

ACT ON JUDICIAL CO-OPERATION IN CRIMINAL MATTERS WITH MEMBER STATES OF THE
EUROPEAN UNION

TITLE I

GENERAL PROVISIONS

Scope

Article 1

This Act regulates the application of the following instruments of judicial co-operation in criminal matters between competent domestic judicial authorities and competent judicial authorities of other Member States of the European Union:

1. the European arrest warrant and the surrender procedure;
2. the order freezing property or evidence;
3. the European evidence warrant;
4. the confiscation order;
5. the recognition of financial penalties;
6. the recognition and enforcement of judgments in criminal matters imposing custodial sentences or measures involving deprivation of liberty;
7. the recognition and enforcement of judgments and decisions imposing probation measures and alternative sanctions.

Definitions of terms used in this Act

Article 2

The terms and expressions used in this Act shall have the following meanings:

1. issuing State – refers to the Member State in which any decision listed in Article 1 of this Act has been issued;
2. executing State – refers to the Member State to which any decision listed in Article 1 of this Act has been transmitted for the purpose of execution;
3. Member State – refers to a member state of the European Union;
4. third State – refers to a country which is not a European Union Member State;
5. Eurojust – is a legal person of the European Union established by the Council Decision of 28 February 2002 with a view to reinforcing co-operation among Member States in the fight against serious crime;
6. European Judicial Network in Criminal Matters (EJNCM) – is a network of contact persons in Member States established by the Joint Action adopted by the Council on the creation of a European Judicial Network of 29 June 1998, with a view to reinforcing judicial co-operation in criminal matters;
7. Schengen Information System (SIS) – is a database system containing data entered by Schengen Member States and serving for data exchange purposes among them;

8. European arrest warrant – refers to a judicial decision issued by a Member State with a view to the arrest and surrender by another Member State of a requested person, for the purposes of conducting a criminal prosecution or executing a custodial sentence or detention order;
9. order freezing property or evidence (freezing order) – refers to a decision of a competent judicial authority of a Member State, issued in a criminal proceeding, for the purpose of preventing the destruction, alteration, removal, transfer or sale of:
 - a) property acquired through criminal offences, in order to prevent illicit profits;
 - b) objects intended for use or used in committing criminal offences, or objects acquired through criminal offences;
 - c) objects, documents and legal documents which may serve as evidence;
10. European evidence warrant – refers to a judicial decision of a Member State with a view to obtaining objects, documents and data from another Member State issued:
 - a) with respect to criminal proceedings brought by, or to be brought before, a judicial authority in respect of a criminal offence under the national law of the issuing State;
 - b) in proceedings brought by administrative authorities in respect of acts which are punishable under the national law of the issuing State by virtue of being infringements of the rules of law, and where the decision may give rise to proceedings before a criminal court;
 - c) in proceedings brought by judicial authorities in respect of acts which are punishable under the national law of the issuing State by virtue of being infringements of the rules of law, and where the decision may give rise to further proceedings before a criminal court;
 - d) in connection with the proceedings referred to above which relate to offences or infringements for which a legal person may be held liable or punished in the issuing State.
11. confiscation order – refers to a final penalty or measure imposed by a court following proceedings in relation to criminal offences, resulting in the definitive deprivation of property;
12. property – refers to property of any description, whether corporeal or incorporeal, movable or immovable and legal documents or instruments evidencing title to or interest in such property, which the court in the issuing State has decided to be:
 - a) the proceeds of an offence referred to in Article 10, Article 17, paragraph 2, Article 43, paragraph 2, Article 50, Article 63, Article 77, paragraphs 1 and 2, Article 89, paragraph 2 and Article 113, paragraph 1 of this Act, or the equivalent of those proceeds in their entirety or in part;
 - b) an object intended, used or derived from the offences referred to in Article 10, Article 17, paragraph 2, Article 43, paragraph 2, Article 50, Article 63, Article 77, paragraphs 1 and 2, Article 89, paragraph 2 and Article 113, paragraph 1 of this Act;
13. objects forming part of the national cultural heritage – refer to objects as specified by domestic law on the protection and preservation of cultural objects;

14. evidence – refers to objects, documents or data which may be used as evidence in criminal proceedings concerning an offence referred to in Article 10, Article 17, paragraph 2, Article 43, paragraph 2, Article 50, Article 63, Article 77, paragraphs 1 and 2, Article 89, paragraph 2 and Article 113, paragraph 1 of this Act;
15. decision on financial penalty – refers to a final decision ordering a natural or legal person to pay a financial penalty, where the decision was made by:
- a) a court of the issuing State in respect of a criminal offence under the law of the issuing State;
 - b) an authority of the issuing State other than a court in respect of a criminal offence under the law of the issuing State, provided that the person concerned has had an opportunity to have the case tried by a criminal court;
 - c) an authority of the issuing State other than a court in respect of acts which are punishable under the national law of the issuing State by virtue of being infringements of the rules of law, provided that the person concerned has had an opportunity to have the case tried by a criminal court;
 - d) a criminal court, where the decision was made regarding a decision rendered by an authority of the issuing State other than a court;
16. financial penalty – refers to an obligation to pay:
- a) a sum of money on conviction of an offence imposed in the decision referred to in item 15 of this Article;
 - b) compensation for the benefit of the victim imposed by a final decision of a criminal court;
 - c) a sum of money in respect of the costs of the court or of administrative proceedings leading to the decision referred to in item 15 of this Article;
 - d) a sum of money established for the benefit of a public institution, humanitarian organisation or a fund for the compensation of victims of criminal offences imposed in the decision referred to in item 15 of this Article;
17. judgment – refers to a final decision or order of a court of the issuing State imposing on a natural person, on account of a criminal offence on the basis of criminal proceedings:
- a) a custodial sentence or measure involving deprivation of liberty for a limited or unlimited period of time;
 - b) a custodial sentence or measure involving deprivation of liberty, when conditional release is granted or the sentence is passed by imposing one or more probation measures;
 - c) a suspended sentence;
 - d) a conditional sentence;
 - e) an alternative sanction;

18. suspended sentence – refers to a custodial sentence or measure involving deprivation of liberty, the execution of which is conditionally suspended, wholly or in part, when the sentence is passed by imposing one or more probation measures;
19. conditional sentence – refers to a judgment in which the imposition of the sentence has been conditionally deferred by imposing one or more probation measures or in which one or more probation measures are imposed instead of a custodial sentence or measure involving deprivation of liberty;
20. alternative sanction – refers to a sanction, other than a custodial sentence or measure involving deprivation of liberty or a financial penalty, imposing an obligation or instruction;
21. probation decision – refers to a judgment or a final decision of a competent authority of the issuing State taken on the basis of a judgment:
 - a) granting conditional release;
 - b) imposing probation measures;
23. conditional release – refers to a final decision of a competent authority or stemming from national law on the early release of a sentenced person after part of the custodial sentence or measure involving deprivation of liberty has been served by imposing one or more probation measures;
24. probation measure – refers to obligations and instructions imposed by a competent authority on a natural person, in accordance with the national law of the issuing State, in connection with a suspended sentence, a conditional sentence or conditional release;
25. fiscal offences – refer to offences prescribed by laws related to taxes, duties, customs duties and exchange activities.

The principle of mutual recognition between Member States of the European Union

Article 3

The principle of mutual recognition is the basis for judicial co-operation in criminal matters within the European Union.

The principle of efficient co-operation

Article 4

In proceedings conducted according to this Act, the competent authorities of the Republic of Croatia shall have, within the scope of their powers and with respect to the general principles of national public order, the obligation to undertake measures with a view to enhancing efficient judicial co-operation.

Competent authorities for receiving and transmitting the instruments of judicial co-operation

Article 5

(1) The competent domestic authorities for receiving and transmitting the instruments of judicial co-operation listed in Article 1 of this Act are the following:

1. The County Court in Bjelovar for the territorial competence of the county courts in Bjelovar, Čakovec, Koprivnica, Varaždin, Virovitica and Zlatar;
2. The County Court in Velika Gorica for the territorial competence of the county courts in Karlovac, Rijeka, Sisak, Velika Gorica and Zagreb;
3. The County Court in Vukovar for the territorial competence of the county courts in Osijek, Slavonski Brod, Požega, Virovitica and Vukovar;
4. The County Court in Zadar for the territorial competence of the county courts in Dubrovnik, Gospić, Split, Šibenik and Zadar.

(2) The ministry competent for justice is the central authority competent for the co-ordination of judicial co-operation between the competent domestic judicial authorities and the competent judicial authorities of other Member States.

Issuing of instruments of judicial co-operation in criminal matters

Article 6

(1) A European arrest warrant, an order freezing property or evidence and a European evidence warrant are issued on the prescribed form by the judicial authorities conducting criminal proceedings in accordance with domestic law on criminal procedure, and they are transmitted to the competent court referred to in Article 5, paragraph 1 of this Act. If the competent court establishes that the conditions set out in this Act are met, it will transmit these instruments to the executing State.

(2) The competent domestic authority that has issued a decision on a financial penalty, a confiscation order or brought a judgment imposing a custodial sentence or measure involving deprivation of liberty or a judgment or decision imposing a probation measure or alternative sanction shall transmit it to the competent court referred to in Article 5, paragraph 1 of this Act. If the competent court establishes that the conditions set out in this Act are met, it will issue the relevant certificate and transmit it to the executing State.

Execution of instruments of judicial co-operation in criminal matters

Article 7

(1) A European arrest warrant is executed by the courts referred to in Article 5, paragraph 1 of this Act.

(2) An order freezing property or evidence, a European evidence warrant and a confiscation order are executed by the competent judicial authority in whose territory the property or evidence is located.

(3) The decision on a financial penalty is executed in accordance with domestic law on execution.

(4) A judgment imposing a custodial sentence or a measure involving deprivation of liberty is executed in accordance with domestic law on the execution of sanctions.

(5) A judgment or decision imposing a probation measure or alternative sanction is executed in accordance with domestic law on the execution of sanctions and probation law.

Direct communication and means of transmission

Article 8

(1) The competent courts referred to in Article 5, paragraph 1 of this Act shall receive the instruments of judicial co-operation listed in Article 1 of this Act directly from the competent judicial authorities of Member States for the purpose of execution thereof, or for the purpose of transmitting them to the competent judicial authority referred to in Article 7 of this Act.

(2) The competent court referred to in Article 5, paragraph 1 of this Act shall transmit the instruments of judicial co-operation listed in Article 1 of this Act directly to the executing State, i.e. to the competent authority in accordance with the national law of that State.

(3) The communication channel referred to in paragraphs 1 and 2 of this Article shall not exclude the receiving and transmission of instruments of judicial co-operation through the ministry competent for justice, which shall promptly transmit them to the competent domestic judicial authority referred to in Article 7 of this Act or to the executing State.

(4) The competent courts referred to in Article 5, paragraph 1 of this Act shall receive the instruments of judicial co-operation through a secure channel capable of producing a written record under conditions that they can establish its authenticity.

(5) The competent courts referred to in Article 5, paragraph 1 of this Act may transmit the instruments of judicial co-operation through a secure channel capable of producing a written record provided that the executing State accepts such transmission.

(6) If the competent executing judicial authority is not known, the domestic judicial authority shall make all requisite enquiries, including through the contact points of the European Judicial Network in Criminal Matters, in order to obtain that information from the executing State.

(7) If the domestic judicial authority which receives an instrument of judicial co-operation is not competent to act upon it, it shall automatically forward it to the competent authority for the purpose of execution and shall promptly and directly inform the issuing judicial authority accordingly.

Language

Article 9

(1) The competent judicial authority shall execute the instruments of judicial co-operation listed in Article 1 of this Act if these instruments of judicial co-operation and the accompanying documents are translated into the Croatian language. In urgent cases, the English translation shall be accepted.

(2) For the purpose of their execution in another Member State, the instruments of judicial co-operation shall be translated into the official language of the executing State or other language acceptable in that State.

Exclusion of the verification of double criminality

Article 10

For the following offences, if they are punishable in the issuing State by a custodial sentence or a detention order for a maximum period of at least three years and, in the case of the recognition of a financial penalty, regardless of the prescribed punishment, the competent judicial authority referred to in Article 7 of this Act shall execute the received instrument of judicial co-operation referred to in Article 1 of this Act without verification of the double criminality of the acts:

- participation in a criminal organisation;
- terrorism;
- trafficking in human beings;
- sexual exploitation of children and child pornography;
- illicit trafficking in narcotic drugs and psychotropic substances;
- illicit trade in weapons, ammunitions and explosives;
- corruption;
- fraud, including that affecting the financial interests of the European Communities within the meaning of the Convention of 26 July 1995 on the protection of the European Communities' financial interests;
- laundering of the proceeds of crime;
- counterfeiting currency, including the euro;
- computer-related crime;
- environmental crime, including illicit trafficking in endangered animal species and in endangered plant species and varieties;
- facilitating unauthorised entry and residence;
- murder, grievous bodily injury;
- illicit trade in human organs and tissue;
- kidnapping, illegal restraint and hostage-taking;
- racism and xenophobia;
- organised or armed robbery;
- illicit trafficking in cultural goods, including antiques and works of art;
- swindling;
- racketeering and extortion;

- counterfeiting and piracy of products;
- forgery of administrative documents and trafficking thereof;
- forgery of means of payment;
- illicit trafficking in hormonal substances and other growth promoters;
- illicit trafficking in nuclear and radioactive materials;
- trafficking in stolen vehicles;
- rape;
- arson;
- crimes within the jurisdiction of the International Criminal Court;
- unlawful seizure of aircraft/ships;
- sabotage.

Facilitation of the European Judicial Network in Criminal Matters

Article 11

(1) The minister competent for justice shall designate in the ministry up to two contact persons for the European Judicial Network in Criminal Matters. The Supreme Court of the Republic of Croatia shall designate one contact person from among judges working on cases of judicial co-operation in each of the courts referred to in Article 5, paragraph 1 of this Act, and the State Attorney's Office of the Republic of Croatia shall designate up to two contact persons from among state attorneys and deputy state attorneys working on cases of judicial co-operation.

(2) Contact persons for the European Judicial Network in Criminal Matters shall undertake the requisite measures for the purpose of facilitating direct contacts between competent domestic judicial authorities and the competent judicial authorities of other Member States with a view to enhancing judicial co-operation between EU Member States in the execution of the instruments of judicial co-operation.

(3) Contact persons for the European Judicial Network in Criminal Matters shall in particular provide assistance to domestic and foreign judicial authorities, upon their request, in determining the competent judicial authorities for the execution of the instruments of judicial co-operation.

Eurojust facilitation

Article 12

If an investigation is carried out for offences within Eurojust's competence, which involves the participation of the competent judicial authorities of the Republic of Croatia and the judicial authorities of at least one more Member State or a third State, the domestic judicial authorities may refer to Eurojust to enhance:

1. co-ordination of the competent judicial authorities;

2. co-operation of the competent authorities in the provision of mutual legal assistance for the execution of the instruments of judicial co-operation referred to in Article 1 of this Act;
3. the efficiency of the investigation and the measures undertaken for the purpose of criminal prosecution.

Expenses

Article 13

(1) Expenses for the execution of the instruments of judicial co-operation referred to in Article (1) of this Act incurred in the territory of the Republic of Croatia shall be borne by the State Budget. All other expenses shall be borne by the issuing State.

(2) As an exception to paragraph 1 of this Article, where the Republic of Croatia, in the course of the execution of a foreign confiscation order, has incurred expenses which it considers large or exceptional, upon request made by competent judicial authority referred to in Article 7 of this Act, it may propose to the issuing State to share such costs, on the basis of detailed specifications thereof.

(3) If a domestic authority receives a request referred to in paragraph 2 of this Article from the Member State which was executing a domestic confiscation order, it shall transmit it to the ministry competent for finances for further procedure.

(4) Expenses for the transfer of the sentenced person for the purpose of the enforcement of a judgment in criminal matters imposing a custodial sentence or a measure involving deprivation of liberty shall be borne by the issuing State.

Legal remedies

Article 14

(1) Any interested party, including bona fide third parties, that has certain title to property for which an order freezing property or evidence, a European evidence warrant or a confiscation order has been issued, may submit an appeal against the decision on the recognition and execution of these decisions in order to preserve its legitimate interests, in accordance with domestic law on criminal procedure.

(2) A decision on the recognition and execution of an order freezing property or evidence, a European evidence warrant or a confiscation order must contain advice on the right to appeal against that decision.

(3) The submission of the appeal referred to in paragraph 1 of this Article does not postpone the execution of the order freezing property or evidence.

(4) Domestic judicial authority which brought a decision on the recognition and execution of a European evidence warrant or a confiscation order may suspend the transfer of objects, documents and data or the execution of the confiscation order pending the outcome of the appeal.

(5) An application to review the substantive reasons for issuing an order freezing property or evidence or a confiscation order and an application to review the substantive reasons and conditions established in Article 53 of this Act for issuing a European evidence warrant may be

submitted only before the competent court in the issuing State, in accordance with its national law.

(6) The competent judicial authority shall promptly inform the issuing authority of the submission of the appeal referred to in paragraph 1 of this Article, so that it can submit the arguments that it deems necessary. The decision brought upon the appeal shall also be transmitted to the issuing authority.

Reimbursement

Article 15

(1) Where the Member State under its national law is responsible for injury caused to one of the parties referred to in Article 14, paragraph 1 of this Act through the execution of an order freezing property or evidence, a European evidence warrant or a confiscation order issued by domestic judicial authority, the Republic of Croatia shall, regardless of whether or not those persons have submitted an application referred to in Article 14, paragraph 5 of this Act, reimburse to the executing State any sums paid in damages by virtue of that responsibility to the said party except if, and to the extent that, the injury or any part of it is exclusively the consequence of the conduct of the executing State.

(2) Paragraph 1 of this Article is without prejudice to domestic law on claims by natural or legal persons for compensation of damage.

Amnesty, pardon and review of decisions

Article 16

(1) Decisions on financial penalties, confiscation orders, judgments in criminal matters imposing custodial sentences or measures involving deprivation of liberty, and probation decisions which are transmitted to the Republic of Croatia for the purpose of execution may be covered by an act granting amnesty brought in accordance with domestic law.

(2) The person against whom a decision on financial penalty, a confiscation order, a judgment in criminal matters imposing a custodial sentence or a measure involving deprivation of liberty and a probation decision was issued and transmitted to the Republic of Croatia for the purpose of execution may be granted pardon in accordance with domestic law.

(3) The competent authorities of the Republic of Croatia may determine any application for review of a decision on financial penalty, a confiscation order, a judgment in criminal matters imposing a custodial sentence or a measure involving deprivation of liberty and a probation decision only if the order or decision to be reviewed was issued by a domestic court.

Title II

EUROPEAN ARREST WARRANT

Scope of the European arrest warrant

Article 17

(1) The competent court referred to in Article 6 of this Act may issue a European arrest warrant for offences other than those listed in Article 10 of this Act, if they are punishable on the basis of domestic law by a custodial sentence for a maximum period of at least one year, or where the final sentence has been passed for a custodial sentence of at least four months.

(2) For offences other than those listed in Article 10 of this Act, the competent courts referred to in Article 5, paragraph 1 shall execute a European arrest warrant issued by the competent judicial authority of another Member State for acts punishable on the basis of the national law of that State by a custodial sentence or a detention order for a maximum period of at least one year, or where the final sentence has been passed or a detention order has been made for sentences of at least four months, subject to the condition that those acts constitute an offence under domestic law, whatever the constituent elements or however they are described.

Content and form of the European arrest warrant

Article 18

The European arrest warrant shall contain the following information set out in accordance with the standard form contained in Annex 1, which is an integral part of this Act:

1. the identity and nationality of the requested person;
2. the name, address, telephone and fax numbers and e-mail address of the issuing judicial authority;
3. the evidence of an enforceable judgment, an arrest warrant or any other enforceable judicial decision having the same effect, in respect of Articles 2, 10 and 17 of this Act;
4. the nature and legal classification of the offence, particularly in respect of Articles 10 and 17 of this Act;
5. a description of the circumstances in which the offence was committed, including the time, place and degree of participation in the offence by the requested person;
6. the penalty imposed, if there is a final judgment, or the prescribed scale of penalties for the offence under domestic law;
7. if possible, other consequences of the offence.

Special means of transmission of a European arrest warrant

Article 19

(1) In addition to the means referred to in Article 8 of this Act, a European arrest warrant may be received and transmitted through the secure telecommunication system of the European Judicial Network.

(2) If the whereabouts of the requested person are unknown, the court which has issued the European arrest warrant shall issue an alert in the Schengen Information System (SIS) for this person.

(3) Such an alert accompanied by the information referred to in Article 18 of this Act shall be equivalent to a European arrest warrant.

(4) If it is not possible to call on the services of the Schengen Information System, the court may receive and transmit the European arrest warrant via INTERPOL.

Grounds for the mandatory non-execution of a European arrest warrant

Article 20

The court shall refuse to execute a European arrest warrant in the following cases:

1. if the offence on which the arrest warrant is based is covered by amnesty in the Republic of Croatia, where the Republic of Croatia had jurisdiction to prosecute the offence under its own criminal law;
2. if the court is informed that the requested person has been finally judged by a Member State in respect of the same act provided that, where there has been a sentence, the sentence has been served or is currently being served or may no longer be executed under the law of the sentencing Member State;
3. if the requested person has not reached the age of 14 at the time the offence was committed.

Optional grounds for the non-execution of the European arrest warrant

Article 21

(1) A court may, taking into account the principles of efficient co-operation, expediency and right to a fair trial, refuse to execute the European arrest warrant:

1. if the offence referred to in Article 17, paragraph 2 of this Act does not constitute an offence under domestic law; however, in relation to fiscal offences, the execution of a European arrest warrant shall not be refused on the ground that domestic law does not impose the same kind of tax or duty or does not contain the same type of rules on taxes, duties and customs and exchange regulations as the law of the issuing State;
2. if the person who is the subject of the European arrest warrant is being prosecuted in the Republic of Croatia for the same offence for which the European arrest warrant was issued;
3. if the judicial authorities of the Republic of Croatia have decided either not to prosecute for the offence for which a European arrest warrant was issued or to discontinue proceedings, or if a final judgment has been passed upon the requested person in a Member State, in respect of the same offence;

4. if the domestic judicial authority has decided not to prosecute for the offence for which a European arrest warrant was issued because the suspect has fulfilled the obligation imposed on him or her as a condition to cease prosecution;
5. if the prosecution or the execution of the sanction is statute-barred according to domestic law, providing that Croatian judicial authorities have jurisdiction for that offence under the domestic criminal law;
6. if the court is informed that the requested person has been finally judged by a third State in respect of the same offence, provided that, where there has been a sentence, the sentence has been served or is currently being served or may no longer be executed under the law of the sentencing State;
7. if the European arrest warrant has been issued for the purposes of the execution of a custodial sentence or detention order, where the requested person is a Croatian national or a resident of the Republic of Croatia and the Republic of Croatia undertakes to execute the sentence in accordance with the provisions of Title VII of this Act;
8. if the European arrest warrant relates to an offence which:
 - a) has been committed in whole or in part in the territory of the Republic of Croatia;
 - b) has been committed outside the territory of the issuing State and the domestic law does not allow prosecution for the same offence when committed outside the territory of the Republic of Croatia.

(2) The court may refuse to execute the European arrest warrant issued for the purposes of executing a custodial sentence or detention order rendered in absentia, unless the information referred to in Article 18 of this Act according to the procedural rules of the issuing State provides that:

1. the requested person was personally and in due time summoned for a hearing at which a decision was rendered in absentia or that he or she has actually received an official notification in such a manner that it was unequivocally established that he or she was aware of the time and place of the hearing, and was warned about the possibility of a decision being rendered in absentia if he or she does not appear for the hearing;
2. the requested person was represented by an authorised or a court-appointed defence counsellor;
3. the requested person, after being personally served with the decision rendered in absentia and being instructed about his or her right to a retrial or an appeal in which he or she would be entitled to participate, in which the facts would be reassessed and new evidence presented, which might lead to a different decision, has explicitly stated that he or she does not dispute the decision rendered in absentia, or did not request a retrial or submit an appeal within the stipulated time limit;
4. the requested person was not personally served with the decision rendered in absentia, but will be personally served with it without delay after surrender to the authorities of the issuing State, and instructed about his or her right to a retrial or an appeal within the legally stipulated time limit, which could initiate the procedure described in item 3 of this paragraph.

Special conditions for the execution of the European arrest warrant

Article 22

(1) If the offence on the basis of which the European arrest warrant has been issued is punishable by a custodial life sentence or life-time detention order, the court shall execute the said arrest warrant under the following conditions:

1. that the issuing State has provisions in its legal system for a review of the penalty or measure imposed, on the request of the convict or ex officio at the latest after 20 years; or
2. that the sentenced person is entitled to apply for a measure of clemency aiming at the non-execution of such a penalty or measure under the law or practice of the issuing State.

(2) If the European arrest warrant has been issued for the purposes of the prosecution and the requested person is a national or a resident of the Republic of Croatia, the competent court may impose as a condition for the execution of that warrant that the requested person, after being heard, is returned to the Republic of Croatia in order to serve there the custodial sentence or detention order passed against him or her in the issuing State, in accordance with the provisions of Title VII of this Act.

Initiating the execution of a European arrest warrant

Article 23

(1) When the court receives a European arrest warrant on the stipulated form or through the Schengen Information System, along with its translation in accordance with Article 9 of this Act, it shall verify whether the warrant contains all the information envisaged in Article 18 of this Act. If the warrant is incomplete or is not accompanied by the translation in accordance with Article 9 of this Act, the court shall impose a time limit on the issuing authority, no longer than seven working days, to provide the translation, or additional information necessary to initiate the execution.

(2) Immediately after the court receives a European arrest warrant, it may issue a warrant for compulsory appearance in accordance with domestic law on criminal procedure if there is a reasonable ground to undertake such a measure.

(3) The police may, according to its authorities regulated by domestic law on police procedure and authorities, arrest the person for whom a European arrest warrant has been issued without a prior warrant for compulsory appearance if the circumstances indicate a danger of flight or hiding.

(4) The competent state attorney represents the issuing State in the proceeding of the execution of the European arrest warrant before the court referred to in Article 5 paragraph 1 of this Act.

The rights of a requested person

Article 24

(1) When a requested person is arrested, the court shall inform that person of the European arrest warrant and of its contents, and also of the possibility of consenting to surrender to the

issuing judicial authority and expressing renunciation of the application of the speciality rule referred to in Article 38, paragraph 1 of this Act.

(2) A requested person who is arrested for the purpose of the execution of a European arrest warrant has the right to be assisted by a defence counsellor and by an interpreter in accordance with domestic law on criminal procedure.

(3) A requested person shall be heard on his or her personal state, nationality, relations to the issuing State and whether he or she opposes arrest or surrender and for what reasons. The requested person's defence counsellor must be present at the hearing.

(4) The minutes of the hearing of the requested person shall be drawn up.

(5) If the European arrest warrant was issued for the purpose of executing a custodial sentence or detention order rendered in absentia, the requested person may request to be served with a copy of the said decision before surrender to the issuing State provided that it had not been previously personally served or that he or she had not been officially informed of criminal proceedings conducted against him or her. In that case, the court shall request that the issuing authority without delay transmit a copy of the decision for the purpose of serving it on the requested person. Service of the copy of the decision shall not be considered as an official service from which the time limits for submitting requests for a retrial or appeal should be counted. This shall not delay the procedure of surrender of the requested person, or the rendering of a decision on surrender.

Surrender of a person enjoying immunity

Article 25

(1) If the requested person is a national of the Republic of Croatia who enjoys immunity in the Republic of Croatia, upon information from the court about the received European arrest warrant for such a person, the competent state attorney shall request immunity to be waived.

(2) If the requested person enjoying immunity is a national of another State or is an employee of an international organisation, the court shall inform the Ministry of Foreign Affairs thereof without delay. The surrender procedure shall not be initiated before the issuing judicial authority provides proof that immunity has been waived.

(3) The time limits referred to in Article 32 of this Act shall start running from the day the court receives proof that immunity has been waived.

Measures ensuring the surrender of a requested person

Article 26

(1) Until the execution of surrender, the court shall impose measures deemed necessary to ensure the surrender of the requested person to the issuing State.

(2) For the purpose of surrender, the court shall render a decision to keep the arrested person in detention for no longer than necessary to execute the decision to surrender the requested person pursuant to Article 35 of this Act.

(3) Instead of detention for the purpose of surrender, it is possible to impose precautionary measures according to domestic law on criminal procedure, provided these measures serve the purpose envisaged in paragraph 1 of this Article.

Consent to surrender

Article 27

(1) A requested person may consent to surrender to the issuing State and renounce the application of the speciality rule referred to in Article 38, paragraph 1 of this Act.

(2) The consent and renunciation referred to in paragraph 1 of this Article shall be entered into the minutes drafted in such a manner as to provide proof that the requested person acted voluntarily and with full awareness of the consequences.

(3) The consent and renunciation referred to in paragraph 1 of this Article are irrevocable.

(4) The court shall without delay notify the issuing authority of the consent referred to in paragraph 1 of this Article.

Decision on surrender with consent

Article 28

(1) If the requested person consents to surrender to the issuing State, the judge of the competent court shall without delay and no later than three days after the consent render a decision granting surrender, unless prevented by reasons referred to in Article 20 and 21 of this Act.

(2) The decision granting surrender contains the following information:

1. the first and last name, date and place of birth and nationality of the requested person;
2. the Member State to which the requested person is to be surrendered;
3. a description of the offence for which the person is surrendered;
4. a note stating that the person has consented to surrender;
5. if the requested person has renounced the application of the speciality rule referred to in Article 38, paragraph 1 of this Act, a note stating that fact;
6. if the requested person has not renounced the application of the speciality rule referred to in Article 38, paragraph 1 of this Act, a note stating that without the approval of the Republic of Croatia, for an offence committed prior to surrender, the requested person may not be:
 - prosecuted and that the custodial sentence against him or her may not be enforced in the issuing State;
 - surrendered to another Member State for the purpose of prosecution or for the enforcement of a custodial sentence;
 - extradited to a third State for the purpose of prosecution or for the enforcement of a custodial sentence;

Decision on surrender without consent

Article 29

(1) If the requested person does not consent to surrender, the court shall hear him or her about the reasons for opposing the surrender. The competent state attorney may be present, while the requested person's defence counsellor must be present at the hearing.

(2) The court may request additional information or documents from the issuing authority and set an appropriate time limit, no longer than seven working days, to provide them.

(3) The court may, if necessary, conduct investigative actions in accordance with the relevant provisions of domestic law on criminal procedure in order to determine whether all the preconditions for surrender are met.

(4) After the procedure described in paragraphs 1 to 3 of this Article, the judicial panel of the competent court outside the trial shall render a decision granting or refusing surrender of the requested person.

(5) The decision granting surrender must contain the following information:

1. the first and last name, date and place of birth and nationality of the requested person;
2. the Member State to which the requested person is to be surrendered;
3. a description of the offence for which the person is surrendered;
4. a note stating that without the approval of the Republic of Croatia, for an offence committed prior to surrender, the requested person may not be:
 - a) prosecuted and that the custodial sentence against him or her may not be enforced in the issuing State;
 - b) surrendered to another Member State for the purpose of prosecution or for the enforcement of a custodial sentence;
 - c) extradited to a third State for the purpose of prosecution or for the enforcement of a custodial sentence.

(6) The decision referred to in paragraph 4 of this Article shall be served to the requested person, his or her defence counsellor and the state attorney who can appeal within three days. The decision on the appeal shall be rendered within three days by the judicial panel of the competent court outside the trial.

(7) A decision refusing surrender shall contain a statement of reasons, and the issuing authority shall be notified thereof without delay.

Multiple requests procedure

Article 30

(1) If the court receives European arrest warrants issued for the same person in two or more Member States, when deciding on the State to which the requested person will be surrendered, the court shall take into consideration all the circumstances and especially the relative seriousness and place of the offences, the respective dates of the European arrest

warrants and whether the warrant has been issued for the purposes of prosecution or for the execution of a custodial sentence or detention order.

(2) The court shall apply paragraph 1 of this Article also in the case where it receives a request from a third State for the extradition of the same person.

(3) All the concerned States must be notified of the final decision.

Notification of the decision

Article 31

(1) The court shall without delay notify the issuing authority of the final decision to surrender the requested person.

(2) In the course of the surrender of the requested person to the issuing State, information on the types and duration of measures referred to in Article 26 of this Act shall also be provided.

Time limits for issuing and the finality of the decision to surrender the requested person

Article 32

(1) The procedure for the surrender of a requested person shall be a matter of urgency.

(2) If the requested person has consented to surrender, the final decision on his or her surrender shall be rendered within ten days after the consent has been given.

(3) If the requested person has not consented to surrender, the final decision on his or her surrender shall be rendered within sixty days after the arrest or the first interrogation.

(4) If a decision on surrender cannot be rendered within the time limits stipulated in paragraphs 2 and 3 of this Article, the court shall notify the issuing judicial authority of the issuing State thereof, giving the reasons for the delay. In such a case, the time limit for rendering a final decision shall be extended by a further thirty days.

(5) If, due to extraordinary circumstances, a decision on surrender cannot be rendered within the time limit stipulated in paragraph 4 of this Article, the court shall notify Eurojust thereof, giving the reasons for the delay.

(6) If a Member State repeatedly delays the time limits for the execution of the European arrest warrant issued by domestic judicial authorities, the ministry competent for justice shall notify the Council of the European Union thereof.

Postponement of surrender and temporary surrender of the requested person

Article 33

(1) Surrender may be postponed until criminal proceedings against the requested person conducted in the Republic of Croatia for another criminal offence are completed, or until the requested person has served his or her custodial sentence in the Republic of Croatia for another criminal offence.

(2) Temporary surrender may be permitted if it does not interfere with the criminal proceedings conducted before a domestic court. The conditions for temporary surrender of the requested person shall be arranged by a written agreement concluded between the competent court and the issuing authority, which binds all the competent authorities of the issuing State.

The hearing or temporary transfer of the requested person

Article 34

(1) The court may, on the proposal of the issuing authority, when the surrender of a person is requested for the purpose of conducting a criminal prosecution:

1. hear the requested person regarding the offence for which the European arrest warrant has been issued; or
2. permit the temporary transfer of the requested person to the issuing State.

(2) The court and the issuing authority shall arrange the circumstances of the hearing and the conditions of the temporary transfer of the requested person by a written agreement which binds all the competent authorities of the issuing State.

(3) The court shall hear the requested person in accordance with the relevant provisions of domestic law on criminal procedure and the agreement referred to in paragraph 2 of this Article. The defence counsellor and the state attorney must be present during the hearing of the requested person. Officials of the issuing State may also be present during the hearing.

Surrender of the requested person

Article 35

(1) When the decision on surrender becomes final, the court shall without delay order the surrender of the requested person. The decision on surrender shall be executed by the ministry competent for internal affairs, which shall arrange with the competent authorities of the issuing State the manner, time and place of surrender. The surrender shall be executed as soon as possible and no later than ten days after the decision on surrender has become final.

(2) If, due to circumstances beyond the control of the Republic of Croatia, the surrender of the requested person within the time limit stipulated in the previous paragraph is prevented, the court or the ministry competent for internal affairs shall notify the issuing authority thereof, and arrange a new manner, time and place of surrender, which shall be executed within the following ten days.

(3) Exceptionally, the court may temporarily postpone the surrender for serious humanitarian reasons, e.g. if there are substantial grounds for believing that it would manifestly endanger the requested person's life or health. The court shall immediately inform the issuing authority thereof. Surrender of the requested person shall take place as soon as these grounds have ceased to exist. A new manner, time and place of surrender shall be arranged, and the surrender shall be executed within ten days after the grounds for postponement cease to exist.

(4) If, upon the expiry of the time limits referred to in the previous paragraphs, the requested person is still in detention pending surrender, the court shall vacate the measure of

detention pending surrender and release the requested person. The release shall not exclude the possibility of subsequent surrender to the issuing authority.

Execution of a European arrest warrant against an extradited person

Article 36

(1) If the requested person has been extradited to the Republic of Croatia from a third State under the condition that the speciality rule referred to in Article 38, paragraph 1 of this Act is respected, the court must request the consent of the competent authority of the State from which the requested person was extradited so that he or she can be surrendered to the issuing State.

(2) The time limits referred to in Article 32 of this Act shall not start running until the day on which the court receives the consent referred to in paragraph 1 of this Article.

Transit through the Republic of Croatia

Article 37

(1) The minister competent for justice shall decide on the request for the transit through the territory of the Republic of Croatia of a requested person who is being surrendered from one Member State to another.

(2) A request for transit must contain the following information:

1. the name and surname, date and place of birth, residence and nationality of the requested person;
2. the existence of a European arrest warrant;
3. the nature and legal classification of the offence;
4. the description of the circumstances of the offence, including the date and place.

(3) If the requested person is a national or resident of the Republic of Croatia, and if the European arrest warrant was issued for the purpose of conducting criminal proceedings, transit through the Republic of Croatia may be subject to the condition that the person is returned to the Republic of Croatia to serve the custodial sentence or detention order imposed on him or her by a decision rendered by the competent authority of the issuing State.

(4) If the requested person has to be transported from one Member State to the other by air, and if an unscheduled landing occurs on the territory of the Republic of Croatia, the minister competent for justice shall grant transit upon a request submitted in accordance with paragraphs 1 and 2 of this Article.

(5) The provisions of this Article shall apply in relation to Member States when the requested person is being extradited from a third State.

Speciality rule

Article 38

(1) A person surrendered to the Republic of Croatia pursuant to a European arrest warrant may not be prosecuted and the custodial sentence may not be executed against him or her for an offence committed prior to his or her surrender in respect of an offence for which he or she was not surrendered.

(2) Paragraph 1 of this Article shall not apply if:

1. the surrendered person, having had an opportunity to leave the territory of the Republic of Croatia to which he or she was surrendered, has not done so within 45 days of his or her final discharge, or has returned to the territory of the Republic of Croatia after leaving it;
2. the offence is not punishable by a custodial sentence according to domestic law and the criminal proceedings do not give rise to the application of a measure of ensuring the presence of the accused by the deprivation of liberty;
3. the offence is punishable by a financial penalty, even if that penalty may give rise to a restriction of his or her personal liberty;
4. the person consented to be surrendered to the Republic of Croatia and at the same time renounced the application of the speciality rule referred to in paragraph 1 of this Article;
5. the person, after his or her surrender, has expressly, voluntarily and in full awareness of the consequences renounced the application of the speciality rule referred to in paragraph 1 of this Article, and that renunciation was entered into the minutes before a competent court, in the presence of the person's defence counsellor;
6. the competent authority of the executing State gives its consent for the conducting of a criminal proceeding or the execution of a custodial sentence for an offence committed prior to surrender, upon the request made by the Republic of Croatia in accordance with Article 18 of this Act.

Surrender to a third Member State

Article 39

A person who has been surrendered to the Republic of Croatia pursuant to a European arrest warrant may not be surrendered to a third Member State for any offence committed prior to his or her surrender without the consent of the competent authority of the executing State, except in the following cases:

1. where the surrendered person, having had an opportunity to leave the territory of the Republic of Croatia to which he or she was surrendered, has not done so within 45 days of his or her final discharge, or has returned to the territory of the Republic of Croatia after leaving it;
2. where the requested person is not subject to the application of the speciality rule, in accordance with Article 38, paragraph 2, items 1, 4, 5 and 6 of this Act;

3. where the requested person voluntarily and in full awareness of the consequences consents to be surrendered to a third Member State, and that consent was entered into the minutes before a competent court, in the presence of the person's defence counsellor.

Extradition of a surrendered person to a third State

Article 40

A person who has been surrendered to the Republic of Croatia pursuant to a European arrest warrant may not be extradited to a third State without the consent of the competent authority of the executing State. The request for consent shall be submitted by the minister competent for justice in accordance with international agreements which bind the Republic of Croatia and domestic law on mutual legal assistance in criminal matters.

Consent procedure

Article 41

(1) The court which rendered the decision on the surrender of a person pursuant to a European arrest warrant is competent to decide on the request of the issuing State for consent to be given for:

- a) the conducting of a criminal proceeding or for the execution of a custodial sentence or detention order against the surrendered person for any offence committed prior to his or her surrender, and for which he or she was not surrendered;
- b) the surrender of that person to another Member State for an offence committed prior to his or her surrender;
- c) the extradition of that person to a third State for an offence committed prior to his or her surrender.

(2) The panel of the competent court outside the trial shall decide upon the request referred to in paragraph 1 of this Article without a hearing of the person and within a time limit no longer than thirty days, in accordance with the provisions of this Title of this Act.

(3) This decision may not be appealed.

Handing over of property

Article 42

(1) The court deciding on the surrender of a requested person may at the request of the issuing judicial authority or *ex officio*, in accordance with domestic law, render a decision on seizure of property which may serve as evidence or which has been acquired by the requested person as a result of the offence, and hand it over to the issuing State. An appeal against this decision may be submitted within three days and shall not postpone its execution.

(2) The decision referred to in paragraph 1 of this Article shall be executed even if the surrender cannot be carried out owing to the death or escape of the requested person.

(3) If the property referred to in paragraph 1 of this Article is necessary at criminal proceedings pending in the Republic of Croatia, the court may temporarily retain it or hand it over to the issuing authority under the condition that it is returned to the Republic of Croatia after the completion of the criminal proceeding in the issuing State.

(4) Any titles which the Republic of Croatia or bona fide third parties may have acquired over the property referred to in paragraph 1 of this Article shall be preserved. Where such titles exist, the issuing authority shall return the property to the Republic of Croatia as soon as the criminal proceeding has been completed.

TITLE III

ORDER FREEZING PROPERTY OR EVIDENCE

Purpose of issuing a freezing order

Article 43

(1) The court referred to in Article 7 of this Act shall recognise and execute a freezing order issued for the purpose of:

1. securing evidence;
2. providing subsequent confiscation of property.

(2) For offences other than those listed in Article 10 of this Act, the competent court shall recognise and execute a freezing order issued for the purposes referred to in paragraph 1 for acts which constitute an offence under domestic law, regardless of the statutory description and the legal classification of the offence in the received freezing order.

Issuing a freezing order

Article 44

(1) The court referred to in Article 6 of this Act shall issue an order freezing property or evidence which is located in another Member State for the purpose of securing evidence or providing subsequent confiscation of property in criminal proceedings conducted in the Republic of Croatia.

(2) The court shall fill out a certificate on the standard form given in Annex 2 to this Act, sign it and certify its contents as accurate, and transmit it together with the freezing order to the court referred to in Article 5, paragraph 1 of this Act for the purpose of transmitting it to the executing State.

(3) The court referred to in Article 5, paragraph 1 of this Act shall transmit the freezing order to the Member State where it has reason to believe that the property and evidence are located or where the holder of the property or evidence is residing.

(4) If the freezing order is lifted, the court shall immediately notify the competent judicial authority of the executing State thereof, through a secure channel capable of producing a written record provided that the executing State accepts such transmission.

Recognition and immediate execution of an order

Article 45

(1) After receiving a freezing order transmitted in accordance with Article 8 of this Act, the competent court referred to in Article 7 of this Act shall forthwith take the necessary measures for its immediate execution in the same way as for a freezing order issued by the domestic authority, unless it decides to invoke one of the grounds for non-recognition or non-execution referred to in Article 47 of this Act or one of the grounds for postponement referred to in Article 48 of this Act.

(2) During the execution of the freezing order, the court shall take into account the formalities and procedures expressly indicated by the issuing authority in order to ensure that the taken evidence is valid, all under the condition that such procedures are not contrary to the fundamental principles of domestic law.

(3) The court shall immediately notify the issuing authority of the execution of the freezing order through a secure channel capable of producing a written record provided that the issuing State accepts such transmission.

(4) Any additional coercive measures rendered necessary by the freezing order shall be taken in accordance with domestic law.

(5) The court shall render a decision on a freezing order as soon as possible, whenever practicable within 24 hours of receipt of the freezing order, and shall without delay notify the issuing authority thereof.

Duration of the freezing

Article 46

(1) The property and evidence shall remain frozen until they are transferred upon the request of the issuing State in accordance with the provisions of Article 49 of this Act.

(2) The court may, in accordance with domestic law and in the light of the circumstances of the case and the requests of the issuing State, lay down appropriate conditions to limit the period for which the property is frozen. If these conditions may result in the measure being vacated, the court shall immediately notify the issuing authority, which shall be given the opportunity to submit its comments on this procedure.

(3) After receiving notification from the issuing judicial authority that the freezing order has been lifted, the domestic judicial authority shall immediately vacate the prescribed measures.

Grounds for non-recognition or non-execution

Article 47

(1) A court may, taking into account the principles of efficient co-operation, expediency and right to a fair trial, refuse to execute a freezing order only if:

1. the certificate referred to in Article 44, paragraph 2 of this Act is not submitted, is incomplete or manifestly does not correspond to the freezing order;
2. there is immunity or a privilege which makes it impossible to execute the freezing order;
3. it is clear from the information provided in the certificate for the offence in respect of which the freezing order has been made that the transfer of property or evidence pursuant to Article 49 of this Act would infringe the principle of *ne bis in idem*;
4. the offence referred to in Article 43, paragraph 2 of this Act on which the freezing order is based does not constitute an offence under domestic law; however, in relation to fiscal offences, the execution of an order shall not be refused on the ground that domestic law does not impose the same kind of tax or duty or does not contain the same type of rules on taxes, duties and customs and exchange regulations as the law of the issuing State;

(2) In the case of paragraph 1, item 1 of this Article, the court may:

1. specify a time limit, no longer than seven working days, for submitting, completing or correcting the certificate referred to in Article 44, paragraph 2 of this Act;
2. accept an equivalent document; or
3. execute the freezing order if it considers that the information provided is sufficient.

(3) The court shall immediately notify the issuing authority of any decision to refuse the recognition or execution of the freezing order through a secure channel capable of producing a written record provided that the issuing State accepts such transmission.

(4) The court shall immediately notify the issuing authority if it is impossible to execute the freezing order because the property or evidence has disappeared, has been destroyed, cannot be found in the location indicated in the certificate, or because the location of the property or evidence cannot be determined even after consultation with the issuing State.

Grounds for the postponement of the execution of a freezing order

Article 48

(1) The court may postpone the execution of a freezing order if:

1. its execution might obstruct an ongoing criminal investigation before a competent domestic authority where the property or evidence, for which the freezing order has been issued, is essential for conducting the said investigation;
2. the property or evidence concerned has already been subjected to a freezing order in criminal proceedings before a competent domestic authority, and until that freezing order is lifted;
3. in the case of an order freezing property with a view to its subsequent confiscation, that property is already subject to a freezing order in the proceedings before a competent domestic authority, until that order is lifted. The freezing order shall then have priority over subsequent freezing orders made by domestic judicial authorities in criminal proceedings.

(2) The court shall notify the issuing authority of the postponement of the execution of the freezing order, including the grounds for the postponement and, if possible, the expected

duration of the postponement, through a secure channel capable of producing a written record provided that the issuing State accepts such transmission.

(3) As soon as the ground for postponement has ceased to exist, the court shall immediately take the necessary measures for the execution of the freezing order and shall notify the issuing authority thereof in the manner provided for in paragraph 2 of this Article.

(4) The court shall notify the issuing authority of any other restraint measure to which the property, for which the freezing order has been issued, may be subjected.

Transfer of frozen property or evidence

Article 49

The transfer of property or evidence frozen in accordance with the provisions of Article 45 of this Act shall be carried out:

1. on the request of the issuing State for the transfer of frozen evidence to that State, according to domestic law regulating mutual legal assistance in criminal matters;
2. by the execution of a European evidence warrant issued by the competent judicial authority of the issuing State, according to the provision of Title IV of this Act;
3. by the execution of a confiscation order issued by the competent judicial authority of the issuing State, according to the provision of Title V of this Act.

TITLE IV

EUROPEAN EVIDENCE WARRANT

Offences for which a European evidence warrant shall be executed

Article 50

(1) The competent judicial authority referred to in Article 7 of this Act shall execute a European evidence warrant without verification of double criminality unless it is necessary to carry out search and seizure.

(2) Where, for the purpose of the execution of a European evidence warrant, it is necessary to carry out search and seizure, a competent judicial authority shall execute a European evidence warrant issued for acts which constitute an offence under domestic law, regardless of the statutory description and legal classification of the offence in the received European evidence warrant, and for offences listed in Article 10 of this Act in any case without verification of double criminality.

Scope of the European evidence warrant

Article 51

(1) Without prejudice to paragraph 2 of this Article, the competent judicial authority shall execute a European evidence warrant with a view to obtaining objects, documents or data needed in the issuing State for the purpose of the proceedings referred to in Article 2, item 10 of this Act. The European evidence warrant shall cover the objects, documents and data specified therein.

(2) The competent judicial authority shall refuse to execute a European evidence warrant issued for the purpose of requiring the executing authority to:

1. conduct interviews, take statements or initiate other types of hearings involving suspects, witnesses, experts or any other party;
2. carry out bodily examinations or obtain bodily material or biometric data directly from the body of any person, including DNA samples or fingerprints;
3. obtain information in real time such as through the interception of communications, covert surveillance or monitoring of bank accounts;
4. conduct analyses of existing objects, documents or data;
5. obtain communications data retained by the providers of a publicly available electronic communications service or a public communications network.

(3) The competent judicial authority shall execute a European evidence warrant issued with a view to obtaining objects, documents or data falling within paragraph 2, where the objects, documents or data were already in the possession of the competent domestic authority before the European evidence warrant was issued.

(4) Notwithstanding paragraph 1 of this Article, the competent judicial authority shall execute a European evidence warrant issued with a view to obtaining objects, documents or data which it discovers during the execution of the European evidence warrant and without further enquiries considers to be relevant to the proceedings for the purpose of which the European evidence warrant was issued, if so indicated by the issuing authority.

(5) Notwithstanding paragraph 2 of this Article, the competent judicial authority shall also take statements from persons present during the execution of the European evidence warrant and directly related to the subject of the European evidence warrant, if requested by the issuing authority. Such statements shall be taken in accordance with the relevant provisions of domestic law on criminal procedure.

Issuing a European evidence warrant

Article 52

The competent judicial authority referred to in Article 6 of this Act shall issue a European evidence warrant in the stipulated form provided in Annex 3 of this Act, sign it and certify its contents as accurate and transmit it to the court referred to in Article 5, paragraph 1 of this Act for the purpose of transmitting it to the executing State.

Conditions for issuing a European evidence warrant

Article 53

The competent judicial authority shall issue a European evidence warrant only if the following conditions have been met:

1. obtaining the objects, documents or data sought is necessary and proportionate for the purpose of the proceedings referred to in Article 1, item 10 of this Act;
2. the objects, documents or data could be obtained under the provisions of domestic law on criminal procedure in a comparable case if they were available on the territory of the Republic of Croatia.

Transmission of a European evidence warrant

Article 54

(1) In addition to the means referred to in Article 8 of this Act, a European evidence warrant may be received and transmitted through the secure telecommunication system of the European Judicial Network in Criminal Matters.

(2) The court referred to in Article 5 paragraph 1 of this Act may transmit a European evidence warrant directly to the competent authority of the executing State when it has reasonable grounds to believe that relevant objects, documents or data are located there or, in the case of electronic data, that they are directly accessible under the law of the executing State. All further official communications shall be made directly between the issuing authority and the executing authority.

A European evidence warrant related to an earlier European evidence warrant or a freezing order

Article 55

(1) The competent judicial authority shall execute a European evidence warrant which supplements an earlier European evidence warrant or which is a follow-up to a freezing order referred to in Title III of this Act, if so indicated by the issuing authority in the form referred to in Article 52 of this Act.

(2) Where, in accordance with the relevant provisions of domestic law on mutual legal assistance in criminal matters, the issuing authority participates in the execution of a European evidence warrant, it may address a European evidence warrant which supplements an earlier European evidence warrant directly to the competent judicial authority while present in the Republic of Croatia.

Conditions for the use of personal data

Article 56

(1) Competent domestic authorities may use personal data obtained from the executing State in the course of the execution of a European evidence warrant for the purpose of:

1. proceedings for which a European evidence warrant may be issued;
2. other judicial and administrative proceedings directly related to the proceedings referred to under item 1 of this paragraph;
3. preventing an immediate and serious threat to public security.

For any purpose other than those set out in items 1 to 3 of this paragraph, personal data obtained from the executing State in the course of the execution of a European evidence

warrant may be used only with the prior consent of the executing State, unless the competent domestic authority has obtained the consent of the data subject or if those data originate from the Republic of Croatia.

(2) Upon the request of the issuing State, the judicial authority which executed the European evidence warrant shall give consent for the use of personal data obtained in the course of the execution of that warrant in the Republic of Croatia. The competent judicial authority may require the issuing State to provide information on the use made of the data.

Recognition and execution

Article 57

(1) The competent judicial authority shall, without any further formality being required, recognise a European evidence warrant issued in accordance with Article 52 of this Act, and shall forthwith take the necessary measures for its execution in such a way as the objects, documents or data would be obtained in domestic criminal procedure, unless it decides to invoke one of the grounds for non-recognition or non-execution provided for in Article 59 of this Act or one of the grounds for postponement provided for in Article 61 of this Act.

(2) The competent judicial authority shall decide whether it is necessary to use coercive measures for the purpose of the execution of a European evidence warrant in accordance with the applicable domestic procedural rules.

(3) Domestic procedural measures which include search or seizure are applicable for the purpose of the execution of a European evidence warrant where it is related to any of the offences as set out in Article 10 of this Act.

(4) The competent judicial authority may, in a specific case, decide that no search or seizure may be carried out for the purpose of the execution of a European evidence warrant if the issuing authority is not a judge, a court, an investigating magistrate or a public prosecutor, and if the European evidence warrant has not been validated by one of those authorities in the issuing State. Before so deciding, the court shall consult the competent authority of the issuing State.

(5) The competent judicial authority shall not assess the existence of the conditions referred to in Article 53 of this Act when deciding upon the execution of a European evidence warrant issued by another Member State.

Conditions for the execution of a European evidence warrant

Article 58

The competent judicial authority shall comply with the formalities and procedures expressly indicated by the issuing authority unless otherwise provided for by this Act and provided that such formalities and procedures are not contrary to the fundamental principles of domestic law. This Article shall not create an obligation to take coercive measures.

Grounds for non-recognition or non-execution

Article 59

(1) The competent judicial authority may, taking into account the principles of efficient co-operation, expediency and right to a fair trial, refuse the recognition or execution of a European evidence warrant:

1. if its execution would infringe the principle of *ne bis in idem*;
2. if, in the cases referred to in Article 50, paragraph 2 of this Act, the European evidence warrant relates to acts which would not constitute an offence under domestic law; however, in relation to fiscal offences, the execution of a European evidence warrant shall not be refused on the ground that domestic law does not impose the same kind of tax or duty or does not contain the same type of rules on taxes, duties and customs and exchange regulations as the law of the issuing State;
3. if it is not possible to execute the European evidence warrant by any of the measures available to the court in the specific case in accordance with Article 57, paragraph 2 of this Act;
4. if there is immunity or a privilege under domestic law which makes it impossible to execute the European evidence warrant;
5. if, in one of the cases referred to in Article 57, paragraph 4 of this Act, the European evidence warrant has not been validated;
6. if the European evidence warrant relates to criminal offences which:
 - have been committed in whole or in part in the territory of the Republic of Croatia;
 - have been committed outside the territory of the issuing State and domestic law does not allow prosecution for the same offence when committed outside the territory of the Republic of Croatia.
7. if, in a specific case, its execution would harm essential national security interests, jeopardise the source of information or involve the use of classified information relating to specific intelligence activities;
8. if the form referred to in Article 52 of this Act is incomplete or manifestly incorrect and has not been completed or corrected within a reasonable time set by the competent judicial authority.

(2) The decision to refuse the execution or recognition of a European evidence warrant under paragraph 1, item 6.a) of this Article shall be taken with regard to the specific circumstances of the case, and in particular to whether a major or essential part of the conduct in question took place in the issuing State, whether the European evidence warrant relates to an act which is not a criminal offence under domestic law and whether it would be necessary to carry out search and seizure in the execution of the European evidence warrant. Before taking the decision, the competent judicial authority shall consult Eurojust. Where a court is not in agreement with Eurojust's opinion, it is obliged to give the reasons for its decision and notify the Council of the European Union thereof through the ministry competent for justice.

(3) Before deciding not to recognise or not to execute a European evidence warrant under paragraph 1, items 1, 7 and 8 of this Article, the competent judicial authority shall, where appropriate, ask the issuing authority to supply any necessary information and set a time limit, no longer than seven working days for submitting these information.

Time limits for recognition, execution and transfer

Article 60

(1) The competent judicial authority shall treat a European evidence warrant as a matter of urgency to ensure compliance with the time limits provided for in this Article, especially taking into account where the issuing authority has indicated in the European evidence warrant that,

due to procedural time limits or other particularly urgent circumstances, a shorter deadline is necessary.

(2) The competent judicial authority shall as soon as possible take any decision to refuse recognition or execution, and no later than thirty days after the receipt of the European evidence warrant.

(3) The competent judicial authority shall take possession of the objects, documents or data without delay and no later than sixty days after the receipt of the European evidence warrant, unless either ground for postponement under Article 61 of this Act exists or the competent judicial authority has the objects, documents or data sought already in its possession.

(4) When it is not practicable in a specific case for the competent judicial authority to meet the time limits set out in paragraphs 2 or 3 of this Article, it shall without delay notify the issuing authority thereof, giving the reasons for the delay and the estimated time needed for the action to be taken.

(5) The competent judicial authority shall without delay transfer the objects, documents or data obtained under the European evidence warrant to the issuing State, unless a legal remedy is pending in accordance with Article 14 of this Act, or grounds exist for postponement under Article 61 of this Act,

(6) When transferring the objects, documents or data obtained, the competent judicial authority shall indicate whether it requires them to be returned as soon as they are no longer required by the issuing State.

Grounds for the postponement of recognition or execution

Article 61

(1) The competent judicial authority may postpone recognition of a European evidence warrant where:

1. the form referred to in Article 52 of this Act is incomplete or manifestly incorrect, until such time as the form has been completed or corrected;
2. in one of the cases referred to in Article 57, paragraph 4 of this Act, the European evidence warrant has not been validated, until such time as the validation has been given.

(2) The competent judicial authority may postpone execution of a European evidence warrant, with regard to the specific circumstances of the case and especially the relative seriousness of the offence and the possibility of the later use of evidence, where:

1. its execution might prejudice an ongoing criminal investigation or prosecution in the Republic of Croatia, until such time as it deems reasonable;
2. the objects, documents or data concerned are already being used in other proceedings, until such time as they are no longer required for that purpose.

(3) As soon as the ground for postponement has ceased to exist, the competent judicial authority shall forthwith take the necessary measures for the execution of the European evidence warrant and inform the relevant competent authority in the issuing State thereof by any means capable of producing a written record.

Obligation to inform

Article 62

(1) The competent judicial authority shall inform the issuing authority immediately by any means:

1. if, in the course of the execution of a European evidence warrant, it considers without further enquiries that it may be appropriate to undertake investigative measures not initially foreseen, or which could not be specified when the European evidence warrant was issued, in order to enable the issuing authority to take further action in the specific case;
2. if it establishes that the European evidence warrant was not executed in a manner consistent with domestic law;
3. if it establishes that, in a specific case, it cannot comply with the formalities and procedures referred to in the Article 58 of this Act

Upon the request of the issuing authority, the competent judicial authority shall confirm the information referred to above by any means capable of producing a written record.

(2) The competent judicial authority shall inform the issuing authority without delay, by any means capable of producing a written record:

1. of the transmission of a European evidence warrant to the competent judicial authority, in accordance with Article 8, paragraph 7 of this Act;
2. of any decision to refuse the recognition or execution of a European evidence warrant, together with the reasons for the decision;
3. of the postponement of the execution or recognition of a European evidence warrant, the underlying reasons and, if possible, the expected duration of the postponement;
4. of the impossibility to execute a European evidence warrant, even after consultation with the competent authority of the issuing State, because the objects, documents or data have disappeared, have been destroyed or cannot be found in the location indicated in the European evidence warrant or because the location of the objects, documents or data has not been indicated in a sufficiently precise manner.

TITLE V

CONFISCATION ORDER

Scope

Article 63

For offences other than those listed in Article 10 of this Act, the court referred to in Article 7 of this Act shall recognise and execute a confiscation order for acts which constitute an offence under domestic law, regardless of the statutory description and the legal classification of the offence in the received confiscation order.

Recognition and execution

Article 64

(1) The court shall recognise a confiscation order and forthwith take all the necessary measures for its execution, unless it decides to invoke one of the grounds for non-recognition or non-execution provided for in Article 65 of this Act, or one of the grounds for postponement of execution provided for in Article 67 of this Act.

(2) If the confiscation order concerns specific objects, the court may, upon the consent of the issuing State, confiscate a sum of money corresponding to the value of the property

referred to in the confiscation order, in accordance with the provisions of the law regulating execution.

(3) If a confiscation order concerning an amount of money cannot be totally executed, the court shall confiscate the remainder of the amount in accordance with the provisions of the law regulating execution.

(5) If a confiscation order concerning an amount of money cannot be executed in the nominal currency, the court shall convert the amount to be confiscated into the national currency at the rate of exchange obtaining at the time when the confiscation order was made.

Reasons for non-recognition or non-execution

Article 65

The court may, taking into account the principles of efficient co-operation, expediency and right to a fair trial, refuse to recognise and execute a confiscation order:

1. if the certificate referred to in Article 73, paragraph 2 of this Act is not submitted, is incomplete, or manifestly does not correspond to the order.
2. if execution of the confiscation order would infringe the principle of *ne bis in idem*;
3. if the confiscation order relates to an offence which does not constitute an offence under domestic law; however, in relation to fiscal offences, the execution of an order shall not be refused on the ground that domestic law does not impose the same kind of tax or duty or does not contain the same type of rules on taxes, duties and customs and exchange regulations as the law of the issuing State;
4. if there is immunity or a privilege under domestic law which prevents the execution of the confiscation order;
5. if the titles of bona fide third parties, under domestic law, prevent the execution of the confiscation order;
6. if, according to the certificate referred to in Article 73, paragraph 2 of this Act, the person concerned did not appear personally in the proceedings resulting in the confiscation order, unless the certificate states that, in accordance with the requirements prescribed by the national law of the issuing State:
 - a) the person concerned was informed personally of the time and place of the proceedings resulting in the issuing of the confiscation order, or that he or she received official notification thereof in such a way that it is clear that the person concerned had knowledge of the time and place of the proceedings, and had been informed of the possibility that a confiscation order could be issued in his or her absence in the case of failure to attend the proceedings;
 - b) the person concerned was represented in the proceedings by an authorised defence counsellor or a defence counsellor appointed by the court;
 - c) the person concerned, after being served personally with the confiscation order issued in his or her absence, along with an instruction that he or she has the right to a retrial or an appeal, based on which proceedings shall be held in which he or she shall have the right to participate, in which the facts found will be reassessed and new evidence presented, which

might lead to a revision of the order concerned, stated expressly that he or she does not dispute the confiscation order issued in his or her absence, or has not requested a retrial or submitted an appeal within the stipulated time limit;

7. if the confiscation order relates to criminal offences which have been committed in whole or in part in the territory of the Republic of Croatia;

8. if the confiscation order relates to criminal offences which have been committed outside the territory of the issuing State and the domestic law does not allow prosecution for the same offences when committed outside the territory of the Republic of Croatia;

9. if the execution of the confiscation order is barred by statutory time limitations according to domestic law, provided that the acts fall within the jurisdiction of the Republic of Croatia.

Supplementary information

Article 66

(1) Before deciding to refuse the recognition or execution of a confiscation order under the grounds provided for in Article 65 of this Act, the court may request supplementary information from the issuing authority and set a time limit, no longer than seven working days, for its submission. The court shall notify the issuing authority that it shall refuse to execute the order if supplementary information is not received within the set time limit.

(2) The court must request the supplementary information when it establishes the existence of grounds specified in:

1. Article 65, paragraph 1 of this Act;
2. Article 65, paragraph 2, items 1, 5, 6 and 7 of this Act.

(3) When it is impossible to execute the confiscation order even after consultation with the issuing State because the property to be confiscated has already been confiscated, has disappeared, has been destroyed, cannot be found in the location indicated in the certificate, or the location of the property has not been indicated in a sufficiently precise manner, the court shall without delay notify the issuing authority thereof.

Postponement of execution of a confiscation order

Article 67

(1) The court may, taking into account the urgency of matter and the possibility of the later confiscation, postpone the execution of a confiscation order:

1. if, in the case of a confiscation order concerning an amount of money, it considers that there is a risk that the total value derived from its execution may exceed the amount specified in the confiscation order because of the simultaneous execution of the confiscation order in more than one Member State;
2. in the cases of legal remedies referred to in Article 14 of this Act;

3. where the execution of the confiscation order might interfere with ongoing criminal proceedings which have been undertaken in the Republic of Croatia, for the time the court deems necessary;
4. where it is considered necessary to have the confiscation order or parts thereof translated, for the time necessary to obtain its translation;
5. where the property is already being confiscated in the Republic of Croatia.

(2) The court shall, for the duration of the postponement, take all the measures prescribed by domestic law to prevent the property from no longer being available for the purpose of the execution of the confiscation order.

(3) The court shall immediately notify the issuing authority, through a secure channel capable of producing a written record provided that the issuing State accepts such transmission, of the postponement referred to in paragraph 1, items 2 to 5 of this Article, as well as regarding the grounds for and, if possible, the expected duration of the postponement.

(4) As soon as the grounds for postponement have ceased to exist, the court shall forthwith take the necessary measures for the execution of the confiscation order and notify the issuing authority thereof by the means referred to in paragraph 3 of this Article.

Multiple confiscation orders

Article 68

The court shall, in accordance with domestic law, with due consideration of all the relevant circumstances, especially the previous freezing of the property, the seriousness of the offences, the place of the commission of the offences, the dates of the issuing and transmission of the orders, render a decision determining the sequence of the execution of:

1. two or more confiscation orders concerning an amount of money, which have been issued against the same natural or legal person, when that person does not have sufficient means to allow all the orders to be executed;
2. two or more confiscation orders concerning the same specific item of property.

Law governing execution

Article 69

(1) The court shall decide on the procedure and measures for the execution of a confiscation order in accordance with domestic law.

(2) In the case where the person concerned is able to furnish proof of confiscation, totally or in part, in another State, the court shall notify the issuing authority thereof. Any part of the amount that is recovered pursuant to the confiscation order in another State shall be deducted from the full amount for which the confiscation order was issued.

(3) The court shall execute a confiscation order issued against a legal person in accordance with domestic law.

(4) The court shall not, without the consent of the issuing State, impose measures as an alternative to the confiscation order, including custodial sanctions or any other measure limiting a person's liberty.

Termination of execution

Article 70

A court shall terminate the execution of a confiscation order when the issuing authority informs it of any decision or measure as a result of which the order ceases to be enforceable or of its withdrawal for any other reason, through a secure channel capable of producing a written record under conditions allowing the court to establish its authenticity.

Disposal of confiscated property

Article 71

(1) Money which has been obtained from the execution of a confiscation order shall be disposed of as follows:

1. if the amount obtained from the execution of the confiscation order is below EUR 10,000, or the equivalent of that amount, the amount shall accrue to the Budget of the Republic of Croatia;
2. if the amount obtained from the execution of the confiscation order exceeds EUR 10,000, or the equivalent of that amount, 50% of the amount which has been obtained shall be transferred to the issuing State.

(2) Property other than that included in paragraph 1 of this Article, which has been obtained from the execution of the confiscation order, shall be disposed of in one of the following ways:

1. the property may be sold, and the proceeds of the sale shall be disposed of in accordance with paragraph 1 of this Article;
2. the property may be transferred to the issuing State; if the confiscation order covers an amount of money, the property may be transferred to the issuing State only when that State has given its consent;
3. if it is not possible to dispose of the property in the way referred to in items 1 and 2 of this paragraph the property may be disposed of in another way in accordance with domestic law.

(3) Specific items of property obtained from the execution of the confiscation order which constitute parts of the national cultural heritage of the Republic of Croatia may not be subject to the ways of disposal referred to in paragraphs 1 and 2 of this Article.

(4) Notwithstanding paragraphs 1 to 3 of this Article, the money and property obtained from the execution of the confiscation order may be disposed of in accordance with an agreement between the Republic of Croatia and the issuing State.

Information on the result of the execution

Article 72

The court shall immediately notify the issuing authority, through a secure channel capable of producing a written record provided that the issuing State accepts such transmission, about:

1. any decision not to recognise or execute the confiscation order, together with the reasons for such decision;
2. the impossibility to execute the confiscation order in total for the reasons referred to in Article 68, Article 69, paragraph 2, or Article 16 of this Act;
3. the execution of the confiscation order;
4. the application of alternative measures, according to Article 69, paragraph 4 of this Act.

Issuing and transmission of a confiscation order

Article 73

(1) The court referred to in Article 6 of this Act shall issue an a confiscation order in relation to property located in another Member State and transmit it to the court referred to in Article 5, paragraph 1 of this Act for the purpose of transmitting it to the executing State.

(2) The competent court referred to in Article 5, paragraph 1 of this Act shall fill out a certificate on the standard form given in Annex 4 to this Act, sign it and certify its contents as accurate.

(3) The confiscation order concerning proceeds, together with the certificate provided for in paragraph (2) of this Article, shall be transmitted to the competent authority of a Member State in which the court has reasonable grounds to believe that the natural or legal person against whom the confiscation order has been issued has property or income.

The confiscation order concerning objects, together with the certificate provided for in paragraph (2) of this Article, shall be transmitted to the competent authority of a Member State in which the court has reasonable grounds to believe that the objects covered by the confiscation order are located.

(4) If there are no reasonable grounds to determine the Member State where the property covered by the confiscation order is located or where the persons against whom the confiscation order has been issued have income, the court shall transmit the confiscation order to the competent authority of the Member State where the person against whom the confiscation order has been issued is normally resident or has its registered seat.

Transmission of an order to more than one Member State

Article 74

(1) A court referred to in Article 5, paragraph 1 may transmit a confiscation order to the competent authority of only one Member State at any one time.

(2) Notwithstanding paragraph 1 of this Article, a court may transmit a confiscation order to the competent authorities of more than one Member State at the same time if there are reasonable grounds to believe that:

- a) different items of property covered by the confiscation order are located in different executing States; or
- b) the property covered by the confiscation order is located in one of two or more Member States; or
- c) the confiscation of property covered by the confiscation order involves the participation of the judicial authorities of more than one Member State.

Consequences of transmission

Article 75

(1) A competent court may execute a domestic confiscation order in the Republic of Croatia regardless of the fact that the order concerned has already been transmitted to a competent authority of one or more Member States in accordance with this Act.

(2) In the case of the transmission of a confiscation order concerning an amount of money to one or more Member States, the total value derived from its execution may not exceed the amount specified in the confiscation order.

(3) The court referred to in Article 5, paragraph 1 shall immediately notify all competent authorities of the Member States to which the confiscation order was transmitted, through a secure channel capable of producing a written record provided that the executing State accepts such transmission:

1. if there is a risk that execution beyond the amount specified in the confiscation order may occur, as well as when the risk referred to has ceased to exist;
2. if all or part of the confiscation order has been executed in the Republic of Croatia or in another executing State, specifying the amount for which the confiscation order has not yet been executed;
3. if, after the transmission of a confiscation order, the person concerned has paid voluntarily any sum of money, which should therefore be deducted from the amount specified in the confiscation order.

Lifting of a confiscation order

Article 76

The court referred to in Article 5, paragraph 1 shall immediately notify executing authority of any decision or measure lifting confiscation order, through a secure channel capable of producing a written record provided that the executing State accepts such transmission.

TITLE VI
RECOGNITION OF FINANCIAL PENALTIES

Scope

Article 77

(1) For offences other than those listed in Article 10 of this Act, the court referred to in Article 7 of this Act shall recognise and execute the decision on financial penalty without verification of the double criminality for the following offences:

- conduct which infringes road traffic regulations, including breaches of regulations pertaining to driving hours and rest periods and regulations on hazardous goods;
- smuggling of goods;
- infringements of intellectual property rights;
- threats and acts of violence against persons, including violence during sport events;
- criminal damage;
- theft;
- offences established by Member States and serving the purpose of implementing obligations arising from instruments adopted under the EC Treaty or under Title VI of the EU Treaty.

(2) For offences not covered in paragraph 1 of this Article, the court shall also recognise and execute decisions for all acts which constitute an offence under domestic law, regardless of the statutory description and legal classification of the offence under the national law of the issuing State.

Exemption from collection of financial penalty

Article 78

A financial penalty shall not include:

1. orders for the confiscation of instrumentalities intended, used or derived from the criminal offences;
2. orders for the confiscation of proceeds of crime;
3. orders that are of a civil nature and that arise from a claim for damages and restitution and which are enforceable in accordance with Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters.

Recognition and execution of decisions

Article 79

(1) The court referred to in Article 7 of this Act shall recognise a received decision on financial penalty without any further formality being required and shall forthwith take all the necessary measures for its execution, unless it decides to invoke one of the grounds for non-recognition or non-execution provided for in Article 80 of this Act.

(2) The court within whose territory the natural or legal person against whom the decision was brought has residence or a registered seat or where the natural or legal person has property or income shall be competent for the recognition and execution of the decision.

Grounds for non-recognition and non-execution

Article 80

(1) The court shall refuse to recognise and execute a decision on financial penalty if the certificate referred to in Article 87, paragraph 2 of this Act is not submitted, is incomplete or manifestly does not correspond to the decision.

(2) The court may, taking into account the principles of efficient co-operation, expediency and right to a fair trial, refuse to recognise and execute the decision if it is established that:

1. the final decision against the sentenced person in respect of the same offence has been rendered by the domestic court or that such a decision has been rendered and executed in any of the Member States;
2. the decision relates to an offence referred to in Article 77, paragraph 2 of this Act which does not constitute an offence under domestic law;
3. the execution of the decision is statute-barred according to domestic law and the decision relates to an offence which falls within the jurisdiction of the Republic of Croatia under its own law;
4. the decision relates to an offence which:
 - has been committed in whole or in part in the territory of the Republic of Croatia; or
 - has been committed outside the territory of the issuing State, and domestic law does not allow prosecution for the same offence committed outside the territory of the Republic of Croatia;
5. there is immunity under domestic law which prevents the execution of the decision;
6. the decision has been imposed on a person on who, according to domestic law, financial penalty can not be imposed owing to his or her age
7. according to the certificate referred to in Article 87, paragraph 2 of this Act, the person concerned was not, in the case of a written procedure in accordance with the law of the issuing State, informed personally or via a representative competent according to the law of the issuing State of his or her right to contest the case and of the time limits of such a legal remedy;

8. according to the certificate referred to in Article 87, paragraph 2 of this Act, the person concerned did not appear personally in the proceedings resulting in the decision, unless the certificate states that, in accordance with the procedural requirements of the issuing State:

a) the person concerned was informed personally of the time and place of the proceedings resulting in the rendering of the decision on financial penalty, or that he or she received official notification thereof in such a way that it is clear that the person concerned had knowledge of the time and place of the proceedings, and had been informed of the possibility of a decision being rendered in his or her absence in the case of a failure to attend the proceedings;

b) the person concerned was represented in the proceedings by an authorised defence counsellor or a defence counsellor appointed by the court;

c) the person concerned, after being served personally with the decision on financial penalty rendered in his or her absence, along with an instruction that he or she has the right to a retrial or an appeal, based on which proceedings shall be held in which he or she shall have the right to participate, in which the facts found shall be reassessed and new evidence presented, which might lead to a revision of the decision concerned, stated expressly that he or she does not dispute the decision rendered in his or her absence, or has not requested a retrial or submitted an appeal within the stipulated time limit;

9. according to the certificate provided for in Article 87 paragraph (2) of this Act, the person concerned appeared personally in the proceedings resulting in the decision, unless the certificate states that the person, having been notified of the proceedings against him or her, as well as the possibility of appearing personally in the proceedings, expressly renounced the right to a personal hearing and stated expressly that he or she does not contest the case;

10. the financial penalty is below EUR 70 or the equivalent to that amount at the rate of exchange obtaining on the date the decision on financial penalty was brought.

(3) In the cases referred to in paragraph 1 and paragraph 2, items 3, 7, 8 and 9 of this Article, the court shall, where appropriate, before deciding not to recognise or to execute a decision, either totally or in part, contact the competent authority in the issuing State and ask it to submit supplementary information necessary for a decision to be brought and set a time limit no longer than seven working days for its submission.

Determination of the amount to be paid

Article 81

(1) When it is established that the financial penalty is related to acts which were not carried out within the territory of the issuing State, the court may, when the acts fall within the jurisdiction of the Republic of Croatia, decide to reduce the amount of the penalty enforced to the maximum amount provided for acts of the same kind under domestic law.

(2) The court shall convert the penalty into the national currency at the rate of exchange obtaining on the date the decision on financial penalty was brought.

Law governing execution

Article 82

(1) The court shall execute a decision on financial penalty according to domestic law in the same way as a financial penalty imposed by a domestic court.

(2) If the sentenced person furnishes proof of payment, totally or in part, in any Member State, the court shall verify this information directly with the competent authority of the issuing State.

(3) Any part of the penalty recovered in any Member State shall be deducted in full from the amount which is to be recovered in the Republic of Croatia.

Imprisonment or other alternative sanctions by way of substitution for non-recovery of the financial penalty

Article 83

When it is not possible to execute a decision, either totally or in part, the court shall, in accordance with domestic law, apply alternative sanctions, including a custodial sentence under the condition that, according to the certificate referred to in Article 87, paragraph 2 of this Act, the issuing State has allowed the application of such alternative sanctions. The type and severity of the alternative sanction shall be determined in accordance with domestic law, but shall not exceed any maximum level stated in the certificate transmitted by the issuing State.

Informing the competent authority of the issuing State

Article 84

The court referred to in Article 5, paragraph 1 shall without delay notify the competent authority of the issuing State through a secure channel capable of producing a written record provided that the issuing State accepts such transmission:

1. of the transmission of the decision to the competent court for execution;
2. of any decision not to recognise and execute the decision for the reasons referred to in Article 80 of this Act or on suspicion that the fundamental rights or fundamental legal principles as enshrined in Article 6 of the Treaty may have been infringed, along with the reasons for the decision;
3. of the execution of the decision in the ways referred to in Article 81, Article 82 and Article 16 of this Act;
4. of termination of the execution of the decision;
5. of the application of the alternative sanctions referred to in Article 83 of this Act.

Termination of execution

Article 85

The court shall terminate execution of the decision on financial penalty when the competent authority of the issuing State informs it of any reasons for the decision to cease to be enforceable.

Accrual of monies obtained from the execution of a decision

Article 86

Monies obtained from the execution of a decision on financial penalty shall accrue to the Republic of Croatia unless otherwise agreed between the Republic of Croatia and the issuing State.

Transmission of decisions

Article 87

(1) The court that brought a decision on financial penalty shall transmit it to the competent court referred to in Article 5, paragraph 1 of this Act, for the purpose of the execution in the executing State.

(2) The competent court referred to in Article 5, paragraph 1 of this Act shall fill out the certificate for which the standard form is given in Annex 5 of this Act, sign it and certify its contents as accurate.

(2) The competent court referred to in Article 5, paragraph 1 of this Act shall transmit a decision on financial penalty, together with the certificate referred to in paragraph 2 of this Article, to the competent authority of a Member State in which the natural or legal person, against whom a decision has been brought, has property or income, is normally resident or, in the case of a legal person, has its registered seat.

(3) The court shall transmit a decision only to one executing State at any one time.

Consequences of the transmission of a decision on financial penalty

Article 88

(1) The domestic court may not proceed with the execution of a decision transmitted to a competent authority of a Member State for execution.

(2) The court may again initiate the execution of a decision on financial penalty in the Republic of Croatia:

1. if the decision could not be executed in total in the Member State referred to in paragraph 1 of this Article;
2. if the domestic authority has waived the execution of the decision in the Member State referred to in paragraph 1 of this Article.

(3) If, after the transmission of a decision on financial penalty, a court was informed that the penalty had been recovered in total or in part, it shall without delay notify the competent authority in the executing State thereof.

TITLE VII

RECOGNITION AND ENFORCEMENT OF JUDGMENTS IN CRIMINAL MATTERS

Scope

Article 89

(1) The provisions of this Title apply only to the recognition of judgments and the enforcement of custodial sentences and any measures involving deprivation of liberty, including judgments which impose a fine and/or a confiscation order, regardless of whether the fine has not yet been paid or whether the proceeds have not yet been confiscated.

(2) For offences other than those listed in Article 10 of this Act, the court referred to in Article 7 of this Act shall recognise a judgment imposing a custodial sentence or any measure involving deprivation of liberty for acts which constitute an offence under domestic law, regardless of the statutory description and the legal classification of the offence in the received judgment.

(3) The provisions of this Title shall apply regardless of where the sentenced person is located at the moment of the initiation of the procedure of recognition and execution of the judgement imposing custodial sentence or any measure involving deprivation of liberty.

Territorial competence

Article 90

(1) The court within whose territory the sentenced person had last known residence or where members of his family have residence shall be competent for the procedure in accordance with Article 91 of this Act.

(2) If, according to paragraph 1 of this Article, a competent court cannot be established, the Supreme Court of the Republic of Croatia shall determine a competent court among the courts that have competence in this subject.

Recognition of the judgment and enforcement of the sentence

Article 91

(1) When the court referred to in Article 7 of this Act receives a foreign judgment, it shall verify that it is accompanied with the certificate referred to in Article 103, paragraph 1 of this Act and whether the following conditions are met:

1. the sentenced person is a Croatian national and has his or her residence in the territory of the Republic of Croatia;
2. the sentenced person is a Croatian national without residence in the territory of the Republic of Croatia, but will be deported to the Republic of Croatia after he or she is

released from the enforcement of the sentence on the basis of an expulsion or deportation order included in the judgment or in a judicial or administrative decision or any other measure taken consequential to the judgment;

3. in cases not covered by items 1 and 2 of this paragraph, the ministry competent for justice has given consent for the transmission of the judgment imposing a custodial sentence or any measure involving deprivation of liberty to the Republic of Croatia for the purpose of its execution, and the sentenced person has complied with this.

(2) In the cases covered by paragraph 1, item 3 of this Article, the ministry competent for justice shall, when deciding upon giving consent to the issuing State for the transmission of the judgment imposing a custodial sentence or any measure involving deprivation of liberty to the Republic of Croatia, take into account facilitating the social rehabilitation of the sentenced person, establish through the Directorate for Probation the residence of the sentenced person or members of his or her family in the Republic of Croatia, establish if he or she owns any immovable property in the Republic of Croatia, and other personal and social circumstances which connect the sentenced person with the Republic of Croatia.

(3) The competent court may request an issuing State to transmit the judgment brought in that State, accompanied with the certificate referred to in Article 103, paragraph 1 of this Act, for the purpose of its recognition and execution in the Republic of Croatia.

(4) The court shall adapt a custodial sentence imposed in the received judgment where that sentence exceeds the maximum penalty provided for the same or similar offences under domestic law in such a manner as to impose a sentence which is not less than the maximum penalty provided for the same or similar offences under domestic law.

(5) The court shall adapt a custodial measure or other measure involving deprivation of liberty where that sentence is incompatible with domestic law in terms of its nature in such a manner as to impose the punishment or measure provided for under domestic law, other than a financial penalty, which corresponds as closely as possible to the sentence imposed in the received judgment.

(6) The court shall not impose a sentence under domestic law which would aggravate the sentence brought in the issuing State in terms of its nature or duration.

(7) The court shall without delay forward a final decision on recognition of the foreign judgment brought as a result of the procedure referred to in paragraphs (1)–(6) of this Article to the executing judge who is competent in accordance with the provisions of domestic law regulating execution of custodial sentences.

Agreement with other Member States

Article 92

The consent of the minister competent for justice referred to in Article 91, paragraph 1, item 3 of this Act shall not be required where there is such an agreement with another Member State for the following cases:

1. if the sentenced person lives in and has been legally residing continuously for at least five years in the Republic of Croatia, and will retain a permanent right of residence;
2. if the sentenced person is a national of the Republic of Croatia, in cases not covered by Article 91, paragraph 1, items 1 and 2 of this Act.

Time limits and the obligation to inform

Article 93

(1) After receiving a judgment and certificate, the court shall initiate the procedure and bring a final decision on recognition of the judgment and issue a decision to execute the sentence within a time limit no longer than ninety days, unless it decides to invoke one of the grounds for non-recognition or non-enforcement referred to in Article 96 of this Act.

(2) The sentenced person and the competent state attorney may appeal against a decision on recognition of the judgment within eight days from the date this decision was served. The higher court must decide upon this appeal within fifteen days.

(3) The court shall notify the competent authority of the issuing State of an exceptional case when it is not practicable to comply with the time limit referred to in paragraph 1 of this Article, giving the reasons for the delay and the estimated time needed for the final decision to be brought.

(4) The court shall without delay notify the competent authority of the issuing State, by any means capable of producing a written record:

1. of the fact that after receiving the judgment and the certificate, the sentenced person cannot be found in the territory of the Republic of Croatia;
2. of the final decision to recognise the judgment and enforce the sentence together with the date of the decision;
3. of any decision not to recognise the judgment and enforce the sentence in accordance with Article 94 of this Act, together with the reasons for the decision;
4. of any decision to adapt the sentence in accordance with Article 91, paragraphs 4 and 5 of this Act, together with the reasons for the decision;
5. of any decision not to enforce the sentence for the reasons referred to in Article 16, paragraphs 1 and 2 of this Act, together with the reasons for the decision;
6. of the beginning and the end of the period of conditional release, where so indicated in the certificate by the issuing State;
7. of the sentenced person's escape from custody;
8. of the enforcement of the sentence as soon as it has been completed.

Grounds for non-recognition and non-enforcement

Article 94

(1) The court may, taking into account the principles of efficient co-operation, expediency and right to a fair trial, refuse to recognise the judgment and enforce the sentence if:

1. the certificate referred to in Article 103, paragraph 1 of this Act is incomplete or manifestly does not correspond to the judgment and has not been completed or corrected within a time limit no longer than seven working days set by the court;
2. the criteria set out in Article 91, paragraph 1, items 1 and 2 of this Act are not met;
3. enforcement of the sentence would be contrary to the principle of *ne bis in idem*;
4. the offence on which the judgment is based does not constitute an offence under domestic law; however, in relation to fiscal offences, the execution of a judgment shall not be refused on the ground that domestic law does not impose the same kind of tax or duty or does not contain the same type of rules on taxes, duties and customs and exchange

regulations as the law of the issuing State;

5. the enforcement of the sentence is statute-barred according to domestic law;

6. there is immunity under domestic law which makes it impossible to enforce the sentence;

7. the sentence has been imposed on a person who has not reached the age of 16;

8. at the time the judgment was received by the court, less than six months of the sentence remain to be served;

9. according to the certificate referred to in Article 103, paragraph 1 of this Act, the sentenced person concerned did not appear personally in the proceedings resulting in the judgment, unless the certificate states that, in accordance with the procedural requirements of the issuing State:

a) the sentenced person was informed personally of the time and place of the hearing resulting in the rendering of the judgment, or that he or she received official notification thereof in such a way that it is clear that the person concerned had knowledge of the time and place of the hearing, and had been informed of the possibility of a judgment being rendered in his or her absence in the case of a failure to attend the hearing;

b) the sentenced person was represented in the hearing by an authorised defence counsellor or a defence counsellor appointed by the court;

c) the sentenced person, after being served personally with the judgment rendered in his or her absence, along with an instruction that he or she has the right to a retrial or an appeal, based on which proceedings shall be held in which he or she shall have the right to participate, in which the facts found shall be reassessed and new evidence presented, which might lead to a revision of the judgment concerned, stated expressly that he or she does not dispute the judgment rendered in his or her absence, or has not requested a retrial or submitted an appeal within the stipulated time limit;

10. the issuing State, upon a request made by the Republic of Croatia, does not consent to the person concerned being prosecuted, sentenced or otherwise deprived of his or her liberty for an offence committed prior to the transfer other than that for which the person was transferred;

11. the sentence imposed a measure of psychiatric or health care or another measure involving deprivation of liberty which cannot be executed in the Republic of Croatia in accordance with domestic law;

12. the judgment relates to offences which under domestic law are regarded as having been committed wholly or for a major or essential part within the Republic of Croatia, or in a place equivalent to its territory; in relation to those offences, the court shall take into account the specific circumstances of the case, and in particular whether a major or essential part of the conduct in question took place in the issuing State.

(2) In the cases referred to in paragraph 1, items 1, 2, 3, 10, 11 and 12 of this Article, before deciding not to recognise the judgment and enforce the sentence, the court shall consult the competent authority of the issuing State and shall where appropriate ask it to supply additional information.

Partial recognition and enforcement

Article 95

When the court is considering the recognition of the judgment and enforcement of the sentence in part, it shall, before deciding to refuse recognition of the judgment and enforcement of the sentence, consult the competent authority of the issuing State with a view to finding an agreement on the partial recognition and enforcement of the sentence. Such an agreement shall not result in the aggravation of the sentence imposed in the issuing State.

Postponement of recognition of the judgment

Article 96

The court shall postpone the recognition of the judgment if the certificate is incomplete or manifestly does not correspond to the judgment, and shall set a time limit no longer than seven working days for the issuing State to complete or correct the certificate.

Withdrawal of the enforcement

Article 97

If the issuing State withdraws the certificate referred to in Article 103, paragraph 1 of this Act, giving reasons for doing so, before the decision to execute the sentence becomes final, the court shall no longer enforce the sentence.

Provisional arrest

Article 98

(1) If the sentenced person is located in the territory of the Republic of Croatia, the competent court may, at the request of the issuing State, before the receipt of the judgment and the certificate or before the decision to recognise the judgment and enforce the sentence, if the circumstances indicate a danger of flight from the Republic of Croatia, impose measures deemed necessary to ensure his or her presence pending a decision to recognise the judgment and enforce the sentence, in accordance with the provisions of the law on criminal procedure.

(2) The period that the sentenced person has spent in custody pending a decision to recognise the judgment and enforce the sentence shall be counted in the period of the custodial sentence, long-term imprisonment or juvenile imprisonment to be served.

Transfer of sentenced person to the Republic of Croatia

Article 99

(1) If the sentenced person is in the issuing State, he or she shall be transferred to the Republic of Croatia no later than thirty days after the final decision has been taken on recognition of the judgment and enforcement of the sentence. The domestic authority competent for the execution of custodial sentences, in co-operation with the ministry competent for internal affairs, shall arrange with the competent authorities of the issuing State the manner, time and place of the transfer.

(2) If, due to circumstances beyond the control of the Republic of Croatia, the transfer of the sentenced person within the time limit stipulated in the paragraph 1 of this Article is prevented, the competent authority referred to in paragraph 1 of this Act shall notify the

competent authority of the issuing State thereof. A new manner, time and place of transfer, shall be arranged within the following ten days.

Transit through the territory of the Republic of Croatia

Article 100

(1) The minister competent for justice shall, upon the request of the issuing State, permit the transit through its territory of a sentenced person, provided that a copy of the certificate referred to in Article 103, paragraph 1 has been forwarded by the issuing State together with the transit request.

(2) When the ministry competent for justice receives a request to permit the transit of the sentenced person sought in the Republic of Croatia for the purpose of criminal prosecution or enforcement of a custodial sentence for an offence committed prior to the initiation of the transfer in the issuing State, it shall notify the competent authority of the issuing State thereof.

(3) The minister competent for justice shall take the decision referred to in paragraph 1 of this Article without delay and no longer than seven working days after having received the request.

(4) The ministry competent for justice shall notify the competent authority of the issuing State of the decision referred to in paragraph (3) of this Article by any means capable of producing a written record.

(5) For the purpose of the transfer, a competent court may render a decision to keep the person in detention if the circumstances indicate a danger of flight from the Republic of Croatia, for such time as transit through the territory of the Republic of Croatia requires.

Law governing enforcement

Article 101

(1) A custodial sentence in the recognised judgment shall be enforced in the Republic of Croatia in accordance with the provisions of the Act on the Execution of Custodial Sentences.

(2) When deciding on conditional release, domestic competent authority shall take into account the provisions on conditional release according to the national law of the issuing State, as indicated by that State.

(3) The full period of deprivation of liberty already served in connection with the sentence in respect of which the judgment was issued shall be deducted from the total duration of the deprivation of liberty to be served in accordance with Article 91 of this Act.

(4) The court shall notify the competent authority of the issuing State, upon its request, of the provisions of domestic law regulating conditional release.

Specialty rule

Article 102

(1) A person transferred to the Republic of Croatia may not be prosecuted, a custodial sentence may not be executed against him or her, and he or she may not be otherwise deprived of his or her liberty for an offence committed prior to his or her transfer, other than that for which he or she was transferred.

(2) Paragraph 1 of this Article shall not apply if:

1. the transferred person, having had an opportunity to leave the territory of the Republic of Croatia to which he or she was transferred, has not done so within 45 days of his or her final discharge, or has returned to the territory of the Republic of Croatia after leaving it;
2. the offence is not punishable by a custodial sentence according to domestic law, and the criminal proceedings do not give rise to the application of a measure of ensuring the presence of the accused by the deprivation of liberty;
3. the offence is punishable by a financial penalty, even if that penalty may give rise to a restriction of his or her personal liberty;
4. the person has consented to be transferred to the Republic of Croatia;
5. the person, after his or her transfer, has expressly, voluntarily and in full awareness of the consequences renounced the application of the speciality rule referred to in paragraph 1 of this Article, and that renunciation was entered into the minutes before a competent court, in the presence of the person's defence counsellor
6. the competent authority of the issuing State gives its consent for the conducting of a criminal proceeding or for the execution of a custodial sentence for an offence committed prior to surrender, upon a request made by the Republic of Croatia in accordance with Article 18 of this Act. If the issuing State so requires, the Republic of Croatia shall provide the guarantees referred to in Article 22 of this Act.

Criteria for forwarding a judgment and certificate to another Member State

Article 103

(1) Irrespective of whether the person sentenced by a domestic court, who has given his or her consent in accordance with Article 105, paragraph 1 of this Act, is in the Republic of Croatia or in the executing State, the court referred to in Article 5, paragraph 1 of this Act shall forward the judgment together with the certificate for which the standard form is given in Annex 6 of this Act to:

1. the Member State of nationality of the sentenced person in which he or she lives;
2. the Member State of nationality, to which, while not being the Member State where he or she lives, the sentenced person will be deported once he or she is released from the enforcement of the sentence on the basis of an expulsion or deportation order included in the judgment or in a judicial or administrative decision or any other measure taken consequential to the judgment;
3. any Member State other than the Member State referred to in items 1 and 2, when the competent authority of which consents to the forwarding of the judgment and the certificate to that Member State.

(2) The court shall forward the judgment and the certificate to the executing State if it establishes that the enforcement of the sentence by the executing State would serve the purpose of facilitating the social rehabilitation of the sentenced person. For that purpose, the court may, when appropriate, consult the competent authority of the executing State before forwarding the judgment. Consultation shall be obligatory in the cases referred to in paragraph 1, item 3 of this Article.

(3) The court may withdraw the certificate if, after the judgment and certificate have been forwarded without the prior consultation referred to in paragraph 2 of this Article, it receives a reasoned opinion of the executing State that enforcement of the sentence in the executing State would not serve the purpose of facilitating the social rehabilitation and successful reintegration of the sentenced person into society.

(4) The request of the Member State referred to in paragraph 1 of this Article for initiating a procedure for forwarding the judgment with a certificate and the application of the sentenced person for initiating a procedure for forwarding the judgment with a certificate shall not bind the Republic of Croatia. The sentenced person may submit his or her application to the executing State as well as to the issuing State.

Forwarding of the judgment and certificate

Article 104

(1) The court shall forward the judgment or a certified copy of it, together with the certificate, directly to the competent authority of the executing State by the means referred to in Article 8 of this Act.

(2) The court shall fill out the certificate referred to in Article 103, paragraph 1 of this Act, sign it and certify its content as accurate.

(3) A judgment with a certificate shall be forwarded to only one executing State at any one time.

Opinion and notification of the sentenced person

Article 105

(1) The court shall forward the judgment with a certificate to the executing State for the purpose of its recognition and for the enforcement of the sentence only with the consent of the sentenced person.

(2) As an exception to paragraph 1 of this Article, the consent of the sentenced person shall not be required where the judgment, together with the certificate, is forwarded:

1. to the Member State of nationality of the sentenced person in which he or she lives;

2. to the Member State to which the sentenced person will be deported once he or she is released from the enforcement of the sentence on the basis of an expulsion or deportation order included in the judgment or in a judicial or administrative decision or any other measure taken consequential to the judgment;

3. to the Member State to which the sentenced person has fled or otherwise returned in view of the criminal proceedings pending against him or her, or following conviction.

(3) If the sentenced person is still in the Republic of Croatia, he or she shall be given an opportunity to state his or her opinion orally or in writing. For minors and persons deprived of legal capacity, a legal representative shall state an opinion. When deciding on the issue of forwarding the judgment together with a certificate to the executing State, the court shall take into account the opinion of the sentenced person.

(4) The court shall forward the written opinion of the sentenced person to the executing State, in particular if the sentenced person consents to transfer and if the executing State has presented a reasoned opinion that enforcement of the sentence in that State would not serve the purpose of facilitating the social rehabilitation of the sentenced person.

(5) The court shall notify the sentenced person, in the standard form set out in Annex 7 of this Act, in a language which he or she understands, that it has decided to forward the judgment for the purpose of enforcement. That decision shall be notified in the same way through the competent authority of the executing State when the sentenced person is in that State at the time of the decision.

Withdrawal of the certificate

Article 106

(1) If enforcement of the sentence in the executing State has not yet begun, the court may withdraw the certificate referred to in Article 103, paragraph 1 of this Act if such circumstances occur which are contrary to the purpose of enforcement of the sentence.

(2) The court may withdraw the certificate if it does not agree to the application of the provisions on early or conditional release provided by the executing State.

Request for provisional arrest

Article 107

The court may request the issuing State to take any measure to ensure that the sentenced person remains in its territory pending a decision to recognise the judgment and enforce the sentence if the circumstances indicate a danger of flight from that State.

Transfer from the Republic of Croatia and the consequences of transfer

Article 108

(1) The sentenced person shall be transferred to the executing State in accordance with Article 99 of this Act.

(2) The competent executing judge shall discontinue enforcement of the sentence in the Republic of Croatia when the sentenced person begins to serve the sentence in the executing State.

(3) The Republic of Croatia may proceed to enforce the sentence referred to in paragraph (2) of this Article when it is informed by the executing State of the partial non-enforcement of the sentence, because the sentenced person has escaped from custody.

Request for transit through the territory of a third Member State

Article 109

(1) If it deems it necessary to transfer the person through the territory of a third Member State, the ministry competent for justice shall, upon the request of the competent court, transmit a request for transit to that State together with a copy of the certificate referred to in Article 103, paragraph 1 of this Act.

(2) Upon the request of the third Member State, the court referred to in Article 5 shall transmit a translation of the certificate referred to in Article 103, paragraph 1 into one of the languages indicated in the request.

(3) If the third Member State cannot guarantee that the sentenced person will not be prosecuted, detained or otherwise subjected to any restriction of his or her liberty in its territory for any offence committed or any sentence imposed before his or her departure from the territory of the Republic of Croatia, the court may withdraw its request.

(4) If an unscheduled landing occurs in the case of transport by air, the court shall transmit the documentation referred to in paragraph 1 of this Article to the competent court of the Member State where the landing occurred within a period no longer than 72 hours.

Consent procedure

Article 110

The competent court referred to in Article 5, paragraph 1 of this Act shall decide on giving consent to the executing State for the conducting of a criminal proceeding or for the execution of a custodial sentence for an offence committed prior to surrender in accordance with the provisions of Article 41 of this Act.

Obligation to inform

Article 111

The court shall without delay notify a competent authority of the executing State of any decision or measure as a result of which the sentence ceased to be enforceable immediately or within a certain period of time.

TITLE VIII

RECOGNITION AND ENFORCEMENT OF JUDGMENTS AND PROBATION DECISIONS

Scope

Article 112

(1) The provisions of this Title shall apply only to:

1. recognition of a judgment imposing a custodial sentence or measure involving deprivation of liberty when the conditional release of the sentenced person is granted, and of a judgment imposing a suspended or conditional sentence or alternative sanction;
2. recognition of probation decisions;
3. the transfer of responsibility for the supervision of probation measures and alternative sanctions;
4. any other decision of the competent authorities related to those under items 1 to 3 of this paragraph.

(2) The provisions of this Title on the procedure for forwarding a judgment and a probation decision brought by domestic courts, together with the certificate referred to in Article 125, paragraph 1 of this Act, shall apply to the competent authorities of the Member States for the purpose of their enforcement.

Competence for recognition of judgments and probation decisions

Article 113

(1) For offences other than those listed in Article 10 of this Act, the court referred to in Article 7 of this Act shall recognise a judgment and probation decision for acts which constitute an offence under domestic law, regardless of the statutory description and the legal classification of the offence in the received decision.

(2) The court within whose territory the sentenced person had the last known residence or where members of his or her family have residence is competent for the recognition of the judgments and probation decision in accordance with paragraph 1 of this Article.

(3) If a competent court cannot be established according to the provision of paragraph 2 of this Article, the competent court shall be determined by the Supreme Court of the Republic of Croatia, among courts competent in this subject.

Competence for the enforcement of judgments and probation decisions

Article 114

(1) The municipal court within whose territory the sentenced person had the last known residence or where members of his family have residence shall decide on the application to the sentenced person of the probation measures and alternative sanctions imposed:

1. by the recognised foreign judgment or probation decision imposing suspended sentence and certain probation measures;
2. by the recognised foreign judgment or probation decision imposing conditional sentence and certain probation measures;
3. by the recognised foreign judgment imposing an alternative sanction of community service.

(2) The county court within whose territory the sentenced person had the last known residence or where members of his family have residence shall decide on the application to the sentenced person of the custodial sentence or any measure involving deprivation of liberty imposed by a final decision on the recognition of a judgment or probation measure, granting conditional release of the sentenced person.

Recognition and enforcement of judgments and probation decisions

Article 115

(1) After receiving a judgment or probation decision with the certificate referred to in Article 129, paragraph 1 of this Act, the court referred to in Article 5, paragraph 1 shall verify that:

1. the sentenced person is lawfully and ordinarily residing in the Republic of Croatia, in cases where he or she has returned or wishes to return to the Republic of Croatia;
2. if the sentenced person has requested that the judgment or probation measure be forwarded to the competent authorities of the Republic of Croatia, where the condition referred to in item 1 of this paragraph does not exist, the ministry competent for justice gave consent for such forwarding.

(2) When deciding on the consent referred to in paragraph 1, item 2 of this Article for forwarding a judgment or a probation decision to the Republic of Croatia for the purpose of recognition and enforcement, the ministry competent for justice shall in particular take into account the facilitation of social rehabilitation and the successful reintegration of the sentenced person into society.

(3) In the cases referred to in paragraphs 1 and 2 of this Article, the court or the ministry competent for justice shall establish the residence of the sentenced person or members of his or her family in the Republic of Croatia, if he or she owns any immovable property in the Republic of Croatia, and other personal and social circumstances which connect the sentenced person with the Republic of Croatia.

(4) The competent court may request an issuing State to transmit the judgment or probation decision brought in that State, accompanied with the original certificate.

(5) After the procedure in accordance with paragraphs 1 to 4 of this Article, the court shall without delay decide on recognition of a foreign judgment or probation decision, unless it decides to invoke one of the grounds for refusing recognition and execution of the judgment or probation decision referred to in Articles 121 and 122 of this Act.

(6) The court shall forward a decision on recognition of a foreign judgment or probation decision to the competent court referred to in Article 114 of this Act, within eight days of the decision becoming final.

Postponement of recognition of the judgment or probation decision

Article 116

The court shall postpone the recognition of the judgment or probation decision if the certificate is incomplete or manifestly does not correspond to the judgment, and shall set a time limit of no longer than seven working days for the issuing State to complete or correct the certificate.

Types of probation measures and alternative sanctions

Article 117

On the basis of the recognised judgment or probation decision, the competent domestic authority shall apply those types of probation measures and alternative sanctions which are prescribed by the criminal law of the Republic of Croatia.

Adaptation of probation measures and alternative sanctions

Article 118

(1) If the probation measure or alternative sanction imposed by the foreign judgment or probation decision is incompatible in its nature, duration or in the duration of the probation period with domestic law, the court referred to in Article 113 of this Act shall adapt it by imposing on the sentenced person a probation measure or alternative sanction or by determining the duration of the probation period prescribed under domestic law for the same or similar offence, which shall correspond as far as possible to that imposed by the issuing State.

(2) If the probation measure or alternative sanction referred to in paragraph 1 of this Article exceeds the maximum duration provided for under domestic law, the court referred to in Article 113 of this Act shall adapt it by imposing a probation measure or alternative sanction or by determining a probation period for the maximum period prescribed under domestic law for the same or similar offence.

(3) The adapted probation measure, alternative sanction or probation period imposed by the court referred to in Article 113 of this Act, according to paragraph 1 of this Article shall not be more severe or longer than the probation measure, alternative sanction or probation period imposed by the issuing State.

(4) The probation measure or alternative sanction imposed by the decision brought as a result of the procedure referred to in paragraphs 1 to 3 of this Article shall not be executed if the court referred to in Article 114 of this Act, before it begins the execution of the probation measure or alternative sanction, receives the notification referred to in Article 130, paragraph 2, item 1 of this Act.

Time limit

Article 119

(1) The court shall, as soon as possible and within sixty days of receipt of the judgment or probation decision together with the certificate, bring a final decision on recognition of a foreign judgment or probation decision, unless it decides to postpone recognition in accordance with Article 116 of this Act, and a final decision to apply to the sentenced person probation measures and alternative sanctions.

(2) The sentenced person and the competent state attorney may appeal against decision on recognition of the judgment within eight days from the date this decision was served on them. The higher court must decide upon this appeal within fifteen days.

(3) The court shall notify the competent authority of the issuing State of an exceptional case when it is not practicable to comply with the time limit referred to in paragraph 1 of this Article, giving the reasons for the delay and the estimated time needed for the final decision to be brought.

Grounds for refusing recognition and execution

Article 120

(1) The court shall refuse to recognise the judgment or probation decision and to execute probation measures and alternative sanctions if:

1. the certificate referred to in Article 129, paragraph 1 is incomplete or manifestly does not correspond to the judgment or probation decision and has not been completed or corrected according to Article 116 of this Act.;
2. the criteria set out in Article 115, paragraph 1 are not met;
3. recognition of the judgment or probation measure and execution of the probation measure or alternative sanction would be contrary to the principle of *ne bis in idem*;
4. the probation measure or alternative sanction has been imposed on a person who has not reached the age of 14 at the time the offence was committed.

Optional grounds for refusing recognition and execution

Article 121

(1) The court may, taking into account the purpose of the probation measures and alternative sanctions, especially the need to protect the community from the criminal offender by influencing criminogenic factors and facilitating his or her social rehabilitation and successful reintegration into society, refuse to recognise the judgment or probation decision and to execute probation measures and alternative sanctions if:

1. the offence referred to in Article 113, paragraph 1 of this Act on which the judgment or probation decision is based does not constitute an offence under domestic law; however, in relation to fiscal offences, the execution of a judgment or probation decision shall not be refused on the ground that domestic law does not impose the same kind of tax or duty or does not contain the same type of rules on taxes, duties and customs and exchange regulations as the law of the issuing State;
2. the execution of the probation measure or alternative sanction is statute-barred

according to domestic law;

3. there is immunity under domestic law which makes it impossible to execute the probation measure or alternative sanction;

4. the judgment or the probation decision provides for a measure of psychiatric or health care which cannot be executed in the Republic of Croatia in accordance with Article 118 of this Act;

5. the probation measure or alternative sanction is of less than six months' duration or less than six months of the sanction remain to be executed;

6. the judgment or probation decision relates to offences which under domestic law are regarded as having been committed wholly or for a major or essential part within the Republic of Croatia, or in a place equivalent to its territory; in relation to those offences, the court shall take into account the specific circumstances of the case, and in particular whether a major or essential part of the conduct in question took place in the issuing State;

7. according to the certificate referred to in Article 129, paragraph 1 of this Act, the sentenced person concerned did not appear personally in the proceedings resulting in the judgment or probation decision, unless the certificate states that, in accordance with the procedural requirements of the issuing State:

- the sentenced person was informed personally of the time and place of the hearing resulting in the rendering of the judgment, or that he or she received official notification thereof in such a way that it is clear that the person concerned had knowledge of the time and place of the hearing, and had been informed of the possibility of a judgment being rendered in his or her absence in the case of a failure to attend the hearing;

- the sentenced person was represented in the hearing by an authorised defence counsellor or a defence counsellor appointed by the court;

- the sentenced person, after being served personally with the judgment or probation decision rendered in his or her absence, along with an instruction that he or she has the right to a retrial or an appeal, based on which proceedings shall be held in which he or she shall have the right to participate, in which the facts found shall be reassessed and new evidence presented, which might lead to a revision of the judgment or probation decision concerned, stated expressly that he or she does not dispute the judgment or probation decision rendered in his or her absence, or has not requested a retrial or submitted an appeal within the stipulated time limit;

(2) The court may, regardless of the existence of grounds for refusing recognition and execution of the judgment or probation decision listed in paragraph 1 of this Act, in agreement with the competent authority of the issuing State, recognise and execute the foreign judgment or probation decision in accordance with Article 115 of this Act, provided that that court does not have jurisdiction to take subsequent decisions referred to in Article 122 of this Act.

Subsequent decisions

Article 122

(1) Subsequent decisions are decisions which a court takes according to domestic law relating to the execution of final decisions on the recognition and execution of a foreign judgment or probation decision referred to in Article 112, paragraph 1, items 1 and 2 of this Act, if:

1. the sentenced person does not comply with a probation measure or alternative sanction;
2. the sentenced person commits a new criminal offence.

(2) The subsequent decisions includes notably:

1. the modification of obligations or instructions contained in the probation measure or alternative sanction;
2. the modification of the duration of the probation period;
3. the revocation of the suspension of the execution of the judgment or the revocation of the decision on conditional release;
4. the imposition of a custodial sentence or measure involving deprivation of liberty in the case of the revocation of an alternative sanction or conditional sentence.

(3) The court shall not take the subsequent decisions referred to in paragraph 2, items 3 and 4 in cases of:

1. the revocation of an alternative sanction imposed by a judgment or probation decision which does not contain the imposition of a custodial sentence or measure involving deprivation of liberty to be enforced in the case of non-compliance with the obligations or instructions concerned;
2. the subsequent imposition of a custodial sentence in the case of a conditional sentence;
3. the execution of a judgment based on acts which do not constitute an offence under domestic law, whatever its constituent elements or however it is described, except for the offences listed in Article 10 of this Act.

(4) Paragraph 3 of this Article shall apply without prejudice to the obligation of the court to recognise and execute a foreign judgment or probation decision in accordance with Article 115 of this Act.

(5) The court shall without delay inform the competent authority of the issuing State that it will not take a subsequent decision in accordance with paragraph 3. If the court finds that the competent authority of the issuing State should take any subsequent decision in the cases referred to in paragraph 2, items 3 and 4 of this Act, it shall bring a ruling on the transfer of competence to the competent authority of the issuing State.

Competence to take subsequent decisions and governing law

Article 123

(1) The court that is competent for the execution of probation measures or alternative sanctions according to Articles 7 and 114, paragraph 2 of this Act is competent to take any subsequent decision referred to in Article 122 of this Act.

(2) The provisions of domestic law shall apply to the decisions referred to in Article 122 of this Act and to all subsequent consequences of these decisions including the enforcement and the adaptation of a custodial sentence or measure involving the deprivation of liberty imposed by a foreign judgment or probation decision, with sanctions for the same and similar offences under domestic law.

Competence of the issuing State to take subsequent decisions

Article 124

(1) If the competent authority of the issuing State is competent to take the subsequent decision referred to in Article 122, paragraph 3 of this Act, the court shall without delay notify that authority of:

1. any finding which is likely to result in the revocation of the suspension of the execution of the judgment or the revocation of the decision on conditional release;
2. any finding which is likely to result in the imposition of a custodial sentence or measure involving deprivation of liberty;
3. all further facts and circumstances which the competent authority of the issuing State requests to be provided and which are essential to allow it to take a subsequent decision in accordance with its national law.

(2) In the cases referred to in Article 122, paragraph 2 of this Act, the court shall notify the competent authority of the issuing State in the event of the sentenced person's non-compliance with the probation measures and alternative sanctions.

(3) The notice of the findings referred to in paragraph 1 and 2 of this Article shall be given on the standard form set out in Annex 9 to this Act, and in particular notice of findings referred to in paragraph 1, item 3 of this Article shall be given by any means capable of producing a written record.

(4) If, under the national law of the issuing State, the sentenced person must be given a judicial hearing before a decision is taken on the imposition of a sentence, the court shall, upon the request of the competent authority of the issuing State, provide the opportunity for a video link for the hearing of the person, in accordance with domestic law, international agreements and European Union law.

Obligation to inform

Article 125

(1) The court shall without delay, by any means capable of producing a written record, notify the competent authority of the issuing State:

1. that after receiving the judgment or probation decision together with the certificate referred to in Article 129, paragraph 1, the sentenced person cannot be found on the territory of the Republic of Croatia;
2. of the final decision to recognise the judgment or probation decision and of the decision to apply to the sentenced person a probation measure or alternative sanction;
3. of any decision refusing the recognition and execution of a foreign judgment or probation decision in accordance with Articles 120 and 121 of this Act and the reasons for such a decision;
4. of any decision taken in accordance with Article 122 of this Act and the reasons for such a decision;
5. of any legal obstacles referred to in Article 16 of this Act for the execution of the probation measures and alternative sanctions brought in accordance with Article 118 of this Act

(2) In cases where the court takes the subsequent decision referred to in Article 122 of this

Act, it shall without delay, by the means referred to in paragraph 1 of this Article, notify the competent authority of the issuing State of all decisions on the:

1. modification of the probation measure or alternative sanction;
2. revocation of the suspension of the execution of the judgment or the revocation of the decision on conditional release;
3. enforcement of a custodial sentence or measure involving deprivation of liberty, due to non-compliance with a probation measure or alternative sanction;
4. enforcement of a custodial sanction for a duration proportional to the period of the non-executed alternative sanction;
5. lapsing of a probation measure or alternative sanction.

(3) After receiving the judgment or probation decision together with the certificate referred to in Article 129, paragraph 1 of this Act, upon the request of the competent authority of the issuing State the court shall immediately notify it of the maximum duration of the deprivation of liberty foreseen under domestic law for the same or similar offence that could be imposed on the sentenced person in the case of his or her non-compliance with a probation measure or alternative sanction.

Transfer of competence

Article 126

(1) If the sentenced person has escaped or no longer resides in the Republic of Croatia, the court competent for the execution of the probation measures or alternative sanctions in accordance with Article 7 and 114, paragraph 2 of this Act shall bring a ruling on the transfer of competence for the supervision of the execution of probation measures and alternative sanctions and for taking any subsequent decision to the competent authority of the issuing State.

(2) If new criminal proceedings against the person concerned are taking place in the issuing State and the competent authority of that State requests that the court brings a ruling on the transfer of competence for the supervision of the execution of probation measures and alternative sanctions and for taking any subsequent decisions, the court shall decide upon such a request by taking into account all the relevant circumstances and in particular the seriousness of the offence for which the new proceeding is being conducted and the duration of the period left for the probation measures and alternative sanctions to be served.

Co-operation with the competent authorities of the Member States

Article 127

(1) For the purpose of the efficient application of this Title of the Act, the court may consult a competent authority of the Member State whenever in a particular case it requires additional information or other assistance.

(2) In the cases referred to in Article 120, paragraph 1, items 1 to 3 and Article 121, paragraph 1, items 4, 5 and 7, before deciding not to recognise the judgment or probation decision and to execute a probation measure or alternative sanction, the court shall consult the competent authority of the issuing State and shall, where appropriate, ask it to supply additional information, within time limit no longer than seven working days.

Criteria for forwarding the judgment and probation decision

Article 128

(1) The domestic court which brings a judgment imposing a suspended sentence, conditional sentence or alternative sanction, within whose territory the conditionally released person has his or her residence, as well as the executing judge, shall transmit the judgment or probation decision to the court referred to in Article 5, paragraph 1 of this Act for the purpose of initiating a procedure for forwarding the judgment or probation decision with the certificate to:

1. the competent authority of the Member State in which the sentenced person is lawfully and ordinarily residing, in cases where he or she has returned or wants to return to that State;
2. the competent authority of the Member State other than the Member State referred to in item 1 of this paragraph, upon the request of the sentenced person provided that the State in question consents to such forwarding.

(2) The court shall forward the judgment or the probation decision to the executing State if it establishes that the enforcement of the sentence by the executing State would serve the purpose of facilitating the social rehabilitation of the sentenced person and the more efficient application of the probation measures and alternative sanctions imposed.

Procedure for forwarding a judgment and a probation decision

Article 129

(1) The court referred to in Article 5, paragraph 1 of this Act shall forward the judgment or the probation decision or a certified copy of it, together with the certificate for which the standard form is given in the Annex 8 of this Act, directly to the competent authority of the executing State by means capable of producing a written record.

(2) The court shall fill out the certificate, sign it and certify its content as accurate.

(3) A judgment with a certificate shall be forwarded to only one executing State at any one time.

Consequences of forwarding a judgment or probation decision

Article 130

(1) When the court referred to in Article 5, paragraph 1 receives notification of the final decision made by a competent authority of the executing State to recognise and execute the probation measure or alternative sanction imposed by the forwarded judgment or probation decision, domestic authorities cease to be competent for the enforcement of those probation measures and alternative sanctions and for taking any subsequent decisions referred to in Article 122 of this Act.

(2) Notwithstanding paragraph 1 of this Article, domestic authorities shall be competent for the enforcement of those probation measures and alternative sanctions and for taking any subsequent decisions referred to in Article 122 of this Act when:

1. the court referred to in Article 5, paragraph 19 of this Act, upon receiving the notification referred to in Article 125, paragraph 1, item 4 and paragraph 3 of this Act, decides to withdraw the certificate referred to in Article 129, paragraph 1 of this Act and notifies the competent authority of the executing State thereof;
2. the competent authority of the executing State is not competent to take the subsequent decision according to Article 122, paragraph 5 of this Act;
3. the competent authority of the executing State ceases to be competent for the enforcement of probation measures and alternative sanctions in relation to Article 126 of this Act.

Obligations of the competent domestic court

Article 131

(1) The court referred to in Article 5, paragraph 1 of this Act shall, without delay, by any means capable of producing a written record, notify the competent authority of the issuing State of any circumstances which it finds could lead to the decision referred to in Article 125, paragraph (2), items 1 to 4 of this Act.

(2) In the cases referred to in Article 130, paragraph 2, item 2 of this Act, a domestic court competent to take the subsequent decisions referred to in Article 122 of this Act under domestic law shall without delay notify the competent authority of the issuing State of all decisions on:

1. the revocation of the suspension of the execution of the judgment or the revocation of the decision on conditional release;
2. the enforcement of the custodial sentence or measure involving deprivation of liberty which is contained in the judgment;
3. the imposition of a custodial sentence or measure involving deprivation of liberty which is not contained in the judgment;
4. the lapsing of the probation measure or alternative sanction.

(3) If new criminal proceedings are being conducted in the Republic of Croatia against the person who, in the State of his permanent or temporary residence, is serving a probation measure or alternative sanction imposed by a judgment or probation decision which was transmitted in accordance with Article 128, paragraph 1 of this Act, the court before which the new proceedings are being conducted may, upon the consent of the court referred to in Article 128, paragraph 1 of this Act, request the transfer of competence for the supervision of the execution of probation measures and alternative sanctions and for the taking of any subsequent decision from the competent authority of the executing State.

(4) When the competent authority of the executing State transfers competence in accordance with paragraph 3 of this Article or in accordance with Article 126, paragraph 1 of this Act, the domestic court shall take over competence with respect to:

- the duration and degree of execution of the probation measure or alternative sanction in the executing State;
- all subsequent decisions taken by the executing State.

TRANSITIONAL AND FINAL PROVISIONS

Application of the provisions of other Acts

Article 132

For all cases not covered by the provisions of this Act, the relevant provisions of the Act on Mutual Legal Assistance in Criminal Matters, the Criminal Procedure Act, the State Attorney's Office Act, the Act on the Office for the Suppression of Corruption and Organised Crime, the Courts Act, the Juvenile Courts Act, the Act on Execution of Custodial Sentences, the Act on Execution of Sanctions Imposed on Juveniles for Criminal Offences and Misdemeanours, the Probation Act and the Execution Act shall apply.

Entry into force

Article 133

This Act shall be published in the *Official Gazette of the Republic of Croatia*, and shall enter into force on the date of the accession of the Republic of Croatia to the European Union.