such actions as are at risk of delay;
2. if, in cases where the investigation has not been completed within six months, the state attorney fails to inform the higher-ranked state attorney thereof (Article 229, paragraph 1, of the Criminal Procedure Act);
3. if the state attorney evaluates his work negatively (Article 132, paragraph 2, item 1).«.

#### Article 43

In Article 139, paragraphs 1 and 3, the word »may« shall be replaced by another word, with no relevance to the English translation.

#### Article 44

In Article 145b, paragraph 1, in the second sentence, a spelling error of the Croatian word translated as: »on another person's behalf« shall be corrected.

#### Article 45

In Article 145d, item 1, there shall be inserted a semi-colon after the word: »ballot paper«.

In item 2, . there shall be inserted a semi-colon after the word »voted«.

#### Article 46

In Article 151, paragraph 1, the words: »paragraph 3, subparagraphs 3 and 4, of this Act« shall be replaced by the words: »paragraph 4, subparagraph 2, of this Act«.

#### Article 47

In Article 172, paragraph 1 shall be amended to read as follows:

»(1) Unless otherwise provided by this Act, the provisions of the Criminal Procedure Act relating to proceedings for a criminal offence punishable by a fine or by imprisonment for a term of up to five years shall apply accordingly to disciplinary proceedings.«.

#### Article 48

In Article 186, paragraph 1 shall be amended to read as follows:

»(1) State attorney advisers in criminal law departments may represent indictments in proceedings for criminal offences punishable by a fine or by imprisonment for a term of up to five years.«.

#### Article 49

In Article 187, there shall be inserted the following paragraph 3:

»(3) Expert associates fulfilling the conditions laid down in the Rules of Procedure of the State Attorney's Office may be assigned to the position of financial investigator.«.

#### Article 50

This Act shall be published in the Official Gazette and shall enter into force on 15 December 2013.

Class: 022-03/13-01/282

Zagreb, 29 November 2013

THE CROATIAN PARLIAMENT

The President of  
the Croatian

Parliament

**Josip Leko, m. p.**

PROVISIONAL TRANSLATION