

# THE CROATIAN PARLIAMENT

2498

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

## DECISION

### PROMULGATING THE CRIMINAL ACT

I hereby promulgate the Criminal Act, passed by the Croatian Parliament at its session on 21 October 2011.

Class: 011-01/11-01/186

No.: 71-05-03/1-11-2

Zagreb, 26 October 2011

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

## CRIMINAL ACT

### GENERAL PART

#### TITLE I

#### BASIC PROVISIONS

##### **Basis and Limits of Criminal-Law Compulsion**

###### Article 1

Criminal offences and criminal-law sanctions shall be prescribed only for such conduct whereby personal freedoms and rights of man as well as other rights and social values guaranteed and protected by the Constitution of the Republic of Croatia and international law are violated or jeopardized in such a manner that it would not be possible to achieve their protection without criminal-law coercion.

##### **Principle of Legality**

###### Article 2

Neither may punishment be imposed on anyone for an act which prior to its commission is not defined as a criminal offence under national or international law nor may a penalty or some other criminal-law sanction not prescribed by law be imposed upon him/her.

**Principle of *Lex Mitior* and  
Temporal Validity of Criminal Legislation**

Article 3

(1) The act in force at the time a criminal offence is committed shall be applied to the person who committed the criminal offence.

(2) If the act is altered one or more times after the criminal offence is committed but before a judgment having the force of *res judicata* is passed, the act which is the least severe in relation to the perpetrator shall be applied.

(3) Where in cases referred to in paragraph 2 of this Article the name or description of a criminal offence is modified, the court shall examine whether there is legal continuity by subsuming the factual situation in question under the statutory definition of the corresponding criminal offence from the new act. Where it establishes that legal continuity exists, it shall apply the act that is less severe with respect to the perpetrator. There shall be no criminal offence where there is no legal continuity.

(4) If an act is modified at the time of commission of a criminal offence, the act in force at the time of completion of the offence shall be applied.

(5) Unless otherwise provided for by law, an act in force only for a limited period of time shall be applied to criminal offences committed during this time period even after it ceases to apply.

**Principle of Guilt**

Article 4

No one may be punished unless he/she is guilty of the committed criminal offence.

**Principle of Confiscation of Pecuniary Advantage**

Article 5

No one may retain a pecuniary advantage acquired through illegal means.

**TITLE II**

**APPLICATION OF CRIMINAL LEGISLATION OF THE REPUBLIC OF CROATIA**

**Application of the General Part of the Criminal [Offence Act](#)**

Article 6

The provisions of the General Part of this Act shall refer to criminal offences provided for by this Act and other acts.

### **Application of Criminal Legislation to Juveniles**

#### Article 7

(1) Criminal legislation shall not be applied to a child who at the time of commission of the criminal offence has not turned 14.

(2) Unless otherwise provided by a special act, this Act shall be applied to a person who at the time of commission of the criminal offence turned 14 but is not yet age 21.

### **Time of Commission of the Criminal Offence**

#### Article 8

(1) A criminal offence is deemed to have been committed at the time when the perpetrator commits an act or should have committed an act, irrespective of when the consequence specified in the statutory description of the criminal offence arises.

(2) Where the perpetrator's activity consists of several temporally isolated acts, the act is deemed to have been committed on the day of the last act, while in the case of a criminal offence consisting of a continuing act, it is deemed to have been committed on the day on which the act was terminated.

### **Place of Commission of the Criminal Offence**

#### Article 9

(1) A criminal offence is deemed to have been committed in the place where the perpetrator acted or ought to have acted and in the place where the consequence specified in the statutory description of the criminal offence arose in its entirety or in part or in which the perpetrator intended it to arise.

(2) In the case of participation in a criminal offence, a criminal offence is deemed to have been committed in the place specified in paragraph 1 of this Article and in the place where any of the participants acted or ought to have acted or where he/she intended the consequence specified in the statutory description of the criminal offence to arise.

### **Application of Criminal Legislation to Criminal Offences Committed in the Territory of the Republic of Croatia**

#### Article 10

The criminal legislation of the Republic of Croatia shall be applied to anyone who commits a criminal offence in its territory.

### **-Application of Criminal Legislation to Criminal Offences Committed Aboard a Vessel or Aircraft of the Republic of Croatia**

#### Article 11

The criminal legislation of the Republic of Croatia shall also be applied to anyone who commits a criminal offence aboard a national vessel or ~~an~~ aircraft, irrespective of where the vessel or the aircraft is located at the time the criminal offence was committed.

**Particularities Concerning the Institution of Criminal Proceedings for Criminal Offences Committed in the Territory of the Republic of Croatia, Aboard its Vessel or Aircraft**

Article 12

(1) Where, in the case of application of the criminal legislation of the Republic of Croatia pursuant to the provisions of Articles 10 and 11 of this Act, criminal proceedings in a foreign country have ended with a judgment having the force of *res judicata*, criminal proceedings in the Republic of Croatia shall be instituted upon authorisation from the State Attorney.

(2) Criminal proceedings for the purpose of applying the criminal legislation of the Republic of Croatia pursuant to the provisions of Articles 10 and 11 of this Act shall not be instituted against the perpetrator of a criminal offence which, besides in the territory of the Republic of Croatia, was also committed in the territory of a signatory state to the Convention implementing the Schengen Agreement, in which country the criminal proceedings for this criminal offence have ended with a judgment having the force of *res judicata*.

**Application of Criminal Legislation to Criminal Offences Committed against a Legal Interest of the Republic of Croatia outside its Territory**

Article 13

The criminal legislation of the Republic of Croatia shall be applied to anyone who, outside its territory, commits:

1. a criminal offence against the Republic of Croatia provided for in Title XXXII of this Act,
2. the criminal offence of counterfeiting money, securities and value signs of the Republic of Croatia as defined in Articles 274, 275 and 276 of this Act,
3. a criminal offence against a Croatian state official or a government employee relating to his/her office,
4. a criminal offence of false testimony referred to in Article 305 of this Act if the false testimony was given in proceedings before Croatian competent authorities,
5. criminal offences against the right to vote referred to in Title XXXI of this Act,
6. a criminal offence referred to in Articles 193, 194, 196, 197 and 198 of this Act when committed in the ~~protected~~ ecological and fisheries protection zone, epicontinental belt or in open sea.

**Application of Criminal Legislation to Criminal Offences Committed Outside the Territory of the Republic of Croatia by its Citizens**

Article 14

(1) The criminal legislation of the Republic of Croatia shall be applied to a Croatian citizen or a person with permanent residence in the Republic of Croatia who outside the territory of the Republic of Croatia commits a criminal offence other than those established in accordance with the provisions of Articles 13 and 16 of this Act, provided the criminal offence in question is also punishable under the law of the country in which it was committed.

(2) The provision of paragraph 1 of this Article shall also be applied to cases where the perpetrator acquires Croatian citizenship after having committed the criminal offence.

(3) In cases referred to in paragraphs 1 and 2 of this Article, with respect to criminal offences referred to in Article 115, paragraphs 3 and 4, and Articles 116, 153, 154, 158, 161, 162, 163, 164, 166 and 169 of this Act and other criminal offences provided for by international treaties to which the Republic of Croatia is a party, the criminal legislation of the Republic of Croatia shall also be applied to cases where the criminal offence is not punishable under the law of the country in which it was committed.

(4) Where a Croatian citizen participates in peacekeeping operations or other international activities outside of the territory of the Republic of Croatia and commits in such operations or activities a criminal offence, the application of the legislation of the Republic of Croatia shall be governed by the provisions of this Act, unless otherwise provided by an international treaty to which the Republic of Croatia is a party.

#### **Application of Criminal Legislation to Criminal Offences Committed against the Citizens of the Republic of Croatia Outside its Territory**

##### Article 15

(1) The criminal legislation of the Republic of Croatia shall be applied to an alien who outside the territory of the Republic of Croatia commits a criminal offence other than those established in accordance with the provisions of Articles 13 and 16 of this Act against a citizen of the Republic of Croatia, a person with a permanent residence in the Republic of Croatia or a legal person registered in the Republic of Croatia, provided the criminal offence in question is also punishable under the law of the country in which it was committed.

(2) In the case referred to in paragraph 1 of this Article, the court may not impose a penalty more severe than the one prescribed by the law of the country in which the criminal offence was committed.

#### **Application of Criminal Legislation to Criminal Offences against Values Protected by International Law, Committed outside the Territory of the Republic of Croatia**

##### Article 16

The criminal legislation of the Republic of Croatia shall be applied to anyone who outside its territory commits any of the criminal offences referred to in Articles 88, 90, 91, 97, 104, 105 and 106 of this Act or a criminal offence which the Republic of Croatia is required to punish under an international treaty also when committed outside the territory of the Republic of Croatia.

#### **Application of Criminal Legislation to Other Criminal Offences Committed outside the Territory of the Republic of Croatia**

##### Article 17

(1) The criminal legislation of the Republic of Croatia shall be applied to an alien who outside the territory of the Republic of Croatia commits a criminal offence for which a sentence of imprisonment of five years or a more severe punishment may be imposed under the Croatian law, where this does not concern the cases referred to in Articles 13 through 16 of this Act, provided the criminal offence in question is also punishable under the law of the country in which it was committed and that the extradition of the perpetrator is permitted under the law or an international treaty but has not come to pass.

(2) With respect to the case referred to in paragraph 1 of this Article, the court may not pronounce a sentence that is more severe than the one provided for by the law of the country in which the criminal offence was committed.

### **Particularities Concerning the Institution of Criminal Proceedings for Criminal Offences Committed outside the Territory of the Republic of Croatia**

#### Article 18

(1) Where, in the case of application of the criminal legislation in the Republic of Croatia pursuant to provisions of Article 13 of this Act, criminal proceedings have ended with a judgment having the force of *res judicata* in a foreign country, the State Attorney [General](#) may desist from criminal prosecution.

(2) In cases referred to in Articles 14, 15 and 17 of this Act, criminal proceedings for the purpose of applying the criminal legislation of the Republic of Croatia shall not be instituted:

1. if the *res judicata* sentence has been carried out or is in the process of being carried out or can no longer be carried out under the law of the country in which the person was convicted,

2. if the perpetrator has been acquitted by a judgment having the force of *res judicata* in a foreign country or if he/she has been granted pardon under the law of the country in which he/she committed the criminal offence,

3. if under the law of the country in which the criminal offence was committed, the criminal offence in question is prosecuted on the basis of a motion or private action, and such motion or private action have not been filed, or the statute of limitations for criminal prosecution has expired.

(3) In the case referred to in Article 16 of this Act, criminal proceedings for the purpose of applying criminal legislation of the Republic of Croatia may be instituted provided that criminal prosecution has not been initiated before the International Criminal Court or a court of another country or that just proceedings before a court of the country in which the criminal offence was committed, a court of the country of which the perpetrator is a citizen or another court with jurisdiction to adjudicate cannot be expected. If criminal proceedings were carried out in another country contrary to internationally recognised standards of just adjudication, criminal proceedings may be instituted only with the authorisation from the State Attorney [General](#).

(4) In the case referred to in Articles 14, 15, 16 and 17 of this Act criminal proceedings shall be instituted only if the perpetrator is located in the territory of the Republic of Croatia.

### **Crediting Time Spent Deprived of Liberty and Criminal-Law Sanctions Executed in a Foreign Country**

#### Article 19

Where criminal legislation of the Republic of Croatia is applied, time spent in custody, remand or serving one's sentence, as well as any other deprivation of liberty in a foreign country shall be credited towards the length of the pronounced sentence of imprisonment handed down by a national court for the same criminal offence. Other executed criminal-law sanctions shall be credited according to a just assessment by the court.

### **TITLE III**

#### **CRIMINAL OFFENCE**

##### **Manner of Committing a Criminal Offence**

###### **Article 20**

(1) A criminal offence may be committed by acting or by omitting to act.

(2) Whoever fails to avert the consequence of a criminal offence described under the law shall be liable for omitting to act if he/she is legally bound to avert such a consequence and if the omission to act is by its effects and meaning tantamount to committing the said act by acting.

(3) A perpetrator who has committed a criminal offence by omitting to act may be punished less severely, unless the criminal offence in question can be committed only by omission to act.

##### **Self-Defence**

###### **Article 21**

(1) An act committed in self-defence shall not be unlawful.

(2) A defence is deemed self-defence if it is absolutely necessary in order to avert a coinciding or imminent unlawful attack on oneself or another.

(3) A perpetrator who exceeds the limits of self-defence may be punished less severely.

(4) Whoever exceeds the limits of self-defence shall not be guilty if he/she has done so by reason of excusable great fear caused by the attack.

##### **Necessity**

###### **Article 22**

(1) An act committed in order to avert from oneself or from another a coinciding danger which could not have been averted in any other way, provided that the harm resulting therefrom does not exceed the harm threatened, shall not be considered unlawful.

(2) Whoever commits an unlawful act in order to avert from himself/herself or from another a coinciding danger not brought on by himself/herself, which danger could not have been averted in any other way, provided that the resulting harm was not disproportionately greater than the harm threatened and that he/she was not required to expose himself/herself to the danger, shall not be guilty. If such a person was required to expose himself/herself to the danger, he/she may be punished less severely.

(3) If the perpetrator was under an avoidable delusion about the circumstances referred to in paragraph 2 of this Article which exclude guilt, he/she shall be punished according to the rules on negligence where the law prescribes punishment for the commission of an offence by negligence.

##### **Elements of Guilt**

###### **Article 23**

Shall be guilty of a criminal offence a perpetrator who at the time of commission of the criminal offence was of sound mind, acted with intent or by negligence, was conscious or ought to and could have been conscious of the fact that his/her act was prohibited, provided there is no excusable reason.

### **Mental Incompetence**

#### **Article 24**

(1) A mentally incompetent person is not guilty and cannot be imposed punishment.

(2) A mentally incompetent person is a person who at the time of commission of an unlawful act was incompetent of comprehending the meaning of his/her actions or of exercising control over his/her will due to mental illness, temporary mental disorder, insufficient mental development or some other graver mental handicap.

(3) The provisions of the Act on the Protection of Persons with Mental Handicaps shall apply to a person who committed an unlawful act in a state of mental incompetence.

(4) A mentally incompetent person may be imposed a safety measure barring him/her from holding a particular office or engaging in a particular activity, from driving a motor vehicle, from approaching a person, directing him/her to remove himself/herself from the shared household or barring him/her from accessing the internet.

### **Self-Induced Mental Incompetence**

#### **Article 25**

Shall not be deemed mentally incompetent a perpetrator who by reason of alcohol or drug abuse or otherwise, through his/her own fault, brought himself/herself into a state in which he/she was incapable of comprehending the meaning of his/her actions or of exercising control over his/her will, provided that at the time he/she was bringing himself/herself into such a state, the criminal offence he/she committed was covered by his/her intent or he/she was negligent with respect to this criminal offence and that the law also prescribes punishability for this form of guilt.

### **Substantially Diminished Mental Competence**

#### **Article 26**

A perpetrator who at the time of commission of a criminal offence was by reason of a state referred to in Article 24, paragraph 2, of this Act of a substantially diminished mental competence may be punished less severely provided that substantially diminished mental competence was not self-induced pursuant to Article 25 of this Act.

### **Punishability for Acting Intentionally and Negligently**

#### **Article 27**

(1) Acting with intent to commit a criminal offence shall be punishable. Acting negligently is punishable only when expressly prescribed by law.



(2) A more severe penalty prescribed by law for a more severe consequence of a criminal offence may be imposed where the perpetrator acted at least negligently with regard to this consequence.

### **Intent**

#### Article 28

(1) A criminal offence may be committed with direct (*dolus directus*) or indirect intent (*dolus eventualis*).

(2) A perpetrator is acting with direct intent when he/she is aware of the elements of a criminal offence and wants or is certain of their realisation.

(3) A perpetrator is acting with indirect intent when he/she is aware that he/she is capable of realising the elements of a criminal offence and agrees to this.

### **Negligence**

#### Article 29

(1) A criminal offence may be committed by reckless conduct or by unconscious negligence.

(2) A perpetrator is acting recklessly when he/she is aware that he/she can realise the elements of a criminal offence but foolishly believes that this will not occur or that he/she will be able to prevent this from occurring.

(3) A perpetrator is acting with unconscious negligence when he/she is not aware that he/she can realise the elements of a criminal offence, although under the circumstances he/she ought to and, by reason of his/her personal characteristics, could have been aware of this possibility.

### **Mistake as to the Elements Constituting an Offence**

#### Article 30

(1) Whoever at the time of commission of an offence is not aware of one of its statutory elements is not acting with intent.

(2) If the mistake referred to in paragraph 1 was avoidable, the perpetrator shall be punished for negligence where the law also prescribes punishment for the commission of an offence by negligence.

### **Mistake of Fact Justifying an Offence**

#### Article 31

(1) Who at the time of commission of an offence mistakenly believed that there existed circumstances under which the offence would have been allowed, shall not be punished for intentionally committing the offence.

(2) If the mistake referred to in paragraph 1 of this Article was avoidable, the perpetrator shall be punished according to the rules on negligence where the law for the committed offence also prescribes punishment for negligence.

### **Mistake as to Unlawfulness**

#### Article 32

(1) A perpetrator who at the time of commission of an offence did not know that his/her act is unlawful and was neither required to know nor could have known this, shall not be guilty.

(2) If the mistake referred to in paragraph 1 of this Article was avoidable, the perpetrator may be punished less severely.

#### **Insignificant Offence**

#### Article 33

There shall be no criminal offence although its elements have been realised if the degree of the perpetrator's guilt is low, no consequences ensued from the offence or they were negligible and there is no need for the perpetrator to be punished.

#### **Attempt**

#### Article 34

(1) Whoever, with the intent to commit a criminal offence, performs an act which spatially and temporally directly precedes the realisation of the statutory definition of the criminal offence shall be punished for the attempt, provided that a sentence of imprisonment of five years or a more severe punishment may be imposed or that the law expressly provides for the punishment of an attempt as well.

(2) The perpetrator of an attempt may be punished less severely.

(3) The punishment of a perpetrator who through gross unreasonableness attempts to commit a criminal offence by unsuitable means or towards an unsuitable object may be remitted.

#### **Renunciation**

#### Article 35

(1) The punishment of a perpetrator who voluntarily interrupts the commenced commission of a criminal offence although he/she is aware that according to all the circumstances he/she can complete the act or who, after having completed the act, prevents the occurrence of the consequence may be remitted.

(2) The punishment of a perpetrator who voluntarily performs an act in order to prevent the commission of a criminal offence, which offence remains unfinished for a reason independent of his/her act, may be remitted.

(3) The punishment of an accomplice or participant who voluntarily prevents the commission of a criminal offence or voluntarily performs an act in order to prevent the commission of a criminal offence, which offence remains unfinished for a reason independent of his/her act, may be remitted.

#### **Perpetratorship**

#### Article 36

(1) A perpetrator is a person who by himself/herself or via another person commits a criminal offence.

(2) If on the basis of a joint decision a number of persons commit a criminal offence so that each one of them participates in the carrying out of the act or otherwise substantially contributes to the commission of the criminal offence, each one of them shall be punished as the perpetrator (accomplices).

(3) Negligent liability of accomplices is based on a joint violation of due care.

### **Incitement**

#### **Article 37**

(1) Whoever intentionally incites another to commit a criminal offence shall be punished as if he/she himself/herself has committed it.

(2) Whoever intentionally incites another to commit a criminal offence for which an attempt is punishable, and the act is never even attempted, shall incur the penalty provided for an attempt to commit this criminal offence.

(3) In the case of an inappropriate attempt at incitement, the punishment of the inciter may be remitted.

### **Aiding**

#### **Article 38**

Whoever intentionally aids another in the commission of a criminal offence may be punished less severely.

### **Punishment of Accomplice and Participant**

#### **Article 39**

(1) Every accomplice and participant (inciter and aider) shall be punished according to his/her guilt.

(2) Special personal circumstances by reason of which the law provides for remission or mitigation of punishment or for a less serious or a more serious form of criminal offence shall be taken into account only with respect to the accomplice or participant in whose person they are present.

## **TITLE IV**

### **PUNISHMENTS**

#### **Types of Punishments**

#### **Article 40**

(1) Penalties shall be fines, imprisonment and long-term imprisonment.

(2) The fine may be imposed as a principal sentence or a secondary sentence.

(3) Imprisonment and long-term imprisonment may be imposed only as principal sentences.

(4) When for a certain criminal offence the law prescribes a penalty of imprisonment of up to three years, the court may impose a fine as the principal sentence.

(5) With respect to criminal offences committed out of love of gain, the fine as the secondary sentence may be imposed also when it is not prescribed by law or when the law prescribes that the perpetrator shall be punished with imprisonment or a fine and the court imposes imprisonment as the principal sentence.

(6) Community service shall be imposed as a substitute for imprisonment or a fine.

### **Purpose of Punishment**

#### **Article 41**

The purpose of punishment is to express public condemnation of the crime committed, raise the confidence of citizens in the legal order based on the rule of law, exert an influence on the perpetrator and all others so that they do not commit criminal offences by raising awareness of the perils of committing criminal offences and of the justness of punishment and allow the perpetrator's readmission into society.

### **Fine**

#### **Article 42**

(1) A fine shall be imposed in daily units. It shall equal a minimum of thirty and a maximum of three hundred and sixty daily units, except in the case of criminal offences committed out of love of gain when up to five hundred daily units may be imposed or when the fine of five hundred daily units is expressly prescribed by this Act.

(2) The number of daily units, their amount and the product of their multiplication shall be specified in the judgment.

(3) The number of daily units shall be determined on the basis of circumstances specified in Article 47 of this Act, with the exception of those relating to the pecuniary circumstances of the perpetrator.

(4) The amount of the daily unit shall be determined by taking into consideration the perpetrator's income and property as well as the average costs of supporting the perpetrator and his/her family. A daily unit shall not be set at less than twenty kuna or at more than ten thousand kuna.

(5) The perpetrator's income, property and other data necessary for determining the amount of the daily unit may be determined on the basis of a rough estimate if their determination is linked with incommensurate difficulties or if the motion for the imposition of a fine has been filed in the procedure for the issuance of a criminal order.

(6) The perpetrator shall pay the fine within the time limit imposed by the court, which time limit shall not be shorter than thirty days nor longer than six months. The perpetrator may also be ordered to pay the fine in instalments within a period not exceeding one year. The court may decide that the instalment payment scheme be cancelled if the perpetrator fails to pay an instalment in an orderly manner.

(7) Where the convict is unable to pay the fine in full or in part within the time period specified in the judgment due to a significant deterioration in his/her pecuniary circumstances that occurred through no fault of his/her own after the handing down of the judgement, the court may at his/her request extend the payment deadline.

### **Substitution for Unpaid Fine**

#### Article 43

(1) Where the fine has not been paid in full or in part within the time limit specified in the judgment and the conditions laid down in Article 42, paragraph 7, of this Act have not been met, the fine shall be forcibly collected via the Tax Administration of the Ministry of Finance.

(2) Where the fine cannot even be forcibly collected within a three-month period, the court shall, with the convict's consent, take the decision on the substitution of community service in lieu of a fine at the rate of four hours of community service work for one daily unit, whereby community service work shall not exceed one thousand four hundred and forty hours.

(3) Where the convict does not agree to community service work or does not perform it, imprisonment shall be substituted for a fine, i.e., community service work.

(4) Where imprisonment is substituted for a fine, the court shall substitute one day of imprisonment for one daily unit, while community service work shall be substituted in accordance with the provision of Article 55 of this Act, provided that the term of imprisonment does not exceed twelve months.

(5) If the convict pays the fine after the decision on substitution has become *res judicata*, the execution of the sentence of imprisonment or community service shall be suspended. In the case of partial payment, only the remainder of the said sentences shall be executed.

(6) If a convict who does not have a permanent or temporary place of residence in the Republic of Croatia does not pay the fine within the time limit specified in the judgment, the court shall order imprisonment as a substitute for the fine.

#### **Sentence of Imprisonment**

##### Article 44

(1) The term of a sentence of imprisonment shall not be shorter than three months nor longer than twenty years.

(2) The sentence of imprisonment for a term of up to six months shall be pronounced in full months and days. The sentence of imprisonment for a term exceeding six months shall be pronounced in full years and months, except when applying the provisions on concurrency in which case it may be pronounced in full days as well.

(3) Where the sentence of imprisonment is substituted for a fine, its term shall be pronounced in full days and may be shorter than three months.

(4) The sentence of imprisonment for a term of up to one year may be served at home in accordance with the provisions of a special act.

#### **Exceptionality of Short-Term Sentence of Imprisonment**

##### Article 45

(1) The court may pronounce a sentence of imprisonment for a term of up to six months only if it may be expected that it will not be possible to execute the fine or community service or if the fine, community service or conditional sentence could not achieve the purpose of punishment.

(2) The provision of paragraph 1 of this Article does not refer to the sentence of imprisonment as a substitute for unpaid fine (Article 43, paragraph 3) or for unperformed community service (Article 55, paragraph 7) or for revoked conditional sentence (Article 58).

### **Sentence of Long-Term Imprisonment**

#### Article 46

(1) The term of a sentence of long-term imprisonment may not be shorter than twenty-one years nor longer than forty years.

(2) Exceptionally, in the case of criminal offences that were committed concurrently under the conditions prescribed by this Act, an aggregate sentence of long-term imprisonment for a term of fifty years may be passed.

(3) The term of a sentence of long-term imprisonment shall be pronounced in full years.

(4) A sentence of long-term imprisonment cannot be pronounced upon a perpetrator who committed a criminal offence before he turned eighteen.

(5) Unless otherwise provided in this Act, the provisions on the sentence of imprisonment shall also apply to the sentence of long-term imprisonment.

### **Determination of Penalty**

#### Article 47

(1) When determining the type and measure of punishment, the court shall, starting from the degree of guilt and the purpose of punishment, assess all the circumstances affecting the severity of punishment by type and measure of punishment (mitigating and aggravating circumstances), and especially the degree of threat to or violation of a legally protected good, motive for having committed the criminal offence, degree to which the perpetrator's duties have been violated, manner of commission and the consequences arising from the commission of the criminal offence, perpetrator's prior life, his/her personal and pecuniary circumstances and his/her conduct following the commission of the criminal offence, relationship to the victim and efforts to repair the damage.

(2) The severity of punishment shall not exceed the degree of guilt.

### **Sentence Mitigation**

#### Article 48

(1) If expressly so provided by law, the court may pronounce a sentence less severe than the one prescribed for a particular criminal offence.

(2) The court may pronounce a sentence less severe than the one prescribed for a particular criminal offence also in cases where special mitigating circumstances exist, in particular if the perpetrator has reconciled with the victim, if he/she has fully or in greater part repaired the damage caused to the victim by the criminal offence or if he/she has made serious efforts to repair the said damage, provided the purpose of punishment can also be achieved by such a less severe sentence.

(3) The court may pronounce a sentence less severe than the one prescribed for a particular criminal offence also when the state attorney and the defendant have agreed on this.

### **Sentence Mitigation Limits**

#### Article 49

(1) The court may reduce a sentence pursuant to Article 48, paragraphs 1 and 2, of this Act up to the following limits:

1. if a ten-year sentence of imprisonment is prescribed as the minimum measure for a criminal offence, the sentence may be reduced by up to three years,
2. if a five-year sentence of imprisonment is prescribed as the minimum measure for a criminal offence, the sentence may be reduced by up to two years,
3. if a three-year sentence of imprisonment is prescribed as the minimum measure for a criminal offence, the sentence may be reduced by up to one year,
4. if a one-year sentence of imprisonment is prescribed as the minimum measure for a criminal offence, the sentence may be reduced by up to six months,
5. if a six-month sentence of imprisonment is prescribed as the minimum measure for a criminal offence, the sentence may be reduced by up to three months.

(2) In the case referred to in Article 48, paragraph 3, of this Act, the sentence may be reduced by up to half of the minimum sentence obtained by reduction pursuant to the provisions of paragraph 1 of this Article, but cannot be any shorter than three-months imprisonment.

### **Remission of Punishment**

#### Article 50

(1) The court may remit the punishment of a perpetrator where:

1. such authority is based upon an express statutory provision;
2. the consequences of a criminal offence committed by negligence have aggrieved him/her so deeply that his/her punishment is unnecessary for achieving the purpose of punishment;
3. the perpetrator has sought to avert or reduce the consequences of a criminal offence committed by negligence and has repaired the damage caused by it;
4. the perpetrator of a criminal offence for which a sentence of imprisonment of up to one year is prescribed has reconciled with the victim and repaired the damage.

(2) When the court is authorised to remit the punishment of a perpetrator, it may also reduce the punishment regardless of the limits provided for in Article 49, paragraph 1, of this Act.

### **Concurrently Adjudicated Criminal Offences**

#### Article 51

(1) If the perpetrator commits by one act or more acts several criminal offences for which he/she is tried concurrently, the court shall first fix the sentence for each criminal offence and then, on the basis of its assessment of the perpetrator's personality and the committed criminal offences in their totality, impose upon him/her an aggregate sentence.

(2) The aggregate sentence shall be set by increasing the highest individual sentence incurred. It must, however, be less than the sum of individual sentences and must not exceed the maximum limit for long-term imprisonment or a fine.

(3) Where individual sentences of long-term imprisonment the sum of which exceeds fifty years have been imposed for two or more criminal offences, the court may pronounce an aggregate sentence of long-term imprisonment for a term of fifty-years.

(4) Where sentences of imprisonment and fines have been imposed as individual sentences, the court shall pronounce an aggregate sentence of imprisonment and an aggregate fine.

(5) Where paragraphs 2 and 4 of this Article are being applied, the sentence of juvenile imprisonment shall be equated with the sentence of imprisonment.

### **Continuing Criminal Offence**

#### **Article 52**

(1) A continuing criminal offence has been committed when the perpetrator intentionally commits a number of separate acts in the natural sense whereby the statutory definitions of the same criminal offence or of criminal offences of the same kind have been realised if with respect to their spatial and temporal linkages the said acts constitute a unified whole in the legal sense.

(2) Criminal offences which represent an attack on the life, corporal integrity, sexual or other freedoms of a person cannot be legally denoted as continuing.

(3) Where the acts referred to in paragraph 1 of this Article realise the elements of a number of criminal offences of the same kind, the continuing criminal offence shall be legally denoted according to the most severe of these criminal offences.

(4) In the case of a continuing criminal offence, a sentence exceeding by one half the upper limit of punishment prescribed for a particular offence may be imposed, which sentence must not exceed the upper limit prescribed for this type of punishment.

### **Pronouncing an Aggregate Sentence upon a Convicted Person**

#### **Article 53**

(1) If a convicted person is tried for a criminal offence committed before he/she commenced serving his/her previous sentence or for a criminal offence he/she committed while serving a sentence of imprisonment, long-term imprisonment or juvenile imprisonment, the court shall impose an aggregate sentence for all the criminal offences by applying the provisions of Article 51 of this Act, taking the previously pronounced sentence as already imposed. The sentence or part of the sentence which the convicted person has already served, disregarding the period of time spent on parole, shall be credited towards the pronounced aggregate sentence.

(2) When trying a convict for a criminal offence committed while serving a sentence of imprisonment, long-term imprisonment or juvenile imprisonment, the court shall not proceed according to the provisions of paragraph 1 of this Article if, in view of the remainder of the earlier sentence, the purpose of punishment could not be achieved by applying the provisions on concurrently adjudicated criminal offences.

(3) If a convicted person, while serving a sentence of imprisonment or juvenile imprisonment, commits a criminal offence for which the law prescribes a sentence of imprisonment for up to one year or a less severe sentence, he/she shall be punished disciplinarily.

### **Crediting Time Spent in Custody, on Remand or Serving a Previous Sentence**



#### Article 54

The period of time spent in custody, on remand as well as any deprivation of liberty relating to a criminal offence shall be credited towards the length of the pronounced sentence of imprisonment, long-term imprisonment or a fine. In counting the credit, one day spent in custody, on remand or one day of any other deprivation of liberty as well as one daily unit of a fine shall be equated with one day spent in prison.

### Community Service

#### Article 55

(1) The court may substitute community service for an imposed fine amounting to three hundred and sixty daily units or for a sentence of imprisonment for a term of up to one year. Unless this fails to achieve the purpose of punishment, in cases where a sentence of imprisonment for a term of up to six months has been imposed, the court shall substitute this sentence with one of community service.

(2) Where the court substitutes community service for a fine, one daily unit shall correspond to four hours of community service. Where the court substitutes community service for a sentence of imprisonment, one day of imprisonment shall correspond to four hours of community service.

(3) In addition to community service, the court may impose upon a perpetrator one or more special obligations set forth in Article 62 of this Act and/or protective supervision referred to in Article 64 of this Act, the duration of which may not be longer than the period of time in which the perpetrator must perform community service.

(4) Community service shall be performed only with the convicted person's consent.

(5) After having given his/her consent to the body in charge of probation, the convicted person shall perform community service within the time limit set by this body. In setting the time limit for the performance of community service, the said body shall take into consideration the convicted person's possibilities with respect to his/her personal circumstances and employment. This time limit shall not be less than one month nor more than two years from the date the judgment became enforceable. The contents of community work shall be determined by the body in charge of probation in consultation with the convicted person, taking into account his/her abilities and qualifications.

(6) If within a period of eight days from the date of receipt of the judgment having the force of *res judicata* the convicted person does not contact the body in charge of probation or withholds his/her consent, the said body shall deliver the order for the execution of the custodial sentence to the competent execution of sentences judge and the fine enforcement order to the first-instance court that handed down the judgment.

(7) If, through his/her own fault, the convicted person does not perform community service in full or in part within the time limit referred to in paragraph 5 of this Article, the court shall decide on the execution of the imposed sentence in full or in the part which has not been executed. If the convicted person does not perform community service through no fault of his/her own, the body in charge of probation shall extend the time limit referred to in paragraph 5 of this Article.

(8) If the convicted person has not fulfilled in full or in greater part the obligations referred to in paragraph 3 of this Article, or if he/she has seriously or persistently violated them or persistently evaded protective supervision referred to in Article 64 of this Act or for no

justifiable reason has violated the obligation imposed upon him/her by the safety measure, the court shall order execution of the initially pronounced sentence. If it is established that the perpetrator has not fulfilled the obligations or that he/she evaded protective supervision for justifiable reasons, the court may substitute other obligations in lieu of the obligations in question or, if he/she has not been under protective supervision, order that he/she be placed under protective supervision or release him/her from his/her obligations or from protective supervision or extend the time limit for the fulfilment of obligations imposed upon him/her or for the implementation of protective supervision.

(9) Community service shall not be remunerated.

### **Conditional Sentence**

#### **Article 56**

(1) A conditional sentence shall mean that the sentence imposed upon the perpetrator shall not be executed if during the period of probation the perpetrator commits no new criminal offence and fulfils the obligations imposed upon him/her.

(2) The court may impose a conditional sentence upon a perpetrator sentenced to a term of imprisonment not exceeding one year or to a fine if it deems that even if the sentence is not executed, the perpetrator will commit no further criminal offences. In doing so, the court shall take into account the personality of the perpetrator, his/her prior life, in particular previous convictions, his/her family circumstances, the circumstances under which the criminal offence itself was committed and his/her conduct after the commission of the criminal offence, in particular his/her relationship to the victim and his/her efforts to repair the damage.

(3) The period of probation shall not be shorter than one year nor longer than five years. It shall be measured in full years and shall start to run from the day the judgement becomes *res judicata*. The court may subsequently shorten the period of probation or, before it expires, extend it up to its maximum duration in accordance with the procedure prescribed by a special act.

(4) In addition to a conditional sentence, the court may impose upon the perpetrator one or more special obligations without protective supervision pursuant to the provisions of Articles 62 and 63 of this Act or one or more special obligations accompanied by protective supervision pursuant to the provision of Article 64 of this Act.

(5) The duration of special obligations and protective supervision must not exceed the period of probation.

(6) When the court imposes a sentence of imprisonment and a fine, it may decide that under the conditions set forth in this Article only the sentence of imprisonment will not be executed.

### **Partial Conditional Sentence**

#### **Article 57**

(1) The court may impose upon a perpetrator sentenced to a fine or a term of imprisonment of a minimum of one year and a maximum of three years a conditional sentence for only a part of the sentence if it deems that there is a high degree of probability that even if the entire sentence is not executed, the perpetrator will commit no further criminal offences.

(2) The unconditional part of a prison sentence shall not be less than six months nor more than one half of the pronounced sentence term.

(3) The unconditional part of a fine shall not be less than one fifth nor more than one half of the pronounced sentence.

(4) The provisions on parole shall not apply to the unconditional part of the prison sentence.

(5) The provisions of Articles 56, 58, 62, 63 and 64 of this Act shall apply accordingly to the conditional part of the sentence.

### **Revocation of Conditional Sentence**

#### **Article 58**

(1) The court shall revoke the conditional sentence if the person convicted of one or more criminal offences committed during the period of probation is sentenced to a term of imprisonment exceeding one year.

(2) The court may revoke the conditional sentence if the person convicted of one or more criminal offences committed during the period of probation is sentenced by a judgment having the force of *res judicata* to imprisonment of up to one year or a fine.

(3) Where pursuant to paragraphs 1 and 2 of this Article the court has revoked a conditional sentence, it shall hold that the earlier conditional sentence and the sentence for a new criminal offence, i.e. sentences for new criminal offences, have been set and shall impose an aggregate sentence as provided for in Article 53 of this Act.

(4) Where in the case referred to in paragraph 2 of this Article the court does not revoke a conditional sentence, it may:

1. impose a sentence for a new criminal offence and order its execution without modifying the earlier conditional sentence,

2. impose a sentence for a new criminal offence, which sentence, like the earlier conditional sentence, it shall deem set and shall impose an aggregate sentence as provided for in Article 53 of this Act and a new period of probation during which this sentence shall not be executed.

(5) The court may revoke a conditional sentence and order the execution of the sentence imposed on the convicted person who for no justifiable reason has violated the obligation imposed upon him/her by the safety measure pronounced in addition to the conditional sentence, or who has not fulfilled in full or in greater part the obligations set forth in Article 62 of this Act within the imposed time limit, or who seriously or persistently violates them or persistently evades protective supervision referred to in Article 64 of this Act. If it is established that the perpetrator has not fulfilled the obligations or that he/she has evaded protective supervision for justifiable reasons, the court may substitute other obligations in lieu of the obligations in question or, if he/she has not been under protective supervision, order that he/she be placed under protective supervision or release him/her from his/her obligations or from protective supervision or extend the time limit for the fulfilment of the obligations imposed upon him/her or for the implementation of protective supervision.

(6) The court shall revoke a conditional sentence also when after the pronouncement of a conditional sentence, the court imposes upon the convicted person a sentence for a criminal offence committed before the conditional sentence was pronounced where it deems that the conditions for the pronouncement of the conditional sentence would not have been met had the earlier criminal offence been known. In this case the court shall take the punishment specified in the conditional sentence and the sentence pronounced for the earlier criminal offence as fixed and shall pronounce an aggregate sentence as provided for in Article 53

of this Act. If it concludes that the conditions for the pronouncement of the conditional sentence would have been met even if the earlier judgment had been known, the provision of paragraph 4 of this Article shall apply.

(7) In the cases set forth in paragraphs 1 and 2 of this Article, a conditional sentence cannot be revoked after two years have elapsed from the expiry of the period of probation.

(8) In the case set forth in paragraph 5 of this Article, a conditional sentence cannot be revoked after six months have elapsed from the expiry of the deadline set for the fulfilment of obligations referred to in Article 62 of this Act.

### **Release on Parole**

#### Article 59

(1) The court may release a prisoner from serving a sentence of imprisonment if he/she has served at least one half but not less than three months of the term to which he/she has been sentenced if it is reasonably expected that he/she will not commit a criminal offence and if he/she agrees to this.

(2) When deciding on the motion, the court shall assess the prisoner's personality, his/her prior life and previous convictions, whether there are other charges pending against him/her, his/her attitude towards the committed criminal offence and relationship to the victim, his/her conduct during incarceration, rate of success of the implementation of the incarceration programme, whether there has been a change in his/her conduct after the commission of the criminal offence or is it expected that such a change will occur through the application of supervision measures during parole, his/her living conditions and readiness to be integrated into free society.

(3) The procedure for deciding on the granting of parole shall be provided for in a special act.

### **Convicted Person's Obligations and Protective Supervision during the Probation Period**

#### Article 60

(1) With his/her release on parole starts the period of probation for the convicted person, which period shall correspond to the unserved prison term.

(2) A convicted person released on parole may be imposed one or more special obligations referred to in Article 62 of this Act in accordance with the conditions set forth in Article 63 of this Act and protective supervision in accordance with the provision of Article 64 of this Act.

(3) The obligations and protective supervision cannot last for more than five years unless the court establishes that no further enforcement of the obligations and protective supervision over a person convicted of a criminal offence which endangers or violates the corporal, psychological or sexual integrity of a person, for which criminal offence a sentence of imprisonment of five or more years is prescribed, would pose the risk of the convicted person committing a similar criminal offence, in cases where the obligations or protective supervision referred to in paragraph 2 may be prolonged for a period of one to five years or where new obligations may be imposed. The obligations or protective supervision cannot extend beyond the expiry of the unserved prison term to which the perpetrator was sentenced.

## **Revocation of Parole**

### **Article 61**

(1) If while on parole a convicted person commits one or more criminal offences for which he/she is sentenced to a one-year prison term or a harsher sentence, the court which pronounced this sentence shall revoke parole and by applying Article 51 and Article 53, paragraph 1, of this Act sentence him/her to an aggregate sentence.

(2) Where a convicted person has been sentenced to a prison term not exceeding one year, the court referred to in paragraph 1 of this Article may:

1. proceed in the manner described in the previous paragraph;
2. not revoke parole and sentence him/her to imprisonment. The period of probation shall not run during the term of imprisonment to which he/she was sentenced;
3. not revoke parole and sentence him/her to a conditional sentence. The period of probation from the conditional sentence shall not begin to run until after the expiration of the period of probation from parole.

(3) The execution of sentences judge shall revoke parole and order execution of the pronounced sentence if during the period of parole the convicted person does not fulfil in full or in greater part the obligations referred to in Article 62 of this Act that were imposed upon him/her or if he/she seriously or persistently violates them or persistently evades protective supervision referred to in Article 64 of this Act. If it is established that the perpetrator has not fulfilled the obligations or evaded protective supervision for justifiable reasons, the execution of sentences judge may substitute other obligations in lieu of the obligations in question or, impose protective supervision if no protective supervision has previously been imposed, release the convicted person from his/her obligations or from protective supervision or extend the time limit for the fulfilment of obligations imposed upon him/her or the implementation of protective supervision.

(4) In the cases referred to in paragraphs 1 and 2 of this Article, parole cannot be revoked after the expiry of two years from the sentence expiry date.

(5) In the case referred to in paragraph 3 of this Article, parole cannot be revoked after a six-month period has elapsed from the expiry of the time limit set for the fulfilment of obligations referred to in Article 60, paragraphs 2 and 3, of this Act.

## **Types of Special Obligations**

### **Article 62**

(1) The court may order the perpetrator to do the following within a set time limit:

1. repair the damage caused by the criminal offence;
2. pay a certain amount of money into an account of a public institution, to support humanitarian or charitable causes, or into a fund for compensation to victims of criminal offences, if this is appropriate in view of the offence committed and the personality of the perpetrator.

(2) In addition to the obligations referred to in paragraph 1 of this Article and if this is necessary to deter the perpetrator from committing a criminal offence, the court may impose the following obligations on the perpetrator:

1. continuation of education or training for a particular occupation which he/she has chosen with the expert help from the probation office;

2. employment in line with his/her qualifications or level of education, training and real possibilities of carrying out work assignments, which the probation office has advised and enabled him/her to take on;

3. supervised disposition of proceeds in accordance with the needs of persons he/she is required by law to support and on the advice of the probation office;

4. medical treatment or continuation of medical treatment necessary for treating medical complaints that might be conducive to the commission of a new criminal offence;

5. treatment or continuation of treatment for alcohol, drug or other types of addiction in a medical or other specialised facility or rehabilitation in a therapeutic community;

6. going into or continuing to undergo psychosocial therapy in medical facilities, at legal persons or physical persons specialising in the treatment of violent behaviour;

7. prohibition from frequenting certain places, objects or events which might be conducive to the commission of a new criminal offence;

8. prohibition from approaching the victim or some other persons;

9. leaving the home for a certain period of time in the case of domestic violence offences;

10. prohibition from socialising with a certain person or group of persons who might incite him/her to commit a criminal offence, prohibition from employing, teaching or accommodating such persons;

11. prohibition from harassing or stalking the victim or some other person;

12. prohibition from leaving his/her residence during a certain period of the day;

13. prohibition from carrying, possessing or committing to somebody's care weapons or other objects that might induce the person to commit a criminal offence;

14. fulfilment of the obligation to pay maintenance or of other obligations in cases where this is prescribed by law for a particular criminal offence;

15. regular reporting to the probation service, county welfare services, court, police administration or another competent authority;

16. and other obligations appropriate to the committed criminal offence.

### **Imposition of Special Obligations**

#### **Article 63**

(1) Obligations that are unreasonable or impossible to fulfil or that insult the perpetrator's dignity may not be imposed on the perpetrator.

(2) The court may impose special obligations set forth in Article 62, paragraph 2, of this Act where it deems them necessary for the protection of health and safety of the person against whom the criminal offence was committed or where this is necessary for eliminating the circumstances that are beneficial to or that act as an incentive for the commission of a new criminal offence.

(3) The obligations set forth in Article 62, paragraph 2, points 4, 5 and 6, may be imposed only with the consent from the perpetrator.

(4) The obligation set forth in Article 62, paragraph 2, point 6, may be imposed for a period of between six months and two years. The obligation set forth in Article 62, paragraph 2, point 5, may be imposed for a period of up to three years.

(5) The court may subsequently but before the expiry of the period of duration of the obligation, at the proposal of the body responsible for implementing the obligation, increase

the minimum or decrease the maximum period of duration of the obligation, abolish the said obligation or replace it with another obligation.

### **Protective Supervision**

#### **Article 64**

(1) The court shall impose protective supervision upon a perpetrator where it deems that he/she is in need of assistance, guidance and supervision of the probation officer so that in the future he/she would commit no further criminal offences and his/her reintegration into society would be made easier.

(2) Protective supervision is based on an individual program of activities the development, assistance in implementation and the implementation of which is supervised by the probation office.

(3) In addition to the conditional sentence, community service or parole, the court shall as a rule also impose protective supervision if it has pronounced a sentence of imprisonment for a term exceeding six months or if the convicted person is less than twenty-five years old.

(4) The court may decide to abolish protective supervision before the expiry of the specified time period if there is no longer any need for assistance, guidance and supervision or, if necessary, may prolong it up to its maximum duration as provided for in this Act.

(5) During protective supervision the perpetrator must:

1. regularly report to the responsible probation officer;
2. receive home visits from the probation officer and provide him/her with all the necessary information and documents;
3. seek consent for a trip abroad from the execution of sentences judge;
4. inform the probation officer of a change of employment or address within two days from the date such a change occurred or of a trip lasting more than eight days and of the day of return.

(6) The exercise of protective supervision shall be regulated by a special act.

## **TITLE V**

### **SAFETY MEASURES**

#### **Types of Safety Measures**

#### **Article 65**

Safety measures include: mandatory psychiatric treatment, mandatory addiction treatment, mandatory psychosocial treatment, prohibition from holding an office or engaging in an activity, prohibition from driving a motor vehicle, prohibition from approaching a person, removal from the shared household, prohibition from accessing the internet and protective supervision after having served a full prison term.

#### **Purpose of Safety Measures**

#### **Article 66**

The purpose of safety measures is to eliminate the circumstances that enable or act as an incentive for the commission of a new criminal offence.

### **Principle of Commensurability**

#### Article 67

A safety measure must be commensurate with the gravity of the committed criminal offence and the criminal offences that may be expected as well as with the degree of the perpetrator's dangerousness.

### **Mandatory Psychiatric Treatment**

#### Article 68

(1) The court shall impose the safety measure of mandatory psychiatric treatment upon a perpetrator who in a state of substantially diminished mental competence has committed a criminal offence for which a sentence of imprisonment of one year or more is prescribed if there is a risk that due to the mental disturbance that caused his/her substantially diminished mental competence this person might commit a more serious criminal offence in the future.

(2) The measure referred to in paragraph 1 of this Article may be imposed together with a fine, a sentence of imprisonment, community service or a conditional sentence.

(3) The measure referred to in paragraph 1 of this Article and imposed together with a sentence of imprisonment shall be executed within the prison system. When imposed together with a fine, community service or a conditional sentence, it shall be implemented outside the prison system.

(4) The measure referred to in paragraph 1 of this Article may last until the completion of the prison sentence or community service, until the end of the period of probation accompanying a conditional sentence or until the expiry of the prison sentence corresponding to the imposed fine.

(5) After the first year from the day the perpetrator was subjected to the measure referred to in paragraph 1 of this Article has elapsed and, thereafter, at least once a year, the court shall review whether the conditions for the measure's continuation, set forth in paragraph 1 of this Article, exist and shall decide thereon according to the procedure prescribed by a special act. At the request of the institution at which the measure is being implemented or at the request of the perpetrator, this review may take place sooner but not before six months have elapsed from the last review. The court may stop the application of the measure or change the manner or time of its execution.

(6) If the reasons for its imposition have ceased to exist, the court shall stop the execution of the measure referred to in paragraph 1 of this Article.

(7) If the time spent in treatment is shorter than the length of the imposed sentence, the court may order that the convicted person serve the remainder of the sentence or that he be released on parole. Where it orders him/her to serve the remainder of the sentence, the court may direct that he/she receive outpatient treatment in the prison facility. When deciding on the granting of parole, the court shall in particular take into consideration the success of the convicted person's treatment, his/her state of health, time spent in treatment and the remainder of the sentence not served by the convicted person. If it establishes that the perpetrator is still dangerous to the community and that his/her treatment following his/her release suffices to avert this danger, the court may order that the perpetrator whom it has granted parole continue his/her



treatment following his/her release from prison pursuant to Article 60, paragraph 2, in conjunction with Article 62, paragraph 2, point 4, of this Act.

### **Mandatory Addiction Treatment**

#### Article 69

(1) The court shall impose the safety measure of mandatory addiction treatment upon a perpetrator who under the decisive effects of alcohol, drug or other type of addiction has committed a criminal offence if there is a risk that by reason of this addiction he/she might commit a more serious criminal offence in the future.

(2) The measure referred to in paragraph 1 may be imposed together with a fine, a sentence of imprisonment, community service or a conditional sentence.

(3) The measure referred to in paragraph 1 of this Article and imposed together with a sentence of imprisonment shall be executed within the prison system or at a medical or other facility specialising in the treatment of addiction outside the prison system under the conditions specified in a special regulation. The measure imposed together with a fine, community service or a conditional sentence shall be executed at a medical or other facility specialising in the treatment of addiction outside the prison system and, under the conditions specified in a special regulation, may also be executed in a therapeutic community if such rehabilitation is sufficient for averting the danger.

(4) The measure referred to in paragraph 1 of this Article may last until the completion of the prison sentence or community service, until the end of the period of probation accompanying a conditional sentence or until the expiry of the prison sentence corresponding to the imposed fine but not longer than three years.

(5) If the reasons for which it was imposed have ceased to exist or if its previous and future implementation is unpromising, the execution of sentences judge shall stop the execution of the measure referred to in paragraph 1 of this Article..

(6) The execution of sentences judge shall at least every six months from the day the perpetrator is subjected to the measure referred to in paragraph 1 of this Article review whether the conditions for the measure's continuation, set forth in paragraph 1 of this Article, still exist and shall decide thereon. The execution of sentences judge may stop the application of a measure or change the manner or time of its execution.

(7) The provision of Article 68, paragraph 7, of this Act shall apply to the measure of mandatory addiction treatment.

### **Mandatory Psychosocial Treatment**

#### Article 70

(1) The court may impose the safety measure of mandatory psychosocial treatment upon a perpetrator who has committed a criminal offence with elements of violence if there is a risk that he/she will again commit the same or similar offence.

(2) The measure referred to in paragraph 1 may be imposed together with a fine or a sentence of imprisonment.

(3) The measure referred to in paragraph 1 shall be executed in a penal institution, medical facility, at a legal person or physical person specialising in the treatment of violent behaviour under the conditions specified in a special regulation.

(4) The measure referred to in paragraph 1 of this Article may last until the completion of the prison sentence or until the expiry of the prison sentence corresponding to the imposed fine but not longer than two years.

### **Prohibition from Holding a Particular Office or Engaging in a Particular Activity**

#### Article 71

(1) The court shall impose upon a perpetrator who committed a criminal offence in carrying out the duties of his/her office or the activity the safety measure of prohibition from holding an office or engaging in an activity for a period of one to ten years from the date the court decision becomes enforceable if there is a risk that by abusing this office or activity he/she will again commit a criminal offence.

(2) The period of time spent in prison, a penitentiary or institution shall not be credited towards the term of the measure.

(3) The court may impose upon a perpetrator of a criminal offence referred to in Article 105, paragraph 3, Article 106, paragraphs 2 and 3, Articles 110 and 111, Article 112, paragraph 1, Articles 114, 116, 118, 119, 120, Article 154, paragraph 1, point 2, Articles 158, 159, 161, 162, 163, 164 and 166 of this Act committed against a child a prohibition from holding an office or engaging in an activity that involves regular contact with children also when the above offences were not committed in carrying out the duties of his/her office or the activity, and may impose it as a lifelong measure.

(4) For the duration of the prohibition referred to in paragraph 1 of this Article the convicted person may not hold a certain office or engage in a certain activity be it independently, for another person, in a legal person or in the name of another person, nor may he/she authorise another person to hold this office or engage in this activity in his/her name and in accordance with his/her instructions.

(5) If the perpetrator does not comply with the prohibition from holding a particular office or engaging in a particular activity when the prohibition is imposed together with community service, a conditional sentence or during the period of parole, the provisions of Article 55, paragraph 8, Article 58, paragraph 5, or Article 61, paragraph 3, of this Act shall apply accordingly.

(6) At the expiration of three years from the date the measure imposed on the basis of paragraph 1 of this Article started to be executed, the court may stop its execution on a proposal from the convicted person if it has established that the risk referred to in paragraph 1 of this Article no longer exists. The convicted person may resubmit his/her proposal but no sooner than one year after the previous review.

(7) At the expiration of ten years from the date the measure imposed on the basis of paragraph 3 of this Article started to be executed, the court may stop its execution on a proposal from the convicted person if it has established that the risk referred to in paragraph 1 of this Article no longer exists. The convicted person may resubmit his/her proposal but no sooner than one year after the previous review.

(8) The court shall inform the body responsible for keeping the register of persons holding certain offices or engaging in certain activities of the imposed measure which has become *res judicata*.

### **Prohibition from Driving a Motor Vehicle**

#### Article 72

(1) The court shall impose the safety measure of prohibition from driving a motor vehicle upon a perpetrator of a criminal offence against traffic safety when there is a risk that by driving a motor vehicle he/she will endanger traffic safety. The prohibition applies to all categories of vehicles, although exceptionally a certain category of vehicle may be exempt where special circumstances indicate that this will not jeopardize the purpose of the measure.

(2) If the conditions referred to in paragraph 1 of this Article have been fulfilled, the court shall impose the prohibition from driving a motor vehicle also upon a mentally incompetent person if his/her action points to the fact that he/she is incapable of driving.

(3) The prohibition from driving a motor vehicle shall be imposed for a period not shorter than one nor longer than five years.

(4) The prohibition from driving a motor vehicle shall take effect upon the revocation of the driving licence, entry of the prohibition from driving a particular category of vehicles into the driving licence or prohibition from issuing a driving licence to a perpetrator who does not have it. Time spent in prison, a penitentiary or an institution shall not be credited towards the term of the measure.

(5) The prohibition from driving a motor vehicle may be imposed for life where in view of the perpetrator's earlier serious violations of traffic regulations it may be expected that even after the expiration of the longest period referred to in paragraph 3 of this Article there will exist the risk of the perpetrator committing a new criminal offence against traffic safety. If on a proposal from the convicted person the court establishes that after the expiration of the longest period referred to in paragraph 3 of this Article the said risk no longer exists, it shall abolish the prohibition. The convicted person may resubmit his/her proposal but no sooner than one year after the previous review. Upon the abolishment of prohibition, the perpetrator must retake his/her driving test.

(6) The provisions of Article 71, paragraph 5, shall apply accordingly to the prohibition from driving a motor vehicle.

(7) The period of temporary revocation of a driving licence shall be credited towards the term of prohibition from driving a motor vehicle.

(8) The prohibition from driving a motor vehicle imposed upon a perpetrator who has a foreign motor vehicle driving licence shall consist in prohibiting its use in the territory of the Republic of Croatia as well as in prohibiting the issuance of a driving licence of the Republic of Croatia to him/her. This prohibition shall take effect on the day the judgment has become *res judicata*.

### **Prohibition from Approaching a Person**

#### Article 73

(1) The court shall impose the safety measure of prohibition from approaching a victim, another person, a group of persons or a particular location upon the perpetrator of a criminal offence against sexual freedom, child sexual abuse or child exploitation, another criminal offence of violence or attack on the freedom of a person or unauthorised possession, manufacture of or trade in drugs and substances banned from use in sports when there is a risk that the perpetrator might again commit any of the above criminal offences against these persons or at these locations.

(2) The court may impose the measure referred to in paragraph 1 of this Article together with a fine or a sentence of imprisonment.

(3) The measure referred to in paragraph 1 of this Article shall last at least one year but less than five years.

(4) The measure referred to in paragraph 1 of this Article shall take effect on the day the judgment becomes *res judicata*. The period of time spent in prison, a penitentiary or an institution shall not be credited towards the term of this measure.

(5) At the expiration of a period of one year after the measure imposed on the basis of paragraph 1 of this Article started to be executed, the court may stop its execution on a proposal from the convicted person if it has established that the risk referred to in paragraph 1 of this Article no longer exists. The convicted person may resubmit his/her proposal but no sooner than one year after the previous review.

(6) The court shall inform the body responsible for probation and the competent police administration of the imposed measure referred to in paragraph 1 of this Article which has become *res judicata*.

### **Removal from Shared Household**

#### Article 74

(1) The court may impose the safety measure of removal from the shared household upon a perpetrator of a criminal offence of violence against a person he/she is living with in a shared household if there is a high degree of risk that if this measure were not implemented, the perpetrator might again commit violence against a member of the shared household.

(2) The court may impose the safety measure of removal from the shared household together with a fine or a sentence of imprisonment for a period not shorter than three months or longer than three years.

(3) The person against whom the measure referred to in paragraph 1 of this Article has been imposed is required to leave the apartment, house or other residential premises constituting the shared household accompanied by a police officer as soon as the judgment becomes *res judicata*. The period of time spent in prison, a penitentiary or an institution shall not be credited towards the term of this measure.

(4) At the expiration of a period of one year since the start of execution of the safety measure imposed on the basis of paragraph 1 of this Article, the court may stop its execution on a proposal from the convicted person if it has established that the risk referred to in paragraph 1 of this Article no longer exists. The convicted person may resubmit his/her proposal but no sooner than six months after the previous review.

(5) The court shall inform the body responsible for probation and the competent police administration of the imposed prohibition referred to in paragraph 1 of this Article which has become *res judicata*.

### **Prohibition from Accessing the Internet**

#### Article 75

(1) The court shall impose the safety measure of prohibition from accessing the internet for a period from six months to two years from the day the court decision became enforceable upon a perpetrator who committed a criminal offence via the internet if there is a risk that by abusing the internet he/she will again commit a criminal offence.

(2) The period of time spent in prison, a penitentiary or an institution shall not be credited towards the term of this measure.

(3) If the perpetrator does not comply with the prohibition from accessing the internet when the prohibition is imposed together with community service, a conditional sentence or during the period of parole, the provisions of Article 55, paragraph 7, Article 58, paragraph 5, or Article 61, paragraph 3, of this Act shall apply.

(4) The court shall inform of the imposed measure which has become *res judicata* the regulatory body responsible for electronic communications which will ensure its implementation.

### **Protective Supervision after Serving a Full Prison Sentence**

#### Article 76

(1) If the perpetrator was imposed a sentence of imprisonment for a term of five or more years for an intentionally committed criminal offence or for a term of two or more years for an intentionally committed criminal offence with elements of violence or for another criminal offence referred to in Title XVI or XVII of this Act and if the sentence has been served in full, the perpetrator shall immediately upon his/her release from prison be subjected to protective supervision in accordance with Article 64 of this Act and special obligations referred to in Article 62, paragraph 2, points 7 through 13, if the latter have been imposed on him together with protective supervision.

(2) The period of probation shall last for one year. On a proposal from the probation service and before the period of probation expires, the court may extend the said period by one year if an absence of such supervision would pose the risk of any of the criminal offences specified in paragraph 1 of this Article being committed anew.

(3) The court may desist from implementing protective supervision if it has reason to believe that its absence will not result in the person committing a new criminal offence.

## **TITLE VI**

### **CONFISCATION OF PECUNIARY ADVANTAGE, SEIZURE OF OBJECTS AND PUBLIC ANNOUNCEMENT OF JUDGMENT**

#### **Conditions for and Manner of Confiscation of Pecuniary Advantage**

#### Article 77

(1) Pecuniary advantage shall be confiscated on the basis of a court decision establishing the commission of an unlawful act. Pecuniary advantage shall also be confiscated from the person to whom it was transferred if it was not acquired in good faith.

(2) If the injured party has been awarded a pecuniary claim which by its nature and contents corresponds to the acquired pecuniary advantage, the part of pecuniary advantage exceeding the awarded pecuniary claim shall be confiscated.

(3) The court shall confiscate the pecuniary advantage also in cases where it has instructed the injured party to assert his/her pecuniary claim in a civil action.

(4) Where it has been established that confiscation in full or in part of things or rights acquired as pecuniary advantage is impossible, the court shall order the perpetrator to pay the corresponding money equivalent. It may be ordered that payment be made in instalments.

(5) The confiscated pecuniary advantage shall not be reduced by the value of resources invested in the criminal activity.

(6) The court may decide against the confiscation of pecuniary advantage if its value is negligible.

**Confiscation of Pecuniary Advantage Gained from a Criminal Offence  
Coming within the Competence of the Office for the Prevention of Corruption and  
Organised Crime**

Article 78

(1) Unless otherwise prescribed by this Act, the provisions of Article 77 of this Act shall apply to the confiscation of pecuniary advantage gained from a criminal offence coming within the competence of the Office for the Prevention of Corruption and Organised Crime.

(2) If the perpetrator of a criminal offence coming within the competence of the Office for the Prevention of Corruption and Organised Crime owns or owned property that is incommensurate with his/her legitimate income and unless he/she makes it probable that the property is of legitimate origin, it is assumed that this property represents a pecuniary advantage gained from a criminal offence.

(3) If the pecuniary advantage gained from a criminal offence has been merged into legitimately acquired property, total property shall be subject to confiscation up to the estimated value of pecuniary advantage. The advantage gained from property in which the legitimately acquired property was merged with the pecuniary advantage gained from a criminal offence shall also be confiscated in the same manner and in the same ratio.

(4) The pecuniary advantage referred to in paragraphs 2 and 3 of this Article shall be confiscated from a family member irrespective of the legal basis on which he/she possesses it and regardless of whether he/she lives in a shared household with the perpetrator.

(5) The pecuniary advantage referred to in paragraphs 2 and 3 of this Article shall also be confiscated from another person irrespective of the legal basis on which it was acquired unless this person makes it probable that he/she acquired the advantage in good faith and at a reasonable price.

(6) If the person against whom criminal proceedings have been instituted dies, the pecuniary advantage gained by an unlawful act may be confiscated from his/her successors in proceedings prescribed by a special act.

**Seizure of Objects**

Article 79

(1) The objects and means that were intended to be used or were used in the commission of a criminal offence or which are the product of its commission shall be seized if there is the risk that they will be reused for the purpose of committing a criminal offence. The court may seize objects and means also in cases where this is necessary in order to ensure general safety, public order or for moral reasons.

(2) If the conditions referred to in paragraph 1 of this Article have been met, the court may seize objects and means also in cases where the perpetrator of the unlawful act is not guilty.

(3) The seized objects and means shall become the property of the Republic of Croatia. This does not affect the rights of third parties to claim damages against the perpetrator for the seizure of an object or a means. Unless at least his/her gross negligence has contributed to the object or means being intended to be used or being used in the commission of a criminal offence or to its being the product of commission of a criminal offence or if he/she procured the object or means knowing about the conditions allowing for its seizure, the owner of the seized object or means who is not the perpetrator of the offence is entitled to the return of the object or means or to damages equal to its market value paid from the state budget.

(4) Unless otherwise provided for in a special act, the law may prescribe mandatory seizure of an object or means, in which case the owner shall not be entitled to damages paid from the state budget.

(5) The court may order the destruction of the object or means.

#### **Public Announcement of Judgment**

##### Article 80

(1) In its judgment pronouncing guilty the perpetrator of a criminal offence committed by public announcement the court may order, at the request of an interested party or the state attorney, that the judgment be publicly announced in full or in part at the perpetrator's expense where this is in the interest of the injured party or in the public interest.

(2) In specifying the means, time, mode and other circumstances of the judgment's public announcement, the court shall ensure that these circumstances correspond to the circumstances under which the contents by which the criminal offence was committed were announced.

(3) In its judgment of acquittal the court may order, at the request of the acquitted person, that the judgment be publicly announced in full or in part at the expense of the state budget or the private prosecutor where this is in the interest of the acquitted person or in the public interest. The court shall decide on the means, time and manner of the judgment's announcement.

### **TITLE VII**

#### **STATUTE OF LIMITATIONS**

##### **Statute of Limitations for Criminal Prosecution**

##### Article 81

(1) Criminal prosecution shall become statute-barred after:

- 40 years for criminal offences for which sentences of long-term imprisonment or of imprisonment for terms exceeding 15 years may be imposed;
- 25 years for criminal offences for which sentences of imprisonment for terms exceeding 10 years may be imposed;

- 20 years for criminal offences for which sentences of imprisonment for terms exceeding 5 years may be imposed;
- 15 years for criminal offences for which sentences of imprisonment for terms exceeding 3 years may be imposed;
- 10 years for criminal offences for which sentences of imprisonment for terms exceeding one year may be imposed and
- 6 years for other criminal offences.

(2) No statutory limitation shall apply to the criminal prosecution of the crime of genocide (Article 88), crime of aggression (Article 89), crimes against humanity (Article 90), war crimes (Article 91) and other offences that are not subject to the statute of limitations under the Constitution of the Republic of Croatia or the international law.

(3) If, before the end of the periods of limitation referred to in paragraph 1 of this Article, a first-instance judgment has been pronounced, the period of limitation on criminal prosecution shall be extended by two years.

#### **Running of the Statute of Limitations for Criminal Prosecution**

##### Article 82

(1) The period of limitation for criminal prosecution shall start to run on the date a criminal offence is committed. If a consequence which is an element of a criminal offence arises later, the statute of limitations shall start to run from that moment.

(2) The period of limitation for criminal prosecution shall not run during any time criminal prosecution cannot be instituted or resumed under the law.

(3) The statute of limitations for criminal offences referred to in Article 105, paragraph 3, Article 106, paragraphs 2 and 3, Articles 110, 111, Article 112, paragraph 1, Articles 114, 116, 118, 119, Article 154, paragraph 1, point 2, Articles 158, 159, 162, 163, 164, 166, 170, 171, 176 and 177 of this Act committed against a child shall start to run from when the victim comes of age.

#### **Bar to the Execution of a Sentence Due to the Statute of Limitations**

##### Article 83

(1) An imposed sentence cannot be executed due to the statute of limitations after the expiry of the following period since a judgment becomes *res judicata*:

- 40 years from the passing of a sentence of long-term imprisonment
- 25 years from the passing of a sentence of imprisonment for a term exceeding ten years
- 20 years from the passing of a sentence of imprisonment for a term exceeding five years
- 15 years from the passing of a sentence of imprisonment for a term exceeding three years
- 10 years from the passing of a sentence of imprisonment for a term exceeding one year
- 6 years from the passing of a sentence of imprisonment for a term of less than one year, the fine as the principal or secondary sentence,



(2) No statutory limitation shall apply to the execution of sentences passed for the crime of genocide (Article 88), crime of aggression (Article 89), crimes against humanity (Article 90), war crimes (Article 91) and other offences that are not subject to the statute of limitations under the Constitution of the Republic of Croatia or the international law.

#### **Running of the Statute of Limitations for the Execution of Sentences**

##### Article 84

(1) The period of limitation for the execution of a sentence shall start to run on the date the sentence becomes *res judicata*. In the case of punishment from a revoked conditional sentence, the statute of limitations shall start to run on the date the judgment on revocation becomes *res judicata*.

(2) The period of limitation shall not run during any time the execution of a sentence cannot be instituted or resumed under the law.

(3) The period of limitation for the execution of a sentence shall not run during the serving of the sentence.

#### **Statute of Limitations for the Execution of Safety Measures, Confiscation of a Pecuniary Advantage and Seizure of Objects**

##### Article 85

(1) Safety measures cannot be executed when twice the length of time for which these measures were imposed has elapsed since the judgment imposing such measures became *res judicata*.

(2) The safety measures referred to in Articles 68 and 69 of this Act cannot be executed when the statute of limitations for the execution of the sentence by which they were imposed has run or when the period of probation from the conditional sentence elapses.

(3) Seizure of objects shall become statute-barred upon the expiry of five years since the judgment imposing it becomes *res judicata*.

(4) The execution of safety measures imposed for life and the confiscation of a pecuniary advantage is not subject to the statute of limitations.

(5) The statute of limitations shall not run during any time the execution of a safety measure cannot be instituted or resumed under the law.

#### **Application of Limitation Periods**

##### Article 86

If the period of limitation is modified before the statute of limitations for criminal prosecution or for the execution of a sentence has run, the periods of limitation from the new act shall apply.

### **TITLE VIII**

#### **MEANING OF TERMS USED IN THIS ACT**

##### Article 87

(1) The criminal legislation of the Republic of Croatia shall mean the provisions contained in this Act and other acts of the Republic of Croatia determining the conditions for punishability and the sanctions that may be imposed on the perpetrators of criminal offences.

(2) An unlawful act shall mean an act having the elements of a criminal offence, provided no reason for excluding unlawfulness exists.

(3) An official person shall mean a high-ranking or a lower-ranking state official, a high-ranking or a lower-ranking official in a unit of the local or regional self-government, holder of judicial authority, lay judge, member of the State Judiciary Council or the State Attorney's Council, arbitrator, notary public and bailiff. An official person shall also mean a person who in the European Union, another state, international organisation of which the Republic of Croatia is a member, international tribunal or arbitration board the jurisdiction of which the Republic of Croatia accepts, performs the duties confided to persons listed in the previous sentence.

(4) A member of the armed forces shall mean a person on active duty in the armed forces, a conscript, a reservist, a cadet and a lower-ranking state official and state employee assigned to a post in the armed forces of the Republic of Croatia.

(5) When an official person is designated as the perpetrator of a criminal offence not provided for in Title XXXIV of this Act or as a person against whom a criminal offence has been committed, a member of the armed forces shall also be considered an official person.

(6) A responsible person shall mean a physical person conducting the affairs of a legal person or a physical person to whom the running of affairs from the legal person's sphere of activity has expressly or effectively been confided.

(7) A child shall mean a person who has not attained the age of eighteen years.

(8) Family members shall mean the current spouse or cohabitant, their children and children of either of them, lineal blood relative, collateral blood relatives up to the third degree of kinship, in-laws up to the second degree in the conjugal community or cohabitation, adopter and adoptee, adopter's lineal blood relatives, adopter's collateral blood relatives up to the third degree of kinship, adopter's in-laws up to the second degree of kinship. In the case of criminal offences of domestic violence, family members under this Act shall also mean a former spouse or cohabitant, children of either of them and their children if former conjugal or extramarital relations were the source of conflict after the termination of a conjugal relationship or cohabitation, persons having children together, guardian and ward, foster parent, beneficiary of accommodation in a foster family and members of their family during such a relationship, child and person who has taken the child into care and who is responsible for his/her upbringing. Protection shall also be provided to the same-sex partner and children of either of them or a former same-sex partner and the children of either of them under the same terms and conditions as those that apply to family members or persons considered family members under this Act.

(9) A cohabitant shall mean a person living in a cohabiting relationship of a more lasting character or in which a child is born.

(10) A same-sex partner shall mean a person living in a same-sex partnership of a more lasting character.

(11) A secret piece of information shall mean a piece of information designated as a classified piece of information under a special act. A secret piece of information shall not mean a piece of information whose contents are contrary to the constitutional order of the Republic of Croatia or which has been designated as secret for the purpose of covering-up a criminal offence, exceeding or abusing authority or other forms of illegal actions in state bodies.

(12) An official secret shall mean a piece of information collected and used for the needs of public authority bodies which pursuant to an act, another regulation or a general act of a competent body adopted on the basis of an act has been declared an official secret, provided that it is not a classified piece of information under a special act.

(13) Elections shall mean elections for the Croatian Parliament, presidential elections, elections for the European Parliament, representative bodies in the units of local and regional self-government, elections of mayors, city mayors, prefects, the Zagreb City mayor and the decision-making process in the national referendum.

(14) A document shall mean any object containing an inscription, sign or picture which is suitable or has been chosen to serve as evidence of a particular fact that is of value for legal relations.

(15) A piece of moveable property shall also mean any manufactured or collected energy for the giving of light, heat or motion, as well as telephone impulses.

(16) A motor vehicle shall mean any motor-driven means of transport by road, water or air.

(17) A computer system shall mean any device or a group of inter-connected or inter-linked devices, one or more of which process data automatically on the basis of a computer programme, as well as computer data stored or processed in, read or transferred into it for the purpose of its operation, use, protection and maintenance.

(18) Computer data shall mean any denotation of facts, information or ideas in a form suitable for computer processing.

(19) A computer programme shall mean a set of computer data that are capable of prompting the computer system to perform a certain function.

(20) A hate crime shall mean a criminal offence committed on account of a person's race, colour, religion, national or ethnic origin, disability, gender, sexual orientation or gender identity. Unless a more severe penalty is explicitly prescribed by this Act, such conduct shall be taken as an aggravating circumstance.

(21) A pecuniary advantage obtained by a criminal offence shall mean a direct pecuniary advantage obtained by a criminal offence consisting of any increase or prevention of decrease in the property which came about as a result of the commission of a criminal offence, the property into which the direct pecuniary advantage obtained by a criminal offence has been changed or turned into as well as any other advantage gained from the direct pecuniary advantage obtained by a criminal offence or from property into which the direct pecuniary advantage gained by a criminal offence has been changed or turned into, irrespective of whether it is located inside or outside the territory of the Republic of Croatia.

(22) A bribe shall mean any reward, gift or another undue pecuniary or non-pecuniary advantage, irrespective of its value.

(23) A victim of a criminal offence shall mean a physical person who by an unlawful act has been inflicted physical or mental pain, emotional suffering, has suffered damage to his/her property or against whom a serious violation of human rights and fundamental freedoms has been committed.

## **SPECIAL PART**

### **TITLE IX**

## **CRIMES AGAINST HUMANITY AND HUMAN DIGNITY**

### **Genocide**

#### Article 88

(1) Whoever with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

1. kills members of the group;  
2. causes serious bodily harm to or severely undermines the health of members of the group;

3. deliberately inflicts on the group conditions of life calculated to bring about its physical destruction in whole or in part;

4. imposes measures intended to prevent births within the group; or

5. forcibly transferring children to another group

shall be sentenced to imprisonment for a term of at least ten years or to long-term imprisonment.

(2) Whoever orders the commission of genocide shall be imposed the sentence referred to in paragraph 1 of this Article.

(3) Whoever directly and publicly incites to the commission of genocide shall be sentenced to imprisonment for a term of between one and ten years.

### **Crime of Aggression**

#### Article 89

(1) Whoever, being in a position effectively to exercise control over or to direct the political or military action of a state, uses the armed forces of one state against the sovereignty, territorial integrity or political independence of another state, or in any other manner inconsistent with the Charter of the United Nations executes an act of aggression which, by its character, gravity and scale, constitutes a violation of the Charter of the United Nations

shall be sentenced to imprisonment for a term of at least five years or to long-term imprisonment.

(2) Whoever takes part in the operations of the armed forces referred to in paragraph 1 of this Article

shall be sentenced to imprisonment for a term of between three to fifteen years.

(3) Whoever directly and publicly incites to the crime of aggression

shall be sentenced to imprisonment for a term of between one and ten years.

(4) Any of the following acts, regardless of a declaration of war, shall qualify as an act of aggression referred to in paragraph 1 of this Article:

1. The invasion or attack by the armed forces of a state on the territory of another state, or any military occupation, however temporary, resulting from such invasion or attack, or any annexation by the use of force of the territory of another state or part thereof;

2. bombardment by the armed forces of a state against the territory of another state or the use of any weapons by a state against the territory of another state;

3. the blockade of the ports or coasts of a state by the armed forces of another state;

4. an attack by the armed forces of a state on the land, sea or air forces, or

marine and air fleets of another state;

5. the use of armed forces of one state which are within the territory of another state with the agreement of the receiving state, in contravention of the conditions provided for in the agreement or any extension of their presence in such territory beyond the termination of the agreement;

6. the action of a state in allowing its territory, which it has placed at the disposal of another state, to be used by that other state for perpetrating an act of aggression against a third state; or

7. the sending by or on behalf of a state of armed bands, groups, irregulars or mercenaries, which carry out acts of armed force against another state of such gravity as to amount to the acts listed above, or its substantial involvement therein.

### **Crime against Humanity**

#### **Article 90**

(1) Whoever, in violation of the rules of international law, as part of a widespread or systematic attack directed against any civil population, with knowledge of the attack:

1. kills another person;

2. for the purpose of extermination inflicts on a civilian population conditions of life calculated to bring about the destruction of part of the population;

3. enslaves a person by exercising any or all of the powers attaching to the right of ownership over the person, including the exercise of such power in the course of trafficking in persons;

4. deports or forcibly transfers the persons concerned by expulsion or other coercive acts from the area in which they are lawfully present, without grounds permitted under international law;

5. unlawfully imprisons another person or otherwise unlawfully deprives the person of physical liberty;

6. tortures a person in the custody or under the control of the accused by intentionally inflicting upon the person severe pain or suffering, whether physical or mental, except such pain or suffering arising only from, inherent in or incidental to, lawful sanctions;

7. rapes another person, holds another person in sexual slavery, forces him/her into prostitution, unlawfully confines a woman forcibly made pregnant with the intent of affecting the ethnic composition of any population or carrying out other grave violations of international law, without the consent of another person and when this is not justified by medical reasons sterilises the person or inflicts on him/her any other form of sexual violence of comparable gravity;

8. persecutes any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender or other grounds that are universally recognised as impermissible under international law, and does this in connection with any act described in Articles 88 through 91 of this Act, by intentionally and severely depriving another person of fundamental rights contrary to international law by reason of his/her belonging to a certain group or collectivity;

9. arrests, detains or abducts persons on behalf of or with the authorisation, support or acquiescence of, a state or political organisation, followed by a refusal to acknowledge that deprivation of liberty or to give information on the fate or whereabouts of

those persons, with the intention of removing them from the protection of the law for a prolonged period of time;

10. in the context of an institutionalised regime of systematic oppression and domination by one racial group over any other racial group or groups and with the intention of maintaining that regime commits an inhumane act described in this Article or an act similar to any of these acts (crime of apartheid); or

11. commits other inhumane acts of a similar character intentionally causing great suffering, or serious injury to the body or to mental or physical health

shall be sentenced to imprisonment for a term of at least five years or to long-term imprisonment.

(2) The sentence referred to in paragraph 1 of this Article shall be imposed on the person who orders any of the above criminal offences.

### **War Crime**

#### Article 91

(1) Whoever, in violation of the rules of international law, in times of war, occupation, international armed conflict or non-international armed conflict commits any of the following grave violations against persons or property protected under the Geneva Conventions of 12 August 1949:

1. killing;

2. torture or inhuman treatment, including biological experiments;

3. causing great suffering, or serious injury to body or health;

4. unlawful deportation or transfer or unlawful confinement of a protected person;

5. compelling a prisoner of war or other protected person to serve in the forces of a hostile power;

6. wilfully depriving a prisoner of war or other protected person of the rights of fair and regular trial;

7. taking of hostages; or

8. extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly

shall be sentenced to imprisonment for a term of at least five years or to long-term imprisonment.

(2) Whoever, in violation of the rules of international law, in times of war, occupation, international armed conflict or non-international armed conflict commits other serious violations of the laws and customs applicable in international armed conflict or non-international armed conflict, within the established framework of international law, namely, any of the following acts:

1. directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities;

2. directing attacks against civilian objects, that is, objects which are not military objectives;

3. directing attacks against personnel, installations, material, units or vehicles involved in a humanitarian assistance or peacekeeping mission in accordance with the Charter of the United Nations, as long as they are entitled to the protection given to civilians or civilian objects under the international law of armed conflict;

4. launching an attack in the knowledge that such attack will cause incidental loss of life or injury to civilians or damage to civilian objects or widespread, long-term and severe damage to the natural environment which would be clearly excessive in relation to the concrete and direct overall military advantage anticipated;

5. attacking or bombarding, by whatever means, towns, villages, dwellings or buildings which are undefended and which are not military objectives;

6. killing or wounding a combatant who, having laid down his arms or having no longer means of defence, has surrendered at discretion;

7. making improper use of a flag of truce, of the flag or of the military insignia and uniform of the enemy or of the United Nations, as well as of the distinctive emblems of the Geneva Conventions, resulting in death or serious personal injury;

8. the transfer, directly or indirectly, by the occupying power of parts of its own civilian population into the territory it occupies, or the deportation or transfer of all or parts of the population of the occupied territory within or outside this territory;

9. directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals and places where the sick and wounded are collected, provided they are not military objectives;

10. subjecting persons who are in the power of an adverse party to physical mutilation, the taking of tissues or organs for transplantation or to medical or scientific experiments of any kind which are neither justified by the medical, dental or hospital treatment of the person concerned nor carried out in his or her interest, and which cause death to or seriously endanger the health of such person or persons;

11. killing or wounding treacherously individuals belonging to the hostile nation or army;

12. declaring that no quarter will be given;

13. destroying or seizing the enemy's property unless such destruction or seizure be imperatively demanded by the necessities of war;

14. declaring prohibited, suspended or inadmissible in a court of law the rights and actions of the nationals of the hostile party;

15. compelling the nationals of the hostile party to take part in the operations of war directed against their own country, even if they were in the belligerent's service before the commencement of the war;

16. pillaging a town or place;

17. employing poison or poisoned weapons;

18. employing asphyxiating, poisonous or other gases, and all analogous liquids, materials or devices;

19. employing bullets which expand or flatten easily in the human body;

20. employing weapons, projectiles and material and methods of warfare which are of a nature to cause superfluous injury or unnecessary suffering or which are inherently indiscriminate in violation of the international law of armed conflict, provided that such weapons, projectiles and material and methods of warfare are the subject of a comprehensive prohibition;

21. committing outrages upon personal dignity, in particular humiliating and degrading treatment, collective punishment;

22. committing rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence also constituting a grave breach of the Geneva Conventions;

23. utilizing the presence of a civilian or other protected person to render certain points, areas or military forces immune from military operations;

24. directing attacks against buildings, material, medical units and transport, and personnel using the distinctive emblems of the Geneva Conventions in conformity with international law;

25. intentionally using starvation of civilians as a method of warfare by depriving them of objects indispensable to their survival, including impeding relief supplies as provided for under the Geneva Conventions;

26. conscripting or enlisting children into the national armed forces or armed groups distinct from the national armed forces or using them to participate actively in hostilities; or

27. displacing the civilian population for reasons connected with the conflict, unless their security or imperative military reasons so demand

shall be sentenced to imprisonment for a term of at least three years.

(3) The sentence referred to in paragraph 1 of this Article shall be imposed on anyone who commits any of the crimes set out in paragraph 2 of this Article against a great many persons or in an especially cruel or treacherous way, for love of gain or other base motives.

(4) Whoever orders the commission of a crime set out in paragraphs 1, 2 or 3 of this Article shall be sentenced as if he himself/she herself has committed the crime.

#### **Offence against a Negotiator**

##### Article 92

Whoever, in violation of the rules of international law, in times of war or armed conflict, insults, abuses or retains unduly a negotiator or the persons accompanying him/her or prevents their return, or otherwise infringes on their inviolability

shall be sentenced to imprisonment for a term of between six months and five years.

#### **Abuse of International Emblems or Insignia**

##### Article 93

Whoever in zones of military activity abuses or wears without authorisation the flag or emblem of the United Nations, the Red Cross or symbols corresponding to them, or other internationally recognized protection symbols used to mark certain facilities in order to protect them from military operations

shall be sentenced to imprisonment for a term of between six months and five years.

#### **Unjustifiable Delay in the Repatriation of Prisoners of War**

##### Article 94

Whoever, in violation of the rules of international law, after the termination of a war or armed conflict orders or executes unjustifiable delay in the repatriation of prisoners of war or civilian persons

shall be sentenced to imprisonment for a term of between six months and five years.



### **Recruitment of Mercenaries**

#### Article 95

(1) Whoever, in violation of the rules of international law, recruits, uses, finances or trains mercenaries for the purpose of their participation in an armed conflict or in a concerted act of violence aimed at overthrowing the government, undermining the territorial integrity of a state or threatening its constitutional order

shall be sentenced to imprisonment for a term of between six months and five years.

(2) Whoever conscripts or enlists a child into the armed forces or armed groups distinct from the armed forces or uses a thus recruited child to participate in direct hostilities

shall be sentenced to imprisonment for a term of between one and ten years.

(3) Whoever for the purpose of obtaining a pecuniary benefit directly participates as a mercenary come of age in an armed conflict or a concerted act of violence

shall be sentenced to imprisonment for a term of up to three years.

### **Responsibility of Commander**

#### Article 96

(1) A military commander or civilian superior or a person effectively acting as a military commander or civilian superior who omits to prevent a person under his/her effective command and control, or effective authority and control, from committing a criminal offence set forth in Articles 88 through 91 of this Act shall be punished as if he/she himself/herself committed it. In this case, the provision of Article 20, paragraph 3, of this Act shall not apply.

(2) A military commander or person effectively acting as a military commander who fails to properly exercise control over forces under his/her effective command and control or effective authority and control, where he/she ought to have known that his/her forces were committing or were about to commit a criminal offence set forth in Articles 88 through 91 of this Act and who fails to take all necessary and reasonable measures within his/her power to prevent their commission

shall be sentenced to imprisonment for a term of between three and fifteen years.

(3) With respect to all superior and subordinate relationships other than those described in paragraph 2 of this Article, the sentence referred to in paragraph 2 of this Article shall be imposed on a superior who failed to exercise control properly over subordinates under his/her effective authority and control, where the superior consciously disregarded information indicating that the subordinates were committing or about to commit a criminal offence set forth in Articles 88 through 91 of this Act, where such offences were within his/her effective responsibility and control and where he/she failed to take all necessary and reasonable measures within his/her power to prevent their commission.

(4) If proper control referred to in paragraphs 2 and 3 of this Article was not exercised due to negligence, the perpetrator shall be sentenced to imprisonment for a term of between one and ten years.

(5) The persons referred to in paragraphs 1, 2 and 3 of this Article who do not pass on their knowledge of criminal offences set forth in Articles 88 through 91 of this Act to the

competent authorities for investigation and prosecution of direct perpetrators subordinated to them

shall be sentenced to imprisonment for a term of between six months and five years.

## **Terrorism**

### **Article 97**

(1) Whoever, with a view to seriously intimidating a population or compelling a government or an international organisation to do or to abstain from doing an act or seriously destabilising or destroying the fundamental constitutional, political, economic or social structures of a state or an international organisation, commits any of the following acts which can seriously harm a state or an international organisation:

1. attacking a person's life which may cause death;
  2. attacking the physical integrity of a person;
  3. kidnapping or hostage taking;
  4. causing destruction to a government or public facility, a transport system, an infrastructure facility, including an information system, a fixed platform located on the epicontinental shelf, a public place or private property, which is likely to endanger human life or result in major economic loss;
  5. hijacking an aircraft, vessel or other means of public or goods transport;
  6. manufacturing, possessing, acquiring, transporting, supplying or using weapons, explosives or nuclear, biological or chemical weapons as well as doing research into and developing nuclear, biological or chemical weapons;
  7. releasing dangerous substances, or causing fires, explosions or floods, the effect of which is to endanger human life;
  8. interfering with or disrupting the supply of water, power or any other fundamental natural resource, the effect of which is to endanger human life; or
  9. possessing or using radioactive substances or manufacturing, possessing or using a device for the activation, dispersal or emission of radioactive material or ionising radiation, using or causing damage to a nuclear facility resulting in the release of radioactive materials or the danger thereof, or requesting, by using force or threats, radioactive materials, a device for activating, dispersing or emitting radioactive materials or a nuclear facility
- shall be sentenced to imprisonment for a term of between three and fifteen years.

(2) Whoever threatens to commit a criminal offence referred to in paragraph 1 of this Article

shall be sentenced to imprisonment for a term of between six months and five years.

(3) If extensive destruction or the death of one or more persons has been caused by the criminal offence referred to in paragraph 1 of this Article,

the perpetrator shall be sentenced to imprisonment for a term of at least five years.

(4) If, in the course of perpetrating the criminal offence referred to in paragraph 1 of this Article, the perpetrator intentionally kills one or more persons,

he/she shall be sentenced to imprisonment for a term of at least ten years or to long-term imprisonment.

### **Financing of Terrorism**

#### Article 98

(1) Whoever directly or indirectly provides or collects funds with the intention that they be used or in the knowledge that they will be used, in full or in part, in order to carry out one or more of the criminal offences referred to in Article 97, Articles 99 through 101, Article 137, Article 216, paragraphs 1 through 3, Article 219, Article 223, Article 224, Articles 352 through 355 of this Act or any other criminal offence intended to cause death or serious bodily injury to a civilian or to any other person not taking an active part in an armed conflict, when the purpose of such an act is to intimidate a population or to compel a government or an international organisation to do or to abstain from doing an act

shall be sentenced to imprisonment for a term of between one and ten years.

(2) The sentence referred to in paragraph 1 of this Article shall be imposed on whoever directly or indirectly provides or collects funds with the intention that they be used or in the knowledge that they will be used, in full or in part, by terrorists or terrorist associations.

(3) The funds referred to in paragraphs 1 and 2 of this Article shall be confiscated.

### **Public Instigation of Terrorism**

#### Article 99

Whoever publicly expresses or promotes ideas directly or indirectly instigating the commission of a criminal offence referred to in Articles 97 through 98, Article 137, Article 216, paragraphs 1 through 3, Article 219, Articles 223 through 224, Articles 352 through 355 of this Act

shall be sentenced to imprisonment for a term of between one and ten years.

### **Recruitment for Terrorism**

#### Article 100

Whoever solicits another person to join a terrorist association for the purpose of contributing to the commission of a criminal offence referred to in Articles 97, 102, 137, Article 216, paragraphs 1 through 3, Articles 219, 223, 224, Articles 352 through 355 of this Act

shall be sentenced to imprisonment for a term of between one and ten years.

### **Training for Terrorism**

#### Article 101

Whoever provides instructions in the making or use of explosive devices, firearms or other weapons or noxious or hazardous substances, or in other specific methods or techniques, knowing that the skills provided are intended to be used for the purpose of committing any of the criminal offences referred to in Articles 97, 98, 137, Article 216, paragraphs 1 through 3, Article 219, Articles 223 through 224, Articles 352 through 355 of this Act

shall be sentenced to imprisonment for a term of between one and ten years.

### **Terrorist Association**

#### Article 102

(1) Whoever organizes or runs a criminal association the aim of which is to commit a criminal offence referred to in Articles 97 through 101, Article 137, Article 216, paragraphs 1 through 3, Article 219, Articles 223 through 224, Articles 352 through 355 of this Act or any other criminal offence intended to cause death or serious bodily injury to a civilian or to any other person not taking an active part in an armed conflict, when the purpose of such an act is to intimidate a population or to compel a government or an international organisation to do or to abstain from doing an act

shall be sentenced to imprisonment for a term of between three and fifteen years.

(2) Whoever becomes a member of the criminal association referred to in paragraph 1 of this Article or commits an act which he/she knows contributes to the achievement of the terrorist association's goal

shall be sentenced to imprisonment for a term of between one and eight years.

(3) The perpetrator of a criminal offence referred to in paragraph 1 or 2 of this Article who, by uncovering a terrorist association on time, prevents the perpetration of a criminal offence referred to in paragraph 1 of this Article or a member of a terrorist association who uncovers the association prior to committing, as its member or on its behalf, a criminal offence referred to in paragraph 1 of this Article may have his/her punishment remitted.

#### **Preparing Criminal Offences against Values Protected under International Law**

##### Article 103

Whoever prepares the commission of criminal offences referred to in Articles 88 through 91 and Article 97 of this Act

shall be sentenced to imprisonment for a term of between six months and five years.

#### **Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment**

##### Article 104

A public official or other person who at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity inflicts on another severe pain or suffering, whether physical or mental, for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind

shall be sentenced to imprisonment for a term of between one and ten years.

#### **Slavery**

##### Article 105

(1) Whoever, in violation of the rules of international law, puts another in a position of slavery or a similar position or holds him/her in such a position, buys, sells, hands over to another or mediates in the purchase, sale or handing over of such a person, or incites another to sell his/her freedom or the freedom of the person he/she provides for or takes care of

shall be sentenced to imprisonment for a term of between one and ten years.

(2) Whoever transports people who are in a position of slavery or a position similar thereto shall be sentenced to imprisonment for a term of between six months and five years.

(3) Whoever commits the offence referred to in paragraphs 1 or 2 against a child shall be sentenced to imprisonment for a term of between three and fifteen years.

### **Trafficking in Persons**

#### Article 106

(1) Whoever, by means of the use of force or threat, of deception, of fraud, of abduction, of abuse of authority or of a situation of hardship or dependence, or of the giving or receiving of payments or other benefits to achieve the consent of a person having control over another person or by any other means recruits, transports, transfers, harbours or receives a person, or exchanges or gives over control over a person for the purpose of exploiting his/her labour by means of forced labour or services, slavery or a relationship similar thereto, or for the purpose of exploitation of prostitution of the person or of other forms of sexual exploitation, including pornography, or of contracting an illicit or forced marriage, or of taking parts of the person's body or of using the person in armed conflicts or of committing an unlawful act shall be sentenced to imprisonment for a term of between one and ten years.

(2) The sentence referred to in paragraph 1 of this Article shall be imposed on whoever recruits, transports, transfers, harbours or receives a child, or exchanges or gives over control over a child for the purpose of exploiting his/her labour by means of forced labour or services, slavery or a relationship similar thereto, or for the purpose of exploitation of prostitution of the child or of other forms of sexual exploitation, including pornography, or of contracting an illicit or forced marriage, or of illegal adoption, or of taking parts of a child's body, or of using the child in armed conflicts.

(3) If the criminal offence referred to in paragraph 1 of this Article was committed against a child or the criminal offence referred to in paragraphs 1 or 2 of this Article was committed by a public official in the performance of the duties of his/her office, or the said offence was committed against a great number of persons or the life of one or more persons was consciously put at risk,

the perpetrator shall be sentenced to imprisonment for a term of between three and fifteen years.

(4) The sentence referred to in paragraph 1 of this Article shall be imposed on whoever, knowing that a person is a victim of trafficking in persons, uses the said person's services which are the result of one of the forms of his/her exploitation set forth in paragraphs 1 and 2 of this Article.

(5) Whoever, with the aim of enabling the commission of offences set forth in paragraphs 1, 2 and 3 of this Article retains, seizes of possession, conceals, defaces or destroys another person's travel document or identification document,

shall be sentenced to imprisonment for a term of up to three years.

(6) A perpetrator who attempts to commit the criminal offence referred to in paragraph 5 of this Article shall be punished.

(7) The consent of the very person who is the victim of trafficking in persons to exploitation shall be irrelevant to the existence of this criminal offence.

### **Trafficking in Human Body Parts and Human Embryos**

#### Article 107

(1) Whoever, for the purpose of removing body parts referred to in Article 106 of this Act, procures, possesses, transports, transfers, stores, receives or transplants a human organ, tissue, cell, embryo or foetus, provided he/she knows or should and could have known that they originated from a person who was a victim of trafficking in persons

shall be sentenced to imprisonment for a term of between one and ten years.

(2) Whoever, by means of the use of force or threat, of deception, of fraud, of abduction, of abuse of authority or of a situation of hardship or dependence, procures, possesses, transports, transfers, stores or receives a human organ, tissue, cell, embryo, foetus or dead body for the purpose of removing body parts

shall be sentenced to imprisonment for a term of between one and eight years.

(3) Whoever, by means of the giving of payments or other comparable benefits, procures a human organ, tissue, cell, embryo, foetus or dead body

shall be sentenced to imprisonment for a term of between six months and five years.

(4) The sentence referred to in paragraph 3 of this Article shall be imposed on whoever, with a view to financial gain, induces or helps another to give his/her organ, tissue, cell, embryo or foetus in exchange for payment or another benefit.

(5) Whoever removes or transplants a human organ, tissue, cell, embryo or foetus, where he/she knew or should and could have known that in exchange for it the donor had received payment or another benefit,

shall be sentenced to imprisonment for a term of up to three years.

(6) The sentence referred to in paragraph 5 of this Article shall be imposed on whoever advertises the need for or availability of a human organ, tissue, cell, embryo, foetus or dead body for the purpose of offering or requesting payment or another benefit.

### **Cloning and Human Genome Changes**

#### Article 108

(1) Whoever acts with the aim of creating a human being which shares with another live or dead human being the same set of genes from the nucleus of a cell

shall be sentenced to imprisonment for a term of between one and ten years.

(2) Whoever carries out an intervention seeking to modify the human genome for purposes other than preventive, diagnostic or therapeutic, or does so for preventive, diagnostic or therapeutic purposes with the aim of introducing modifications in the genome of a patient's descendent

shall be sentenced to imprisonment for a term of between six months and five years.

### **Prohibition to Mix Human Sex Cells with Animal Sex Cells**

#### Article 109

Whoever fertilises a woman's egg cell with a sperm cell of any species other than the sperm cell of a man or an animal egg cell with a human sperm cell, modifies the human

embryo by transplanting animal embryos or introduces human sex cells or the human embryo into an animal, or animal sex cells or the animal embryo into a woman shall be sentenced to imprisonment for a term of between one and ten years.

## **TITLE X**

### **CRIMINAL OFFENCES AGAINST LIFE AND LIMB**

#### **Murder**

##### Article 110

Whoever murders a person shall be sentenced to imprisonment for a term of at least five years.

#### **Aggravated Murder**

##### Article 111

A sentence of imprisonment for a term of at least ten years or long-term imprisonment shall be imposed on whoever:

1. murders another in a cruel or perfidious manner;
2. murders a person who is especially vulnerable due to his/her age, a severe physical or mental disorder or pregnancy;
3. murders a family member whom he/she has already abused;
4. murders another for love of gain, ruthless revenge, hatred or other base motives;
5. murders another in order to commit or cover up another criminal offence;
6. murders an official person in relation to his/her performance of official duties.

#### **Manslaughter**

##### Article 112

(1) Whoever kills another after having been aroused, through no fault of his/her own, into a state of long-term suffering, severe irritation or fright by the latter's attack, through exposure to serious insults from him/her or maltreatment by him/her

shall be sentenced to imprisonment for a term of between one and ten years.

(2) A mother who kills her child under the influence of severe mental strain due to pregnancy or childbirth

shall be sentenced to imprisonment for a term of between six months and five years.

(3) Whoever kills another at the latter's express and earnest request, out of pity provoked by the latter's grave state of health

shall be sentenced to imprisonment for a term of up to three years.

#### **Negligent Homicide**

Article 113

Whoever causes another person's death by negligence shall be sentenced to imprisonment for a term of between six months and five years.

**Participation in Suicide**

Article 114

(1) Whoever induces another to commit suicide or out of base motives assists him/her therein and the suicide is committed or attempted shall be sentenced to imprisonment for a term of up to three years.

(2) Whoever commits the offence referred to in paragraph 1 of this Article against a child who has turned fourteen or a person whose ability to comprehend his/her actions is substantially reduced shall be sentenced to imprisonment for a term of between one and eight years.

**Unlawful Termination of Pregnancy**

Article 115

(1) Whoever, in violation of the termination of pregnancy regulations, carries out a treatment to terminate pregnancy on a pregnant person or incites a pregnant person to terminate her pregnancy or assists her therein with her consent, shall be sentenced to imprisonment for a term of up to three years.

(2) If a pregnant person has died or suffered severe damage to her health as a result of the criminal offence referred to in paragraph 1 of this Article, the perpetrator shall be sentenced to imprisonment for a term of between one and ten years.

(3) Whoever carries out a treatment to terminate pregnancy on a pregnant person without her consent shall be sentenced to imprisonment for a term of between one and eight years.

(4) If a pregnant person has died or suffered severe damage to her health as a result of the criminal offence referred to in paragraph 3 of this Article, the perpetrator shall be sentenced to imprisonment for a term of between three and fifteen years.

(5) A perpetrator who attempts to commit the criminal offence referred to in paragraph 1 of this Article shall be punished.

**Female Genital Mutilation**

Article 116

(1) Whoever partially or totally removes or permanently alters the external female genitalia shall be sentenced to imprisonment for a term of between six months and five years.

(2) Whoever incites a woman to subject herself to procedures referred to in paragraph 1 of this Article or assists therein shall be sentenced to imprisonment for a term of up to three years.



(3) Whoever commits the offence referred to in paragraphs 1 and 2 of this Article against a child or family member out of hatred shall be sentenced to imprisonment for a term of between one and eight years.

### **Bodily Injury**

#### Article 117

(1) Whoever inflicts a bodily injury on another or impairs his/her health shall be sentenced to imprisonment for a term of up to one year.

(2) Whoever commits the offence referred to in paragraph 1 out of hatred against a family member or a person especially vulnerable due to his/her age, a severe physical or mental disorder, disability or pregnancy, or in the capacity of a public official performing his/her functions or exercising public authority shall be sentenced to imprisonment for a term of up to three years.

(3) The criminal offence referred to in paragraph 1 shall be prosecuted by private action.

### **Serious Bodily Injury**

#### Article 118

(1) Whoever inflicts a serious bodily injury on another or severely impairs his/her health shall be sentenced to imprisonment for a term of between six months and five years.

(2) Whoever commits the offence referred to in paragraph 1 out of hatred against a family member or a person especially vulnerable due to his/her age, a severe physical or mental disorder, disability or pregnancy, or in the capacity of a public official performing his/her functions or exercising public authority shall be sentenced to imprisonment for a term of between one and eight years.

### **Aggravated Assault**

#### Article 119

(1) If, as a result of the criminal offence referred to in Article 116, paragraphs 1 and 2, and Article 118, paragraph 1, of this Act, the life of the injured person is endangered, or an important part of his/her body or an important organ is destroyed or permanently and significantly weakened, or the injured person suffers permanent work disability or permanent and severe damage to his/her health or permanent disfigurement or permanent reproductive disability,

the perpetrator shall be sentenced to imprisonment for a term of between one and eight years.

(2) Whoever commits the offence referred to in paragraph 1 of this Article out of hatred against a family member or a person especially vulnerable due to his/her age, a severe physical or mental disorder, disability or pregnancy, or in the capacity of a public official performing his/her functions or exercising public authority shall be sentenced to imprisonment for a term of between one and ten years.

(3) Whoever intentionally causes any of the consequences set forth in paragraph 1 of this Article shall be sentenced to imprisonment for a term of between three and twelve years.

### **Serious Bodily Injury Resulting in Death**

#### Article 120

If the criminal offence referred to in Articles 116, 118 and 119 of this Act results in the death of another person,  
the perpetrator shall be sentenced to imprisonment for a term of between three and fifteen year.

### **Serious Bodily Injury Caused by Negligence**

#### Article 121

- (1) Whoever commits the offence referred to in Article 118 by negligence shall be sentenced to imprisonment for a term of up to one year.
- (2) Whoever commits the offence referred to in Article 119 by negligence shall be sentenced to imprisonment for a term of up to three years.

### **Participation in an Affray**

#### Article 122

- (1) Whoever participates in an affray or an assault by several persons which results in the death or serious bodily injury of one or more persons shall be sentenced for mere participation in such an affray or assault to imprisonment for a term of up to three years.
- (2) Whoever organises or leads a group of three or more persons who participate in an affray or assault referred to in paragraph 1 of this Article or organises such an assault or affray shall be sentenced to imprisonment for a term of between one and eight years.
- (3) There shall be no criminal offence referred to in paragraph 1 of this Article if a person was drawn into an affray through no fault of his/her own or if he/she only defended himself/herself or was separating other participants in the affray.

### **Failure to Render Assistance**

#### Article 123

- (1) Whoever fails to render assistance to a person in mortal danger, unless by doing so he/she would expose himself/herself or another to great danger, shall be sentenced to imprisonment for a term of up to one year.
- (2) Whoever does not render assistance to a person in danger which he/she himself/herself has caused, unless doing so would expose him/her or another to great danger, shall be sentenced to imprisonment for a term of up to three years.

### **Abandonment of an Infirm Person**

Article 124

Whoever leaves an infirm person entrusted to him/her unassisted and in circumstances in which his/her life or health are at risk shall be sentenced to imprisonment for a term of up to three years.

**TITLE XI**

**CRIMINAL OFFENCES AGAINST HUMAN RIGHTS  
AND FUNDAMENTAL FREEDOMS**

**Violation of Equality**

Article 125

(1) Whoever, on the basis of race, ethnic affiliation, skin colour, gender, language, religion, political and other convictions, national or social origin, property, birth, education, social status, marital or family status, age, state of health, disability, genetic inheritance, gender identity, expression, sexual orientation or other characteristics, denies another the right to acquire goods or receive services, the right to carry out an activity, the right to employment and promotion, or limits these rights or makes them subject to any of the above characteristics, or whoever on the basis of any such characteristic or affiliation gives another privileges or advantages

shall be sentenced to imprisonment for a term of up to three years.

(2) The sentence referred to in paragraph 1 of this Article shall be imposed on whoever persecutes individuals or organisations because of their commitment to equality of people.

**Violation of the Freedom to Express National Affiliation**

Article 126

(1) Whoever denies a member of a national minority the right freely to express his/her national affiliation or the right to cultural autonomy or whoever places limits on these rights

shall be sentenced to imprisonment for a term of up to one year.

(2) The sentence referred to in paragraph 1 of this Article shall be imposed on whoever, in violation of the regulations on the use of language and script, denies a person the right to use his/her own language and script or places limits on this right.

**Violation of the Freedom of Thought and Expression**

Article 127

(1) Whoever denies or limits the freedom of speech or public expression, the freedom of the press or other media of communication or the free establishment of mass media institutions

shall be sentenced to imprisonment for a term of up to one year.

(2) The sentence referred to in paragraph 1 of this Article shall be imposed on whoever orders or practices censorship or unlawfully denies a journalists the freedom to report or limits this freedom.

(3) The sentence referred to in paragraph 1 of this Article shall be imposed on whoever unlawfully prevents the publication, sale or distribution of books, magazines, newspapers or other printed matter, or the production and broadcasting of radio and television programmes, news agency programmes or the release of other media content.

#### **Violation of the Rights to Assemble and Protest**

##### Article 128

(1) Whoever denies or limits the right of assembly or the right to peaceful protest organised in accordance with the law shall be sentenced to imprisonment for a term of up to one year.

(2) The sentence referred to in paragraph 1 of this Article shall be imposed on whoever prevents, renders impossible or significantly obstructs, by force, serious threat or otherwise, public assembly or peaceful protest organised in accordance with the law.

#### **Violation of the Right of Association**

##### Article 129

Whoever denies or limits the right to form political parties, trade unions or other associations, to join or withdraw from their membership in accordance with the law shall be sentenced to imprisonment for a term of up to one year.

#### **Violation of the Freedom of Religion**

##### Article 130

(1) Whoever denies or limits the freedom of conscience and religion, the freedom to publicly profess one's religion or other belief

shall be sentenced to imprisonment for a term of up to one year.

(2) The sentence referred to in paragraph 1 of this Article shall be imposed on whoever denies a religious community which operates in accordance with the law the right to equality with other religious communities in the Republic of Croatia or denies it the rights to publicly hold religious services, found and run schools, learning institutions, institutes, social or charitable institutions or limits these rights.

### **TITLE XII**

#### **CRIMINAL OFFENCES AGAINST LABOUR RELATIONS AND SOCIAL INSURANCE**

##### **Violation of the Right to Work**

##### Article 131

(1) Whoever dismisses a worker because he/she turned or reported in good faith and on justified suspicion of corruption to the competent persons or state authorities shall be sentenced to imprisonment for a term of up to three years.

(2) The sentence referred to in paragraph 1 of this Article shall be imposed on whoever dismisses one or more workers because of their participation in a strike that was organised and carried out in accordance with the law, collective wage agreement and trade union rules.

(3) The sentence referred to in paragraph 1 of this Article shall be imposed on whoever does not enforce a judicial decision reinstating the worker which has become *res judicata*.

### **Non-Payment of Salaries**

#### Article 132

(1) Whoever fails to pay one or more workers salaries in full or in part shall be sentenced to imprisonment for a term of up to three years.

(2) The sentence referred to in paragraph 1 of this Article shall be imposed on whoever fails to provide information or provides incorrect information for the fixing of a salary and by doing so fails to pay the salary or pays it in part.

(3) There shall be no criminal offence referred to in paragraph 1 of this Article where the non-payment is the result of the impossibility to freely use funds in the employer's account or of the insufficiency of funds in the employer's account which did not come about in order to avoid the payment of salaries.

(4) If the perpetrator referred to in paragraph 1 of this Article pays the salaries due subsequently, he/she may be exempted from punishment.

(5) For the purpose of this Article, a salary shall mean the basic salary and any other consideration, whether in cash or in kind, which the worker receives in respect of his/her employment, in gross amount, including contributions from and on the salary according to a special regulation.

### **Workplace Mistreatment**

#### Article 133

(1) Whoever insults, humiliates, mistreats or otherwise disturbs another in the workplace or in relation to work and by doing so damages his/her health or violates his/her rights shall be sentenced to imprisonment for a term of up to two years.

(2) The criminal offence referred to in paragraph 1 of this Article shall be prosecuted on request.

### **Violation of Social Insurance Rights**

#### Article 134

Whoever denies another a pension, health or unemployment insurance right established by law or limits this right or withholds the payment of contributions for the employment of disabled persons, where this does not satisfy the elements of another criminal offence

shall be sentenced to imprisonment for a term of up to one year.

### **Illegal Employment**

#### Article 135

Whoever employs a person who is illegally residing in the territory of the Republic of Croatia, which person is neither a citizen of an EU Member State nor enjoys the right of free movement in the European Union, in working conditions characterised by exploitation or knowing that the person is a victim of trafficking in persons, or that he/she is under the age of eighteen, or whoever over a long period of time or repeatedly employs such persons or simultaneously employs a great number of them shall be sentenced to imprisonment for a term of between six months and five years.

### **TITLE XIII**

## **CRIMINAL OFFENCES AGAINST PERSONAL FREEDOM**

### **Unlawful Deprivation of Liberty**

#### Article 136

- (1) Whoever unlawfully detains another, holds him/her in detention or deprives him/her of the freedom of movement in some other way or restricts this freedom shall be sentenced to imprisonment for a term of up to three years.
- (2) Whoever unlawfully deprives another of liberty in order to force him/her to do or omit to do something or to suffer shall be sentenced to imprisonment for a term of between six months and five years.
- (3) If the criminal offences referred to in paragraphs 1 and 2 of this Article were committed against a child or unlawful deprivation of liberty lasted longer than fifteen days or was carried out in a cruel way, or if the person unlawfully deprived of liberty suffered a severe bodily injury, or if unlawful deprivation of liberty was committed by a public official in the performance of his/her functions or the exercise of public authority, the perpetrator shall be sentenced to imprisonment for a term of between one and ten years.
- (4) If the criminal offences referred to in paragraphs 1, 2 and 3 of this Article caused the death of a person who was unlawfully deprived of liberty, the perpetrator shall be sentenced to imprisonment for a term of between three and fifteen years.
- (5) A perpetrator who of his/her free will releases a person who was unlawfully deprived of liberty before he/she achieves the goal referred to in paragraph 2 of this Article may be exempted from punishment.
- (6) A perpetrator who attempts to commit the criminal offence referred to in paragraph 1 of this Article shall be punished.

### **Abduction**

#### Article 137

(1) Whoever unlawfully deprives another of liberty in order to force a third party to do or omit to do something or to suffer shall be sentenced to imprisonment for a term of between six months and five years.

(2) If the criminal offence referred to in paragraph 1 of this Article was committed under threat that the abducted person would be killed or was committed in a cruel way or the abducted person suffered a severe bodily injury or the said criminal offence was committed against a child or a disabled person, the perpetrator shall be sentenced to imprisonment for a term of between one and ten years.

(3) If the abducted person died as a result of the criminal offence referred to in paragraph 1 of this Article, the perpetrator shall be sentenced to imprisonment for a term of between three and fifteen years.

(4) A perpetrator who of his/her free will releases an abducted person before he/she achieves the goal referred to in paragraphs 1 and 2 of this Article may be exempted from punishment.

### **Coercion**

#### Article 138

(1) Whoever by the use of force or serious threat coerces another to do or omit to do something or to suffer shall be sentenced to imprisonment for a term of up to three years.

(2) The criminal offence referred to in paragraph 1 of this Article shall be prosecuted by private action, unless it was committed out of hatred, against a child, a disabled person or a family member.

### **Threat**

#### Article 139

(1) Whoever seriously threatens harm to another person in order to intimidate or disturb him/her shall be sentenced to imprisonment for a term of up to one year.

(2) Whoever seriously threatens to kill, inflict severe bodily injury on, abduct or deprive of liberty another or a person close to another or to inflict harm by arson, explosion, ionising radiation, weapons, dangerous tools or other dangerous means, or to destroy the social status or material means of subsistence shall be sentenced to imprisonment for a term of up to three years.

(3) If the criminal offence referred to in paragraphs 1 and 2 was committed against an official or responsible person in connection with his/her job or position or against a journalist in connection with his/her job, or against many persons, or if it has significantly disturbed the population or the person threatened was put in a difficult position over a long period of time,

the perpetrator shall be sentenced to imprisonment for a term of between six months and five years.

(4) The criminal offence referred to in paragraph 1 of this Article shall be prosecuted by private action, while the criminal offence referred to in paragraph 2 of this Article shall be prosecuted upon request, unless the criminal offences referred to in paragraphs 1 and 2 were committed out of hatred, against a child, a disabled person or a family member.

### **Stalking**

#### **Article 140**

(1) Whoever persistently and over a long period of time follows or spies on another, or establishes or seeks to establish unwanted contact with another, or intimidates another in some other way and by doing so provokes anxiety in him/her or causes him/her to fear for his/her safety or the safety of persons close to him/her

shall be sentenced to imprisonment for a term of up to one year.

(2) If the offence referred to in paragraph 1 of this Article is committed against the current or former spouse or cohabitant or same-sex partner, a person with whom the perpetrator was in an intimate relationship or a child,

the perpetrator shall be sentenced to imprisonment for a term of up to three years.

(3) Unless it was committed against a child, the criminal offence referred to in paragraphs 1 and 2 of this Article shall be prosecuted upon request.

## **TITLE XIV**

### **CRIMINAL OFFENCES AGAINST PRIVACY**

#### **Violation of the Inviolability of the Home and Business Premises**

##### **Article 141**

(1) Whoever enters without authorisation another person's home or business premises, or a closed or enclosed space belonging to the home or business premises, or who does not leave when requested to do so by the authorised person

shall be sentenced to imprisonment for a term of up to one year.

(2) If the criminal offence referred to in paragraph 1 of this Article is committed by a public official in the performance of his/her functions or the exercise of public authority,

he/she shall be sentenced to imprisonment for a term of up to three years.

(3) The criminal offence referred to in paragraph 1 of this Article shall be prosecuted upon request.

#### **Violation of the Secrecy of Letters and Other Parcels**

##### **Article 142**

(1) Whoever opens without authorisation another person's parcel, letter, telegram, electronic mail or any other item of correspondence, or otherwise violates their secrecy, or retains, conceals, destroys or hands over without authorisation to a third party another person's sealed parcel or letter, telegram, electronic mail or any other item of correspondence

shall be sentenced to imprisonment for a term of up to one year.

(2) Whoever, with the aim of acquiring pecuniary gain for himself/herself or another or of causing damage to another, discloses to a third party a piece of information that



he/she came to know by violating the secrecy of another person's parcel, letter, telegram, electronic mail or any other item of correspondence, or makes use of this secret,

shall be sentenced to imprisonment for a term of up to two years.

(3) If the criminal offences referred to in paragraphs 1 and 2 of this Article are committed by a public official in the performance of his/her functions or the exercise of public authority,

he/she shall be sentenced to imprisonment for a term of up to three years.

(4) The criminal offences referred to in paragraphs 1 and 2 of this Article shall be prosecuted upon request.

### **Unauthorised Audio Recording and Eavesdropping**

#### Article 143

(1) Whoever audio records without authorisation another person's privately uttered words or by means of special devices eavesdrops without authorisation another person's privately uttered words that are not intended to be heard by him/her

shall be sentenced to imprisonment for a term of up to three years.

(2) The sentence referred to in paragraph 1 of this Article shall be imposed on whoever uses or makes available to a third party the recorded words referred to in paragraph 1 or whoever publicly reveals word for word the eavesdropped words referred to in paragraph 1 or their gist.

(3) If the criminal offences referred to in paragraphs 1 and 2 of this Article are committed by a public official in the performance of his/her functions or the exercise of public authority,

he/she shall be sentenced to imprisonment for a term of between six months and five years.

(4) There shall be no criminal offence if the acts referred to in paragraphs 1 and 2 of this Article are committed in the public interest or another interest prevailing over the interest to protect the privacy of the person being recorded or eavesdropped on.

(5) The criminal offences referred to in paragraphs 1 and 2 of this Article shall be prosecuted upon request.

(6) The recordings and special devices used for committing the criminal offence referred to in this Article shall be seized.

### **Unauthorised Taking of Pictures**

#### Article 144

(1) Whoever takes pictures of another person located in an apartment or an area especially protected from view without authorisation, or uses or makes available to a third party such a picture, thus violating the person's privacy

shall be sentenced to imprisonment for a term of up to one year.

(2) If the criminal offence referred to in paragraph 1 of this Article is committed by a public official in the performance of his/her functions or the exercise of public authority,

he/she shall be sentenced to imprisonment for a term of up to three years.

(3) The criminal offence referred to in paragraph 1 of this Article shall be prosecuted upon request.

(4) Pictures and special devices used for committing the criminal offence referred to in this Article shall be seized.

### **Unauthorised Disclosure of a Professional Secret**

#### Article 145

(1) An attorney-at-law, notary public, health worker, psychologist, employee of a welfare institution, religious confessor or another person who discloses without authorisation a piece of information about the personal or family life confided to him/her in the performance of his/her occupation

shall be sentenced to imprisonment for a term of up to one year.

(2) There shall be no criminal offence referred to in paragraph 1 of this Article if the secret was disclosed in the public interest or the interest of a third party which prevails over the interest of keeping the secret.

(3) The criminal offence referred to in paragraph 1 of this Article shall be prosecuted upon request.

### **Unlawful Use of Personal Data**

#### Article 146

(1) Whoever, in contravention of the conditions set out in the act, collects, processes or uses personal data of physical persons

shall be sentenced to imprisonment for a term of up to one year.

(2) Whoever, in contravention of the conditions set out in the act, transfers personal data outside of the Republic of Croatia for further processing, or makes them public or in some other way available to a third party, or whoever by the act referred to in paragraph 1 of this Article acquires significant pecuniary gain for himself/herself or another or causes considerable damage

shall be sentenced to imprisonment for a term of up to three years.

(3) The sentence referred to in paragraph 2 of this Article shall be imposed on whoever commits the offence referred to in paragraph 1 of this Article against a child or on whoever, in contravention of the conditions set out in the act, collects, processes or uses personal data of physical persons on the racial or ethnic origin, political views, religious or other beliefs, trade union membership, health or sex life or the personal data of physical persons on criminal or misdemeanour proceedings.

(4) If the criminal offences referred to in paragraphs 1 through 3 of this Article is committed by a public official in the exercise of his/her authorities,

he/she shall be sentenced to imprisonment for a term of between six months and five years.

## **TITLE XV**

### **CRIMINAL OFFENCES AGAINST HONOUR AND REPUTATION**

#### **Insult**

#### Article 147

(1) Whoever insults another shall be punished by a fine of ninety daily units.

(2) Whoever commits the offence referred to in paragraph 1 of this Article through the press, radio, television, computer system or network, at a public gathering or in some other way, thus making the insult accessible to a large number of persons, shall be punished by a fine of up to one hundred and eighty daily units.

(3) If the insulted person returns the insult, the court may remit the punishment of both perpetrators.

(4) If the perpetrator was prompted by improper behaviour of the injured party, or the injured party has accepted his/her apology for the committed offence before the court, the court may remit his/her punishment.

(5) There shall be no criminal offence of insult if it follows from the manner of expression and other circumstances that disparagement was committed in order to protect another justified interest.

### **Bringing Shame on Another**

#### Article 148

(1) Whoever makes or propagates in front of a third party a factual claim about another person which may bring dishonour upon this person or damage his/her reputation shall be punished by a fine of up to one hundred and eighty daily units.

(2) Whoever commits the offence referred to in paragraph 1 of this Article through the press, radio, television, computer system or network, at a public gathering or in some other way, thus making the insult accessible to a large number of persons, shall be punished by a fine of up to three hundred and sixty daily units.

(3) There shall be no criminal offence referred to in paragraphs 1 and 2 of this Article if the perpetrator proves that the factual claims made or propagated by him/her are true or that there existed a serious reason why he/she, acting in good faith, believed them to be true.

(4) If the perpetrator did not make or propagate a factual claim in the public interest or for some other justified reason but acted, for the most part, with the aim of dishonouring or damaging the reputation of another person, especially if the claims concern another person's personal or family life, he/she shall not be allowed to prove the circumstances referred to in paragraph 3 of this Article.

(5) If the perpetrator admits that his/her claims are not true and retracts them, the court may remit his punishment.

### **Defamation**

#### Article 149

(1) Whoever, knowing that it is untrue, makes or propagates in front of a third party a false factual claim about another person which may bring dishonour upon this person or damage his/her reputation shall be punished by a fine of up to three hundred and sixty daily units.

(2) Whoever commits the offence referred to in paragraph 1 of this Article through the press, radio, television, computer system or network, at a public gathering or in some other way, thus making the insult accessible to a large number of persons, shall be punished by a fine of up to five hundred daily units.

**Institution of Criminal Proceedings for Criminal Offences  
against Honour and Reputation**

Article 150

(1) Criminal offences against honour and reputation shall be prosecuted by private action.

(2) If the criminal offences against honour and reputation were committed against a deceased person, criminal proceedings may be instituted by a private action brought by the deceased person's spouse or cohabitant, same-sex partner, parent, child, adopter, adoptee or siblings.

**Public Announcement of Judgments  
for Criminal Offences against Honour and Reputation**

Article 151

(1) The judgment convicting the perpetrator of a criminal offence against honour and reputation which was committed via the press, radio, television, computer system or network, or other media shall be publicly announced in full or in part at the request of the injured party and at the perpetrator's expense.

(2) The public announcement shall be made in the manner indicated by the court in the judgment. Whenever possible, the court shall order that the judgment be publicly announced in the same media in which the criminal offence was committed.

**TITLE XVI**

**CRIMINAL OFFENCES AGAINST SEXUAL FREEDOM**

**Non-Consensual Sexual Intercourse**

Article 152

(1) Whoever engages in sexual intercourse or performs a sexual act equated with sexual intercourse with another person without this person's consent, or whoever induces another person to engage without his/her consent in sexual intercourse or to perform, without his/her consent, a sexual act equated with sexual intercourse with a third party or to perform without his/her consent a sexual act equated with sexual intercourse upon himself/herself

shall be sentenced to imprisonment for a term of between six months and five years.

(2) A perpetrator who is avoidably mistaken as to the existence of consent referred to in paragraph 1 of this Article shall be sentenced to imprisonment for a term of up to three years.

(3) Consent referred to in paragraph 1 of this Article shall exist if the person decided of his/her own free will to engage in sexual intercourse or perform a sexual act equated with sexual intercourse and was capable of making and expressing such a decision. It shall be deemed that no such consent exists in particular if the sexual intercourse or the sexual act equated with sexual intercourse was performed by the use of force or threats or fraud, by abusing

one's position towards a person who is in a situation of dependence with respect to the perpetrator, by exploiting a person's condition due to which the person was unable to express his/her refusal or if it is performed against a person unlawfully deprived of liberty.

### **Rape**

#### Article 153

(1) Whoever commits the offence referred to in Article 152, paragraph 1, of this Act by the use of force or threats of an imminent attack on the life or limb of the raped or other person

shall be sentenced to imprisonment for a term of between one and ten years.

(2) A perpetrator who is avoidably mistaken as to the existence of consent referred to in paragraph 1 of this Article

shall be sentenced to imprisonment for a term of between six months and five years.

### **Serious Criminal Offences against Sexual Freedom**

#### Article 154

(1) The sentence of imprisonment for a term of between one and ten years shall be imposed on whoever commits the offence referred to in Article 152, paragraph 1, of this Act:

1. against a family member;

2. against a victim especially vulnerable due to his/her age, illness, addiction, pregnancy, disability, a severe physical or mental disorder;

3. in an especially cruel or especially humiliating manner;

4. out of hatred;

5. together with one or more perpetrators, with several acts of sexual intercourse or sexual acts equated with sexual intercourse being committed against one and the same person;

6. by using weapons or dangerous tools;

7. in such a manner as to inflict severe physical injuries on the raped person or to make her pregnant.

(2) Whoever commits the offence referred to in Article 153, paragraph 1, of this Act under the circumstances referred to in paragraph 1 of this Article

shall be sentenced to imprisonment for a term of between three and fifteen years.

(3) If the criminal offence referred to in Article 152, paragraph 1, or Article 153, paragraph 1, of this Act, results in the death of the raped person,

the perpetrator shall be sentenced to imprisonment for a term of at least five years.

### **Lewd Acts**

#### Article 155

(1) Whoever, under the conditions set forth in Article 152 of this Act when the criminal offence in question has not even been attempted, commits a lewd act

shall be sentenced to imprisonment for a term of up to one year.

(2) Whoever, under the conditions set forth in Article 153 or Article 154 of this Act when the criminal offences in question have not even been attempted, commits a lewd act

shall be sentenced to imprisonment for a term of up to three years.

### **Sexual Harassment**

#### Article 156

(1) Whoever sexually harasses another person who is his/her subordinate or who is in a situation of dependence with respect to him/her or who is especially vulnerable due to his/her age, illness, disability, addiction, pregnancy, a severe physical or mental disability shall be sentenced to imprisonment for a term of up to one year.

(2) Sexual harassment shall mean any form of unwanted verbal, non-verbal or physical conduct of a sexual nature which aims at or effectively constitutes a violation of the dignity of a person, which creates an intimidating, hostile, degrading or offensive environment.

(3) The criminal offence referred to in paragraph 1 of this Article shall be prosecuted upon request.

### **Prostitution**

#### Article 157

(1) Whoever for the purpose of making a profit or gaining some other benefit entices, recruits or incites another person to provide sexual services, or organises or enables another person to provide sexual services

shall be sentenced to imprisonment for a term of between six months and five years.

(2) Whoever for the purpose of making a profit coerces or induces another person by means of the use of force or threats, of deception, of fraud, of abuse of authority or of a situation of hardship or dependence, to provide sexual services, or uses the sexual services of such a person in exchange for payment, where he/she knew or should and could have known about the above circumstances,

shall be sentenced to imprisonment for a term of between one and ten years.

(3) Whoever advertises prostitution via the media and other similar means shall be sentenced to imprisonment for a term of up to three years.

(4) Whether the person being enticed, recruited, incited or used for prostitution has consented to this and whether he/she has already engaged in this activity shall be of no relevance to the existence of the criminal offence referred to in this Article.

## **TITLE XVII**

### **CRIMINAL OFFENCES OF SEXUAL ABUSE AND SEXUAL EXPLOITATION OF CHILDREN**

#### **Sexual Abuse of a Child under the Age of Fifteen**

#### Article 158

(1) Whoever engages in sexual intercourse or performs a sexual act equated with sexual intercourse with a child under the age of fifteen, or induces a child under the age of fifteen to engage in sexual intercourse or perform a sexual act equated with sexual intercourse with a third party or to perform upon himself/herself a sexual act equated with sexual intercourse

shall be sentenced to imprisonment for a term of between one and ten years.

(2) Whoever commits a lewd act against a child under the age of fifteen, or induces a child to commit a lewd act with a third party or upon himself/herself shall be sentenced to imprisonment for a term of between six months and five years.

(3) There shall be no criminal offence referred to in paragraphs 1 and 2 of this Article if the age difference between the persons engaging in sexual intercourse or performing a sexual act equated with sexual intercourse or a lewd act does not exceed three years.

(4) A perpetrator who was avoidably mistaken that the child referred to in paragraph 1 of this Article was at least fifteen years old shall be sentenced to imprisonment of between six months and five years. If he/she was avoidably mistaken that the child referred to in paragraph 2 of this Article was at least fifteen years old, he/she shall be sentenced to imprisonment of up to three years.

(5) Whoever engages in sexual intercourse or performs a sexual act equated with sexual intercourse with a child under the age of fifteen by means of the use of force or threats, of deception, of fraud, of abuse of authority or of a situation of hardship or dependence of the child on him/her

shall be sentenced to imprisonment for a term of between three and fifteen years.

(6) Whoever under the conditions referred to in paragraph 5 of this Article commits a lewd act against a child under the age of fifteen

shall be sentenced to imprisonment for a term of between one and eight years.

#### **Sexual Abuse of a Child over the Age of Fifteen**

##### Article 159

(1) Whoever engages in sexual intercourse or performs a sexual act equated with sexual intercourse with a child over the age of fifteen with whose upbringing, education, minding, spiritual guidance or care he/she has been entrusted, or whoever induces a child over the age of fifteen with whose upbringing, education, minding, spiritual guidance or care he/she has been entrusted to engage in sexual intercourse or perform a sexual act equated with sexual intercourse with a third party or to perform upon himself/herself a sexual act equated with sexual intercourse

shall be sentenced to imprisonment for a term of between six months and five years.

(2) The sentence referred to in paragraph 1 of this Article shall be imposed on a lineal relative by blood or by adoption, a step-father or step-mother who engages in sexual intercourse or performs a sexual act equated with sexual intercourse with a child over the age of fifteen or who induces a child over the age of fifteen to engage in sexual intercourse or perform a sexual act equated with sexual intercourse with a third party or to perform upon himself/herself a sexual act equated with sexual intercourse.

#### **Satisfying Lust in the Presence of a Child under the Age of Fifteen**

##### Article 160

(1) Whoever in the presence of a child under the age of fifteen commits sexual acts intended to satisfy his/her own or another person's lust

shall be sentenced to imprisonment for a term of up to one year.

(2) Whoever in the presence of a child under the age of fifteen commits any of the criminal offences referred to in Articles 152 through 155, Articles 158 and 159 of this Act shall be sentenced to imprisonment for a term of up to three years.

(3) A perpetrator who attempts to commit the criminal offence referred to in paragraph 1 or 2 of this Article shall be punished.

### **Child Enticement for the Purpose of Satisfying Sexual Needs**

#### Article 161

(1) An adult who, with the intention that he/she or a third party commit the criminal offence referred to in Article 158 of this Act against a person under the age of fifteen, proposes to this person, through information and communication technologies or in some other way, to meet up with him/her or a third party, where this proposal is followed by material acts leading to such a meeting,

shall be sentenced to imprisonment for a term of up to three years.

(2) Whoever collects, gives or transfers data on a person under the age of fifteen for the purpose of committing the criminal offence referred to in paragraph 1 of this Article shall be sentenced to imprisonment for a term of up to one year.

(3) A perpetrator who attempts to commit the criminal offence referred to in paragraph 1 of this Article shall be punished.

### **Child Pandering**

#### Article 162

(1) Whoever for the purpose of making a profit or gaining some other benefit entices, recruits or incites a child to provide sexual services, or organises or makes possible the provision of child sexual services, where he/she knows or should and could have known that the person in question was a child,

shall be sentenced to imprisonment for a term of between one and ten years.

(2) Whoever uses the sexual services of a child who has attained the age of fifteen years in exchange for any form of remuneration or consideration, where he/she knows or should and could have known that the person in question is a child,

shall be sentenced to imprisonment for a term of between six months and five years.

(3) Whoever for the purpose of making a profit coerces or induces by means of the use of force or threats, of deception, of fraud, of abuse of authority or of a situation of hardship or dependence a person he/she knows or could and should have known is a child to provide sexual services, or uses the sexual services of this child in exchange for payment, where he/she knows or should and could have known about the said circumstances,

shall be sentenced to imprisonment for a term of between three and fifteen years.

(4) Whoever advertises the exploitation of sexual services of a child shall be sentenced to imprisonment for a term of between six months and five years.

### **Exploitation of Children for Pornography**



Article 163

(1) Whoever entices, recruits or incites a child to participate in the taking of child pornography pictures or whoever organises or makes possible the taking of child pornography pictures

shall be sentenced to imprisonment for a term of between one and eight years.

(2) The sentence referred to in paragraph 1 of this Article shall be imposed on whoever takes child pornography pictures or produces, offers, makes available, distributes, transmits, imports, exports, procures for himself/herself or for another person, sells, gives, exhibits or possesses child pornography or knowingly obtains access, through information and communication technologies, to child pornography.

(3) Whoever by means of the use of force or threats, of deception, of fraud, of abuse of authority or of a situation of hardship or dependence coerces or induces a child to participate in the taking of child pornography pictures

shall be sentenced to imprisonment for a term of between three and twelve years.

(4) Special devices, means, computer programmes or data intended for, adapted to or used for committing or facilitating the commission of the criminal offences referred to in paragraphs 1, 2 and 3 of this Article shall be seized, while the pornographic material which was created by the commission of the criminal offences referred to in paragraphs 1, 2 and 3 of this Article shall be destroyed.

(5) A child shall not be punished for producing and possessing pornographic material depicting him/her alone or him/her and another child, where this material is produced and possessed by them with their consent and solely for their own private use.

(6) Child pornography shall mean any material that visually or otherwise depicts a real child or a realistic image of a non-existent child or a person appearing to be a child, involved or engaged in real or simulated sexually explicit conduct, or any depiction of a child's sexual organs for sexual purposes. For the purpose of this Article, any material that is artistic, medical, scientific, informative or similar in character shall not be deemed pornography.

**Exploitation of Children for Pornographic Performances**

Article 164

(1) Whoever entices, recruits or incites a child to participate in pornographic performances

shall be sentenced to imprisonment for a term of between one and eight years.

(2) Whoever profits from pornographic performances involving the participation of a child or otherwise exploits a child for pornographic performances

shall be sentenced to imprisonment for a term of between one and ten years.

(3) Whoever by means of the use of force or threats, of deception, of fraud, of abuse of authority or of a situation of hardship or dependence coerces or induces a child to participate in a pornographic performance

shall be sentenced to imprisonment for a term of between three and twelve years.

**Commented [B1]:** Nastojeći pronaći englesku riječ koja bi obuhvatila sva značenja hrvatske riječi "snimanje" (snimanje filma i fotografiranje) odlučila sam se za "taking of pictures". "Taking of photographs" bi označavalo samo fotografiranje, a "shooting" ili "filming" snimanje filma.

(4) The sentence of imprisonment referred to in paragraph 1 of this Article shall be imposed on whoever watches a pornographic performance that is transmitted live or via communication means, where he/she knows or should and could have known that it involved the participation of a child.

(5) Special devices, means, computer programmes or data intended, adapted or used for committing or facilitating the commission of the criminal offences referred to in paragraphs 1, 2 and 3 of this Article shall be seized, while the pornographic material which was created by the commission of the criminal offences referred to in paragraphs 1 and 2 of this Article shall also be destroyed.

### Acquainting Children with Pornography

#### Article 165

(1) Whoever sells, gives a gift, exhibits or by public display, by means of a computer system, network or media for the storage of computer data or in some other way makes accessible to a child under the age of fifteen files, pictures, audio-visual content or other objects of pornographic content or shows him/her a pornographic performance

shall be sentenced to imprisonment for a term of up to three years.

(2) Objects, special devices, means, computer programmes or data intended for, adapted to or used for committing or facilitating the commission of a criminal offence referred to in paragraph 1 of this Article shall be seized, while the pornographic material shall also be destroyed.

(3) For the purpose of this Article, pornography shall mean any material that visually or otherwise depicts a person in real or simulated sexually explicit conduct or any depiction of a person's sexual organs for sexual purposes. For the purpose of this Article, any material that is artistic, medical, or scientific shall not be deemed pornography.

### Serious Criminal Offence of Child Sexual Abuse and Exploitation

#### Article 166

(1) If as a result of the criminal offence referred to in Article 158, paragraph 1, Article 162, paragraph 1 or 2, Article 163, paragraph 1 or 2, or Article 164, paragraph 1, of this Act a child suffers severe bodily injury or his/her physical or emotional development is compromised or becomes pregnant, where a number of perpetrators participate in the offence, or the offence is committed against an especially vulnerable child, or is committed by a family member or a person the child lives with in a joint household, or is committed in an especially cruel or degrading manner,

the perpetrator shall be sentenced to imprisonment for a term of between three and fifteen years.

(2) If as a result of the criminal offence referred to in Article 158, paragraph 5, Article 162, paragraph 3, Article 163, paragraph 3, or Article 164, paragraph 2, of this Act a child suffers severe bodily injury or his/her physical or emotional development is compromised or becomes pregnant, where a number of perpetrators participate in the offence, or the offence is committed against an especially vulnerable child, or is committed by a family member or a person the child lives with in a joint household, or is committed in an especially cruel or degrading manner,

**Commented [B2]:** NEDOSTAJE SUBJEKT: "Ako je kaznenim djelom iz članka 158. stavak 1., članka 162. stavka 1. i 2., članka 163. stavka 1. i 2. te članka 164. stavka 1. ovoga Zakona djetetu nanesena teška tjelesna ozljeda ili je narušen njegov tjelesni ili emocionalni razvoj ili je dijete ostalo trudno, ako je u djelu sudjelovalo više počinitelja, ili je djelo počinjeno nad posebno ranjivim djetetom ili je počinjeno od člana obitelji ili osobe s kojom dijete živi u zajedničkom kućanstvu, ili je počinjeno na osobito okrutan ili osobito ponižavajući način."

**Commented [B3]:** Nedostaje subjekt, pa sam po uzoru na stavak 2. ovog članka dodala "počinitelj".

the perpetrator shall be sentenced to imprisonment for a term of at least five years.

(3) If as a result of the criminal offence referred to in Article 158, 162, 163 or 164 of this Act a child dies,

the perpetrator shall be sentenced to imprisonment for a term of at least ten years or long-term imprisonment.

## **TITLE XVIII**

### **CRIMINAL OFFENCES AGAINST MARRIAGE, FAMILY AND CHILDREN**

#### **Bigamy**

##### **Article 167**

(1) Whoever contracts a new marriage although he/she is already married, or whoever contracts a marriage with a person whom he/she knows to be already married shall be sentenced to imprisonment for a term of up to one year.

(2) If in the meantime the previous marriage is terminated, criminal prosecution shall not be initiated.

#### **Enabling the Contracting of a Prohibited Marriage**

##### **Article 168**

An authorised person before whom marriages are contracted, who enables the contracting of a marriage where all statutory requirements for the existence and validity of a marriage have not been complied with

shall be sentenced to imprisonment for a term of up to three years.

#### **Forced Marriage**

##### **Article 169**

(1) Whoever forces another person to contract a marriage shall be sentenced to imprisonment for a term of between six months and five years.

(2) Whoever entices a person to a country in which this person does not have permanent residence in order to force him/her to contract a marriage there shall be sentenced to imprisonment for a term of up to three years.

#### **Enabling Cohabitation with a Child**

##### **Article 170**

(1) An adult who lives with a child under the age of sixteen and thereby commits no other criminal offence for which a more severe punishment is prescribed, shall be sentenced to imprisonment for a term of up to three years.

(2) The sentence referred to in paragraph 1 of this Article shall be imposed on whoever makes it possible for a child under the age of sixteen to cohabit with another person or

on whoever induces a child to do this and thereby commits no other criminal offence for which a more severe punishment is prescribed.

(3) Whoever commits the offence referred to in paragraph 2 of this Article out of love of gain shall be sentenced to imprisonment for a term of between six months and five years.

#### **Abandonment of a Family Member in a Situation of Distress**

##### Article 171

Whoever in violation of his/her statutory family obligations abandons a family member unable to take care of himself/herself in a situation of distress shall be sentenced to imprisonment for a term of up to three years.

#### **Violation of Duty of Maintenance**

##### Article 172

(1) Whoever does not maintain a person who he/she is required by law to maintain in the manner, amount and by the deadlines specified in an enforceable instrument shall be sentenced to imprisonment for a term of up to one year.

(2) If the obligation referred to in paragraph 1 of this Article relates to the maintenance of a child or a person who due to his/her age, illness, mental or physical disability is unable to work,

the perpetrator shall be sentenced to imprisonment for a term of up to three years.

(3) There shall be no criminal offence if the perpetrator proves that he/she was unable for justified reasons to pay maintenance referred to in paragraph 1 or 2 of this Article.

#### **Non-Implementation of the Decision for the Protection of Child Welfare**

##### Article 173

(1) Whoever fails to implement a decision for the protection of child welfare taken by a court, county welfare service or state body, or prevents or renders impossible its implementation

shall be sentenced to imprisonment for a term of up to one year.

(2) A public official working at an institution or state body who fails to implement the decisions of courts or state bodies or who fails to comply in a timely manner with statutory obligations relating to child protection and by failing to do so endangers a child's state of health or development

shall be sentenced to imprisonment for a term of up to three years.

(3) If the criminal offence referred to in paragraph 2 of this Article was committed by negligence,

the perpetrator shall be sentenced to imprisonment for a term of up to one year.

(4) If the perpetrator renders it possible to implement the decision referred to in paragraph 1 of this Article before the institution of criminal proceedings, his/her sentence may be remitted.

#### **Taking a Child Away**

#### Article 174

(1) Whoever takes a child away from his/her parents, adopters, guardian, another person or institution entrusted with his/her care, unlawfully keeps him/her or prevents him/her from living with the person or at the institution to whose care he/she has been entrusted shall be sentenced to imprisonment for a term of between six months and five years.

(2) If the criminal offence referred to in paragraph 1 of this Article is committed by a parent or adopter, he/she shall be sentenced to imprisonment for a term of up to three years.

(3) Whoever commits the criminal offence referred to in paragraph 1 of this Article with the aim of permanently keeping a child, or if as a result of the criminal offence referred to in paragraph 1 of this Article the child has left the territory of the Republic of Croatia, or the child's state of health, upbringing or education has been seriously jeopardized or the child's welfare has in some other way been seriously jeopardized shall be sentenced to imprisonment for a term of between one and ten years.

(4) A parent or adopter who commits the criminal offence referred to in paragraph 1 of this Article with the aim of permanently keeping a child or in such a way that the child leaves the territory of the Republic of Croatia shall be sentenced to imprisonment for a term of between six months and five years.

(5) If as a result of the criminal offence referred to in paragraph 1, 2, 3 or 4 of this Article a child dies, the perpetrator shall be sentenced to imprisonment for a term of between three and fifteen years.

(6) A perpetrator who attempts to commit the criminal offence referred to in paragraph 2 of this Article shall be punished.

(7) If the perpetrator returns the child before the institution of criminal proceedings, his/her sentence may be remitted.

### **Change in Family Status**

#### Article 175

(1) Whoever by stealthily introducing, substituting, giving false information or in some other way changes a child's family status shall be sentenced to imprisonment for a term of up to three years.

(2) Whoever substitutes or in some other way changes a child's family status by negligence shall be sentenced to imprisonment for a term of up to one year.

(3) A perpetrator who attempts to commit the criminal offence referred to in paragraph 1 of this Article shall be punished.

### **Child Desertion**

#### Article 176

Whoever deserts his/her child with the aim of permanently getting rid of him/her shall be sentenced to imprisonment for a term of up to three years.

### **Neglect and Abuse of the Rights of a Child**

#### Article 177

(1) A parent, adopter, guardian or another person who seriously neglects his/her duties of raising, upbringing and educating a child

shall be sentenced to imprisonment for a term of up to three years.

(2) Whoever coerces a child to work excessively or to carry out tasks that are inappropriate to his/her age, or to beg, or whoever encourages a child to exhibit other forms of behaviour that are detrimental to his/her development or in some other way grossly abuses a child's rights

shall be sentenced to imprisonment for a term of between six months and five years.

(3) If as a result of the criminal offence referred to in paragraph 1 or 2 of this Article a child takes to begging, prostitution or other forms of socially unacceptable behaviour, or if a child suffers a severe bodily injury,

the perpetrator shall be sentenced to imprisonment for a term of between one and eight years.

(4) If as a result of the criminal offence referred to in paragraph 1 or 2 of this Article a child dies,

the perpetrator shall be sentenced to imprisonment for a term of between three and fifteen years.

### **Violation of the Privacy of a Child**

#### Article 178

(1) Whoever states or propagates something concerning a child's personal or family life, in violation of regulations publishes a child's photography or discloses a child's identity, as a result of which the child suffers anxiety, ridicule of his/her peers or other persons or which in some other way jeopardizes the child's welfare

shall be sentenced to imprisonment for a term of up to one year.

(2) Whoever commits the offence referred to in paragraph 1 of this Article through the press, radio, television, computer system or network, at a public gathering or in some other way, thus making it accessible to a large number of persons,

shall be sentenced to imprisonment for a term of up to two years.

(3) Whoever commits the offence referred to in paragraph 1 or 2 as a public official or in the performance of his/her profession

shall be sentenced to imprisonment for a term of up to three years.

### **Incest**

#### Article 179

(1) Whoever engages in sexual intercourse or a sexual act equated with it with a lineal relative, a brother, sister, half-brother or half-sister, by blood or by adoption shall be sentenced to imprisonment for a term of up to one year.

(2) A person who at the time of commission of the act referred to in paragraph 1 of this Article was a child shall not be punished.

## **TITLE XIX**

### **CRIMINAL OFFENCES AGAINST THE HEALTH OF PEOPLE**

#### **Spread and Transmission of Infectious Diseases**

##### Article 180

(1) Whoever does not respect the regulations or orders of the competent state body ordering checkups, disinfection, disinsectisation, deratisation, quarantining of patients or another measure for the prevention and suppression of infectious diseases among people or the prevention and suppression of infectious animal diseases that can also be contracted by people, consequently causing the danger of an infectious disease being spread among people or of an infectious disease being transmitted from animals to people

shall be sentenced to imprisonment for a term of up to two years.

(2) Whoever by not complying with the measures of protection infects another person with a dangerous infectious disease

shall be sentenced to imprisonment for a term of up to three years.

(3) If the criminal offence referred to in paragraph 1 or 2 of this Article is committed by negligence,

the perpetrator shall be sentenced to imprisonment for a term of up to one year.

(4) The criminal offence referred to in paragraph 2 of this Article, where it concerns a sexually transmitted disease, shall be prosecuted at the injured party's request, unless the criminal offence was committed against a child.

#### **Unconscientious Medical Treatment**

##### Article 181

(1) A doctor of medicine, doctor of dental medicine or other health worker who in performing a health care activity applies a clearly unsuitable means or manner of medical treatment or in some other way clearly disregards the rules of the health care profession or clearly acts unconscientiously, thus causing a disease to aggravate or undermining the health of another person

shall be sentenced to imprisonment for a term of up to one year.

(2) If as a result of the criminal offence referred to in paragraph 1 of this Article another person suffers a severe bodily injury or the existing disease is seriously aggravated,

the perpetrator shall be sentenced to imprisonment for a term of up to three years.

(3) If as a result of the criminal offence referred to in paragraph 1 of this Article another person suffers an especially severe bodily injury or a person's pregnancy is terminated,

the perpetrator shall be sentenced to imprisonment for a term of between six months and five years.

(4) If as a result of the criminal offence referred to in paragraph 1 of this Article one or more persons die,

the perpetrator shall be sentenced to imprisonment for a term of between three and twelve years.

(5) If the criminal offence referred to in paragraph 1 of this Article is committed by negligence,

the perpetrator shall be sentenced to imprisonment for a term of up to six months.

(6) If the criminal offence referred to in paragraph 2 of this Article is committed by negligence,

the perpetrator shall be sentenced to imprisonment for a term of up to one year.

(7) If the criminal offence referred to in paragraph 3 of this Article is committed by negligence,

the perpetrator shall be sentenced to imprisonment for a term of up to three years.

(8) If the criminal offence referred to in paragraph 4 of this Article is committed by negligence,

the perpetrator shall be sentenced to imprisonment for a term of between one and eight years.

### **Unauthorised Removal and Transplantation of Parts of Human Body**

#### Article 182

(1) A doctor of medicine, doctor of dental medicine or other health worker who without the prescribed consent or for no justified medical reason removes an organ, tissue, cell, embryo or foetus from a live donor, or transplants them to a recipient, or uses them for the medical fertilisation procedure

shall be sentenced to imprisonment for a term of between one and ten years.

(2) If as a result of the criminal offence referred to in paragraph 1 of this Article a person dies,

the perpetrator shall be sentenced to imprisonment for a term of between three and fifteen years.

(3) A doctor of medicine, doctor of dental medicine or other health worker who for the purpose of transplantation removes a part of a deceased person's body although he/she knows that this person, or his/her statutory representative or guardian, gave during his/her life a written statement declining to donate organs, or whoever without the prescribed consent removes for the purpose of transplantation a part of the body of a deceased child or a deceased person of age unable to exercise his/her judgment

shall be sentenced to imprisonment for a term of up to one year.

### **Non-Provision of Emergency Medical Assistance**

#### Article 183

A doctor of medicine, doctor of dental medicine or other health worker who does not immediately provide medical assistance to a person in need of such assistance because of the risk that he/she would suffer permanent harmful effect on his/her health or life

shall be sentenced to imprisonment for a term of up to three years.

### **Medical Quackery**

#### Article 184



(1) Whoever provides medical treatment or other medical assistance while lacking the prescribed medical qualifications

shall be sentenced to imprisonment for a term of up to one year.

(2) If the offence referred to in paragraph 1 of this Article leads to serious disease aggravation or undermines the health of another person,

the perpetrator shall be sentenced to imprisonment for a term of between six months and five years.

(3) If the offence referred to in paragraph 1 of this Article causes serious bodily injury to another person or pregnancy termination,

the perpetrator shall be sentenced to imprisonment for a term of between one and ten years.

(4) If the offence referred to in paragraph 1 of this Article results in the death of one or more persons,

the perpetrator shall be sentenced to imprisonment for a term of between three and fifteen years.

(5) The means used for medical treatment referred to in paragraphs 1 and 2 of this Article shall be seized.

#### **Falsification of Medicinal Products or Medical Devices**

##### Article 185

(1) Whoever manufactures a falsified medicinal product, active substance, excipient, medical device, its components or paraphernalia, or modifies a real medicinal product, active substance, excipient or medical device, its components or paraphernalia

shall be sentenced to imprisonment for a term of between six months and five years.

(2) The sentence referred to in paragraph 1 of this Article shall be imposed on whoever procures or offers to supply, stocks, imports or exports, markets as real, falsified or modified a medicinal product, active substance, excipient, medical device, its components or paraphernalia.

(3) Whoever falsifies or modifies the original immediate or outer packaging of a medicinal product or medical device, summary of product characteristics, patient information leaflet, patient information leaflet on the use of a medical device or documentation on the active substance or excipient

shall be sentenced to imprisonment for a term of up to three years.

(4) The sentence referred to in paragraph 3 of this Article shall be imposed on whoever uses the original immediate or outer packaging of a medicine or medicinal product, the summary of product characteristics, the patient information leaflet, the patient information leaflet on the use of a medicinal product or the documentation on the active substance or the excipient for purposes other than those for which they were intended for in the legal supply chain of medicines and medicinal products.

(5) Whoever commits the offence referred to in paragraph 1, 2, 3 or 4 of this Article by abusing the trust he/she enjoys as an expert, manufacturer or supplier, or commits it through the media suitable for mass distribution, such as information systems, including the internet,

shall be sentenced to imprisonment for a term of between one and eight years.

(6) A perpetrator who attempts to commit the criminal offence referred to in paragraph 3 or 4 of this Article shall be punished.

(7) Products and means of production shall be seized.

### **Production and Marketing of Harmful Products for the Treatment of People**

#### Article 186

(1) Whoever for the purpose of sale or some other marketing method prepares or produces as a medicinal product, homoeopathic product or medical device preparations or products that are harmful to the health of people and by doing so puts the health of another person at risk

shall be sentenced to imprisonment for a term of up to three years.

(2) The sentence referred to in paragraph 1 of this Article shall be imposed on whoever procures, processes, distributes or markets infected blood or other tissue or makes means of treatment therefrom.

(3) Whoever commits the criminal offence referred to in paragraph 1 or 2 of this Article by negligence

shall be sentenced to imprisonment for a term of up to one year.

(4) Products and means of production shall be seized.

### **Unconscientious Conduct in Preparing and Dispensing Medicinal Products**

#### Article 187

(1) A pharmacist or another person authorised to prepare or dispense medicinal products for use in medicine, who prepares a medicinal product in violation of the rules of his/her profession or dispenses a wrong medicinal product and by doing so puts another person's health at risk

shall be sentenced to imprisonment for a term of up to three years.

(2) If the criminal offence referred to in paragraph 1 of this Article was committed by negligence,

the perpetrator shall be sentenced to imprisonment for a term of up to one year.

### **Production and Marketing of Products Harmful to Human Health**

#### Article 188

(1) Whoever manufactures, sells or otherwise markets food not compliant with food safety standards or other products harmful to human health and by doing so puts another person's health at risk

shall be sentenced to imprisonment for a term of up to three years.

(2) Whoever commits the criminal offence referred to in paragraph 1 of this Article by negligence,

shall be sentenced to imprisonment for a term of up to one year.

### **Unconscientious Inspection of Meat Intended for Consumption**

Article 189

(1) A veterinary inspector or other person authorised to inspect animals for slaughter, meat or animal products intended for human consumption who inspects animals for slaughter, meat or animal products intended for human consumption in a manner contrary to the regulations or rules of his/her profession or altogether fails to carry out an inspection which he/she is required to carry out, thus enabling the marketing of animals for slaughter, meat or animal products intended for human consumption that are harmful to human health and putting another person's health at risk

shall be sentenced to imprisonment for a term of up to three years.

(2) Whoever commits the criminal offence referred to in paragraph 1 of this Article by negligence,

shall be sentenced to imprisonment for a term of up to one year.

**Unauthorised Possession, Manufacture of and Trade in  
Drugs and Substances Banned in Sports**

Article 190

(1) Whoever possesses without authorisation substances declared by law to be drugs or substances banned from use in sports

shall be sentenced to imprisonment for a term of up to six months.

(2) Whoever manufactures, processes, imports or exports substances referred to in paragraph 1 of this Article

shall be sentenced to imprisonment for a term of up to three years.

(3) Whoever manufactures, processes, transports, imports or exports, procures or possesses substances referred to in paragraph 1 of this Article, that are intended for unauthorised sale or placing on the market in some other way, or offers them for sale without authorisation, or sells or transports them, or mediates in their sale or purchase, or markets them in some other way shall be sentenced to imprisonment for a term of between one and ten years.

(4) Whoever offers for sale, sells or mediates in the sale of substances referred to in paragraph 1 of this Article to a child, or does this in school or at another place providing education to children or at which children engage in sporting or social activities, or in its immediate proximity, or in a penal institution, or whoever in order to commit the offence referred to in paragraph 3 of this Article uses a child, or a public official who does this in relation to his/her function or public authority,

shall be sentenced to imprisonment for a term of between three and fifteen years.

(5) Whoever organises a network of resellers or mediators

shall be sentenced to imprisonment for a term of at least three years.

(6) Whoever by the criminal offence referred to in paragraph 3, 4 or 5 of this Article causes the death of a person to whom he/she sold the substance referred to in paragraph 1 of this Article or to whom the substance was sold through his/her mediation

shall be sentenced to imprisonment for a term of at least five years.

(7) Whoever produces, procures, possesses or gives to another for his/her use equipment, material or substances which can be used in the production of substances referred to in paragraph 1 of this Article, which equipment, material or substances he/she knows are intended for their unauthorised production,

shall be sentenced to imprisonment for a term of between six months and five years.

(8) Drug production shall also mean the cultivation of a plant or mushroom from which a drug can be obtained.

(9) The substances referred to in paragraph 1 of this Article, the substances which can be used for their production, plants, mushrooms or parts of plants or mushrooms from which the substances referred to in paragraph 1 can be obtained, the means of their production or processing, the means of transport adapted for the purpose of concealing these substances and the paraphernalia for their use shall be seized.

(10) If the perpetrator of the criminal offence referred to in paragraph 1, 2, 3, 4, 5 or 7 of this Article substantially contributes of his/her own free will to the discovery of the offence set out in this Article, the court may remit his/her punishment.

### **Enabling the Use of Drugs or Substances Banned in Sports**

#### Article 191

(1) Whoever induces another to use the substances referred to in Article 190, paragraph 1, of this Act or gives them to him/her for his/her or another person's use, or makes available to another a location in which to use them, or otherwise enables him/her to use them shall be sentenced to imprisonment for a term of between six months and five years.

(2) If the criminal offence referred to in paragraph 1 of this Article was committed against a child or a person suffering from a severe mental disorder, or in school or at another place providing education to children or at which children engage in sporting or social activities, or in its immediate proximity, or in a penal institution, or against a number of persons, or if the offence referred to in paragraph 1 of this Article is committed by a public official, health worker, welfare worker, teacher, supervisor or trainer through abuse of his/her position,

the perpetrator shall be sentenced to imprisonment for a term of between one and ten years.

(3) Whoever by the criminal offence referred to in paragraph 1 or 2 of this Article causes the death of a person to whom he/she gave the substance referred to in paragraph 1 of this Article

shall be sentenced to imprisonment for a term of between three and fifteen years.

(4) The substances referred to in paragraph 1 of this Article and the paraphernalia for their preparation and use shall be seized.

(5) If the perpetrator of the criminal offence referred to in paragraph 1 or 2 of this Article substantially contributes of his/her own free will to the discovery of the criminal offence set out in Article 190 or Article 191 of this Act, the court may remit his/her punishment.

### **Serious Criminal Offences against the Health of People**

#### Article 192

(1) If as a result of the criminal offence referred to in Article 180, paragraph 1 or 2, Article 183, Article 185, paragraph 1 or 2, Article 186, paragraph 1, Article 187, paragraph 1, Article 188, paragraph 1, Article 189, paragraph 1, of this Act another person suffers a severe bodily injury or an existing illness is seriously aggravated,

the perpetrator shall be sentenced to imprisonment for a term of between six months and five years.

(2) If as a result of the criminal offence referred to in paragraph 1 of this Article another person suffers an especially severe bodily injury or a person's pregnancy is terminated, the perpetrator shall be sentenced to imprisonment for a term of between one and eight years.

(3) If as a result of the criminal offences referred to in paragraph 1 of this Article one or more persons die, the perpetrator shall be sentenced to imprisonment for a term of between three and twelve years.

(4) If as a result of the criminal offence referred to in Article 180, paragraph 3, Article 186, paragraph 3, Article 187, paragraph 2, Article 188, paragraph 2, or Article 189, paragraph 2, of this Act a serious bodily injury is inflicted on another person or the existing illness is seriously aggravated,

the perpetrator shall be sentenced to imprisonment for a term of up to three years.

(5) If as a result of the criminal offences referred to in paragraph 4 of this Article another person suffers an especially serious bodily injury or a person's pregnancy is terminated, the perpetrator shall be sentenced to imprisonment for a term of between six months and five years.

(6) If as a result of the criminal offences referred to in paragraph 4 of this Article one or more persons die, the perpetrator shall be sentenced to imprisonment for a term of between one and eight years.

## TITLE XX

### CRIMINAL OFFENCES AGAINST THE ENVIRONMENT

#### Environmental Pollution

##### Article 193

(1) Whoever in violation of regulations releases, introduces or discharges a quantity of substances or ionising radiation into the air, soil, subsoil, water or sea, which quantity can permanently or to a significant degree jeopardise their quality or to a significant degree or over a wide area endanger animals, plants or fungi, or the lives or health of people shall be sentenced to imprisonment for a term of between six months and five years.

(2) Whoever releases, introduces or discharges substances or ionising radiation into the air, soil, subsoil, water or sea and by doing so endangers the lives and health of people shall be sentenced to imprisonment for a term of between one and eight years.

(3) Whoever commits the criminal offences referred to in paragraphs 1 and 2 of this Article by negligence shall be sentenced to imprisonment for terms of, respectively, up to two years and up to three years.

#### Discharge of Pollutants from a Vessel

##### Article 194

(1) Whoever in violation of regulations discharges pollutants from a seagoing vessel into the sea or from a vessel into the fresh water and by doing so degrades their quality shall be sentenced to imprisonment for a term of up to three years.

(2) The sentence referred to in paragraph 1 of this Article shall be imposed on whoever in violation of regulations discharges smaller quantities of pollutants from a seagoing vessel into the sea or from a vessel into fresh waters, which in totality results in the degradation of their quality.

(3) Whoever commits the offence referred to in paragraph 1 or 2 of this Article by negligence shall be sentenced to imprisonment for a term of up to one year.

### **Endangerment of the Ozone Layer**

#### Article 195

(1) Whoever in violation of regulations produces, imports, exports, markets or uses substances that deplete the ozone layer shall be sentenced to imprisonment for a term of up to three years.

(2) Whoever commits the offence referred to in paragraph 1 of this Article by negligence, shall be sentenced to imprisonment for a term of up to one year.

### **Endangerment of the Environment with Waste**

#### Article 196

(1) Whoever in violation of regulations carries out in one or more seemingly linked shipments prohibited transport of waste in a quantity larger than negligible shall be sentenced to imprisonment for a term of up to two years.

(2) Whoever in violation of regulations discards, disposes of, collects, stocks, processes, imports, exports or transports waste, or mediates in such an activity, or in general manages or handles waste in a manner that can permanently or to a significant degree jeopardize the quality of air, soil, subsoil, water or sea, or to a significant degree or over a wide area endanger animals, plants or fungi, or the lives or health of people shall be sentenced to imprisonment for a term of between six months and five years.

(3) Whoever commits the offence referred to in paragraph 2 of this Article by negligence, shall be sentenced to imprisonment for a term of up to two years.

### **Endangerment of the Environment with a Plant**

#### Article 197

(1) Whoever in violation of regulations runs a plant at which dangerous processes take place or at which hazardous substances or preparations are stored or used, which substances or preparations can, outside the plant, permanently or to a significant degree jeopardize the quality of air, soil, subsoil, water or sea, or to a significant degree or over a wide area endanger animals, plants or fungi, or the lives or health of people

shall be sentenced to imprisonment for a term of between six months and five years.

(2) Whoever commits the offence referred to in paragraph 1 of this Article by negligence, shall be sentenced to imprisonment for a term of up to two years.

#### **Endangerment of the Environment with Radioactive Substances**

##### Article 198

(1) Whoever in violation of regulations produces, processes, handles, uses, possesses, stocks, transports, imports, exports or disposes of nuclear material or other hazardous radioactive substances so that he/she can permanently or to a significant degree jeopardize the quality of air, soil, subsoil, water or sea, or to a significant degree or over a wide area endanger animals, plants or fungi, or animal, plant or fungi communities, or endanger the lives or health of people

shall be sentenced to imprisonment for a term of between six months and five years.

(2) Whoever commits the offence referred to in paragraph 1 of this Article by negligence, shall be sentenced to imprisonment for a term of up to two years.

#### **Endangerment with Noise, Vibrations or Non-Ionising Radiation**

##### Article 199

Whoever in violation of regulations produces noise, vibrations or non-ionising radiation and by doing so endangers the lives and health of people shall be sentenced to imprisonment for a term of up to three years.

#### **Destruction of Protected Natural Values**

##### Article 200

(1) Whoever in violation of regulations kills, extirpates, possesses, captures or takes an individual of a protected species of an animal, plant or fungus or other protected natural value

shall be sentenced to imprisonment for a term of up to three years.

(2) Whoever commits the offence referred to in paragraph 1 of this Article against a highly protected wild species of an animal, plant or fungus

shall be sentenced to imprisonment for a term of between six months and five years.

(3) Whoever commits the offence referred to in paragraph 1 or 2 of this Article by negligence

shall be sentenced to imprisonment for a term of up to two years.

(4) There shall be no criminal offence referred to in paragraph 1 of this Article where it is committed against a negligible quantity of members of a species or other protected natural value and has had a negligible effect on the preservation of this species or other protected natural value.

### **Habitat Destruction**

#### Article 201

(1) Whoever in violation of regulations destroys or causes significant degradation of the habitat of a protected species of an animal, plant or fungus, or destroys or causes significant degradation of a habitat type

shall be sentenced to imprisonment for a term of up to three years.

(2) Whoever commits the offence referred to in paragraph 1 of this Article against a habitat or a breeding, rearing, migration or hibernation site of a highly protected wild species of an animal, plant or fungus

shall be sentenced to imprisonment for a term of between six months and five years.

(3) The sentence referred to in paragraph 2 of this Article shall be imposed on whoever destroys or causes significant degradation of a habitat in a protected natural area or an ecologically important area.

(4) Whoever commits the criminal offence referred to in paragraph 1, 2 or 3 of this Article by negligence

shall be sentenced to imprisonment for a term of up to two years.

### **Trade in Protected Natural Values**

#### Article 202

(1) Whoever in violation of regulations trades in, imports, exports or transports a live or dead individual of a protected species of an animal, plant or fungus or other protected natural value, parts of it or processed products obtained from it, or without authorisation transfers from the Republic of Croatia a protected natural value or does not return it to the Republic of Croatia within the time limit set in the authorisation

shall be sentenced to imprisonment for a term of up to three years.

(2) Whoever commits the offence referred to in paragraph 1 of this Article against a highly protected wild species of an animal, plant or fungus

shall be sentenced to imprisonment for a term of between six months and five years.

(3) Whoever commits the offence referred to in paragraph 1 or 2 of this Article by negligence

shall be sentenced to imprisonment for a term of up to two years.

(4) There shall be no criminal offence referred to in paragraph 1 of this Article where it is committed against a negligible quantity of members of a species or other protected natural value and has had a negligible effect on the preservation of this species or other protected natural value.

### **Illegal Introduction of Wild Species or GMOs into the Environment**

#### Article 203

Whoever in violation of regulations transports across a border a live genetically modified organism or introduces a live genetically modified organism or an alien wild species of a microorganism, fungus, plant or animal into an environment which it does not naturally inhabit and in doing so causes significant or permanent damage to nature



shall be sentenced to imprisonment for a term of between six months and five years.

### **Unlawful Hunting and Fishing**

#### Article 204

(1) Whoever hunts game during the closed season or in an area in which hunting is forbidden, or hunts without having passed the hunting examination

shall be sentenced to imprisonment for a term of up to one year.

(2) Whoever hunts game, fish or other freshwater or marine organisms in such a manner or by such means that cause their massive destruction or by using prohibited accessory equipment

shall be sentenced to imprisonment for a term of up to three years.

(3) The sentence referred to in paragraph 1 of this Article shall be imposed on whoever permanently takes abroad a top game trophy.

(4) The objects intended to be used or used for the purpose of committing a criminal offence as well as the catch shall be seized.

### **Killing or Torture of Animals**

#### Article 205

(1) Whoever kills an animal without a justified reason or severely maltreats it, inflicts unnecessary pain on it or puts it through unnecessary suffering

shall be sentenced to imprisonment for a term of up to one year.

(2) Whoever commits the criminal offence referred to in paragraph 1 of this Article out of love of gain

shall be sentenced to imprisonment for a term of up to two years.

(3) Whoever by negligently depriving an animal of food or water or otherwise exposes an animal to conditions of hardship over a long period of time

shall be sentenced to imprisonment for a term of up to six months.

(4) The animal referred to in this Article shall be seized.

### **Transmission of Infectious Animal Diseases and of Organisms Harmful to Plants**

#### Article 206

(1) Whoever fails to comply with regulations or decisions whereby the competent state body lays down measures for the suppression or prevention of the spread of infectious diseases of animals or of organisms harmful to plants and in doing so causes the danger of spread of such a disease or its infectious agents or of occurrence or spread of organisms harmful to plants

shall be sentenced to imprisonment for a term of up to one year.

(2) Whoever commits the offence referred to in paragraph 1 of this Article by negligence

shall be sentenced to imprisonment for a term of up to six months.

### **Production and Marketing of Harmful Products for the Treatment of Animals**

Article 207

(1) Whoever produces for sale or markets products for the treatment or prevention of an infection in animals that pose a risk to the animals' health and by doing so causes the spread of an infectious disease or the deaths of many animals

shall be sentenced to imprisonment for a term of up to two years.

(2) Whoever commits the offence referred to in paragraph 1 of this Article by negligence

shall be sentenced to imprisonment for a term of up to six months.

**Unconscientious Provision of Veterinary Assistance**

Article 208

A veterinarian or veterinary worker who in providing assistance to, doing check-ups of, giving vaccination or treatment to animals fails to comply with the rules of the veterinary profession, as a result of which failure an animal falls ill, dies or its condition severely deteriorates

shall be sentenced to imprisonment for a term of up to one year.

**Forest Devastation**

Article 209

(1) Whoever in violation of regulations cuts down or clears or otherwise devastates a forest and in the process commits no any other criminal offence for which a more severe punishment is prescribed,

shall be sentenced to imprisonment for a term of up to two years.

(2) Whoever commits the criminal offence referred to in paragraph 1 of this Article in a forest that is part of an area which, pursuant to a competent body's regulation or decision, has been declared a protected natural value

shall be sentenced to imprisonment for a term of up to three years.

(3) The objects intended to be used or used for the purpose of committing a criminal offence or which are the product of commission of a criminal offence shall be seized.

**Change in the Water Regime**

Article 210

(1) Whoever in violation of regulations changes or disrupts a water regime and in the process commits no other criminal offence for which a more severe punishment is prescribed shall be sentenced to imprisonment for a term of up to two years.

(2) Whoever commits the criminal offence referred to in paragraph 1 of this Article in an area which, pursuant to a competent body's regulation or decision, has been declared a protected natural value

shall be sentenced to imprisonment for a term of up to three years.

(3) The objects intended to be used or used for the purpose of committing a criminal offence or which are the product of commission of a criminal offence shall be seized.

(4) A perpetrator who attempts to commit the criminal offence referred to in paragraph 1 or 2 of this Article shall be punished.

### **Unlawful Exploitation of Mineral Resources**

#### Article 211

(1) Whoever in violation of regulations exploits mineral resources and by doing so inflicts considerable damage

shall be sentenced to imprisonment for a term of up to three years.

(2) Whoever in violation of regulations exploits mineral resources in an area which, pursuant to a competent body's regulation or decision, has been declared a protected natural value

shall be sentenced to imprisonment for a term of between six months and five years.

(3) The objects intended to be used or used for the purpose of committing a criminal offence or which are the product of commission of a criminal offence shall be seized.

(4) A perpetrator who attempts to commit the criminal offence referred to in paragraph 1 of this Article shall be punished.

### **Unlawful Construction**

#### Article 212

Whoever in violation of regulations constructs an edifice in an area which, pursuant to a competent body's regulation or decision, has been declared a protected natural value, cultural asset or other area of special interest to the state

shall be sentenced to imprisonment for a term of between six months and five years.

### **Active Remorse**

#### Article 213

The court may remit the punishment of the perpetrator of any of the criminal offences referred to in Articles 193, 194, 195, 197 and 198 of this Act if before the occurrence of severe consequences he/she voluntarily averts the danger or state of affairs which he/she has brought on.

### **Serious Criminal Offence against the Environment**

#### Article 214

(1) If as a result of the criminal offence referred to in Article 193, paragraph 1 or 2, Article 194, paragraph 1 or 2, Article 196, paragraph 1 or 2, Article 197, paragraph 1, Article 198, paragraph 1, or Article 199 of this Act one or more persons suffer severe bodily injuries, or changes brought about by pollution cannot be undone for a considerable period of time, or a major disaster occurs,

the perpetrator shall be sentenced to imprisonment for a term of between one and ten years.

(2) If the criminal offences referred to in paragraph 1 of this Article result in the death of one or more persons,

the perpetrator shall be sentenced to imprisonment for a term of between three and fifteen years.

(3) If as a result of the criminal offence referred to in Article 193, paragraph 3, Article 194, paragraph 3, Article 196, paragraph 3, Article 197, paragraph 2, or Article 198, paragraph 2, of this Act a number of persons suffer severe bodily injuries, or changes brought about by pollution cannot be undone for a considerable period of time, or a major disaster occurs, the perpetrator shall be sentenced to imprisonment for a term of between six months and five years.

(4) If the criminal offences referred to in paragraph 3 of this Article result in the death of one or more persons, the perpetrator shall be sentenced to imprisonment for a term of between one and eight years.

(5) If as a result of the criminal offence referred to in Article 200, paragraph 1 or 2, Article 201, paragraph 1, 2 or 3, or Article 202, paragraph 1 or 2, of this Act considerable damage is caused, the perpetrator shall be sentenced to imprisonment for a term of between one and eight years.

(6) If as a result of the criminal offence referred to in Article 206, paragraph 1, Article 207, paragraph 1, or Article 208 of this Act considerable damage is caused, the perpetrator shall be sentenced to imprisonment for a term of between six months and five years.

(7) If as a result of the criminal offence referred to in Article 200, paragraph 3, Article 201, paragraph 4, Article 202, paragraph 3, Article 206, paragraph 2, or Article 207, paragraph 2, of this Act considerable damage is caused, the perpetrator shall be sentenced to imprisonment for a term of up to three years.

## **TITLE XXI**

### **CRIMINAL OFFENCES AGAINST GENERAL SAFETY**

#### **Endangerment to Life and Property by a Generally Dangerous Act or Means**

##### **Article 215**

(1) Whoever endangers the life or limb or property of considerable value by fire, flood, explosive, poison or poisonous gas, ionising radiation, mechanical force, electricity or other energy or by some generally dangerous means shall be sentenced to imprisonment for a term of between six months and five years.

(2) The sentence referred to in paragraph 1 of this Article shall be imposed on whoever fails to install the prescribed devices for protection against fire, explosion, flood, poison, poisonous gases, nuclear energy, ionising radiation or intended to protect the health and safety at work, or fails to maintain these devices in working order, or where necessary fails to activate them, or altogether fails to comply with the regulations or technical rules on protective measures and thus endangers the life or limb of people or property of considerable value.

(3) Whoever commits the criminal offence referred to in paragraph 1 or 2 of this Article by negligence shall be sentenced to imprisonment for a term of up to three years.

#### **Destruction of or Damage to Public-Use Devices**

##### Article 216

(1) Whoever destroys, damages, modifies, renders unusable, removes, disconnects or disrupts the functioning of a public-use device for water, heat, gas, electricity or other energy or of electronic communications equipment and thus causes a disruption to the regular life of a population

shall be sentenced to imprisonment for a term of between six months and five years.

(2) The sentence referred to in paragraph 1 shall be imposed on whoever destroys, damages, disconnects, redirects or otherwise disrupts the proper working order of a subsea cable or pipeline which below sea level enables the provision of an electronic communications service or the flow of water, gas, oil or electricity between two or more countries or between a country and the Arctic or Antarctic.

(3) The sentence referred to in paragraph 1 of this Article shall be imposed on whoever destroys, damages or otherwise disrupts the proper working order of auxiliary facilities, vessels, devices or equipment that is used for installation, repair or maintenance of subsea cables or pipelines.

(4) Whoever commits the criminal offence referred to in paragraph 1, 2 or 3 of this Article by negligence shall be sentenced to imprisonment for a term of up to three years.

#### **Destruction of or Damage to Safety Devices at Work**

##### Article 217

(1) Whoever at a place where some kind of work is being carried out destroys, damages, removes, turns off or otherwise makes unusable or ineffective safety devices at work and thus endangers the life or limb of people or property of considerable value

shall be sentenced to imprisonment for a term of between six months and five years.

(2) Whoever commits the criminal offence referred to in paragraph 1 of this Article by negligence

shall be sentenced to imprisonment for a term of up to three years.

#### **Destruction, Damage or Misuse of Warning Signs**

##### Article 218

(1) Whoever destroys, damages, removes or otherwise makes unusable or unnoticeable a sign giving warning of a danger

shall be sentenced to imprisonment for a term of up to one year.

(2) The sentence referred to in paragraph 1 of this Article shall be imposed on whoever needlessly sends out an internationally agreed-upon distress signal or signal that danger

threatens or an internationally agreed-upon safety signal when this is not justified or on whoever misuses an internationally agreed-upon communication signal.

### **Misuse of Radioactive Substances**

#### Article 219

(1) Whoever with the aim of killing or inflicting a severe bodily injury on another person or of causing considerable damage to another person's property or the environment produces, processes, procures, possesses, stocks, transports, imports, exports, gives to another or enables another to acquire without authorisation radioactive substances or a device for activating, dispersing or emitting radioactive substances

shall be sentenced to imprisonment for a term of between six months and five years.

(2) The sentence referred to in paragraph 1 of this Article shall be imposed on whoever with the aim of killing or inflicting a severe bodily injury on another person or of causing considerable damage to another person's property or the environment uses radioactive substances or a device for activating, dispersing or emitting radioactive substances, or uses or damages a nuclear facility, thus causing the danger of radioactive substances being released.

(3) The sentence referred to in paragraph 1 of this Article shall be imposed on whoever by the use or threats of use of force demands without authorisation the handing over of a nuclear facility or of radioactive substances or of a device for activating, dispersing or emitting radioactive substances.

### **Handling of Generally Dangerous Substances**

#### Article 220

(1) Whoever produces, collects, conceals, disperses, uses, modifies, distributes without authorisation or transports in violation of regulations, or enables another to acquire without authorisation, or prevents another from acquiring on the basis of an authorisation ionising or other substances that may endanger the lives of people or property of considerable value

shall be sentenced to imprisonment for a term of up to three years.

(2) The sentence referred to in paragraph 1 of this Article shall be imposed on whoever in violation of regulations on the transportation of explosives or easily inflammable materials hands over an explosive or an easily inflammable material for transportation by public means of transportation or himself/herself transports such material by using public means of transportation.

(3) Ionising or other substances referred to in paragraph 1 of this Article and explosives and easily inflammable materials referred to in paragraph 2 of this Article shall be seized.

### **Dangerous Execution of Construction Works**

#### Article 221

(1) Whoever, in the course of designing, carrying out inspections of construction works, constructing or carrying out individual jobs, or demolishing or dismantling a building,

acts in violation of regulations or generally accepted rules of profession and thus endangers the lives of people or property of considerable value shall be sentenced to imprisonment for a term of between six months and five years.

(2) Whoever commits the criminal offence referred to in paragraph 1 of this Article by negligence shall be sentenced to imprisonment for a term of up to three years.

### **Serious Criminal Offences against General Safety**

#### **Article 222**

(1) If as a result of the criminal offence referred to in Article 215, paragraph 1 or 2, Article 216, paragraph 1, 2 or 3, Article 217, paragraph 1, Article 219, or Article 221, paragraph 1, of this Act a severe bodily injury is inflicted on a person or considerable damage to property is caused,

the perpetrator shall be sentenced to imprisonment for a term of between one and ten years.

(2) If as a result of the criminal offence referred to in paragraph 1 of this Article one or more persons die,

the perpetrator shall be sentenced to imprisonment for a term of between three and fifteen years.

(3) If as a result of the criminal offence referred to in Article 215, paragraph 3, Article 216, paragraph 4, Article 217, paragraph 2, or Article 221, paragraph 2, of this Act a severe bodily injury is inflicted on a person or considerable damage to property is caused,

the perpetrator shall be sentenced to imprisonment for a term of between six months and five years.

(4) If as a result of the criminal offence referred to in paragraph 3 of this Article one or more persons die,

the perpetrator shall be sentenced to imprisonment for a term of between one and eight years.

## **TITLE XXII**

### **CRIMINAL OFFENCES AGAINST TRAFFIC SAFETY**

#### **Attack on an Aircraft, Vessel or Immovable Platform**

#### **Article 223**

(1) Whoever uses force or serious threats with the aim of assuming control over a civil aircraft in flight, a civil vessel at sea or an immovable platform

shall be sentenced to imprisonment for a term of between three and fifteen years.

(2) Whoever uses force or serious threats in a civil aircraft in flight, on a civil vessel at sea or an immovable platform or plants on a civil aircraft, vessel or immovable platform a device or substances which can destroy or damage it, if such an act can endanger the safety of flight or voyage,

shall be sentenced to imprisonment for a term of between one and ten years.

(3) Whoever with the aim of destroying or damaging a civil aircraft in flight, a civil vessel at sea or its cargo, or an immovable platform uses firearms or causes an explosion or starts a fire

shall be sentenced to imprisonment for a term of between three and fifteen years.

(4) Whoever with the aim of bringing to a halt airport operations or endangering the safety of air traffic commits violence against a person employed at an international airport or severely damages or destroys airport equipment or damages an aircraft taken out of service

shall be sentenced to imprisonment for a term of between one and ten years.

(5) If as a result of the criminal offence referred to in paragraph 1, 2, 3 or 4 of this Article one or more persons die or an aircraft or vessel is destroyed or other considerable damage to property is caused,

the perpetrator shall be sentenced to imprisonment for a term of at least five years.

(6) If in committing the criminal offence referred to in paragraph 1, 2, 3 or 4 of this Article a perpetrator intentionally kills one or more persons,

he/she shall be sentenced to imprisonment for a term of at least ten years or to long-term imprisonment.

(7) An aircraft shall be deemed in flight from the moment when, after the completion of boarding, all outer doors are closed to the moment when one of these doors are opened for disembarkment. In the case of forced landing, a flight shall be deemed to last until the competent body takes charge of the aircraft, persons and property on board the aircraft.

#### **Endangering Traffic by a Dangerous Act or Dangerous Means**

##### Article 224

(1) Whoever destroys, damages, removes or otherwise makes unusable or unnoticeable a sign or device ensuring the safety of rail, sea, inland water or air traffic shall be sentenced to imprisonment for a term of up to one year.

(2) Whoever destroys, damages, removes or otherwise makes unusable or unnoticeable a sign, device or traffic mechanism ensuring the safety of any type of traffic, or erects obstructions, gives false information, signs or signals or otherwise endangers traffic and thus also the life or limb of people or property of considerable value

shall be sentenced to imprisonment for a term of between six months and five years.

(3) Whoever commits the criminal offence referred to in paragraph 2 of this Article by negligence

shall be sentenced to imprisonment for a term of up to three years.

(4) If as a result of the criminal offence referred to in paragraph 2 of this Article a person suffers an injury or considerable damage to property is caused,

the perpetrator shall be sentenced to imprisonment for a term of between one and ten years.

(5) If as a result of the criminal offence referred to in paragraph 2 of this Article one or more persons die,

the perpetrator shall be sentenced to imprisonment for a term of between three and fifteen years.

(6) If as a result of the criminal offence referred to in paragraph 3 of this Article a person suffers a severe bodily injury or considerable damage to property is caused,



the perpetrator shall be sentenced to imprisonment for a term of between one and eight years.

(7) If as a result of the criminal offence referred to in paragraph 3 of this Article one or more persons die,

the perpetrator shall be sentenced to imprisonment for a term of between one and ten years.

### **Endangering Special Types of Traffic**

#### **Article 225**

(1) A participant in air, ship or rail traffic or funicular railway traffic who by violating traffic safety regulations puts traffic safety in jeopardy in a manner that endangers the lives of people or property of considerable value

shall be sentenced to imprisonment for a term of between six months and five years.

(2) Whoever commits the criminal offence referred to in paragraph 1 of this Article by negligence

shall be sentenced to imprisonment for a term of up to three years.

(3) If as a result of the criminal offence referred to in paragraph 1 of this Article a person suffers a severe bodily injury or considerable damage to property is caused,

the perpetrator shall be sentenced to imprisonment for a term of between one and ten years.

(4) If as a result of the criminal offence referred to in paragraph 1 of this Article one or more persons die,

the perpetrator shall be sentenced to imprisonment for a term of between three and fifteen years.

(5) If as a result of the criminal offence referred to in paragraph 2 of this Article a person suffers a severe bodily injury or considerable damage to property is caused,

the perpetrator shall be sentenced to imprisonment for a term of between one and eight years.

(6) If as a result of the criminal offence referred to in paragraph 2 of this Article one or more persons die,

the perpetrator shall be sentenced to imprisonment for a term of between one and ten years.

### **Wanton Driving in Road Traffic**

#### **Article 226**

A road traffic participant who out of wantonness seriously violates traffic safety regulations by driving in a state of inability to drive caused by alcohol consumption characterised by a blood alcohol content of at least 1.50 g/kg or by drug or psychoactive drug consumption, or by driving in a prohibited direction or by overpassing a column of vehicles in a place where the road is not sufficiently clear ahead or by exceeding the speed limit by fifty km/h when driving through a populated place or area where the speed limit is indicated endangers the life or limb of people

shall be sentenced to imprisonment for a term of up to three years.

### **Causing a Road Traffic Accident**

#### **Article 227**

(1) A road traffic participant who by violating traffic safety regulations endangers the life or limb of people or property of considerable value and therefore inflicts on another person a severe bodily injury or causes considerable pecuniary damage

shall be sentenced to imprisonment for a term of between six months and five years.

(2) If the criminal offence referred to in paragraph 1 of this Article was committed by negligence,

the perpetrator shall be sentenced to imprisonment for a term of up to three years.

(3) If as a result of the criminal offence referred to in paragraph 1 of this Article another person suffers an especially severe bodily injury,

the perpetrator shall be sentenced to imprisonment for a term of between one and eight years.

(4) If as a result of the criminal offence referred to in paragraph 3 of this Article one or more persons die,

the perpetrator shall be sentenced to imprisonment for a term of between six months and five years.

(5) If as a result of the criminal offence referred to in paragraph 1 of this Article one or more persons die,

the perpetrator shall be sentenced to imprisonment for a term of between three and twelve years.

(6) If as a result of the criminal offence referred to in paragraph 5 of this Article one or more persons die,

the perpetrator shall be sentenced to imprisonment for a term of between one and eight years.

## **TITLE XXIII**

### **CRIMINAL OFFENCES AGAINST PROPERTY**

#### **Theft**

#### **Article 228**

(1) Whoever takes another person's movable property from him/her with the aim of unlawfully appropriating it

shall be sentenced to imprisonment for a term of between six months and five years.

(2) If the stolen property is of minor value and the perpetrator acted with the aim of appropriating property of such value,

he/she shall be sentenced to imprisonment for a term of up to one year.

(3) If the perpetrator returns stolen property to the injured party before having learnt that he/she has been discovered, his/her punishment may be remitted.

#### **Aggravated Theft**

#### Article 229

(1) A sentence of imprisonment of between one and eight years shall be imposed on whoever commits theft referred to in Article 228, paragraph 1, of this Act:

1. by picking a lock, breaking in or overcoming considerable obstacles in order to gain access to property in closed buildings, rooms, cash registers, cabinets or other enclosed premises or space;

2. in a particularly dangerous or brazen way;

3. by taking advantage of a situation caused by fire, flood, earthquake or other calamity;

4. by exploiting another person's helplessness or other particularly adverse circumstance afflicting the person;

5. if stolen property is of high value;

6. if weapons, ammunition, missiles, mines and other explosive devices, combat or part of combat resources serving the needs of the army are stolen;

7. if stolen property is used for religious purposes or is stolen from a church or other building or room used for religious services;

8. if an item of cultural property or a thing of scientific, artistic, historical or technical significance is stolen or stolen property is part of a public collection, protected private collection or is publicly displayed;

9. if the perpetrator has a weapon or a dangerous instrument on him/her for the purpose of attacking or defending himself/herself;

10. in the capacity of a public official performing his/her functions or exercising public authority.

(2) If the elements of aggravated theft referred to in paragraph 1, points 1 through 4, paragraphs 6 and 7 of this Article are realised but the value of stolen property is minor and the perpetrator acted with the aim of appropriating property of such value,

he/she shall be punished for theft referred to in Article 228, paragraph 1, of this Act.

### **Robbery**

#### Article 230

(1) Whoever, by the use of force against a person or threats of imminent attack on his/her life or limb, takes another's movable property with the aim of unlawfully appropriating it shall be sentenced to imprisonment for a term of between one and ten years.

(2) If as a result of the criminal offence referred to in paragraph 1 of this Article a considerable pecuniary advantage is obtained or if during its commission a weapon or other dangerous instrument is used,

the perpetrator shall be sentenced to imprisonment for a term of between three and twelve years.

(3) If by the commission of the criminal offence referred to in paragraph 1 or 2 of this Article a person dies,

the perpetrator shall be sentenced to imprisonment for a term of at least five years.

### **Violent Theft**

Article 231

(1) Whoever is caught in the act of committing theft and with the aim of retaining stolen property uses force against a person or threats of imminent attack on his/her life or limb shall be sentenced to imprisonment for a term of between one and ten years.

(2) If during the commission of the criminal offence referred to in paragraph 1 of this Article a weapon or other dangerous instrument is used, the perpetrator shall be sentenced to imprisonment for a term of between three and twelve years.

(3) If by the commission of the criminal offence referred to in paragraph 1 or 2 of this Article a person dies, the perpetrator shall be sentenced to imprisonment for a term of at least five years.

**Embezzlement**

Article 232

(1) Whoever unlawfully appropriates another person's immovable property or property right that was entrusted to him/her shall be sentenced to imprisonment for a term of up to three years.

(2) Whoever unlawfully appropriates another person's immovable property or property right that he/she found or accidentally came across shall be sentenced to imprisonment for a term of up to two years.

(3) If the value of misappropriated property or property right is high, the perpetrator shall be sentenced to imprisonment for a term of between six months and five years.

(4) If the value of misappropriated property or property right is minor and the perpetrator acted with the aim of appropriating property of such value, he/she shall be sentenced to imprisonment for a term of up to one year.

**Embezzlement at Work**

Article 233

(1) Whoever unlawfully appropriates another person's movable property or property right that was entrusted to him/her at work shall be sentenced to imprisonment for a term of between six months and five years.

(2) If the value of embezzled property or property right is high, the perpetrator shall be sentenced to imprisonment for a term of between one and eight years.

(3) If the value of embezzled property or property right is minor and the perpetrator acted with the aim of appropriating property of such value, he/she shall be sentenced to imprisonment for a term of up to two years.

**Unauthorised Use of Another's Movable Property**

Article 234

(1) Whoever unlawfully takes another person's movable property for temporary use

shall be sentenced to imprisonment for a term of up to one year.

(2) Whoever takes without authorisation another person's motor vehicle for temporary use

shall be sentenced to imprisonment for a term of up to three years.

(3) A perpetrator who attempts to commit the criminal offence referred to in paragraph 2 of this Article shall be punished.

### **Property Damage**

#### Article 235

(1) Whoever damages, destroys, deforms or renders unusable another person's property

shall be sentenced to imprisonment for a term of up to two years.

(2) The sentence referred to in paragraph 1 of this Article shall be imposed on whoever by making a drawing or a writing changes without authorisation the appearance of a wall, motor vehicle or other surface.

(3) If the perpetrator commits the criminal offence referred to in paragraph 1 or 2 of this Article out of base motives or thereby causes considerable damage,

he/she shall be sentenced to imprisonment for a term of between six months and five years.

### **Fraud**

#### Article 236

(1) Whoever with the aim of acquiring for himself/herself or a third party an unlawful pecuniary advantage misleads another by misrepresenting or concealing facts or keeps another in error, thus inducing him/her to do or omit to do something to the detriment of his/her property or the property of a third party

shall be sentenced to imprisonment for a term of between six months and five years.

(2) If as a result of the criminal offence referred to in paragraph 1 of this Article a considerable pecuniary advantage is obtained or considerable damage caused,

the perpetrator shall be sentenced to imprisonment for a term of between one and eight years.

(3) If as a result of the criminal offence referred to in paragraph 1 of this Article a small pecuniary advantage is obtained and the perpetrator acted with the intention of obtaining such an advantage,

he/she shall be sentenced to imprisonment for a term of up to one year.

### **Pyramid Scheme**

#### Article 237

Whoever organises or promotes a game or system in which a participant who invests funds can expect to profit only if new participants join the scheme

shall be sentenced to imprisonment for a term of up to three years.

### **Insurance Misuse**

Article 238

(1) Whoever destroys, damages or conceals an object that is insured against destruction, damage, loss or theft in order to obtain for himself/herself or a third party insurance reimbursement

shall be sentenced to imprisonment for a term of up to three years.

(2) The sentence referred to in paragraph 1 of this Article shall be imposed on whoever feigns a disease, inflicts a bodily injury on himself/herself or another or undermines his/her or another person's health in order to obtain for himself/herself or another an insurance right, social insurance right or a welfare right.

**Misuse of Cheques and Payment Cards**

Article 239

Whoever by misusing a cheque or payment card that he/she is entitled to use obligates its issuer to make a payment and thereby causes pecuniary damage to the issuer shall be sentenced to imprisonment for a term of up to three years.

**Abuse of Trust**

Article 240

(1) Whoever by representing the property interests of another abuses the powers conferred on him/her by statute or contract and thus causes pecuniary damage to the person whose interests he/she represents

shall be sentenced to imprisonment for a term of up to three years.

(2) If the criminal offence referred to in paragraph 1 of this Article is committed by a parent, guardian or attorney-at-law,

he/she shall be sentenced to imprisonment for a term of between six months and five years.

(3) If as a result of the criminal offence referred to in paragraph 1 or 2 of this Article considerable damage is caused,

the perpetrator shall be sentenced to imprisonment for a term of between one and eight years.

**Violation of Another's Rights**

Article 241

(1) Whoever, with the aim of frustrating the exercise of a real right, alienates, destroys, damages or takes from another another's thing on which this person has a real security right, right of retention or right of usufruct.

shall be sentenced to imprisonment for a term of up to one year.

(2) The sentence referred to in paragraph 1 of this Article shall be imposed on whoever, with the aim of frustrating the settlement of creditors' claims before or after the enforcement procedure, alienates, destroys, damages or conceals parts of his/her property.

**Usurious Contract**

Article 242

(1) Whoever, by exploiting another person's necessity, inexperience, light-mindedness, diminished ability to exercise his/her judgment or considerable weakness of will-power, receives from him/her or reaches an agreement with him/her on a pecuniary advantage for himself/herself or a third party that is grossly disproportionate to what he/she has given, done or what he/she has obligated himself/herself to give or do

shall be sentenced to imprisonment for a term of up to three years.

(2) If the perpetrator engages professionally in the activity referred to in paragraph 1 of this Article,

he/she shall be sentenced to imprisonment for a term of between one and eight years.

**Extortion**

Article 243

(1) Whoever, with the aim of procuring for himself/herself or a third party an unlawful pecuniary advantage by the use of force or serious threats, coerces another to do, omit to do or suffer something to the detriment of his/her or another's property

shall be sentenced to imprisonment for a term of between six months and five years.

(2) If as a result of the criminal offence referred to in paragraph 1 of this Article a considerable pecuniary advantage is obtained or considerable damage caused

the perpetrator shall be sentenced to imprisonment for a term of between one and eight years.

(3) If in committing the criminal offence referred to in paragraph 1 of this Article the perpetrator uses force against a person or threatens to directly attack the life or limb of a person,

shall be sentenced to imprisonment for a term of between one and ten years.

(4) If during the commission of the criminal offence referred to in paragraph 3 of this Article a weapon or other dangerous instrument is used or if by its commission a considerable pecuniary advantage is obtained or considerable damage caused,

the perpetrator shall be sentenced to imprisonment for a term of between three and twelve years.

(5) If during the commission of the criminal offence referred to in paragraph 1 or 3 of this Article the perpetrator threatens to directly attack the life or limb of many people or to severely damage facilities of great social significance,

he/she shall be sentenced to imprisonment for a term of between three and fifteen years.

(6) If as a result of the criminal offence referred to in paragraph 1 or 3 of this Article a person dies,

the perpetrator shall be sentenced to imprisonment for a term of at least five years.

**Concealment**

Article 244

(1) Whoever purchases, receives in pledge or otherwise procures, resells or conceals, or helps resell or conceal, a thing which he/she knows or should have known has been procured by the commission of a crime against property

shall be sentenced to imprisonment for a term of up to three years.

(2) Whoever engages in the concealment of things referred to in paragraph 1 of this Article

shall be sentenced to imprisonment for a term of between six months and five years.

(3) The perpetrator of the criminal offence referred to in paragraph 1 of this Article shall not be imposed a punishment that is more severe than the one prescribed for the criminal offence whereby the concealed thing is procured.

### **Criminal Prosecution for Crimes against Property**

#### Article 245

(1) Unless they are committed against state property, the criminal offences referred to in Article 228, paragraph 2, Article 232, paragraphs 2 and 4, Article 233, paragraph 3, Article 236, paragraph 3, and Article 240, paragraphs 1 and 2, of this Act shall be prosecuted by private action.

(2) The criminal offences referred to in Article 233, paragraph 1, Article 234, paragraph 1, Article 235, paragraph 1, and Article 238, paragraph 1, of this Act shall be prosecuted on request.

(3) The criminal offences referred to in Article 228, paragraph 1, Article 229, Article 230, paragraph 1, Article 234, and Article 236, paragraphs 1 and 2, of this Act committed against a spouse or cohabitant, same-sex partner, lineal blood relative, sibling or a person with whom the perpetrator lives in a joint household shall be prosecuted by private action.

## **TITLE XXIV**

### **CRIMINAL OFFENCES AGAINST THE ECONOMY**

#### **Abuse of Trust in Business Dealings**

#### Article 246

(1) Whoever breaches in business dealings the duty to protect another's property interests that is based on a statute, administrative or judicial decision, legal transaction or relationship of trust and in this way acquires for himself/herself or a third party an unlawful pecuniary advantage, thereby or otherwise causing damage to the person whose property interests he/she is required to look after

shall be sentenced to imprisonment for a term of between six months and five years.

(2) If as a result of the criminal offence referred to in paragraph 1 of this Article a considerable pecuniary advantage is acquired or considerable damage caused,

the perpetrator shall be sentenced to imprisonment for a term of between one and ten years.



### **Fraud in Business Dealings**

#### Article 247

(1) Whoever in business dealings, with the aim of acquiring an unlawful pecuniary advantage for a legal person he/she is representing or another legal person, misleads another by misrepresenting or concealing facts or keeps another in error and thus induces him/her to do or omit to do something to the detriment of his/her property or the property of a third party

shall be sentenced to imprisonment for a term of between six months and five years.

(2) If as a result of the criminal offence referred to in paragraph 1 of this Article considerable damage is caused,

the perpetrator shall be sentenced to imprisonment for a term of between one and ten years.

### **Breach of Duty to Keep Commercial and Business Records**

#### Article 248

(1) Whoever fails to keep commercial or business records he/she is required by law to keep, or keeps them in a way that the transparency of business dealings or the financial situation is rendered difficult, or destroys, conceals, damages considerably or otherwise renders unusable commercial or business records or business documents he/she is required to keep

shall be sentenced to imprisonment for a term of up to three years.

(2) Whoever commits the offence referred to in paragraph 1 of this Article by negligence

shall be sentenced to imprisonment for a term of up to one year.

### **Violation of Creditors' Rights in Business Dealings**

#### Article 249

(1) Whoever in business dealings causes overindebtedness or insolvency by the following acts or in a state of overindebtedness or insolvency that threatens or has occurred:

1. fictitiously or free of charge transfers assets to a company he/she has set up by himself/herself or with another person or otherwise fictitiously sells, encumbers without corresponding consideration, assigns free of charge, damages, destroys or renders unusable all or a part of assets that would make up the insolvency estate;

2. concludes a fictitious contract or admits a nonexistent claim;

3. fails to keep commercial or business records he/she is required to keep or conceals, destroys, damages or alters them, or keeps them or makes the annual statement of accounts in a way that his/her financial situation cannot be determined or its determination is rendered considerably more difficult;

4. contrary to orderly and conscientious management reduces assets that would make up the insolvency estate or misrepresents the financial situation

shall be sentenced to imprisonment for a term of between six months and five years.

(2) Whoever commits the offence referred to in paragraph 1 of this Article by negligence

shall be sentenced to imprisonment for a term of up to three years.

(3) If as a result of the criminal offence referred to in paragraph 1 of this Article considerable damage is caused,

the perpetrator shall be sentenced to imprisonment for a term of between one and ten years.

(4) If the consequence referred to in paragraph 3 of this Article is the result of the offence referred to in paragraph 2 of this Article,

the perpetrator shall be sentenced to imprisonment for a term of between six months and five years.

(5) If creditors' claims are settled before the judgment is passed, the punishment of the perpetrator may be remitted.

(6) There shall be no criminal offence referred to in this Article unless the perpetrator stops making payments or insolvency proceedings are instituted against him/her or a person he/she represented.

#### **Favouritism towards Creditors**

##### Article 250

(1) Whoever, knowing that he/she or the person he/she represents has become insolvent, settles or secures a claim of a creditor not entitled to have his/her claim settled or secured in such a manner or at that moment in time,

shall be sentenced to imprisonment for a term of up to three years.

(2) If other creditors' claims have been settled before the judgment is passed, the punishment of the perpetrator may be remitted.

#### **Receiving or Giving Bribes during Insolvency Proceedings**

##### Article 251

(1) A creditor or member of the board of creditors who demands or receives a bribe or accepts an offer or promise of a bribe for himself/herself or another in order to vote a certain way or fail to vote or act in some other way for the purpose of causing damage to at least one creditor in insolvency proceedings

shall be sentenced to imprisonment for a term of between six months and five years.

(2) If the offence referred to in paragraph 1 is committed by the trustee in bankruptcy,

he/she shall be sentenced to imprisonment for a term of between one and eight years.

(3) Whoever offers, promises or gives a bribe to a creditor, member of the board of creditors or trustee in bankruptcy for the commission of the criminal offence referred to in paragraph 1 or 2 of this Article

shall be sentenced to imprisonment for a term of up to three years.

#### **Receiving Bribes in Business Dealings**

##### Article 252

(1) Whoever demands or receives a bribe or accepts an offer or promise of a bribe for himself/herself or another in business dealings in order to favour a third party on the occasion of the conclusion or execution of a contract or provision of a service, thereby causing damage to the person he/she represents or for whom he/she works, or whoever mediates in such an act of bribery

shall be sentenced to imprisonment for a term of between one and eight years.

(2) Whoever demands or receives a bribe or accepts an offer or promise of a bribe for himself/herself or another in business dealings as consideration for the conclusion or execution of a contract or provision of a service, or whoever mediates in such an act of bribery

shall be sentenced to imprisonment for a term of between six months and five years.

### **Giving Bribes in Business Dealings**

#### Article 253

(1) Whoever offers, promises or gives a bribe to another in business dealings so that he/she or a third party would be favoured on the occasion of the conclusion or execution of a contract or provision of a service, thereby causing damage to the person he/she represents or for whom he/she works, or whoever mediates in such an act of bribery

shall be sentenced to imprisonment for a term of between six months and five years.

(2) Whoever offers, promises or gives a bribe to another in business dealings as consideration for the conclusion or execution of a contract or provision of a service, or whoever mediates in such an act of bribery

shall be sentenced to imprisonment for a term of up to three years.

(3) The perpetrator of the criminal offence referred to in paragraph 1 or 2 of this Article who gives a bribe at the request of a responsible person and reports the offence before it is discovered or before he/she finds out that the offence has been discovered may have his/her punishment remitted.

### **Misuse of Public Procurement Procedures**

#### Article 254

(1) Whoever submits as part of a public procurement procedure a bid based on a prohibited agreement between economic entities, the aim of which agreement is that the ordering party accepts a certain bid

shall be sentenced to imprisonment for a term of between six months and five years.

(2) If as a result of the criminal offence referred to in paragraph 1 of this Article a considerable pecuniary advantage is acquired or considerable damage caused,

the perpetrator shall be sentenced to imprisonment for a term of between one and ten years.

(3) The perpetrator who prevents of his/her own free will the contracting authority from accepting the bid referred to in paragraph 1 of this Article may have his/her punishment remitted.

### **Deceptive Advertising**

Article 255

Whoever in offering goods or services to a wide circle of people states false or incomplete information that are essential for the conclusion of an agreement and may mislead a reasonable consumer

shall be sentenced to imprisonment for a term of up to two years.

**Tax or Customs Duty Evasion**

Article 256

(1) Whoever, with the aim that he/she or another person evade paying in full or in part a tax or customs duty, provides false or incomplete information on income, objects or other facts of relevance for determining the amount of tax or customs duty payable or whoever, in the case of mandatory declaration, fails, with the same aim, to declare his/her income, object or other facts of relevance to the determination of tax or customs duty payable, which results in a reduction of the tax or customs duty payable by an amount exceeding twenty thousand kuna or to its non-determination in the said amount

shall be sentenced to imprisonment for a term of between six months and five years.

(2) The sentence referred to in paragraph 1 of this Article shall be imposed on whoever uses a tax relief or customs privilege in an amount exceeding twenty thousand kuna in breach of the conditions under which he/she obtained it.

(3) If the criminal offence referred to in paragraph 1 or 2 of this Article leads to a reduction in or non-determination of a considerable tax liability,

the perpetrator shall be sentenced to imprisonment for a term of between one and ten years.

(4) The provisions of paragraphs 1 through 3 of this Article shall also be applied to the perpetrator who reduces European Union funds by committing the acts described therein.

**Avoiding Customs Controls**

Article 257

(1) Whoever by avoiding customs control measures carries across the border goods the manufacture of or trade in which is restricted or prohibited, unless no other criminal offence for which a more severe punishment is prescribed is thereby committed,

shall be sentenced to imprisonment for a term of between six months and five years.

(2) The goods referred to in paragraph 1 of this Article shall be confiscated.

**Subsidy Fraud**

Article 258

(1) Whoever, with the aim that he/she or another person receive a state subsidy, provides a state subsidy provider with false or incomplete information concerning the facts on which the decision on the granting of a state subsidy depends, or fails to inform a state subsidy provider of changes important for making the decision on the granting of a state subsidy

shall be sentenced to imprisonment for a term of between six months and five years.

(2) The sentence referred to in paragraph 1 of this Article shall be imposed on whoever uses the granted state subsidy funds in a manner contrary to their intended use.

(3) If, in the case referred to in paragraph 1 of this Article, the perpetrator acts with the aim of receiving a significant amount of state subsidies or if, in the case referred to in paragraph 2 of this Article, he/she uses a considerable amount of state subsidies,

he/she shall be sentenced to imprisonment for a term of between one and ten years.

(4) The punishment of whoever in cases referred to in paragraph 1 of this Article prevents of his/her own free will the taking of the decision on the granting of a state subsidy may be remitted.

(5) State subsidies within the meaning of this Article shall be equated with subsidies and aid granted from European Union funds.

### **Abuse of Inside Information**

#### Article 259

(1) Whoever by possessing inside information:

1. acquires or disposes of for his/her own account or for the account of a third party, either indirectly or directly, a financial instrument to which that information relates;

2. discloses, tells, hands over or otherwise makes available without authorisation inside information to another person;

3. recommends to or induces another person to acquire or dispose of a financial instrument to which that information relates

shall be sentenced to imprisonment for a term of up to three years.

(2) If the criminal offence referred to in paragraph 1 of this Article is committed by a person who possesses inside information by virtue of his/her membership of the management or supervisory bodies of the issuer, or by virtue of his/her holding in the capital of the issuer, or by virtue of his/her having access to the information through the exercise of his/her employment, profession or duties, or by virtue of his/her criminal activities

shall be sentenced to imprisonment for a term of between six months and five years.

(3) If as a result of the criminal offence referred to in paragraph 1 of this Article a considerable pecuniary advantage is acquired or considerable damage is caused to another,

the perpetrator shall be sentenced to imprisonment for a term of between six months and five years.

(4) If as a result of the criminal offence referred to in paragraph 2 of this Article a considerable pecuniary advantage is acquired or considerable damage is caused to another,

the perpetrator shall be sentenced to imprisonment for a term of between one and eight years.

### **Capital Market Abuse**

#### Article 260

(1) Whoever in violation of capital market regulations:

1. carries out a transaction or issues an order to trade which give, or are likely to give, false or misleading signals as to the supply of, demand for or price of financial instruments, or by acting in collaboration with a person or persons, secures the price of one or several financial instruments at an abnormal or artificial level;

2. when entering into a transaction or issuing an order to trade employs fictitious devices or any other form of deception or contrivance;

3. disseminates information through the media, the Internet or by any other means, which gives, or is likely to give, false or misleading signals as to financial instruments, including the dissemination of rumours and false or misleading news, where the person who made the dissemination knew, or ought to have known, that the information was false or misleading,

shall be sentenced to imprisonment for a term of up to three years.

(2) If as a result of the criminal offence referred to in paragraph 1 of this Article a considerable pecuniary advantage is acquired or considerable damage is caused,

he/she shall be sentenced to imprisonment for a term of between six months and five years.

### **Unauthorised Use of Another's Company Name**

#### Article 261

(1) Whoever uses another's company name without authorisation or inserts into it without authorisation features that are misleading as to the object of the company, its identity or links with another company and thereby acquires a pecuniary advantage or causes damage shall be sentenced to imprisonment for a term of up to three years.

(2) A perpetrator who attempts to commit the criminal offence referred to in paragraph 1 of this Article shall be punished.

### **Disclosure and Unauthorised Obtainment of a Business Secret**

#### Article 262

(1) Whoever discloses, hands over or otherwise makes available to another without authorisation information representing a business secret, or whoever obtains such information in order to hand them over to an unauthorised person

shall be sentenced to imprisonment for a term of up to three years.

(2) If as a result of the criminal offence referred to in paragraph 1 of this Article the perpetrator acquires a considerable pecuniary advantage for himself/herself or another or causes considerable damage,

the perpetrator shall be sentenced to imprisonment for a term of between six months and five years.

(3) There shall be no criminal offence if the offence referred to in paragraph 1 of this Article was for the most part committed in the public interest.

(4) The criminal offence referred to in paragraph 1 of this Article shall be prosecuted upon request.

### **Prohibited Manufacturing**

#### Article 263

**Commented [B4]:** Umjesto "koji daje ili bi mogao davati" trebalo bi pisati "koje daju ili bi mogle davati" jer se relativna zamjenica "koje" odnosi na imenicu informacije, a ne na načine ili sredstva. Pogledati Direktivu MAD kako bi se ispravio hrvatski prijevod odredbe.

(1) Whoever manufactures or processes objects or goods the manufacture of which is prohibited, provided no other criminal offence for which a more severe punishment is prescribed is thereby committed,

shall be sentenced to imprisonment for a term of up to one year.

(2) The objects or goods the manufacture of which is prohibited shall be seized.

### **Prohibited Trade**

#### Article 264

(1) Whoever purchases, sells or exchanges without authorisation objects or goods the trade in which is prohibited or restricted, provided no other criminal offence for which a more severe punishment is prescribed is thereby committed,

shall be sentenced to imprisonment for a term of up to one year.

(2) The objects or goods the trade in which is prohibited shall be seized.

### **Money Laundering**

#### Article 265

(1) Whoever invests, takes over, converts, transfers or replaces a pecuniary advantage derived from criminal activity for the purpose of concealing or disguising its illicit origin

shall be sentenced to imprisonment for a term of between six months and five years.

(2) The sentence referred to in paragraph 1 of this Article shall be imposed on whoever conceals or disguises the true nature, source, location, disposition, movement, rights with respect to, or ownership of a pecuniary advantage derived by another from criminal activity.

(3) The sentence referred to in paragraph 1 of this Article shall be imposed on whoever acquires, possesses or uses the pecuniary advantage derived by another from criminal activity.

(4) Whoever commits the offence referred to in paragraph 1 or 2 of this Article in financial or other dealings or where the perpetrator engages professionally in money laundering or the pecuniary advantage referred to in paragraph 1, 2 or 3 of this Article is of considerable value,

shall be sentenced to imprisonment for a term of between one and eight years.

(5) Whoever commits the offence referred to in paragraph 1, 2 or 4 of this Article through negligence with respect to the circumstance that the pecuniary advantage is derived from criminal activity

shall be sentenced to imprisonment for a term of up to three years.

(6) If the pecuniary advantage referred to in paragraphs 1 through 5 of this Article is derived from criminal activity carried out in a foreign country, the perpetrator shall be punished when the activity is a criminal offence also under the domestic law of the country where it is committed.

(7) The perpetrator referred to in paragraphs 1 through 5 of this Article who contributes of his/her own free will to the discovery of the criminal activity from which a pecuniary advantage has been derived may have his/her punishment remitted.

**Commented [B5]:** U hrvatskom tekstu slučajno izostavljena riječ "djela".

## **TITLE XXV**

### **CRIMINAL OFFENCES AGAINST COMPUTER SYSTEMS, PROGRAMMES AND DATA**

#### **Unauthorised Access**

##### Article 266

(1) Whoever accesses a computer system or computer data without authorisation shall be sentenced to imprisonment for a term of up to one year.

(2) Whoever commits the criminal offence referred to in paragraph 1 of this Article with respect to a computer system or computer data of a state authority, body of local or regional self-government, public institution or company of special public interest shall be sentenced to imprisonment for a term of up to three years.

(3) A perpetrator who attempts to commit the criminal offence referred to in paragraph 1 or 2 of this Article shall be punished.

(4) The criminal offence referred to in paragraph 1 of this Article shall be prosecuted upon request.

#### **Computer System Interference**

##### Article 267

(1) Whoever prevents or hinders the functioning or use of a computer system, computer data or programmes, or computer communication shall be sentenced to imprisonment for a term of up to three years.

(2) A perpetrator who attempts to commit the criminal offence referred to in paragraph 1 of this Article shall be punished.

#### **Damage to Computer Data**

##### Article 268

(1) Whoever damages, alters, deletes, destroys, renders unusable or inaccessible, or presents as inaccessible, in full or in part, another's computer data or programmes without authorisation

shall be sentenced to imprisonment for a term of up to three years.

(2) A perpetrator who attempts to commit the criminal offence referred to in paragraph 1 of this Article shall be punished.

#### **Unauthorised Interception of Computer Data**

##### Article 269

(1) Whoever intercepts or records without authorisation non-public transmissions of computer data, including electromagnetic emissions from a computer system, or makes available to another the data thus procured

shall be sentenced to imprisonment for a term of up to three years.

(2) A perpetrator who attempts to commit the criminal offence referred to in paragraph 1 of this Article shall be punished.



(3) The data derived from the commission of the criminal offence referred to in paragraph 1 of this Article shall be destroyed.

### **Computer Forgery**

#### Article 270

(1) Whoever produces, inputs, alters, deletes, or renders unusable or inaccessible without authorisation computer data of value to legal relations with the intent that they be used as authentic, or whoever uses or procures for use such data

shall be sentenced to imprisonment for a term of up to three years.

(2) A perpetrator who attempts to commit the criminal offence referred to in paragraph 1 of this Article shall be punished.

(3) The data derived from the commission of the criminal offence referred to in paragraph 1 of this Article shall be destroyed.

### **Computer Fraud**

#### Article 271

(1) Whoever with the aim of acquiring for himself/herself or another an unlawful pecuniary advantage inputs, alters, deletes, damages, renders unusable or inaccessible computer data or interferes with the functioning of a computer system and thus causes damage to another shall be sentenced to imprisonment for a term of between six months and five years.

(2) If as a result of the criminal offence referred to in paragraph 1 of this Article a considerable pecuniary advantage is acquired or considerable damage is caused, the perpetrator shall be sentenced to imprisonment for a term of between one and eight years.

(3) The data derived from the commission of the criminal offence referred to in paragraphs 1 and 2 of this Article shall be destroyed.

### **Misuse of Devices**

#### Article 272

(1) Whoever produces, procures, sells, possesses or makes available to another a device or computer programme or computer data designed or adapted for the purpose of committing any of the criminal offences referred to in Articles 266, 267, 268, 269, 270 and 271 of this Act with intent that it be used for the purpose of committing any of the criminal offences established in Articles 266 through 271

shall be sentenced to imprisonment for a term of up to three years.

(2) Whoever produces, procures, sells, possesses or makes available to another a computer password, access code or other data by which a computer system is capable of being accessed with intent that it be used for the purpose of committing any of the criminal offences referred to in Articles 266, 267, 268, 269, 270 and 271 of this Act

shall be sentenced to imprisonment for a term of up to one year.

(3) The perpetrator of the criminal offence referred to in paragraph 1 of this Article shall not be imposed a sentence more severe than the one prescribed for the criminal offence the perpetrator intended to commit.

(4) Special devices and programmes referred to in paragraph 1 of this Article shall be seized while the data referred to in paragraph 1 and 2 of this Article shall be destroyed.

### **Serious Criminal Offences Against Computer Systems, Programmes and Data**

#### Article 273

(1) Whoever commits any of the criminal offences referred to in Articles 267 through 270 of this Act with respect to a computer system or computer data of a state authority, a body of local or regional self-government, public institution or company of special public interest

shall be sentenced to imprisonment for a term of between six months and five years.

(2) The sentence referred to in paragraph 1 shall be imposed on whoever commits any of the criminal offences referred to in Articles 266 through 269 of this Act by concealing his/her real identity and giving rise to misconceptions about the authorised identity holder.

(3) Whoever commits any of the criminal offences referred to in Articles 267 through 269 of this Act by a means intended for carrying out an attack on a number of computer systems, or whereby considerable damage is caused

shall be sentenced to imprisonment for a term of between one and eight years.

## **TITLE XXVI**

### **CRIMINAL OFFENCES OF FORGERY**

#### **Counterfeiting Money**

#### Article 274

(1) Whoever produces counterfeit money, alters genuine money or procures such money with the aim of putting it into circulation as genuine, or whoever puts such money into circulation as genuine

shall be sentenced to imprisonment for a term of between one and ten years.

(2) Whoever, upon finding out that the money he/she accepted in the belief it was genuine is counterfeit, puts counterfeit money into circulation

shall be sentenced to imprisonment for a term of up to three years.

(3) Counterfeit money shall be seized.

#### **Counterfeiting Securities**

#### Article 275

(1) Whoever produces a counterfeit security issued on the basis of a signature, alters a genuine security or procures such a counterfeit security, or whoever puts it into circulation as genuine

shall be sentenced to imprisonment for a term of between one and ten years.

(2) Whoever, upon finding out that the counterfeit security he/she accepted in the belief it was genuine is counterfeit, puts the counterfeit security into circulation

shall be sentenced to imprisonment for a term of up to three years.

(3) Counterfeit securities shall be seized.

### **Counterfeiting Value Signs**

#### Article 276

(1) Whoever produces counterfeit tax stamps, postage stamps or other value signs issued on the basis of regulations, or alters or procures them, or gives them to another so that the latter would use them as genuine

shall be sentenced to imprisonment for a term of between six months and five years.

(2) Whoever removes the postmark from a value sign or otherwise doctors an already used value sign in order to give it the appearance of an unused sign, or whoever reuses an already used value sign or sells it as if it had not been used

shall be sentenced to imprisonment for a term of up to six months.

(3) Counterfeit value signs shall be seized.

### **Counterfeiting Signs for the Marking of Goods and Falsifying Measures and Weights**

#### Article 277

(1) Whoever, with the aim of using them as genuine, counterfeits signs for the marking of goods, such as seals, marks or stamps for the branding of gold, silver, cattle, timber or any other good, or alters such genuine signs, or uses counterfeit signs as genuine

shall be sentenced to imprisonment for a term of between six months and five years.

(2) Whoever falsifies measures or weights,

shall be sentenced to imprisonment for a term of up to three years.

(3) Counterfeit signs and falsified measures and weights as well as the means for their making or manufacture shall be seized.

### **Forging Documents**

#### Article 278

(1) Whoever forges a document or alters a genuine document with the intent that such document be used as genuine, or whoever procures such a document for use or uses it as genuine

shall be sentenced to imprisonment for a term of up to three years.

(2) The sentence referred to in paragraph 1 of this Article shall be imposed on whoever misleads another as to the contents of a document and the latter signs this document believing that he/she is putting his/her signature to some other document or other contents.

(3) Whoever commits the criminal offence referred to in paragraph 1 or 2 of this Article with respect to a public document, testament, bill of exchange, cheque, payment card or public or official records that must be kept by virtue of law

shall be sentenced to imprisonment for a term of between six months and five years.

(4) A perpetrator who attempts to commit the criminal offence referred to in paragraph 1 or 2 of this Article shall be punished.

### **Forging Official or Business Documents**

#### Article 279

(1) A public official or responsible person who enters false information into an official or business document, record or file, or fails to enter an important piece of information, or certifies by his/her signature or official seal such a document, record or file containing false information, or enables by his/her signature or official seal the making of a document, record or file containing false information

shall be sentenced to imprisonment for a term of between six months and five years.

(2) The sentence referred to in paragraph 1 of this Article shall also be imposed on whoever uses an official or business document, record or file containing false information in the exercise of his/her employment, profession or duties or in business dealings as if the information it contained were true.

### **Abuse of Identification Papers**

#### Article 280

Whoever fraudulently uses an identification paper issued in the name of another person in legal transactions or for fraudulent purposes in legal transactions cedes to another an identification paper not issued in the latter's name

shall be sentenced to imprisonment for a term of up to one year.

### **Certification of Untrue Content**

#### Article 281

(1) Whoever by misleading a competent authority makes it certify in a public document, record or logbook something untrue that is to serve as evidence in legal transactions

shall be sentenced to imprisonment for a term of between six months and five years.

(2) The sentence referred to in paragraph 1 of this Article shall be imposed on whoever makes use of this document, record or logbook despite knowing that it contains untrue information.

### **Issuing and Using an Untrue Medical or Veterinary Certificate**

#### Article 282

Whoever enters false information in a medical or veterinary certificate or uses such a certificate

shall be sentenced to imprisonment for a term of up to three years.

### **Producing, Procuring, Possessing, Selling or Giving to Another for Use Forgery Tools**

#### Article 283

- (1) Whoever produces, procures, possesses, sells or gives to another for use tools for counterfeiting money, securities, value signs issued pursuant to regulations, signs for the marking of goods, or tools for falsifying measures or weights, or for forging documents shall be sentenced to imprisonment for a term of up to three years.
- (2) The tools referred to in paragraph 1 of this Article shall be seized.

## **TITLE XXVII CRIMINAL OFFENCES AGAINST INTELLECTUAL PROPERTY**

### **Infringement of the Personal Rights of an Author or Artist Performer**

#### Article 284

- (1) Whoever in violation of regulations on copyright and related rights designates another's copyright work by a wrong name, his/her name or a third party's name or whoever in violation of the author's prohibition designates a work by its author's name and publishes or uses it, or allows this to be done shall be sentenced to imprisonment for a term of up to one year.
- (2) The sentence referred to in paragraph 1 of this Article shall be imposed on whoever in violation of regulations on copyright and related rights designates by a wrong name, his/her name or a third party's name the performance by an artist performer, or on whoever in violation of the artist performer's prohibition designates the performance by an artist performer by the name of the artist performer and publishes or uses it, or allows this to be done.
- (3) The sentence referred to in paragraph 1 of this Article shall be imposed on whoever in violation of regulations on copyright and related rights inserts parts of another's copyright work or performance by an artist performer into his/her copyright work or his/her performance with the aim of obtaining a benefit or causing damage.
- (4) The criminal offences referred to in paragraphs 1 through 3 of this Article shall be prosecuted upon request of the injured party or other interested party.

### **Unauthorised Use of a Copyright Work or Performance by an Artist Performer**

#### Article 285

- (1) Whoever in violation of regulations on copyright and related rights reproduces, adapts, distributes, stocks or takes any other action for the purpose of distribution of, or communicates to the public in whatever way another's copyright work, or allows this to be done and thus obtains a pecuniary advantage or causes damage shall be sentenced to imprisonment for a term of up to three years.
- (2) The sentence referred to in paragraph 1 of this Article shall be imposed on whoever in violation of regulations on copyright and related rights fixates a performance by an artist performer that is not fixed, reproduces, adapts, distributes, stocks or takes any other action for the purpose of distributing a fixed performance by an artist performer, or communicates to the public in whatever way a performance by an artist performer that is either fixed or not fixed, or allows this to be done and thus obtains a considerable pecuniary advantage or causes considerable damage.
- (3) The sentence referred to in paragraph 1 of this Article shall be imposed on whoever in violation of regulations on copyright and related rights circumvents technical

measures for the protection of the rights of authors and artists performers, or removes or alters information on the management of such rights and thus obtains a considerable pecuniary advantage or causes considerable damage.

(4) The perpetrator who attempts to commit any of the criminal offences referred to in paragraphs 1 through 3 of this Article shall be punished.

(5) The objects intended to be used or used for the purpose of committing any of the criminal offences referred to in paragraphs 1, 2, 3, and 4 of this Article shall be seized, while the objects which are the product of commission of those criminal offences shall be destroyed unless the person whose right has been infringed requests their handing over along with the payment of compensation which cannot exceed the costs of their production. The compensation shall be paid into the state budget and shall be used for the purpose of fighting against criminal offences against intellectual property.

### **Infringement of Other Rights Related to Copyright**

#### Article 286

(1) Whoever in violation of regulations on copyright and related rights reproduces, distributes, stocks or takes any other action for the purpose of distribution of, or makes available to the public another person's phonogram, or allows this to be done and thus obtains a considerable pecuniary advantage or causes considerable damage

shall be sentenced to imprisonment for a term of up to one year.

(2) The sentence referred to in paragraph 1 of this Article shall be imposed on whoever in violation of regulations on copyright and related rights reproduces, distributes, stocks or takes any other action for the purpose of distribution of, or publicly displays or makes available to the public another person's videogram, or allows this to be done and thus obtains a considerable pecuniary advantage or causes considerable damage.

(3) The sentence referred to in paragraph 1 of this Article shall be imposed on whoever in violation of regulations on copyright and related rights reemits another's broadcast, or communicates to the public another's broadcast in exchange for ticket purchase, or makes available to the public another's broadcast, or allows this to be done and thus obtains a considerable pecuniary advantage or causes considerable damage.

(4) The sentence referred to in paragraph 1 of this Article shall be imposed on whoever in violation of regulations on copyright and related rights circumvents technical measures for the protection of related rights of phonogram or videogram producers or broadcasting organisations, or removes or alters information on the management of such rights, or allows this to be done and thus obtains a considerable pecuniary advantage or causes considerable damage.

(5) The perpetrator who attempts to commit any of the criminal offences referred to in paragraphs 1 through 4 of this Article shall be punished.

(6) The objects intended to be used or used for the purpose of committing any of the criminal offences referred to in paragraphs 1 through 4 of this Article shall be seized, while the objects which are the product of commission of those criminal offences shall be destroyed unless the person whose right has been infringed requests their handing over along with the payment of compensation which cannot exceed the costs of their production. The compensation shall be paid into the state budget and shall be used for the purpose of fighting against criminal offences against intellectual property.

### **Infringement of the Right to Invention**

#### Article 287

(1) Whoever files a patent application without authorisation, or in violation of regulations on patent protection fails to state or falsely states in the patent application who the inventor is, or without authorisation makes available to the public an invention before it is legally disclosed to the public

shall be sentenced to imprisonment for a term of up to one year.

(2) Whoever in violation of regulations on patent protection makes, offers for sale, sells, uses, exports, imports or stocks for these purposes a product made according to an invention protected by a patent or a supplementary protection certificate, or uses or offers for use a process which is the subject matter of a protected invention, or offers for sale, sells, uses, exports, imports or stocks for these purposes a product which has been directly produced by a process which is the subject matter of an invention and thus obtains a considerable pecuniary advantage or causes considerable damage

shall be sentenced to imprisonment for a term of up to three years.

(3) The perpetrator who attempts to commit the criminal offence referred to in paragraph 2 of this Article shall be punished.

(4) The objects intended to be used or used for the purpose of committing the criminal offences referred to in paragraphs 2 and 3 of this Article shall be seized, while the objects which are the product of commission of the criminal offences referred to in paragraphs 1 and 2 of this Article shall be seized and destroyed.

(5) The criminal offence referred to in paragraph 1 of this Article shall be prosecuted upon request of the injured party or other interested party.

### **Trademark Infringement**

#### Article 288

(1) Whoever in violation of regulations on trademark protection in trade uses any sign which is identical with the protected trademark in relation to goods or services which are identical with those for which the trademark is registered, or any sign which is identical with, or similar to, the protected trademark in relation to goods or services which are identical with, or similar to, those for which the trademark is registered, by affixing the sign to the goods or to the packaging thereof, offering the goods, or putting them on the market or stocking them for these purposes under that sign, or offering or supplying services thereunder, or importing or exporting the goods under the sign, or using the sign on business products and in advertising, which is liable to mislead the public as to the origin of goods and services, and thus obtains a considerable pecuniary advantage or causes considerable damage.

shall be sentenced to imprisonment for a term of up to three years.

(2) The perpetrator who attempts to commit the criminal offence referred to in paragraph 1 of this Article shall be punished.

(3) The objects intended to be used or used for the purpose of committing the criminal offence referred to in paragraph 1 of this Article shall be seized, while the objects which are the product of commission of the criminal offence referred to in paragraph 1 of this Article shall be seized and destroyed unless the court decides that the used sign is to be made unrecognisable and the objects which are the product of commission of the offence used for humanitarian purposes.

**Commented [B6]:** U direktivi (First Council Directive 89/104/EEC of 21 December 1988 to approximate the laws of the Member States relating to trade marks) piše "business PAPERS", a ne, kako je na hrvatski pogrešno prevedeno, "poslovnim PROIZVODIMA"!

### **Infringement of Registered Designation of Origin**

#### Article 289

(1) Whoever in violation of regulations uses a designation of origin, geographical indication for a good or service or traditional speciality guaranteed for agricultural products and foodstuffs and thus obtains a considerable pecuniary advantage or causes considerable damage shall be sentenced to imprisonment for a term of up to three years.

(2) The objects intended to be used or used for the purpose of committing the criminal offence referred to in paragraph 1 of this Article shall be seized, while the objects which are the product of commission of the criminal offence referred to in paragraph 1 of this Article shall be seized and destroyed unless the court decides that the used designation or indication is to be made unrecognisable and the objects which are the product of commission of the offence used for humanitarian purposes.

### **Public Announcement of Judgment**

#### Article 290

At the request of the injured party and where the injured party has a justified interest in this, the judgment pronounced for any of the criminal offences set forth in this Title shall be publicly announced at the expense of the perpetrator. The manner of announcement shall be laid down in the judgment.

## **TITLE XXVIII**

### **CRIMINAL OFFENCES AGAINST OFFICIAL DUTY**

#### **Abuse of Position and Authority**

#### Article 291

(1) A public official or responsible person who takes advantage of his/her position or authority, oversteps the limits of his/her authority, or fails to perform a duty and thus obtains for himself/herself or another an advantage or causes damage to another shall be sentenced to imprisonment for a term of between six months and five years.

(2) If as a result of the criminal offence referred to in paragraph 1 of this Article a considerable pecuniary advantage is obtained or considerable damage caused, the perpetrator shall be sentenced to imprisonment for a term of between one and ten years.

#### **Unlawful Favouritism**

#### Article 292

(1) A public official or responsible person who on the basis of an agreement demonstrates favouritism towards an economic entity by adapting public procurement terms and conditions or who awards a contract to a tenderer whose tender is in violation of the terms and conditions set out in the bid documentation



shall be sentenced to imprisonment for a term of between six months and five years.

(2) The sentence referred to in paragraph 1 of this Article shall be imposed on a public official or responsible person who takes advantage of his/her position or authority by demonstrating favouritism in the award of contracts or in taking on or negotiating deals toward his/her activity or the activity of persons with whom he/she is linked in terms of vested interests.

### **Taking a Bribe**

#### Article 293

(1) A public official or responsible person who demands or takes a bribe, or who accepts an offer or a promise of a bribe for himself/herself or another in return for performing within or without the limits of his/her authority an official or other act which should not be performed, or failing to perform an official or other act which should be performed shall be sentenced to imprisonment for a term of between one and ten years.

(2) A public official or responsible person who demands or takes a bribe, or who accepts an offer or a promise of a bribe for himself/herself or another in return for performing within or without the limits of his/her authority an official or other act which should be performed, or not performing an official or other act which should not be performed shall be sentenced to imprisonment for a term of between one and eight years.

(3) A public official or responsible person who after having performed or failed to perform the official or other act referred to in paragraph 1 or 2 of this Article demands or takes a bribe with respect thereto shall be sentenced to imprisonment for a term of up to one year.

### **Giving a Bribe**

#### Article 294

(1) Whoever offers, gives or promises a bribe to a public official or responsible person in order that he/she perform, within or beyond the limits of his/her authority, an official or other act which he/she should not perform, or fail to perform an official or other act which he/she should perform, or whoever mediates in such an act of bribery of a public official or responsible person

shall be sentenced to imprisonment for a term of between one and eight years.

(2) Whoever offers, gives or promises a bribe to a public official or responsible person in order that he/she perform, within or beyond the limits of his/her authority, an official or other act which he/she should perform, or fail to perform an official or other act which he/she should not perform, or whoever mediates in such an act of bribery of a public official or responsible person

shall be sentenced to imprisonment for a term of between six months and five years.

(3) The perpetrator of the criminal offence referred to in paragraph 1 or 2 of this Article who gives a bribe at the request of a public official or responsible person and reports the offence before it is discovered or before he/she finds out that the offence has been discovered may have his/her punishment remitted.

### **Trading in Influence**

Article 295

(1) Whoever, by taking advantage of his/her official or social position or influence, mediates in order that an official or other act which should not be performed be performed, or that an official or other act which should be performed not be performed

shall be sentenced to imprisonment for a term of between six months and five years.

(2) Whoever demands or takes a bribe, or accepts an offer or a promise of a bribe for himself/herself or another so that, by taking advantage of his/her official or social position or influence, he/she would mediate in order that an official or other act which should not be performed be performed, or that an official or other act which should be performed not be performed

shall be sentenced to imprisonment for a term of between one and ten years.

(3) Whoever demands or takes a bribe, or accepts an offer or a promise of a bribe for himself/herself or another so that, by taking advantage of his/her official or social position or influence, he/she would mediate in order that an official or other act which should be performed be performed, or that an official or other act which should not be performed not be performed

shall be sentenced to imprisonment for a term of between one and eight years.

**Giving a Bribe for Trading in Influence**

Article 296

(1) Whoever offers, promises or gives to another a bribe intended for him/her or a third party so that he/she would, by taking advantage of his/her official or social position or influence, mediate in order that an official or other act which should not be performed be performed, or that an official or other act which should be performed not be performed

shall be sentenced to imprisonment for a term of between one and eight years.

(2) Whoever offers, promises or gives to another a bribe intended for him/her or a third party so that he/she would, by taking advantage of his/her official or social position or influence, mediate in order that an official or other act which should be performed be performed, or that an official or other act which should not be performed not be performed

shall be sentenced to imprisonment for a term of between six months and five years.

(3) The perpetrator of a criminal offence referred to in paragraph 1 or 2 of this Article who gives a bribe at the request of the person referred to in Article 295 of this Act and reports the offence before it is discovered or before he/she finds out that the offence has been discovered may have his/her punishment remitted.

**Extortion of Testimony**

Article 297

(1) A public official who during authorised interrogation uses force, threats or any other prohibited means with the aim that another person give or refrain from giving a testimony or other statement

shall be sentenced to imprisonment for a term of between six months and five years.

(2) If as a result of the commission of the criminal offence referred to in paragraph 1 of this Article the suspect or defendant in criminal proceedings suffers especially severe consequences,

the perpetrator shall be sentenced to imprisonment for a term of between one and eight years.

### **Unlawful Search**

#### Article 298

A public official who in the exercise of his/her functions or public authority conducts an unlawful search

shall be sentenced to imprisonment for a term of up to three years.

### **Unlawful Release of a Person Deprived of Liberty**

#### Article 299

A public official who unlawfully releases a person deprived of liberty or assists him/her in his/her escape

shall be sentenced to imprisonment for a term of between one and eight years.

### **Disclosure of Official Secret**

#### Article 300

(1) Whoever imparts, hands over or otherwise makes accessible to another without authorisation unclassified information which represent an official secret shall be sentenced to imprisonment for a term of up to three years.

(2) There shall be no criminal offence if the offence referred to in paragraph 1 of this Article was for the most part committed in the public interest.

## **TITLE XXIX**

### **CRIMINAL OFFENCES AGAINST THE JUDICIARY**

#### **Failure to Report the Preparation of a Criminal Offence**

#### Article 301

(1) Whoever knows that the commission of a criminal offence for which a sentence of imprisonment of five years or a more severe sentence is prescribed is being prepared and fails to report this at a time when it is still possible to avert its commission, and the offence is attempted or committed

shall be sentenced to imprisonment for a term of up to one year.

(2) Whoever commits the criminal offence referred to in paragraph 1 of this Article with respect to a criminal offence for which a sentence of long-term imprisonment is prescribed

shall be sentenced to imprisonment for a term of up to three years.

(3) There shall be no criminal offence referred to in paragraph 1 of this Article where its elements are realised by a person who is married to, or lives in a cohabiting or same-

sex relationship with, or is a lineal blood relative, sibling, adopter or adoptee of the person preparing the unreported criminal offence, unless a criminal offence against a child is being prepared.

(4) The perpetrator of the criminal offence referred to in paragraph 2 of this Article who is in any kind of a relationship set forth in paragraph 3 of this Article with a person preparing to commit a criminal offence may be imposed a less severe sentence.

#### **Failure to Report the Commission of a Criminal Offence**

##### Article 302

(1) Whoever knows that a criminal offence for which a sentence of imprisonment of ten years or a more severe sentence is prescribed has been committed and fails to report this although he/she knows that his/her reporting it would enable or greatly facilitate the discovery of the offence or the perpetrator

shall be sentenced to imprisonment for a term of up to three years.

(2) The sentence referred to in paragraph 1 of this Article shall be imposed on a public official or a responsible person who fails to report the commission of a criminal offence which he/she has come to know about in the course of performing his/her duties, provided the criminal offence in question cannot be prosecuted privately or upon request.

(3) The perpetrator of the criminal offence referred to in paragraph 2 of this Article shall not be imposed a sentence that is more severe than the one prescribed for the criminal offence he/she has failed to report.

(4) There shall be no criminal offence referred to in paragraphs 1 and 2 of this Article where its statutory elements are realised by a person who is married to, or lives in a cohabiting or same-sex relationship with, or is a lineal blood relative, sibling, adopter or adoptee, attorney at law, notary public, medical doctor, doctor of dental medicine or other health worker, psychologist, is entrusted with the upbringing and education in an appropriate institution, guardianship employee, or confessor of the person who committed the unreported criminal offence, unless the criminal offence was committed against a child.

#### **Aiding the Perpetrator Following the Commission of a Criminal Offence**

##### Article 303

(1) Whoever conceals or harbours the perpetrator of a criminal offence for which a sentence of imprisonment of five years or a more severe sentence is prescribed, or by concealing the means by which the criminal offence was committed, traces of the criminal offence or objects which are the product of or which were obtained by the criminal offence or otherwise aids him/her in avoiding detection or apprehension

shall be sentenced to imprisonment for a term of between six months and five years.

(2) The sentence referred to in paragraph 1 of this Article shall be imposed on whoever conceals a person sentenced to imprisonment or otherwise prevents the execution of this sentence.

(3) Whoever commits the criminal offence referred to in paragraph 1 or 2 of this Article to the benefit of the perpetrator of any of the criminal offences referred to in Articles 88 through 91 or Article 97 of this Act

shall be sentenced to imprisonment for a term of between one and eight years.

(4) The perpetrator of the criminal offence referred to in paragraph 2 of this Article shall not be imposed a punishment more severe than the one prescribed for the criminal offence committed by the person to whom the perpetrator provided assistance.

(5) There shall be no criminal offence referred to in paragraphs 1, 2 and 3 of this Article where its statutory elements are realised by a person who is married to, or lives in a cohabiting or same-sex relationship with, or is a lineal blood relative, sibling, adopter or adoptee of the person to whom he/she provided assistance.

### **False Reporting of a Criminal Offence**

#### Article 304

(1) Whoever, despite knowing this is not true, reports a person or plants traces that make it look like this person committed a criminal offence, provided the criminal offence in question is not prosecuted by private action

shall be sentenced to imprisonment for a term of up to three years.

(2) Whoever by false reporting, planting of traces or otherwise causes the institution of criminal proceedings against a person he/she knows did not commit a criminal offence, provided the criminal offence in question is not prosecuted by private action,

shall be sentenced to imprisonment for a term of between six months and five years.

(3) Whoever reports that a criminal offence has been committed although he/she knows this is not true, provided the criminal offence in question is not prosecuted by private action, or whoever reports that he/she committed such an offence although he/she knows this is not true

shall be sentenced to imprisonment for a term of up to one year.

### **Giving False Testimony**

#### Article 305

(1) A witness, expert witness, translator or interpreter who in pre-trial criminal proceedings, proceedings before a court, an international tribunal the jurisdiction of which the Republic of Croatia accepts or arbitration board, in misdemeanour or administrative proceedings, proceedings before a notary public or disciplinary proceedings gives false testimony, presents a false finding or provides false information in his/her opinion, or who incorrectly translates or interprets something

shall be sentenced to imprisonment for a term of between six months and five years.

(2) The sentence referred to in paragraph 1 of this Article shall be imposed on a party to the proceedings who gives false testimony, with the exception of the defendant, if the final decision in the proceedings is based on his/her testimony.

(3) If as a result of the criminal offence referred to in paragraph 1 or 2 of this Article an innocent defendant is convicted or the defendant suffers other especially serious consequences,

the perpetrator shall be sentenced to imprisonment for a term of between one and ten years.

(4) If the perpetrator of the criminal offence referred to in paragraph 1 of this Article voluntarily revokes his/her testimony before the final decision is passed, his/her punishment may be remitted.

### **Preventing Presentation of Evidence**

#### Article 306

(1) Whoever, with the aim of inducing a presumed witness, witness or court expert to give false testimony or preventing or obstructing the presentation of evidence, uses force, threats or any other form of coercion against these persons, or promises, offers or gives a gift or any other benefit to them in pre-trial criminal proceedings, proceedings before a court, an international tribunal the jurisdiction of which the Republic of Croatia accepts or arbitration board, in misdemeanour or administrative proceedings, proceedings before a notary public or disciplinary proceedings

shall be sentenced to imprisonment for a term of between one and eight years.

(2) Whoever with the aim of preventing or significantly obstructing the presentation of evidence in proceedings before a court, an international tribunal the jurisdiction of which the Republic of Croatia accepts or arbitration board, in misdemeanour or administrative proceedings, proceedings before a notary public or disciplinary proceedings conceals, damages or destroys an object or document used in evidence, falsifies a piece of evidence, or whoever submits such evidence knowing it is falsified

shall be sentenced to imprisonment for a term of between six months and five years.

(3) Whoever, with the aim of preventing or significantly obstructing the presentation of evidence in court or administrative proceedings, removes, destroys, moves or shifts a boundary stone, geodetic mark, or in general any mark of ownership or any other real right or a mark concerning the use of water, or whoever with the same aim incorrectly places such a mark

shall be sentenced to imprisonment for a term of up to three years.

### **Violation of Secrecy of Proceedings**

#### Article 307

(1) Whoever discloses without authorisation what he/she has found out in pre-trial criminal proceedings, court proceedings, misdemeanour proceedings, administrative proceedings, proceedings before a notary public or disciplinary proceedings, and what under the law or pursuant to a decision based on the law is considered a secret

shall be sentenced to imprisonment for a term of up to three years.

(2) The sentence referred to in paragraph 1 of this Article shall be imposed on whoever makes public without the court's authorisation the course of proceedings which under the law are secret or have been declared secret by a decision of the court, or whoever makes public without the court's authorisation the course of criminal proceedings against a child, criminal proceedings for a criminal offence committed against a child or proceedings in which a decision on the protection of a child's rights and interests is to be taken, or makes public a decision taken in these proceedings.

### **Disclosing the Identity of a Person at Risk or Protected Witness**

Article 308

Whoever imparts or hands over to another or publishes without authorisation information on the identity of a person at risk or a person who has been or will be questioned as a protected witness, or with respect to whom the procedure for inclusion in the witness protection programme pursuant to a special act has been instituted or who has been included in the witness protection programme, or whoever takes any other action with the aim of disclosing information on the identity of this person or with the aim of tracking down this person

shall be sentenced to imprisonment for a term of between six months and five years.

**Uprising of Persons Deprived of Liberty**

Article 309

(1) Whoever participates at a gathering of persons deprived of liberty at a facility at which he/she resides pursuant to a lawful decision depriving him/her of liberty, with the aim of setting himself/herself and other participants free by violent means, jointly attacking official persons at the facility or forcing them to do or abstain from doing something which constitutes a violation of their duties

shall be sentenced to imprisonment for a term of up to three years.

(2) Whoever by the use of force or threats of immediate attack on the life or limb of a person flees from a facility in which he/she resides pursuant to a lawful decision depriving him/her of liberty

shall be sentenced to imprisonment for a term of between six months and five years.

(3) The perpetrator of the criminal offence referred to in paragraph 1 of this Article who, after an official person calls on him/her to do so, abstains from participating in the gathering may have his/her punishment remitted.

**Enabling a Person Deprived of Liberty to Flee**

Article 310

Whoever incites a person who, under the law, has been deprived of liberty to flee or assists him/her in his/her flight

shall be sentenced to imprisonment for a term of up to three years.

**Failure to Comply with Safety Measures**

Article 311

(1) Whoever violates an obligation imposed on him/her by a safety measure

shall be sentenced to imprisonment for a term of up to two years.

(2) There shall be no criminal offence referred to in paragraph 1 of this Article if the violation of the obligation referred to in paragraph 1 has led to the application of Article 55, paragraph 8, or Article 58, paragraph 5, of this Act.

**Coercion Against a Judicial Official**

Article 312

Whoever by the use of force or threat of any kind of harm prevents a judge, state attorney, notary public or other judicial official or employee from taking an action or decision within the limits of his/her authority or coerces him/her to take an action or decision within or beyond the limits of his/her authority

shall be sentenced to imprisonment for a term of between six months and five years.

**Unlicensed Practice of Law**

Article 313

Whoever engages without authorisation in the provision of legal aid for a fee shall be sentenced to imprisonment for a term of up to six months.

**TITLE XXX**

**CRIMINAL OFFENCES AGAINST PUBLIC ORDER**

**Coercion against a Public Official**

Article 314

(1) Whoever by the use of force or threat of immediate use of force prevents a public official from performing an official act falling within the limits of his/her authority or coerces him/her to perform an official act within or beyond the limits of his/her authority

shall be sentenced to imprisonment for a term of between six months and five years.

(2) If as a result of the criminal offence referred to in paragraph 1 of this Article the life or limb of a public official is put at risk or a public official is inflicted a bodily injury or if during its commission a weapon or other dangerous instrument is used,

the perpetrator shall be sentenced to imprisonment for a term of between one and eight years.

(3) Whoever commits the criminal offence referred to in paragraph 1 or 2 of this Article against a person assisting, with authorisation, a public official in the performance of an official act

shall be sentenced as if he/she committed the offence against a public official.

(4) If the perpetrator of any of the criminal offences referred to in paragraphs 1, 2 and 3 of this Article is provoked by unlawful, inconsiderate or rude treatment on the part of a public official or a person authorised to assist the public official, his/her punishment may be remitted.

**Attack on a Public Official**

Article 315

(1) Whoever by the use of force or threat of use of force, in cases not falling under Articles 312 and 314 of this Act, attacks a military person, police official, authorised public

**Commented [B7]:** U hrvatskom tekstu Zakona nedostaje riječ "počinitelj".



official of the Military Police, public official entrusted with guarding persons who, under the law, have been deprived of liberty, in the performance of their official duties shall be sentenced to imprisonment for a term of between six months and five years.

(2) The sentence referred to in paragraph 1 of this Article shall be imposed on whoever by the use of force or threat of use of force puts up resistance to a public official in the performance of an official act or implementation of a lawful decision or measure of a state body.

(3) Whoever commits the criminal offence referred to in paragraph 1 or 2 of this Article against a person assisting, with authorisation, a public official in the performance of an official act

shall be sentenced as if he/she committed the offence against a public official.

(4) If as a result of the criminal offence referred to in paragraph 1, 2 or 3 of this Article the life or limb of a public official or a person assisting the public official in the performance of an official act is put at risk or a bodily injury is inflicted on him/her or if during the commission of the offence a weapon or other dangerous instrument is used,

the perpetrator shall be sentenced to imprisonment for a term of between one and eight years.

(5) If the perpetrator of any of the criminal offences referred to in paragraphs 1, 2 and 3 of this Article is provoked by unlawful, inconsiderate or rude treatment on the part of a public official or a person authorised to assist the public official, his/her punishment may be remitted.

### **False Alarm**

#### Article 316

Whoever falsely informs the police or other public service ensuring order or providing assistance of an event which requires urgent action by this service shall be sentenced to imprisonment for a term of up to three years.

### **Removing or Violating the Official Seal and Emblem**

#### Article 317

(1) Whoever removes or violates the official seal or emblem placed by an authorised public official for the purpose of securing objects, premises or locations, or whoever without removing or violating the seal or emblem enters such premises or location or opens a secured object

shall be sentenced to imprisonment for a term of up to three years.

(2) The perpetrator who attempts to commit the criminal offence referred to in paragraph 1 of this Article shall be punished.

### **Taking or Destroying an Official Seal or Official Document**

#### Article 318

(1) Whoever unlawfully takes, conceals, destroys, damages or otherwise renders unusable an official seal, book, file or document

shall be sentenced to imprisonment for a term of up to three years.

**Commented [B8]:** U hrvatskom tekstu Zakona nedostaje riječ "počinitelj".

(2) If the offence referred to in paragraph 1 of this Article is committed by a public official to whom the official seal, book, file or document was entrusted or available in the performance of his/her official duties,

he/she shall be sentenced to imprisonment for a term of between six months and five years.

(3) The perpetrator who attempts to commit the criminal offence referred to in paragraph 1 of this Article shall be punished.

### **Damage to and Illicit Export of Cultural Property**

#### Article 319

(1) Whoever damages or destroys an item of cultural property shall be sentenced to imprisonment for a term of up to three years.

(2) The sentence referred to in paragraph 1 of this Article shall be imposed on whoever, without the competent authority's authorisation, permanently exports or transfers from the Republic of Croatia an item of cultural property or fails to return it to the Republic of Croatia within the time limit specified in the authorisation.

(3) If as a result of the criminal offence referred to in paragraph 1 or 2 of this Article considerable damage occurs or the cultural property in question is of national significance,

the perpetrator shall be sentenced to imprisonment for a term of between six months and five years.

(4) The perpetrator who attempts to commit the criminal offence referred to in paragraph 1 or 2 of this Article shall be punished.

### **Illicit Research Work and Appropriation of Cultural Property**

#### Article 320

(1) Whoever, in breach of the prohibition or without the competent authority's authorisation, undertakes conservation, restoration, research or other work, archaeological excavations or research, as a result of which cultural property is destroyed or damaged or loses its characteristics which determine it as a cultural good

shall be sentenced to imprisonment for a term of up to three years.

(2) If the criminal offence referred to in paragraph 1 of this Article is committed against cultural property of national significance or if considerable damage is caused,

the perpetrator shall be sentenced to imprisonment for a term of between six months and five years.

(3) The sentence referred to in paragraph 2 of this Article shall be imposed on whoever, on the occasion of archaeological or other research, appropriates an unearthed or found object that represents a cultural good.

### **Destruction or Concealment of Archival Materials**

#### Article 321

Whoever, in violation of regulations, destroys, conceals or renders unusable archival materials or transfers them from the Republic of Croatia without the competent authority's authorisation

shall be sentenced to imprisonment for a term of between six months and five years.

### **Unauthorised Performance of an Official Act**

#### Article 322

Whoever performs without authorisation any act which only a public official or member of the armed forces is authorised to perform shall be sentenced to imprisonment for a term of up to one year.

### **Unlawful Debt Collection**

#### Article 323

(1) Whoever by the use of force or serious threat collects a claim from another that is owed to him/her or a third party by this person shall be sentenced to imprisonment for a term of between six months and five years.

(2) If during the commission of the criminal offence referred to in paragraph 1 of this Article the perpetrator uses force or threat of immediate attack on the life or limb of the debtor or another person, he/she shall be sentenced to imprisonment for a term of between one and eight years.

(3) If during the commission of the criminal offence referred to in paragraph 2 of this Article a weapon or other dangerous instrument is used, the perpetrator shall be sentenced to imprisonment for a term of between one and ten years.

### **Provoking Riots**

#### Article 324

(1) Whoever participates in a crowd that by the use of violence against other persons or property, or threats of committing violence is jeopardising public order, or whoever incites the crowd to violence

shall be sentenced to imprisonment for a term of up to three years.

(2) If the criminal offence referred to in paragraph 1 of this Article is committed out of hatred, against a great many persons, by the use of weapons or dangerous instruments, or the life or limb of another person is thereby put at risk, or considerable pecuniary damage is thereby caused,

the perpetrator shall be sentenced to imprisonment for a term of between six months and five years.

(3) The perpetrator referred to in paragraph 1 or 2 of this Article who moves away at the request of an official person before he/she himself/herself commits violence shall not be sentenced for the criminal offences referred to in paragraphs 1 and 2 of this Article.

### **Public Incitement to Violence and Hatred**

#### Article 325

(1) Whoever in print, through radio, television, computer system or network, at a public rally or in some other way publicly incites to or makes available to the public tracts, pictures or other material instigating violence or hatred directed against a group of persons or a member of such a group on account of their race, religion, national or ethnic origin, descent, colour, gender, sexual orientation, gender identity, disability or any other characteristics shall be sentenced to imprisonment for a term of up to three years.

(2) The sentence referred to in paragraph 1 of this Article shall be imposed on whoever publicly approves of, denies or grossly trivialises the crimes of genocide, crimes of aggression, crimes against humanity or war crimes, directed against a group of persons or a member of such a group on account of their race, religion, national or ethnic origin, descent or colour in a manner likely to incite to violence or hatred against such a group or a member of such a group.

(3) The perpetrator who attempts to commit the criminal offence referred to in paragraph 1 or 2 of this Article shall be punished.

#### **Unlawful Entry into, Movement or Residence in the Republic of Croatia**

##### Article 326

(1) Whoever enables or assists out of love of gain one or more persons who are not nationals of the Republic of Croatia to illegally enter, move or reside in the Republic of Croatia

shall be sentenced to imprisonment for a term of up to three years.

(2) If during the commission of the criminal offence referred to in paragraph 1 of this Article the life or limb of a person illegally entering, moving or residing in the Republic of Croatia is put at risk, or the said person is treated in an inhumane or degrading manner, or the offence is committed by a public official in the performance of his/her official duties,

the perpetrator shall be sentenced to imprisonment for a term of between six months and five years.

(3) The perpetrator who attempts to commit the criminal offence referred to in paragraph 1 of this Article shall be punished.

#### **Conspiracy to Commit a Criminal Offence**

##### Article 327

(1) Whoever conspires with another to commit a criminal offence for which a sentence of imprisonment for a term exceeding three years may be imposed under the law shall be sentenced to imprisonment for a term of up to three years.

(2) A perpetrator who uncovers the conspiracy referred to in paragraph 1 of this Article before the agreed upon criminal offence is committed may have his/her punishment remitted.

#### **Criminal Association**

##### Article 328

(1) Whoever organises or directs a criminal association

shall be sentenced to imprisonment for a term of between six months and five years.

(2) Whoever participates in the association referred to in paragraph 1 of this Article but has not as yet committed any criminal offence for this association, or whoever carries out an act which in itself does not constitute a criminal offence but which he/she knows furthers the goal of a criminal association, or whoever financially or otherwise abets a criminal association

shall be sentenced to imprisonment for a term of up to three years.

(3) The perpetrator of a criminal offence referred to in paragraph 1 or 2 of this Article who by timely disclosure of a criminal association prevents the commission of any of the criminal offences set forth in paragraph 4 of this Article or a member of a criminal association who discloses a criminal association before committing, as its member or on its behalf, any of the criminal offences set forth in paragraph 4 of this Article may have his/her punishment remitted.

(4) A criminal association shall be made up of three or more persons acting in concert with the aim of committing one or more criminal offences that are punishable with imprisonment for a term longer than three years and shall not include an association randomly formed for the immediate commission of one criminal offence.

### **Committing a Criminal Offence as a Member of a Criminal Association**

#### Article 329

(1) Whoever, knowing about the goal of a criminal association or its criminal activities, commits a criminal offence as a member of such an association or incites another to commit a criminal offence as a member of such an association shall be sentenced:

1. to imprisonment for a term of between six months and five years in the case of a criminal offence for which a maximum penalty of three years is prescribed;

2. to imprisonment for a term of between one and ten years in the case of a criminal offence for which a maximum penalty of five years is prescribed;

3. to imprisonment for a term of between three and twelve years in the case of a criminal offence for which a maximum penalty of eight years is prescribed;

4. to imprisonment for a term of between three and fifteen years in the case of a criminal offence for which a maximum penalty of ten or twelve years is prescribed;

5. to imprisonment for a term of between five and twenty years in the case of a criminal offence for which a maximum penalty of fifteen years is prescribed;

6. to imprisonment for a term of at least ten years or to long-term imprisonment in the case of a criminal offence for which a maximum penalty of twenty years is prescribed.

(2) Whoever, knowing about the goal of a criminal association or its criminal activity, aids or abets another to commit a criminal offence as a member of such an association shall be imposed a sentence prescribed in paragraph 1 of this Article or may incur a less severe sentence.

(3) If the perpetrator referred to in paragraph 1 or 2 of this Article substantially contributes to the discovery of a criminal association, he/she may incur a less severe sentence.

### **Making and Procuring Weapons and Means for Committing a Criminal Offence**

Article 330

(1) Whoever makes or procures weapons, explosive devices, the means required for their making, or poisons which he/she knows are intended for the commission of a criminal offence, or enables another to obtain them

shall be sentenced to imprisonment for a term of up to three years.

(2) Whoever makes or hands over to another a false key, master key, electronic device or any other means or device for breaking in, despite knowing it is intended for the commission of a criminal offence,

shall be sentenced to imprisonment for a term of up to one year.

(3) The means referred to in paragraphs 1 and 2 of this Article shall be seized.

**Unlawful Possession, Making and Procurement of  
Weapons and Explosive Devices**

Article 331

(1) Whoever makes, procures, possesses, sells or in any other way procures for himself/herself or another, without authorisation, firearms, ammunition, explosive devices or their component or spare parts, which the citizens are prohibited, in the absence of prior authorisation, from procuring, selling or possessing

shall be sentenced to imprisonment for a term of up to three years.

(2) Whoever possesses, procures, makes, sells or exchanges, imports or exports, without authorisation, large quantities of firearms, ammunition, explosive devices or their component or spare parts

shall be sentenced to imprisonment for a term of between six months and five years.

(3) The sentence referred to in paragraph 2 of this Article shall be imposed on whoever makes or improves, produces, procures, stocks, offers for sale, sells or purchases, mediates in the purchase or sale, possesses, transfers or transports chemical or biological weapons or other means of combat prohibited under international law.

(4) The sentence referred to in paragraph 1 of this Article shall be imposed on whoever sells or exports weapons to a country in which children are used as mercenaries.

(5) The sentence referred to in paragraph 1 of this Article shall be imposed on whoever possesses, procures, makes, sells or exchanges, without authorisation, the means required for making firearms, ammunition or explosive devices.

(6) Firearms, ammunition, explosive devices and their component or spare parts shall be seized.

**Disturbing the Peace of the Dead**

Article 332

(1) Whoever exhumes, digs up, demolishes, damages or otherwise grossly desecrates, without authorisation, a grave, burial site or memorial to the dead

shall be sentenced to imprisonment for a term of up to one year.

(2) Whoever exhumes, takes away, damages, destroys, conceals or moves, without authorisation, the body, foetus, body part or ashes of a dead person, or whoever desecrates a body

shall be sentenced to imprisonment for a term of up to two years.

(3) The perpetrator who attempts to commit the criminal offence referred to in paragraph 2 of this Article shall be punished.

## **TITLE XXXI**

### **CRIMINAL OFFENCES AGAINST THE RIGHT TO VOTE**

#### **Violation of the Voters' Freedom of Choice**

##### **Article 333**

Whoever, by the use of force, serious threat, bribery, or in any other unlawful way exerts an influence on a voter to vote at elections in a certain way or to refrain from voting shall be sentenced to imprisonment for a term of between six months and five years.

#### **Denial of the Right to Vote**

##### **Article 334**

Whoever in the exercise of an election-related duty entrusted to him/her unlawfully fails to register another on the electoral roll or removes him/her from this roll, or otherwise denies him/her the right to vote shall be sentenced to imprisonment for a term of up to three years.

#### **Abuse of the Right to Vote**

##### **Article 335**

(1) A voter who, after having cast his/her vote, recasts his/her vote in the same elections or votes instead of another person under this person's name shall be sentenced to imprisonment for a term of up to three years.

(2) The sentence referred to in paragraph 1 of this Article shall be imposed on whoever enables another to recast his/her vote.

#### **Violation of the Secrecy of the Ballot**

##### **Article 336**

Whoever violates, in the elections, the secrecy of the ballot or without the consent of a voter discloses how this voter voted shall be sentenced to imprisonment for a term of up to one year.

#### **Destruction and Forgery of Ballot Documentation**

##### **Article 337**

(1) Whoever destroys, conceals, damages or takes away without authorisation any ballot document or object used for electoral purposes shall be sentenced to imprisonment for a term of between six months and five years.

(2) The sentence referred to in paragraph 1 of this Article shall be imposed on whoever lists on the electoral roll a nonexistent or deceased person or a person not entitled to vote.

### **Electoral Fraud**

#### Article 338

Whoever by adding, subtracting or deleting votes or otherwise falsifies the election result shall be sentenced to imprisonment for a term of between six months and five years.

### **Bribing Representatives**

#### Article 339

(1) Whoever, as a member of the Croatian Parliament, European Parliament or councillor of a representative body of a unit of local or regional self-government requests or accepts a bribe or accepts an offer or a promise of a bribe in order to vote a certain way in the representative body shall be sentenced to imprisonment for a term of between six months and five years.

(2) The sentence referred to in paragraph 1 of this Article shall be imposed on whoever offers, promises or gives a bribe to a member of the Croatian Parliament, European Parliament or councillor of a representative body of a unit of local or regional self-government so that the latter would vote in a certain manner in the representative body.

## **TITLE XXXII**

### **CRIMINAL OFFENCES AGAINST THE REPUBLIC OF CROATIA**

#### **High Treason**

##### Article 340

Whoever by the use of force or threat of use of force or in any other illegal manner jeopardizes the territorial integrity or constitutional structure of the Republic of Croatia

shall be sentenced to imprisonment for a term of at least five years.

#### **Acceding to Occupation and Capitulation**

##### Article 341

Whoever signs or accedes to capitulation or whoever accepts or accedes to occupation of the Republic of Croatia or a part of its state territory shall be sentenced to imprisonment for a term of at least five years.

#### **Preventing the Fight Against Enemies**



Article 342

(1) A citizen of the Republic of Croatia who in times of war or armed conflict in which the Republic of Croatia also participates prevents the citizens of the Republic of Croatia or of its allies to fight the enemies

shall be sentenced to imprisonment for a term of between one and ten years.

(2) For the purpose of this Title, a citizen of the Republic of Croatia shall also be deemed to be an alien residing in the Republic of Croatia.

**Serving in the Armed Forces of the Enemy**

Article 343

(1) A citizen of the Republic of Croatia who in times of war or armed conflict in which the Republic of Croatia participates serves in the enemy's armed forces or is a member of other armed groups engaged in combat operations against the Republic of Croatia or its allies,

shall be sentenced to imprisonment for a term of between three and fifteen years.

(2) The sentence referred to in paragraph 1 of this Article shall be imposed on whoever attempts to persuade, gathers together, takes away or otherwise recruits citizens of the Republic of Croatia to serve in the enemy's armed forces or armed groups engaged in combat operations against the Republic of Croatia or its allies, or to participate in the war or armed conflict against the Republic of Croatia or its allies.

**Aiding the Enemy**

Article 344

A citizen of the Republic of Croatia who in times of war or armed conflict in which the Republic of Croatia participates aids the enemy with the implementation of coercive measures against the citizens or who politically or economically collaborates with the enemy

shall be sentenced to imprisonment for a term of between one and ten years.

**Undermining the Military and Defensive Powers of the State**

Article 345

Whoever destroys or renders unusable defence installations, facilities, positions, weapons or other military or defensive means, or enables them to fall into enemy hands, or surrenders troops to the enemy, or otherwise obstructs or jeopardizes military and defensive measures and the power of the Croatian state

shall be sentenced to imprisonment for a term of between three and fifteen years.

**Coercion against the Most Senior State Officials of the Republic of Croatia**

Article 346

(1) Whoever, in cases not falling under Article 97 of this Act, by the use of force or threat of immediate use of force prevents the President of the Republic of Croatia, Speaker of Parliament or member of the Croatian Parliament, Head of Government or member of the Government of the Republic of Croatia, president or judge of the Constitutional Court of the

Republic of Croatia from performing his/her duties or forces him/her to perform his/her duties in a certain manner

shall be sentenced to imprisonment for a term of between one and eight years.

(2) If by the criminal offence referred to in paragraph 1 of this Article the life or limb of a person referred to in paragraph 1 of this Article is endangered or he/she is inflicted a bodily injury, or if during the commission of the said offence weapons or other dangerous instruments are used

the perpetrator shall be sentenced to imprisonment for a term of between three and twelve years.

**Commented [B9]:** U hrvatskom tekstu nedostaje subjekt, odnosno "počinitelj".

### **Disclosure of Secret Information**

#### Article 347

(1) Whoever makes available to an unauthorised person secret information confided to him/her

shall be sentenced to imprisonment for a term of between six months and five years.

(2) Whoever obtains a secret piece of information with the aim that he/she or an unauthorised person uses it without authorisation, or whoever makes available to another such a piece of information which has come into his/her possession by accident

shall be sentenced to imprisonment for a term of up to three years.

(3) Whoever commits the offence referred to in paragraph 1 or 2 of this Article out of love of gain

shall be sentenced to imprisonment for a term of between one and ten years.

(4) Whoever commits the criminal offence referred to in paragraph 1 or 2 of this Article in a state of war or immediate threat of war

shall be sentenced to imprisonment for a term of between three and twelve years.

(5) Whoever commits the criminal offence referred to in paragraph 1 of this Article by negligence

shall be sentenced to imprisonment for a term of up to three years.

### **Espionage**

#### Article 348

(1) Whoever makes available to a foreign state, foreign organisation, foreign legal person or a person working for them secret intelligence confided to him/her or which he/she has unlawfully obtained

shall be sentenced to imprisonment for a term of between one and ten years.

(2) Whoever collects secret intelligence without authorisation with the aim of making it available to a foreign state, foreign organisation, foreign legal person or a person working for them

shall be sentenced to imprisonment for a term of between six months and five years.

(3) Whoever organises for a foreign state or organisation an intelligence service in the territory of the Republic of Croatia, or joins a foreign intelligence service acting against the interests of the Republic of Croatia, or assists it in its work

shall be sentenced to imprisonment for a term of between one and ten years.

(4) Whoever commits the criminal offence referred to in paragraph 1 or 3 of this Article in times of war or armed conflict in which the Republic of Croatia participates shall be sentenced to imprisonment for a term of at least five years.

(5) Whoever commits the criminal offence referred to in paragraph 2 of this Article in times of war or armed conflict in which the Republic of Croatia participates shall be sentenced to imprisonment for a term of between three and fifteen years.

#### **Damaging the Reputation of the Republic of Croatia**

##### Article 349

Whoever exposes the Republic of Croatia, its flag, coat of arms, or national anthem to public ridicule, contempt or gross disparagement shall be sentenced to imprisonment for a term of up to one year.

#### **Preparing the Commission of Criminal Offences against the Republic of Croatia**

##### Article 350

Whoever prepares the commission of criminal offences referred to in Articles 340, 342 and 345 of this Act shall be sentenced to imprisonment for a term of between six months and five years.

#### **Punishment of the Most Serious Forms of Criminal Offences against the Republic of Croatia**

##### Article 351

(1) If the criminal offence referred to in Article 340, 341, 347 or 348 of this Act is committed by the President of the Republic of Croatia, Head of Government or member of the Government of the Republic of Croatia, or Speaker of the Croatian Parliament shall be sentenced to imprisonment for a term of at least ten years or to long-term imprisonment.

(2) The sentence referred to in paragraph 1 of this Article shall be imposed on the perpetrator who by committing any of the criminal offences referred to in Articles 340 through 348 of this Act causes the death of one or more persons or large-scale destruction.

### **TITLE XXXIII**

#### **CRIMINAL OFFENCES AGAINST A FOREIGN STATE OR INTERNATIONAL ORGANISATION**

##### **Murder of an Internationally Protected Person**

##### Article 352

(1) Whoever kills an internationally protected person shall be sentenced to imprisonment for a term of at least ten years or to long-term imprisonment.

(2) An internationally protected person shall mean a head of state, head of Government or minister for foreign affairs, whenever any such person is in a foreign state, and any official agent of an internationally recognised organisation, as well as members of their families accompanying them when they, their official premises, private accommodation or means of transport can easily be recognised as enjoying special protection under international law.

#### **Kidnapping of an Internationally Protected Person**

##### Article 353

(1) Whoever kidnaps an internationally protected person shall be sentenced to imprisonment for a term of between three and twelve years.

(2) If by the commission of the criminal offence referred to in paragraph 1 of this Article the death of the kidnapped person is caused, the perpetrator shall be sentenced to imprisonment for a term of at least five years.

#### **Attack on an Internationally Protected Person**

##### Article 354

(1) Whoever commits violence against an internationally protected person or attacks his/her official premises, private accommodation or means of transport shall be sentenced to imprisonment for a term of between one and eight years.

(2) If by the commission of the criminal offence referred to in paragraph 1 of this Article the death of the person referred to in paragraph 1 of this Article is caused, the perpetrator shall be sentenced to imprisonment for a term of between three and twelve years.

#### **Threat to an Internationally Protected Person**

##### Article 355

Whoever jeopardizes the safety of an internationally protected person by a serious threat of committing against the said person any of the criminal offences referred to in Articles 352 through 354 of this Act shall be sentenced to imprisonment for a term of between six months and five years.

#### **Damaging the Reputation of a Foreign State and International Organisation**

##### Article 356

(1) Whoever exposes a foreign state, its flag, coat of arms or national anthem to public ridicule, contempt or gross disparagement shall be sentenced to imprisonment for a term of up to one year.

(2) The sentence referred to in paragraph 1 of this Article shall be imposed on whoever exposes to ridicule, contempt or gross disparagement the United Nations, European Union, Council of Europe, International Red Cross or any other recognised international organisation.

(3) Criminal proceedings shall be instituted on the basis of an approval from the State Attorney of the Republic of Croatia who can grant such approval after having obtained consent from the state, international organisation or person against whom the criminal offence has been committed.

#### **TITLE XXXIV**

### **CRIMINAL OFFENCES AGAINST THE ARMED FORCES OF THE REPUBLIC OF CROATIA**

#### **Failure and Refusal to Carry out an Order**

##### Article 357

(1) A member of the armed forces who fails or refuses to carry out an order of his/her superior given in the line of duty and thus seriously jeopardizes the service shall be sentenced to imprisonment for a term of up to three years.

(2) If the criminal offence referred to in paragraph 1 of this Article is committed in a state of war or immediate threat to the independence and unity of the Republic of Croatia, the perpetrator shall be sentenced to imprisonment for a term of between six months and five years.

#### **Refusal to Take Up Arms and Abuse of Arms**

##### Article 358

(1) A member of the armed forces who refuses to take up or use arms shall be sentenced to imprisonment for a term of up to three years.

(2) The sentence referred to in paragraph 1 of this Article shall be imposed on any member of the armed forces who uses arms in violation of an order or the rules of the service, unless a more serious criminal offence is thereby committed.

(3) If the criminal offence referred to in paragraph 1 or 2 of this Article is committed in a state of war or immediate threat to the independence and unity of the Republic of Croatia,

the perpetrator shall be sentenced to imprisonment for a term of between six months and five years.

(4) There shall be no criminal offence referred to in paragraph 1 of this Article in the case of a member of the armed forces whose conscientious objection application is approved in the prescribed proceedings.

#### **Opposition to a Guard or Sentry**

##### Article 359

(1) A member of the armed forces who opposes a guard, sentry or other member of the armed forces in a similar service in the performance of his/her official duties, as well as a member of the armed forces who disobeys the latter's call or fails or refuses to carry out the latter's orders and thus seriously jeopardizes the service shall be sentenced to imprisonment for a term of up to three years.

(2) If the criminal offence referred to in paragraph 1 of this Article is committed in a state of war or immediate threat to the independence and unity of the Republic of Croatia, the perpetrator shall be sentenced to imprisonment for a term of between six months and five years.

### **Refusal to Obey**

#### Article 360

(1) A member of the armed forces who together with other members of the armed forces defies an order by a superior given in the line of duty, or fails or refuses to obey an order (Article 357), or uses force or threat against a member of the armed forces (Article 314), or attacks a member of the armed forces performing his/her official duty (Article 315)

shall be sentenced to imprisonment for a term of between one and eight years.

(2) If the criminal offence referred to in paragraph 1 of this Article is committed by the use of arms, in an organised fashion or in a state of war or immediate threat to the independence and unity of the Republic of Croatia,

the perpetrator shall be sentenced to imprisonment for a term of between one and ten years.

(3) If by the commission of the criminal offence referred to in paragraph 1 or 2 of this Article the death of another person is caused,

the perpetrator shall be sentenced to imprisonment for a term of between three and fifteen years.

(4) If a participant referred to in paragraph 1 of this Article obeys the order of a superior and desists from committing any of the criminal offences set forth in paragraph 1 of this Article,

he/she shall be sentenced to imprisonment for a term of up to three years.

### **Less Severe Punishment for Criminal Offences Referred to in Articles 357 and 360**

#### Article 361

If the perpetrator of the criminal offence referred to in Article 357, paragraph 1, or Article 360, paragraph 1, of this Act was provoked by unlawful or harsh treatment by a member of the armed forces against whom the criminal offence has been committed, his/her punishment may be remitted.

### **Maltreatment and Degrading Treatment of a Subordinate or Younger Person on Duty**

#### Article 362

(1) A member of the armed forces who on duty or in connection with the service maltreats his/her subordinate or a person on duty younger than him/her, or who treats the said person in a degrading manner or malevolently renders the service more difficult for him/her

shall be sentenced to imprisonment for a term of up to three years.

(2) The sentence referred to in paragraph 1 of this Article shall be imposed on a member of the armed forces who requests from or forces his/her subordinate to maltreat another

member of the armed forces or to treat him/her in a degrading manner or to render the service more difficult for him/her.

(3) If as a result of the criminal offence referred to in paragraph 1 or 2 of this Article the abused person's health is undermined, or if the criminal offence referred to in paragraph 1 or 2 of this Article is committed against a number of person, or if the perpetrator persistently and repeatedly commits the same offence,

the perpetrator shall be sentenced to imprisonment for a term of between six months and five years.

#### **Violation of Sentry, Internal or Other Similar Duty**

##### Article 363

(1) A member of the armed forces who violates the regulations on sentry or internal or any other similar duty and thus seriously jeopardizes the service shall be sentenced to imprisonment for a term of up to three years.

(2) If the criminal offence referred to in paragraph 1 of this Article is committed at an arms, ammunition or explosives depot or another facility especially important for defence purposes or if a serious bodily injury or substantial pecuniary damage is caused by the said offence,

the perpetrator shall be sentenced to imprisonment for a term of between one and eight years.

(3) If the criminal offence referred to in paragraph 1 or 2 of this Article is committed in a state of war or immediate threat to the independence and unity of the Republic of Croatia,

the perpetrator shall be sentenced to imprisonment for a term of between one and eight years.

#### **Submitting False Reports and Failure to Report**

##### Article 364

(1) A member of the armed forces who in performing his/her duty fails to submit a report or in a report passes over a fact he/she should not pass over or submits a report the contents of which are not true and thus jeopardizes the service

shall be sentenced to imprisonment for a term of up to three years.

(2) If the criminal offence referred to in paragraph 1 of this Article is committed in a state of war or immediate threat to the independence and unity of the Republic of Croatia,

the perpetrator shall be sentenced to imprisonment for a term of between six months and five years.

(3) A member of the armed forces who in a state of war or immediate threat to the independence and unity of the Republic of Croatia fails to inform his/her superior or a person older than him/her or the military command of an event which evidently calls for the taking of immediate military measures

shall be sentenced to imprisonment for a term of up to one year.

(4) The perpetrator who attempts to commit the criminal offence referred to in paragraph 1 of this Article shall be punished.

#### **Failure to Take Measures for the Protection of a Military Unit**

#### Article 365

(1) A member of the armed forces who fails to take the prescribed, ordered or other obviously necessary measures aimed at protecting the life and health of persons entrusted to him/her, securing and keeping in good repair facilities, objects or means ensuring combat readiness, ensuring regular supply of food, equipment and materials to the unit entrusted to him/her, keeping and caring for official animals, or timely and proper performance of security works or securing of facilities entrusted to him/her and thus endangers the life or limb of people shall be sentenced to imprisonment for a term of up to three years.

(2) If as a result of the criminal offence referred to in paragraph 1 of this Article a serious bodily injury of a person or considerable pecuniary damage is caused, the perpetrator shall be sentenced to imprisonment for a term of between one and eight years.

(3) If the criminal offence referred to in paragraph 1 or 2 of this Article is committed in a state of war or immediate threat to the independence and unity of the Republic of Croatia, the perpetrator shall be sentenced to imprisonment for a term of between three and fifteen years.

(4) If the criminal offences referred to in paragraphs 2 and 3 of this Article are committed by negligence, the perpetrator shall be sentenced to imprisonment for terms of, respectively, up to three years and one and eight years.

#### **Failure to Take Security Measures during Military Exercises**

#### Article 366

(1) Whoever during a military exercise, training or tests fails to take the prescribed, ordered or obviously necessary security measures or precautions and thus endangers the life or limb of people shall be sentenced to imprisonment for a term of up to three years.

(2) If as a result of the criminal offence referred to in paragraph 1 of this Article a serious bodily injury of a person or considerable pecuniary damage is caused or if the criminal offence referred to in paragraph 1 of this Article is committed in a state of war or immediate threat to the independence and unity of the Republic of Croatia, the perpetrator shall be sentenced to imprisonment for a term of between one and eight years.

(3) If the criminal offence referred to in paragraph 1 of this Article is committed by negligence, the perpetrator shall be sentenced to imprisonment for a term of up to one year.

(4) If as a result of the criminal offence referred to in paragraph 3 of this Article a serious bodily injury of a person or considerable pecuniary damage is caused or if the criminal offence referred to in paragraph 3 of this Article is committed in a state of war or immediate threat to the independence and unity of the Republic of Croatia, the perpetrator shall be sentenced to imprisonment for a term of up to three years.

#### **Ignoring the Call-Up Notice and Evading Military Service**

#### Article 367

Commented [B10]: Nedostaje slovo "n" u riječi "bojevoj".



(1) Whoever, in a state of war or immediate threat to the independence and unity of the Republic of Croatia, for no justified reason fails to report at the set time for military service although he/she is called up by way of an individual or general call-up notice shall be sentenced to imprisonment for a term of between six months and five years.

(2) Whoever calls on or instigates a number of persons to commit the criminal offence referred to in paragraph 1 of this Article shall be sentenced to imprisonment for a term of up to three years.

(3) The perpetrator of the criminal offence referred to in paragraph 1 of this Article who voluntarily reports to the competent state authority for military service may have his/her punishment remitted.

### **Evading Military Service by Mutilation or Deception**

#### Article 368

(1) Whoever, with the aim that he/she or another evade military service or be assigned to an easier post, injures or otherwise renders himself/herself or another unfit for military service or a duty, where the other person has consented to this, or permits another to render him/her unfit for military service or a duty shall be sentenced to imprisonment for a term of up to three years.

(2) The sentence referred to in paragraph 1 of this Article shall be imposed on whoever, with the aim that he/she or another evade military service or be assigned to an easier post, simulates a disease, uses a forged document for himself/herself or another, or acts in any other deceitful manner.

(3) Whoever commits the offence referred to in paragraph 1 of this Article in a state of war or immediate threat to the independence and unity of the Republic of Croatia shall be sentenced to imprisonment for a term of between six months and five years.

### **Illegal Exemption from Military Service**

#### Article 369

Whoever in a state of war or immediate threat to the independence and unity of the Republic of Croatia abuses his/her position or authority in order that a member of the armed forces or a person subject to military duty be exempt from duty or appointed to an easier post shall be sentenced to imprisonment for a term of between one and eight years.

### **Handling of Entrusted Arms, Military Equipment and Other Defensive Means that is Unconscientious or in Violation of Regulations**

#### Article 370

(1) Whoever in violation of regulations or unconscientiously holds, keeps or handles arms, military equipment and other defensive means, thereby causing considerable damage to them, their destruction or disappearance shall be sentenced to imprisonment for a term of up to one year.

(2) The person in charge of the depot in which the armaments referred to in paragraph 1 of this Article are stored who fails to take measures to secure them or ensure their

maintenance and thus causes damage to these armaments, or their destruction or disappearance shall be sentenced to imprisonment for a term of between six months and five years.

(3) If by the criminal offence referred to in paragraph 2 of this Article considerable pecuniary damage is caused, the perpetrator shall be sentenced to imprisonment for a term of between one and eight years.

(4) If the criminal offence referred to in paragraph 2 of this Article is committed by negligence, the perpetrator shall be sentenced to imprisonment for a term of up to three years.

(5) If by the criminal offence referred to in paragraph 4 of this Article the consequence referred to in paragraph 3 of this Article is caused, the perpetrator shall be sentenced to imprisonment for a term of between six months and five years.

#### **Unauthorised Entry into Military Facilities and the Making of Sketches or Drawings of Military Facilities and Implements of War**

##### Article 371

(1) Whoever in a state of war or immediate threat to the independence and unity of the Republic of Croatia enters without authorisation, for the purpose of scouting, a military facility despite knowing that access is prohibited shall be sentenced to imprisonment for a term of up to three years.

(2) Whoever in a state of war or immediate threat to the independence and unity of the Republic of Croatia makes sketches or drawings of military facilities or implements of war without authorisation or takes photographs of them or otherwise records them shall be sentenced to imprisonment for a term of between six months and five years.

#### **Defection and Surrender to the Enemy**

##### Article 372

(1) A member of the armed forces who in times of war or armed conflict defects to the enemy or the adverse party shall be sentenced to imprisonment for a term of at least five years.

(2) A member of the armed forces who in times of war surrenders to the enemy or the adverse party before having exhausted all possibilities of defence shall be sentenced to imprisonment for a term of between three and fifteen years.

#### **Non-Fulfilment or Abandonment of Duty during Combat Operations**

##### Article 373

(1) A member of the armed forces who during or immediately before combat operations fails to perform his/her duty and thus causes damage to his/her military unit or combat situation

shall be sentenced to imprisonment for a term of between three and fifteen years.

(2) The sentence referred to in paragraph 1 of this Article shall be imposed on a member of the armed forces who during or immediately before combat operations fails to perform his/her duty or wilfully or deceitfully abandons his/her duty.

#### **Abandonment of a Position in Violation of Orders**

##### Article 374

A member of the armed forces who during or immediately before combat operations abandons, in violation of an order, a position with the unit entrusted to him/her before having exhausted all possibilities of defence shall be sentenced to imprisonment for a term of between three and fifteen years.

#### **Premature Abandonment of a Damaged Vessel or Aircraft**

##### Article 375

The commander of a warship or a member of the crew of a warship or warplane who in times of war or armed conflict abandons a damaged vessel or aircraft before having performed his/her duties according to vessel service regulations or flight regulations and rules on aircraft use shall be sentenced to imprisonment for a term of between one and eight years.

#### **Leaving Undamaged Implements of War to the Enemy**

##### Article 376

(1) A member of the armed forces who allows an essentially undamaged military depot, vessel, aircraft, tank or other similar implement of war to fall into enemy hands shall be sentenced to imprisonment for a term of between six months and five years.

(2) The sentence referred to in paragraph 1 of this Article shall be imposed on whoever, in violation of an order, allows an essentially undamaged installation or other facilities important for defence to fall into enemy hands.

#### **Decline in Combat Morale and Deterioration of Combat Situation**

##### Article 377

(1) A member of the armed forces who during or immediately before combat operations, by throwing away arms or ammunition, fearmongering, provoking riots or sowing confusion, or in any other way undermines a unit's combat morale, combat readiness or causes damage to the combat situation

shall be sentenced to imprisonment for a term of between three and twelve years.

(2) A member of the armed forces who fails to take requisite measures against a subordinate who during or immediately before combat operations fuels fear among soldiers, provokes disturbances or sows confusion in a unit, or otherwise undermines a unit's combat morale or causes damage to the combat situation

shall be sentenced to imprisonment for a term of between one and eight years.

#### **Non-Fulfilment of Material Obligations**

Article 378

(1) Whoever, in a state of war or immediate threat to the independence and unity of the Republic of Croatia, fails to respond or objects, for no justified reason, in violation of a statutory obligation, to the making of an inventory or review of manpower or an inventory or review of material resources that are on the list of material resources for defence purposes, or whoever on the occasion of the making of such an inventory or review gives false statements or information

shall be sentenced to imprisonment for a term of up to three years.

(2) The sentence referred to in paragraph 1 of this Article shall be imposed on whoever, in a state of war or immediate threat to the independence and unity of the Republic of Croatia, fails for no justified reason, in violation of a statutory obligation, to make available at the set time and in the prescribed condition, to the body in charge of defence material resources that are on the list of material resources for defence purposes.

**Non-Fulfilment of Duty during the Carrying Out of Mobilization**

Article 379

(1) A member of the armed forces or a public official who, during the carrying out of mobilization in a state of war or immediate threat to the independence and unity of the Republic of Croatia, fails to ensure, in violation of his/her duty, the reception, deployment and accommodation or supply of mobilised manpower, facilities, vehicles, machines, equipment and other resources that are on the list of material resources for defence purposes and thus causes serious damaging consequences

shall be sentenced to imprisonment for a term of between six months and five years.

(2) If the criminal offence referred to in paragraph 1 of this Article is committed by negligence

the perpetrator shall be sentenced to imprisonment for a term of up to three years.

**Liability for a Criminal Offence Committed Pursuant to a Superior's Order**

Article 380

A member of the armed forces who by acting on an order commits an unlawful act whereby the elements of a criminal offence are realised shall be guilty only if he/she knew or if it was obvious that by carrying out the order he/she was committing an unlawful act. The criminal offences referred to in Articles 88 and 90 of this Act shall always be obviously unlawful.

**TITLE XXXV**

**TRANSITIONAL AND FINAL PROVISIONS**

Article 381

(1) On the date of the entry into force of this Act, the following shall cease to have effect:

1. Criminal Act (Official Gazette 110/97, 27/98 – corrigendum, 50/00, 129/00, 51/01, 111/03, 190/03, 105/04, 84/05, 71/06, 110/07, 152/08 and 57/11), with the exception of provisions of Articles 84, 85 and 86 which shall cease to apply on the date of the entry into force of a special act regulating the issues in question;

2. Act on the Criminal Offences Against Capital Markets (Official Gazette 152/08);

3. the provisions of Article 160 of the Act on the Execution of the Prison Sentence (Official Gazette 128/99, 55/00, 59/00, 129/00, 59/01, 67/01, 11/02, 190/03, 76/07, 27/08, 83/09, 18/11 and 48/11);

4. provisions of Article 31 of the Accounting Act (Official Gazette 109/07);

5. provisions of Article 188 of the Copyright and Related Rights Act (Official Gazette 167/03, 79/07 and 80/11);

6. provisions of Article 65 of the Act on Archival Materials and Archives (Official Gazette 105/97, 64/00 and 65/09);

7. provisions of Article 49 of the Medical Fertilisation Act (Official Gazette 88/09 and 137/09);

8. provisions of Articles 627 and 629 of the Companies Act (Official Gazette 111/93, 34/99, 121/99, 52/00, 118/03, 107/07, 146/08 and 137/09);

9. provision of Article 129a, paragraph 1, of the Mandatory Health Insurance Act (Official Gazette 150/08, 94/09, 153/09, 71/10, 139/10 and 49/11), while the former paragraph 2 shall become paragraph 1.

(2) On the date of the entry into force of this Act, in Article 33, paragraph 1, of the Energy Act (Official Gazette 68/01, 177/04, 76/07, 152/08 and 127/10) the words "i.e. consumes energy without or bypassing measuring devices" shall be deleted.

#### Article 382

The Government of the Republic of Croatia shall start the process of alignment of the relevant provisions of the Criminal Procedure Act, Act on the Liability of Legal Persons for Criminal Offences, Juvenile Courts Act, Act on the Protection of Persons with Mental Disorders, Act on the Execution of the Prison Sentence, Probation Act and other acts containing criminal and other provisions relevant to the application of this Act with the provisions of this Act.

#### Article 383

Within a period of 30 days from the date of the entry into force of this Act the competent ministers shall adopt the following regulations in line with the provisions of this Act:

1. the minister in charge of the judiciary shall adopt regulations on the procedure for deciding on the granting and the implementation of parole (Articles 59 through 63), on the exercise of protective supervision (Article 64), on the exercise of safety measures (Articles 65 through 76), on criminal records and manner of using data from these records (Article 381, paragraph 1, point 1);

2. the minister in charge of the health care system shall adopt a list of therapeutic communities licensed to implement the safety measure of mandatory addiction treatment (Article 69), a list of legal or physical persons licensed to implement the safety measure of mandatory psychosocial treatment (Article 70) and a list of substances banned in sports (Articles 190 and 191).

#### Article 384

The execution of *res judicata* criminal-law sanctions imposed in accordance with the provisions of the Criminal Act and other special regulations referred to in Article 381, paragraph 1, of this Act, the execution of which is pending or ongoing, shall be implemented in accordance with the provisions of this Act from the date of its entry into force.

#### Article 385

If by the entry into force of this Act the statute of limitations for the confiscation of pecuniary gain has not run, the provision of Article 85, paragraph 4, of this Act shall be applied.

#### Article 386

This Act contains provisions that are in line with the following European Union acts:

1. Directive 2008/99/EC of the European Parliament and of the Council of 28 November 2002 on the protection of the environment through criminal law;
2. Directive 2009/52/EC of the European Parliament and of the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals;
3. Directive 2010/45/EU of the European Parliament and of the Council of 7 July 2010 on standards of quality and safety of human organs intended for transplantation;
4. Directive 2005/35/EC of the European Parliament and of the Council of 7 September 2005 on ship-source pollution and on the introduction of penalties for infringements;
5. Directive 2009/123/EC of the European Parliament and of the Council of 21 October 2009 amending Directive 2005/35/EC on ship-source pollution and on the introduction of penalties for infringements;
6. Directive 2006/12/EC of the European Parliament and of the Council of 5 April 2006 on waste;
7. Seveso II Directive 96/82/EC, 2003/105/EC on the prevention of major industrial accidents and the limitation of their consequences if they occur;
8. Directive 2002/90/EC of the European Parliament and of the Council of 28 November 2002 defining the facilitation of unauthorised entry, transit and residence;
9. Directive 2003/6/EC of the European Parliament and of the Council of 28 January 2003 on insider dealing and market manipulation;
10. Council Framework Decision 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law;
11. Council Framework Decision 2005/212/JHA of 24 February 2005 on confiscation of crime-related proceeds, instrumentalities and property;
12. Council Framework Decision 2002/629/JHA of 19 July 2002 on combating trafficking in human beings;
13. Council Framework Decision 2001/500/JHA of 26 June 2001 on money laundering, the identification, tracing, freezing, seizing and confiscation of instrumentalities and the proceeds of crime;
14. Council Framework Decision 2002/946/JHA of 28 November 2002 on the strengthening of the penal framework to prevent the facilitation of unauthorised entry, transit and residence;
15. Council Framework Decision 2002/475/JHA of 13 June 2002 on combating terrorism;

**Commented [B11]:** Naziv Direktive na engleskom ne odgovara hrvatskom prijevodu: " protiv poslodavaca koji zapošljavaju državljane trećih zemalja"

**Commented [B12]:** Hrvatski prijevod riječi "proceeds" je pogrešan.

16. Council Framework Decision 2005/212/JHA of 24 February 2005 on confiscation of crime-related proceeds, instrumentalities and property;

17. Convention of 26 July 1995 drawn up on the basis of Article K.3 of the Treaty on European Union, on the protection of the European Communities' financial interests (OJ C 316, 27.11.1995, p. 49);

18. Protocol of 27 September 1996 drawn up on the basis of Article K.3 of the Treaty on European Union to the Convention on the protection of the European Communities' financial interests (OJ C 313, 23.10.1996, p. 2);

19. Second Protocol of 19 June 1997 drawn up on the basis of Article K.3 of the Treaty on European Union to the Convention on the protection of the European Communities' financial interests (OJ C 221, 19.7.1997, p. 12);

20. Convention implementing the Schengen Agreement.

Article 387

This Act shall be published in the Official Gazette and shall enter into force on 1 January 2013.

Class: 740-02/11-01/06  
Zagreb, 21 October 2011

CROATIAN PARLIAMENT

SPEAKER OF  
THE CROATIAN PARLIAMENT

Luka Bebić, m.p.

Commented [B13]: Ista odluka kao ona navedena ad 11.