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*Please note that this translation is a final text version published in the Official Gazette no. 51/2001.*

## **THE ACT ON THE STATE'S ATTORNEY OFFICE**

(Official Gazette no. 51/2001)

### **I GENERAL PROVISIONS**

#### Article 1

(1) This Act shall regulate: the organization and jurisdiction of the state's attorney offices, the requirements and procedure for the appointment and dismissal of state's attorneys and their deputies, their powers, rights and obligations, and also their disciplinary responsibility, the performance of duties relating to justice administration and the state's attorney administration in the state's attorney offices, the requirements for the admission of civil servants and employees, keeping official information confidential and the provision of funds for the operation of the state's attorney offices, and other issues relevant for their work.

(2) This Act shall also regulate the organization, operation of the State's Attorney Council, the requirements and procedure for the election of its president and members, and other issues relevant for the operation of the State's Attorney Council.

#### Article 2

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

(2) The State's Attorney Office shall execute its powers on the basis of the Constitution, Acts, treaties that constitute a part of the legal system of the Republic of Croatia, and other provisions passed in conformity with the Constitution, a treaty and law of the Republic of Croatia.

#### Article 3

The State's Attorney Office shall be established as an integral justice body, the competence, powers and jurisdiction of which shall be determined by law.

#### Article 4

The State's Attorney Office of the Republic of Croatia shall be bound to submit at least once a year a report concerning its work to the Croatian Parliament and the Government of the Republic of Croatia.

## Article 5

The state's attorney shall be held responsible for the exercise of his/her duties falling within the competence of the State's Attorney Office he/she represents and manages.

## Article 6

Any person vested with legal interest shall have the right to file petitions and complaints to the ministry competent for justice or to the state's attorney having jurisdiction, concerning his/her work or the work of a lower rank state's attorney and to receive the answer thereof within an appropriate term.

## Article 7

(1) The State's Attorney General of the Republic of Croatia (hereinafter referred to as the State's Attorney General), the state's attorney or the Deputy State's Attorney General or the deputy state's attorney (hereinafter both the deputy State's Attorney General and the deputy state's attorney shall be referred to as the deputy state's attorney) shall not be called to account, arrested or detained or punished for the legal opinion issued concerning a case assigned to him/her.

(2) The state's attorney or the deputy state's attorney may not be detained in the proceedings initiated for a criminal offense committed while he/she was exercising his/her state's attorney function, without a prior approval of the State's Attorney Council.

(3) When a state's attorney or a deputy state's attorney is detained or the prosecution has been initiated against him/her, an appropriate state body shall be bound to immediately notify the State's Attorney General thereof.

(4) The State's Attorney General may not be detained or the prosecution against him/her instituted without a prior approval of the House of Representatives of the Croatian Parliament.

(5) The State's Attorney General of the Republic of Croatia may be detained without a prior approval of the House of Representatives of the Croatian Parliament only if he/she has been caught in the commission of a criminal offense for which imprisonment of more than 5 years is stipulated.

(6) When the House of Representatives of the Croatian Parliament is not in session, the approval for the State's Attorney General to be detained or for the prosecution against him/her to be instituted, or concerning his/her right to immunity shall be decided upon by the Credentials and Privileges Commission of the House of Representatives, and their decision is to be subsequently confirmed by the State's Attorney Council.

(7) If the members of the State's Attorney Council are not present, the approval for the arrest of the State's Attorney General or the deputy State's Attorney General shall be given by the president of the State's Attorney Council. The decision of the president must be confirmed within 8 days by the State's Attorney Council.

## Article 8

When exercising their powers the State's Attorney Offices shall be bound to provide legal assistance to each other. The state authorities and legal entities shall be bound to assist the State's Attorney Offices in the exercise of their powers.

## Article 9

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

(2) The name of the State's Attorney Office, the coat of arms and the flag of the Republic of Croatia shall be displayed in a prominent position on the building where the State's Attorney Office is located.

## **II ORGANIZATION AND WORK**

### **1. ORGANIZATION**

#### Article 10

The State's Attorney Offices in the Republic of Croatia shall be as follows:

- the municipal State's Attorney Offices;
- the county State's Attorney Offices;
- the State's Attorney Office of the Republic of Croatia.

#### Article 11

(1) A municipal State's Attorney Office shall be established for the territory of one or a number of municipal courts.

(2) A county State's Attorney Office shall be established for the territory of a county or a commercial court.

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

(4) Each State's Attorney Office shall proceed in compliance with its subject matter and territorial jurisdiction, unless otherwise stipulated by law.

#### Article 12

(1) The Act may provide some other organizational forms for the prosecution of perpetrators of certain criminal offenses.

(2) Jurisdiction, powers, organization and position of special organizational units within a State's Attorney Office shall be stipulated by law.

### **2. WORK**

#### Article 13

(1) A state attorney shall administer the tasks falling within the competence of the State's Attorney Office, represent the State's Attorney Office, account for and manage the State's Attorney Office.

(2) One or a number of state's attorney deputies may be appointed in the office of the state's attorney. A deputy state's attorney, when substituting the state attorney, shall be authorized during the proceedings before the court or other state body, to exercise all actions for which the state attorney is authorized to by law. The deputy state's attorney shall exercise all other actions in conformity with the Act hereof and the instructions of the state's attorney having jurisdiction.

### III JURISDICTION AND POWERS OF THE STATE'S ATTORNEY OFFICES

#### Article 14

(1) Subject matter and territorial jurisdiction of the State's Attorney Office shall be determined according to the provisions of laws that are applicable to the jurisdiction of the courts before which they exercise their powers, unless otherwise stipulated by the Act hereof.

(2) By way of an exception in the cases referred to under Article 17, item 2 of the Act on Courts, a municipal State's Attorney Office shall act before a county court when criminal offenses within the competence of a municipal court are involved.

#### Article 15

(1) A competent State's Attorney Office shall institute the prosecution and represent the charge against perpetrators of criminal offenses subject to public prosecution or upon a motion, and perform other actions determined by law.

(2) A competent State's Attorney Office shall institute proceedings and represent the prosecution in petty offense and misdemeanor proceedings.

(3) A competent State's Attorney Office shall represent the Republic of Croatia in the protection of assets and other rights in the civil and administrative matters, unless otherwise determined by law or the decision of a competent state body based thereon.

(4) The Municipal State's Attorney Offices shall represent the Republic of Croatia in the proceedings before a municipal court and before administrative bodies, unless otherwise determined by law or the decision of a competent state body based thereon.

(5) The County State's Attorney Offices shall represent the Republic of Croatia in the proceedings before a county court and before a commercial court, unless otherwise determined by law or the decision of a competent state body based thereon.

(6) The State's Attorney Office of the Republic of Croatia shall represent the Republic of Croatia, and oversee and protect the rule of law and proceed with all actions before the Supreme Court of the Republic of Croatia, the Constitutional Court of the Republic of Croatia, the Administrative Court of the Republic of Croatia, the High Commercial Court of the Republic of Croatia, the Magistrate's Court of the Republic of Croatia, and international and foreign justice and other bodies, unless otherwise determined by law or the regulation based thereon.

#### Article 16

(1) In addition to matters referred to under Article 15 hereof, the State's Attorney Offices:

- may under a special power of attorney represent in civil and administrative matters the legal entities fully or partly owned by the Republic of Croatia, and also local self-government units and territorial self-government, when justified by the case, and when the competent state's attorney refuses to provide a power of attorney, shall notify an immediately superior state's attorney thereof who shall render a legally effective decision;

- shall monitor and examine the application of regulations relevant for the protection of assets and other interest of the Republic of Croatia, and other regulations relevant for the operation of the State's Attorney Office, and shall notify the State's Attorney Office of the Republic of Croatia and other competent state authorities concerning the developments perceived.

(2) The State's Attorney Office of the Republic of Croatia shall upon the request of the state authorities issue:

- a legal opinion concerning all issues relating to civil law matters and the protection of assets, natural wealth, parts of nature, immovable assets, things and rights of interest to the Republic of Croatia;
- an opinion regarding Acts and other regulations;
- an opinion concerning legal transactions completed by the Republic of Croatia and other civil law issues.

(3) The competent state authorities of the Republic of Croatia shall be bound, prior to the completion of a legal matter concerning the acquisition or alienation of immovable assets, to obtain an opinion on the legality of such a legal matter, from the State's Attorney Office of the Republic of Croatia.

(4) When the State's Attorney Office of the Republic of Croatia fails to provide the opinion referred to under Paragraph 3 hereof within 30 days, it shall be considered that the opinion is positive and that no legal obstacles as to the conclusion of the legal transaction exist. Regardless of the opinion, the competent State's Attorney Office shall demand annulment of the legal matter if it is in contravention of coercive provisions.

#### Article 17

(1) The competent State's Attorney Offices shall be bound, in the cases of assets related matters of special interest to the Republic of Croatia or of a substantially high value, when the claim is to be waived, or the claim of the opposing party admitted, or the settlement concluded or legal remedies waived, to notify thereof the State's Attorney Office of the Republic of Croatia which shall immediately notify thereof the Government of the Republic of Croatia.

(2) The Government of the Republic of Croatia may give the instruction for the action in the matters referred to under Paragraph 1 hereof.

(3) The competent State's Attorney Office shall be bound in the matters referred to under Paragraph 1 hereof to act in conformity with a legal instruction of the Government of the Republic of Croatia.

#### Article 18

The state's attorney having jurisdiction may in certain cases engage experts outside the legal field to take part in the proceedings and assist the State's Attorney Office with his/her expertise.

#### Article 19

(1) The State's Attorney Office of the Republic of Croatia shall represent the Republic of Croatia in civil law related matters before international courts, institutions and other bodies.

(2) In the proceedings conducted before international or foreign courts or other bodies, provided that according to applicable law the State's Attorney Office of the Republic of Croatia is not entitled to appear, the State's Attorney General may empower an appropriate foreign expert subject to the approval of the Government of the Republic of Croatia.

(3) In the proceedings conducted before international or foreign courts or other bodies to which the Republic of Croatia is a party, the Government of the Republic of Croatia may decide to be represented by an appropriate either a Croatian or a foreign expert, with or without the participation of the State's Attorney Office of the Republic of Croatia.

(4) In the cases referred to under Paragraph 1 hereof requiring special expertise, the State's Attorney General may engage a distinguished expert to take part in the proceedings on the part of the State's Attorney Office of the Republic of Croatia in the capacity of a counselor.

#### Article 20

The court decisions and the decisions of administrative bodies and other communications shall be delivered solely to the competent state's attorney. The delivery to a state's attorney lacking jurisdiction shall be considered improper.

#### Article 21

(1) Upon the request of the competent State's Attorney Office, which considers that an appropriate legal remedy be filed against a legally effective decision by which the court or other administrative proceedings have been ended and which violates law or a treaty or when other conditions stipulated by law have been satisfied, a competent state body shall postpone or under a special decision discontinue the execution proceedings or the execution of that decision.

(2) The postponement or the discontinuance of the execution proceedings referred to under Paragraph 1 hereof, shall continue until the completion of the proceedings on the legal remedy or upon the expiration of 15 days from the delivery of the decision on the postponement or discontinuance, unless the State's Attorney Office within that term files an appropriate legal remedy.

#### Article 22

(1) The expenses of the representation before the courts and other competent bodies shall be repaid to the competent State's Attorney Office according to the provisions relating to fees and compensations for the work of practicing attorneys in conformity with the achievement in the proceedings and at the expense of the opposing party.

(2) Legal entities represented by the competent State's Attorney Office on the basis of a power of attorney shall be bound to pay the representation fees in conformity with the provisions on fees and compensation of expenses for the work of practicing attorneys.

(3) The resources paid for the representation expenses shall be the revenues of the State Budget.

### Article 23

The State's Attorney General may decide that the representation in a specific kind of civil and administrative matters shall be exercised by the State's Attorney Office for the territory of a number of subject matter courts and may in consonance with Article 26, Paragraphs 2 and 3 of the Act hereof for the reason of opportunity and efficiency confer or assume the representation in the matters of the same kind.

### Article 24

(1) The State's Attorney Office shall have to receive reports, submissions and statements from citizens, state bodies and legal entities in matters within its competence in line with its powers.

(2) The State's Attorney Office may request from citizens the information relating to their reports, submissions, complaints and petitions.

### Article 25

(1) The State's Attorney Office shall be authorized to request from other state authorities or legal entities the files and reports if they are related to the undertaking of actions within their competence.

(2) The state bodies and other legal entities shall have to deliver to the State's Attorney Office the records requested if no legal obstacles thereto exist.

(3) The state bodies shall be bound to provide any assistance to the State's Attorney Office when required for official matters if no legal obstacles thereto exist.

(4) The state bodies shall have to notify the State's Attorney Office as regards all the proceedings where the State's Attorney Office shall be bound or authorized to undertake certain actions or file legal remedies.

(5) The state bodies and legal entities shall be bound to act without delay upon having received a written request from a State's Attorney Office.

(6) Courts shall provide access to the records to the state's attorneys or their deputies. Upon the request of the State's Attorney Office, the courts shall have to make available and deliver the files containing legally effective decisions.

### Article 26

(1) The state's attorney shall be authorized to give to a deputy state's attorney in the same State's Attorney Office or to a lower State's Attorney Office the mandatory instructions for work and representation, when required subject to a uniform application of law, or the instruction and order to act in a particular case.

(2) The state's attorney shall be authorized to assume all or some duties of a deputy state's attorney in the same State's Attorney Office or from a lower State's Attorney Office. For justifiable reasons the state's attorney may assign the representation in a particular case to another deputy state's attorney in the same State's Attorney Office or to a lower State's Attorney Office.

(3) A mandatory instruction in a particular case or the decision relating to the assumption of the particular case from a lower State's Attorney Office or its assignment to another lower rank State's Attorney Office shall be given in writing and shall include a statement of reasons.

(4) If as the result of special reasons and specifically due to a danger of delay it was not feasible to provide the mandatory instruction or the decision referred to under Paragraph 3 hereof in writing, such a verbal instruction shall subsequently be confirmed in writing.

#### Article 27

(1) A deputy state's attorney or a state's attorney from a lower rank State's Attorney Office shall be entitled to note that the instruction given for the representation in a particular case is illegal. If such an instruction has been given verbally, the instruction in writing may be requested and if the instruction in writing has been given, a resubmission of the instruction in writing may be requested. The state's attorney shall have to provide the instruction in writing or to repeat the instruction in writing. Failing to do so, the instruction shall be considered withdrawn.

(2) If a deputy state's attorney in the State's Attorney Office or a state's attorney from a lower rank State's Attorney Office deems the instruction illegal or unfounded for the representation or he/she deems that its application shall not yield the expected legal effects or any other relevant reasons exist, the state's attorney may, upon a written request including reasons, excuse the deputy state's attorney or a state's attorney from a lower rank State's Attorney Office, from proceeding further in that case and to assign the case to another deputy state's attorney or another lower state's attorney.

(3) A deputy state's attorney or a lower rank state's attorney may not be called to account for the opinion given referred to under Paragraph 1 hereof or for the request submitted in conformity with Paragraph 2 hereof.

#### Article 28

(1) In exercising its right to supervision over the work of State's Attorney Offices, the State's Attorney Office of the Republic of Croatia shall be bound to undertake appropriate measures, and specifically conduct a direct supervision over the entire work and operation of each County State's Attorney Office.

(2) County State's Attorney Offices shall be bound to carry out supervision over the entire work of the State's Attorney Offices on their territory.

### **IV. INTERNAL ORGANIZATION OF THE STATE'S ATTORNEY OFFICES**

#### **1. THE DUTIES OF THE STATE'S ATTORNEY OFFICE ADMINISTRATION**

##### Article 29

The duties of the State's Attorney Office administration shall include the provision of conditions for the proper work and operation of the State's Attorney Office and specifically: the organization of internal operation of a State's Attorney Office, the examination of an orderly and timely discharge of duties in the State's Attorney Office, the tasks relating to petitions and complaints concerning the work of the State's Attorney Office, specialized tasks relating to the discharge of duties and rights of civil servants and employees in the State's Attorney Office, the examination of an in-office training of state's attorneys, deputy state's attorneys, counselors, trainees, and other civil servants and employees in the State's Attorney Office, the collection and analysis of statistical data, financial and material operation of the

State's Attorney Offices and other tasks prescribed by law or regulations on the internal operation of State's Attorney Offices (hereinafter referred to as the regulation on internal operation).

#### Article 30

(1) The state's attorney shall exercise the state's attorney related administrative duties in conformity with the regulations on internal operation.

(2) In the case that the state's attorney is absent or hindered to discharge his/her duties relating to the state's attorney administration and other tasks, he/she shall be substituted by the deputy state's attorney designated in the annual schedule of tasks.

(3) In the case of absence or hindrance of the state's attorney in the State's Attorney Office in which there are no deputy state's attorneys or when the state's attorney has not been appointed, the state's attorney of the immediately superior State's Attorney Office may designate the deputy state's attorney in that State's Attorney Office or the state's attorney, or deputy state's attorney of the State's Attorney Office within the territory, to temporarily exercise the duties of the state's attorney or the deputy state's attorney for a period no longer than 6 months in one year.

## 2. DEPARTMENTS AND SECTIONS

#### Article 31

In the State's Attorney Offices, which are competent in addition to criminal cases also for civil and administrative matters, departments may be established under the Act on Internal Organization. Within individual departments, or if departments are not existent outside them, the sections as the expert bodies including no less than three deputy state's attorneys expert in specific type of case may be established. The assignment of deputy state's attorneys into departments and sections and the heads of the department and section shall be determined under an annual schedule of tasks.

#### Article 32

In sessions of the departments of the State's Attorney Offices the issues of interest to the operation of departments shall be considered and especially the monitoring of work, discussion relating to contentious legal issues, standardization of representations and other issues provided for by the Rules on Internal Operation.

## 3. REPORTS

### *a) Special reports*

#### Article 33

(1) In the cases of special state interest or where insufficiently clarified factual and crucially important legal issues appear, a lower rank State's Attorney Office shall be bound to notify a superior State's Attorney Office about the actions taken and about their further intentions.

(2) The State's Attorney General shall have to report to the minister competent for justice matters relating to the cases of general nature as well as about the criminal reports against the judges of the Constitutional Court, members of the Croatian Parliament, members of the Government of the Republic of Croatia, judges and state's attorneys.

(3) The State's Attorney General shall upon the request of the minister competent for justice matters submit the report relating to certain types of criminal proceedings. He/she shall also be bound to submit a special report relating to specific cases upon the request of the minister competent for justice matters.

(4) The time and manner for the submission of special reports shall be regulated by the regulations on internal operation. The obligation to file a report on intended actions shall not prevent an action that must be immediately undertaken as to avoid the expiration of the statute of limitations, of a time limit or to avoid postponement.

*b) Monthly and annual reports*

Article 34

(1) The State's Attorney Offices shall submit to higher State's Attorney Offices monthly reports. The reports shall include information regarding the completed proceedings, pending proceedings and the actions that have been undertaken or shall be undertaken. The superior State's Attorney Offices may request that reports be prepared separately by the type of cases.

(2) An annual report shall include an overview of the received, resolved or pending cases, an overview of the indictments issued and an overview of legal remedies filed and the achievement thereof.

(3) The State's Attorney General shall be bound to submit every year to the ministry competent for justice matters a report relating to the received, resolved and pending cases including a statement of reasons, and also relating to the proceedings instituted for the commission of a serious disciplinary offense committed by an official and the disciplinary proceedings against public servants and employees employed in the State's Attorney Offices.

(4) The annual report may contain a warning as to the state of affairs and operation of the legal system, deficiencies in legislation, internal operation of a State's Attorney Offices or courts, and where necessary also submit appropriate proposals for amendments.

**V. THE COLLEGIATE BODY OF THE STATE'S ATTORNEY OFFICE**

Article 35

(1) The collegiate body of the State's Attorney Offices shall include the state's attorney and all deputy state's attorneys within that State's Attorney Offices.

(2) When there are no deputy state's attorneys in the State's Attorney Office or when there are no more than 3 of them, the issues referred to under Article 36 hereof shall be decided by the collegiate body of a superior State's Attorney Office where the state attorney and deputy state's attorneys of a lower State's Attorney Office shall participate and vote on equal terms.

Article 36

The collegiate body of the State's Attorney Office shall:

- provide an opinion regarding the exercise of the state's attorney duties following the objections in the course of the evaluation procedure;
- provide an opinion regarding candidates for deputy state's attorneys in their or an immediately lower State's Attorney Office;

- provide an opinion regarding candidates for state's attorneys in their or an immediately lower State's Attorney Office;
- provide an opinion regarding the annual schedule of tasks;
- perform other tasks stipulated by the Act hereof.

#### Article 37

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

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

(3) In addition to the tasks referred to under Article 36 of this Act and Paragraph 2 hereof, the collegiate body of the State's Attorney Office of the Republic of Croatia shall:

- provide an opinion regarding draft bills or other regulations relevant for the function of a State's Attorney Office or for the execution of the state's attorney duties;
- determine general instructions for the State's Attorney Offices;
- consider reports to be submitted to the Croatian Parliament and the Government of the Republic of Croatia;
- execute other tasks in line with the regulations regarding internal operation.

#### Article 38

(1) The State's Attorney General may also convene an extended collegiate body (*prošireni kolegij*) of the State's Attorney Office of the Republic of Croatia. The extended collegiate body shall include all deputy state's attorneys of the State's Attorney General and the county state's attorneys.

(2) At the meeting of the extended collegiate body draft bills or other regulations when they determine the powers of the State's Attorney Office or regulate other issues relevant for the work of the State's Attorney Office or for the execution of tasks thereof shall be considered.

#### Article 39

(1) The State's Attorney General or the state's attorney or deputy state's attorney substituting him/her shall convene the session.

(2) The State's Attorney General or the state's attorneys shall participate as nonvoting members in the work of the collegiate body in providing an opinion regarding the exercise of the state's attorney office, in providing an opinion regarding candidates for the deputy state's attorneys and in providing an opinion regarding candidates for a lower state's attorney.

(3) When providing opinion relating to the issues referred to under Paragraph 2 hereof, the collegiate body shall decide at its session by a majority vote of all the members of the collegiate body.

(4) Records shall be made about the work of the collegiate body.

## VI. JUSTICE ADMINISTRATION

### Article 40

(1) The tasks of justice administration (*pravosudna uprava*) shall be exercised by the ministry competent for justice matters.

(2) For the purposes of carrying out justice administration the ministry competent for justice matters shall refer to the State's Attorney Office of the Republic of Croatia which shall forward the requests to the State's Attorney Offices having jurisdiction thereof.

(3) The ministry competent for justice matters in the administration of tasks relating to justice administration may annul or cancel an illegal act rendered in the course of the execution of justice administration or render only the act that in the administration of tasks has not been rendered or has not been rendered in time.

### Article 41

Judicial administration shall include the tasks necessary for the exercise of powers of State's Attorney Offices, and especially the drafting of Acts and other regulations for the establishment, competence and organization of State's Attorney Office, the care for the education and in-office training of state's attorneys, deputy state's attorneys and other civil servants and employees, the provision of material, financial, office and other conditions for the work of State's Attorney Offices, the collection of statistical and other data concerning the operation of State's Attorney Offices, the examination of the citizens' petitions and complaints concerning the work of State's Attorney Offices relative to delays in evaluating the grounds for the crime reports submitted or to the conduct of a state's attorney or a deputy state's attorney or any other employee employed in the State's Attorney Office towards a party in the course of the proceedings or in the execution of any other official action, the supervision over financial and material operation of State's Attorney Offices, the oversee of the regular execution of tasks in the State's Attorney Offices, as well as other administrative tasks and duties prescribed by law.

### Article 42

(1) The ministry competent for justice matters shall keep the record of the state's attorneys, deputy state's attorneys and trainees in the State's Attorney Offices and other employees employed in State's Attorney Offices.

(2) The record of the apprentices in the State's Attorney Offices and other employees shall contain the information relating to the name and family name, date of birth, nationality, residence, qualifications, professional title, knowledge of foreign languages, and other information stipulated by law.

(3) The State's Attorney Offices of the Republic of Croatia shall submit the information referred to under Paragraph 2 hereof to the ministry competent for justice matters in the manner prescribed by the minister competent for justice matters.

(4) The data entered into the record shall constitute an official secret and may be used only for the purpose of the implementation of the Act hereof, and the Acts which regulate the rights, duties and responsibilities of state's attorneys, deputy state's attorneys and any other employee employed in the State's Attorney Office.

### Article 43

(1) The record of the state's attorneys and deputy state's attorneys shall contain the following:

1. personal information;
2. information relating to appointment and dismissal;
3. information relating to academic performance;
4. information relating to apprenticeship;
5. information relating to the published professional or scholarly papers;
6. information relating to the performance evaluation of state's attorneys;
7. information relating to promotion;
8. disciplinary sanctions.

(2) Personal information shall contain the following data: the name, family name, father's name, the day, month and year of birth, nationality, residence, law school degree, passing of the Bar Exam, special interests, assets status, household members (spouse, children, parents).

(3) The information kept in the records shall constitute an official secret.

(4) The bodies, which maintain the information kept in the records according to Paragraph 1 hereof, shall be bound to submit the information to the ministry competent for the justice matters.

### Article 44

The ministry competent for the justice matters may request from the State's Attorney Offices the reports and information relating to the justice administration when required for the execution of tasks within their competence in order to implement the tasks of this Act, and in that part has an access to the work of State's Attorney Offices and may request the reports concerning the reasons for non action in particular cases.

### Article 45

(1) The minister competent for justice matters shall enact Rules on Internal Operation in State's Attorney Offices subject to the proposal of the State's Attorney General.

(2) The Regulations on Internal Operation shall regulate the rules on internal organization, office management, maintenance of registers and subsidiary ledgers, keeping records, work forms, rules on public releases, the implementation of rules on conducting the proceedings and issuing decisions in the language and script of an ethnic and national community or a minority, the rules concerning the control of material and financial operations and the regular performance of tasks in state's attorney offices, daily and weekly working hours, the rules on the maintenance of statistical data, the standards as to business premises and equipment and other issues relevant for the internal operation of state's attorney offices.

(3) The Rules on Internal Operation shall also regulate the manner of how to conduct the common tasks for more than one state's attorney office and other bodies when located in the same building.

## Article 46

The State's Attorney General, state's attorneys, deputy state's attorneys, counselors and expert assistants shall be issued an official identity card. The minister competent for justice matters shall regulate the form of the card and the procedure for its issuing.

## VII. STATE'S ATTORNEYS AND THEIR DEPUTIES

### 1. THE APPOINTMENT AND DISMISSAL OF STATE'S ATTORNEYS

#### *a) Appointment of state's attorneys*

## Article 47

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

## Article 48

(1) The State's Attorney General shall be appointed for a four-year term by the House of Representatives of the Croatian Parliament upon the motion of the Government of the Republic of Croatia, and with a prior opinion of the Justice Committee of the House of Representatives and upon the expiration of that term may be reappointed to the same office.

(2) If the State's Attorney General be not reappointed to the same office or be released from duty at his/her own request he/she shall continue to work as a deputy state's attorney in the State's Attorney Office of the Republic of Croatia.

## Article 49

(1) The State's Attorney General shall appoint the County State's Attorney with a prior opinion issued by the minister competent for justice matters and the opinion issued by the collegiate body of the State's Attorney Office of the Republic of Croatia, for a four-year term of office and upon the expiration of that time he/she may be reappointed to the same office. The County State's Attorney shall be appointed from among the state's attorneys and deputies in the county state's attorney office or a higher state's attorney office with five years of working experience in the state's attorney office.

(2) The State's Attorney General shall appoint a municipal state's attorney with a prior opinion issued by the minister competent for justice matters and the opinion issued by the collegiate body of the County State's Attorney Office and the County State's Attorney from among state's attorneys and deputy state's attorneys in that state's attorney office or another state's attorney office for a four year term of office and upon the expiration of that time he/she may be reappointed to the same office.

(3) If the municipal or county state's attorney be not reappointed, upon the expiration of his/her term he/she shall continue to work as a deputy state's attorney in the same state's attorney office or if more favorable for him/her, may return to the position of a deputy state's attorney in the state's attorney office where he/she worked as a state's attorney before the appointment.

(4) The term for which a state's attorney is appointed shall start to run as of the date he/she assumes office.

## Article 50

(1) The procedure for the appointment of the State's Attorney General shall be instituted by the Government of the Republic of Croatia not later than 3 months before the expiration of the term of office of the State's Attorney General or not later than 30 days upon the termination of office of the State's Attorney General for other reasons prescribed by law.

(2) The procedure for the appointment of a county or a municipal state's attorney respectively, shall be instituted by the State's Attorney General not later than 3 months before the expiration of the term of office of the state's attorney or not later than 30 days upon the termination of office of the state's attorney for other reasons prescribed by law.

## Article 51

(1) A vacancy for a county or municipal state's attorney shall be announced by the State's Attorney Office of the Republic of Croatia. Vacancies shall be announced in "Narodne novine" and, if necessary in some other manner, and shall contain an invitation to candidates to submit within a term not shorter than 15 days and not longer than 30 days their applications including the evidence substantiating that they meet the requirements prescribed for the appointment of a state's attorney and also the information relating to their work.

(2) The State's Attorney General shall 90 days before the expiration of the term referred to under Article 49, Paragraphs 1 and 2 of the Act hereof, institute the proceedings for the reappointment of a state's attorney. The decision relating to the announcement of vacancies referred to under Paragraph 1 hereof and the decision relating to the annulment of the announcement shall be rendered by the State's Attorney General.

## Article 52

(1) After the expiration of the term referred to under Article 51, Paragraph 1 hereof, the State's Attorney General shall request that the minister competent for justice matters issue an opinion regarding the candidates. He shall request also the opinion from the collegiate body of the State's Attorney Office of the Republic of Croatia regarding a candidate for the county state's attorney, and from the collegiate body of the county state's attorney and the county state's attorney regarding a candidate for a municipal state's attorney. Along a request for issuing the opinion, the State's Attorney General shall submit applications with all the evidence and information submitted by the candidates, the performance assessment and other information relating to the candidates available to the State's Attorney Office of the Republic of Croatia *ex officio*.

(2) The minister competent for justice matters shall issue an opinion on the candidates for a county or a municipal state's attorney within 30 days.

(3) The opinion from the collegiate body of the State's Attorney Office of the Republic of Croatia regarding the candidates for a county state's attorney and the opinion from the collegiate body of the county state's attorney and the county state's attorney regarding the candidates for a municipal state's attorney shall be issued within 15 days.

(4) When giving an opinion the criteria referred to under Article 65 of this Act shall be in an appropriate way recognized particularly the competence to exercise the duties of the state's attorney office and justice administration.

(5) The State's Attorney General shall render the decision within 15 days upon the expiration of the term referred to under Paragraph 2 hereof.

(6) If there is no response to the announcement or if no candidate receives a favorable opinion from the minister competent for justice matters or if the State's Attorney General fails to appoint a state's attorney from among the candidates who applied, the procedure shall be repeated.

(7) In the course of the repeated procedure the State's Attorney General shall request the opinion from the minister competent for justice matters and the collegiate body of the State's Attorney Office of the Republic of Croatia. If the opinion be favorable for one or a number of candidates, the State's Attorney General shall be bound to select a state's attorney from among the candidates who obtained the favorable opinion.

#### Article 53

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

(2) The state's attorney shall assume office within the term determined by the State's Attorney General that may not be longer than 6 months.

(3) If the state's attorney fails to assume office within the term referred to under above Paragraph hereof it shall be considered that he/she has not been appointed.

#### *b) The termination of office of state's attorneys*

#### Article 54

(1) A state's attorney shall terminate his/her office:

1. when deceased;
2. when he/she has attained the age of 70 years;
3. upon the dismissal.

(2) The decision regarding the termination of office of the State's Attorney General referred to under Paragraph 1, item 3 hereof shall be rendered by the House of Representatives of the Croatian Parliament and referred to under Paragraph 1, item 2 by the minister competent for justice matters. The decision regarding the termination of office of the county and municipal state's attorney referred to under Paragraph 1, items 2 and 3 shall be rendered by the State's Attorney General.

#### Article 55

The State's Attorney General, a county and municipal state's attorney shall be released from duty if:

1. he/she has exercised his/her duties in an illegal, untimely and insufficiently expert manner;
2. the state's attorney office he/she represents fails to achieve satisfactory results;

3. he/she fails to perform the duties in a state's attorney office or justice administration in conformity with the regulations or fails to perform them in due time;
4. has failed to file request for a disciplinary proceeding in the matters determined by law;
5. he/she commits an action corresponding to the action referred to under Article 84 hereof;
6. the grounds for the dismissal referred to under Article 69, Paragraph 1, items 1 to 4 of this Act exist.

#### Article 56

(1) The motion for the dismissal of the State's Attorney General may be filed by the Government of the Republic of Croatia. The motion shall contain the grounds and reasons for the dismissal.

(2) The House of Representatives of the Croatian Parliament upon a prior opinion obtained from the Justice Committee shall decide on the motion referred to under Paragraph 1 hereof.

#### Article 57

(1) When the State's Attorney General establishes, on the grounds of a written report relating to the supervision of the entire operation of a county or a municipal court respectively, (Article 28 hereof) or in any other way, and upon the opinion issued by the collegiate body of the State's Attorney Office of the Republic of Croatia, that the grounds for the dismissal referred to under Article 55, items 1 to 5 of this Act exist, he/she shall dismiss a county or a municipal state's attorney respectively. The state's attorney shall be previously provided with an opportunity to explain himself/herself on all the decisive facts. The decision regarding the dismissal shall be in writing and shall contain the grounds and reasons for the dismissal. The dismissed state's attorney shall continue to work as a deputy state's attorney in the state's attorney office where he/she was appointed a deputy state's attorney.

(2) When the State's Attorney General considers that the state's attorney dismissed, who has continued to work as a deputy state's attorney, needs to be dismissed for a severe infringement of discipline (Article 85, Paragraph 2 of this Act), he shall file the request for the institution of a disciplinary proceeding, and if necessary, render a decision on his/her suspension from office (Article 116 hereof).

#### Article 58

(1) The decision rendered by the State's Attorney General relating to the dismissal of a county or municipal state's attorney respectively, shall be in writing and shall include the statement of reasons.

(2) When a state's attorney has been dismissed on the grounds of a permanent incapacity to perform state's attorney office the provision under Article 117, Paragraph 3 hereof shall apply.

#### Article 59

If a county or a municipal state's attorney respectively terminates to exercise his/her duties before the expiration of his/her term of office, notwithstanding the reasons, the State's Attorney General shall empower a deputy state's attorney in the

same or another state's attorney office to exercise the duties of the state's attorney until the appointment of a new state's attorney.

## **2. THE APPOINTMENT AND DISMISSAL OF A DEPUTY STATE'S ATTORNEY**

### *a) Appointment of a deputy state's attorney*

#### Article 60

(1) The number of deputy state's attorneys in a single state's attorney office shall be determined by the minister competent for justice matters at the proposal of the State's Attorney General in compliance with general standards for the operation of state's attorney offices.

(2) The general standards shall be determined by the minister competent for the justice matters at the proposal of the State's Attorney General.

#### Article 61

(1) When a deputy state's attorney assumes the office in a state's attorney office for the first time, he/she shall be appointed for a five-year term of office.

(2) Following the reappointment the deputy state's attorney shall be appointed on a permanent basis.

#### Article 62

(1) Deputy state's attorneys shall be appointed in the manner, under the conditions and under the procedure which shall ensure their expertise, independence and worthiness to discharge the office of a state's attorney.

(2) Any Croatian citizen who holds a degree from the Law School and who has passed the Bar exam may be appointed a deputy state's attorney.

#### Article 63

(1) Any person who after having passed the Bar exam has worked as an advisor in a state's attorney office or other justice body for no less than two years or who has for no less than two years worked as a practicing lawyer, a notary public or a notary public's legal staff (*javnobilježnički prisjednik*) respectively, or a teacher teaching legal subjects at the law school, or a person who after having passed the Bar exam has worked for no less than four years on other legal functions, may be appointed a deputy state's attorney in a municipal state's attorney office.

(2) Any person who as an official in justice bodies has exercised justice function for no less than eight years or has for the same period worked as a practicing attorney, notary public or a notary public's legal staff, or a teacher teaching legal subjects at the law school for no less than ten years or a person who after having passed the Bar exam has worked for no less than twelve years on other legal functions, may be appointed a deputy state's attorney in a county state's attorney office.

(3) Any person who as an official in justice bodies has discharged justice function for no less than fifteen years or has for the same period worked as a practicing attorney or a notary public respectively, may be appointed a deputy state's attorney in the State's Attorney Office of the Republic of Croatia. Any university

professor or an associate professor in legal sciences with no less than 15 years of experience may be appointed a deputy state's attorney in the State's Attorney Office of the Republic of Croatia.

#### Article 64

(1) To be appointed to a position of a superior state's attorney office, a deputy state's attorney in addition to the requirements referred to under Articles 62 and 63 hereof, shall also meet the requirements relating to the promotion to be determined on the basis of the evaluation of the performance of state's attorney office referred to under Article 67, Paragraph 2, item 3 hereof.

(2) When appointed the candidates who have been subsequently twice or several times graded as referred to under Article 67, Paragraph 2, item 3 hereof shall be prioritized.

#### *b) The evaluation of the performance of the office duties*

#### Article 65

A deputy state's attorney in performing the duties of office shall be evaluated according to the criteria as follows:

1. the observance of terms in the course of the proceedings, the quality of work, the use of legal remedies and the achievement of satisfactory results in work;
2. the demonstrated diligence in the resolution of the assigned cases in conformity with general standards;
3. the expertise;
4. the ability to express oneself verbally and in writing;
5. the ability to communicate with parties in a cultural and civilized way;
6. the relation towards other officials, civil servants and employees in a state's attorney office and the conduct outside the office provided that such behavior may have an impact on the exercise of the duties of the state's attorney office;
7. the ability to perform administrative duties if assigned to such a position;
8. special characteristics, published scholarly and professional papers, active participation and achievements in the in-office training programs and other relevant scholarly and professional gatherings, experience in teaching legal practice and the like.

#### Article 66

The evaluation of the performance of the state's attorney duties for a deputy state's attorney in that state's attorney office shall be given by the state attorney.

#### Article 67

(1) A deputy state's attorney appointed for the first time to the state's attorney office shall be evaluated every year. Other deputies shall be evaluated every three years.

(2) The evaluation of the performance of a deputy state's attorney may state that he/she is any of the following:

1. unsatisfactory in the performance of the state's attorney office duties;

2. conscientious and orderly in the performance of the office duties;
3. specially dedicated to work, has achieved outstanding results and has met the requirements for the promotion.

(3) The evaluation shall be submitted to the deputy state's attorney concerned and its contents shall constitute an official secret.

(4) A deputy state's attorney who disagrees with the evaluation shall be entitled to file an objection within eight days from the receipt of the evaluation with the state's attorney who may draw up another evaluation.

(5) The State's Attorney General or the state's attorney respectively, shall prior to rendering the decision on the objection filed by the deputy state's attorney request the opinion of the collegiate body.

(6) The State's Attorney General or the state's attorney respectively, shall following the objection filed by the deputy state's attorney consider again the evaluation and if he/she establishes that the objection was founded may alter the evaluation fully or in part.

*c) The termination of office of deputy state's attorneys*

Article 68

(1) The office of a deputy state's attorney shall terminate:

1. when deceased;
2. when he/she has attained the age of 70 years;
3. by the dismissal.

(2) The decision relating to the termination of office of a deputy state's attorney referred to under Paragraph 1, items 2 and 3 hereof shall be rendered by the State's Attorney Council.

Article 69

(1) A deputy state's attorney shall be released from office when:

1. he/she so requests;
2. he/she is permanently incapacitated to discharge the duties of his/her office;
3. he/she has been convicted for a crime which makes him/her unworthy for the performance of the duties of the state's attorney office;
4. his/her performance of the duties of his/her office has been two times consecutively evaluated as unsatisfactory (Article 67, Paragraph 2, item 1 hereof);
5. the decision relating to the disciplinary punishment of the dismissal has been made.

(2) The State's Attorney Council shall decide on the dismissal of a deputy state's attorney on the basis of a request filed by an authorized state's attorney and following the proceedings conducted in conformity with that request. When the dismissal is the result of the decision imposing a disciplinary punishment of dismissal, no special proceeding shall be conducted but the dismissal begins upon the imposition of the decision.

### **3. RIGHTS AND OBLIGATIONS OF STATE'S ATTORNEYS AND THEIR DEPUTIES**

#### Article 70

A state's attorney or a deputy state's attorney shall discharge the duties in the state's attorney office to which he/she has been appointed.

#### Article 71

(1) The tasks in a state's attorney office shall be assigned at the beginning of each calendar year, according to the type of cases taking into account a proportional workload.

(2) Before determining a schedule of assignments, a state's attorney shall obtain an opinion from the collegiate body of the state's attorney office.

(3) The annual schedule before being implemented shall be submitted to a superior state's attorney office, which for justifiable reasons, may order the schedule to be amended.

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

(5) By way of exception to the provision referred to under Paragraph 1 hereof, the minister competent for justice matters may subject to a prior opinion obtained from the State's Attorney General request that certain types of cases be prioritized regarding the resolution thereof. In such a case a state's attorney shall immediately assign such cases to an appropriate deputy in conformity with Paragraph 1 hereof.

#### Article 72

The case assigned to a deputy state's attorney in the manner prescribed under Article 71 hereof, may be withdrawn from the deputy state's attorney when the deputy state's attorney may be disqualified, when unable to undertake actions in due time in the proceedings because he/she is hindered for a longer period or when necessitated by special reasons.

#### Article 73

A state's attorney or a deputy state's attorney must behave in such a way as not to harm his/her reputation or the reputation of the state's attorney office and not jeopardize his/her conscientiousness or the autonomy of the state's attorney office.

#### Article 74

A state's attorney or a deputy state's attorney shall be bound to keep confidential all that he/she has learnt about the parties or the rights, obligations and legal interests while discharging the duties of office, unless it constitutes a punishable act, and to keep confidential all the data which are not accessible to the public.

#### Article 75

The State's Attorney General, state's attorneys and deputy state's attorneys shall not be members of any political party or take any part in their activities.

#### Article 76

(1) A state's attorney or a deputy state's attorney may not use his/her official position or the reputation of the state's attorney office to exercise their rights before state bodies and the bodies of local self-government and administration.

(2) A state's attorney or a deputy state's attorney may not discharge the duties of a judge, practicing lawyer or notary public, be a member of a management or a supervisory board of a company or any other legal entity making profit.

(3) A state's attorney or a deputy state's attorney may not discharge any other office or work that might influence his/her autonomy or objectivity or would harm his/her social reputation or that is otherwise incompatible with the discharging of the duties of the state's attorney office.

#### Article 77

A state's attorney or a deputy state's attorney may write professional or scholarly papers, participate in the work of professional or scholarly conferences, draft legislation or participate in such like activities.

#### Article 78

(1) A state's attorney or a deputy state's attorney shall be bound to previously inform in writing an immediately superior state's attorney and a deputy state's attorney about any work he performs except for the work referred to under Article 77 hereof.

(2) The state's attorney shall decide on the incompatibility of office or work with the duties of state's attorney office regarding a deputy state's attorney, the state's attorney in the immediately superior state's attorney office regarding a state's attorney, and the Government of the Republic of Croatia regarding the State's Attorney General.

#### Article 79

A state's attorney or a deputy state's attorney shall be entitled to:

- a salary determined for a state's attorney or a deputy state's attorney in the state's attorney office to which he/she has been appointed;
- a compensation instead of a salary when he/she is incapacitated to discharge the his/her duties;
- a pension, disability, health care insurance and the rights inherent thereof according to general provisions;
- breaks and holidays allotted to servants and employees in the state's attorney office and annual vacation lasting 30 working days;
- material expenses under the conditions determined by law and other regulations;
- separation allowance and traveling expenses to a family place of residence during weekly breaks or state holidays;
- the compensation for business trips and traveling expenses relating to the discharge of the duties of state's attorney office; and
- professional training and specialization within the resources provided for that purpose.

#### Article 80

(1) A state's attorney or a deputy state's attorney in a municipality or a county state's attorney office may be temporarily, but for no longer than 6 months, reassigned to work in another state's attorney office of the same or a lower rank.

(2) A state's attorney or a deputy state's attorney may be, subject to his/her consent, reassigned to work in another state's attorney office of the same rank for a longer period or permanently.

(3) The decree on a temporary reassignment to another state's attorney office shall be issued by the State's Attorney General or the state's attorney of the immediately superior state's attorney office and in the event of a permanent reassignment by the State's Attorney Council.

(4) The State's Attorney General shall consent to the temporary reassignment of state's attorneys or deputy state's attorneys.

(5) A state's attorney or a deputy state's attorney shall have the right to object to a decree on reassignment to another state's attorney office to the State's Attorney General within eight days on receipt of the decree. The decision of the State's Attorney General shall be final.

(6) In the event of the dissolution or reorganization of a state's attorney office, the State's Attorney General shall reassign the state's attorney or a deputy state's attorney to a position of a deputy state's attorney in the state's attorney office of the same rank.

#### Article 81

(1) If a state's attorney or a deputy state's attorney be appointed a minister, a deputy or any other official in the ministry competent for justice, his/her state's attorney office shall be suspended while filling the post to which he/she has been appointed.

(2) A state's attorney or a deputy state's attorney may be, subject to his/her consent, assigned to other positions in the ministry competent for justice matters, but for no longer than two years, during which time his/her state's attorney office shall be suspended.

(3) In the case referred to under this Article the state's attorney or a deputy state's attorney shall be entitled to the salary which is to him/her more beneficial.

(4) The decision on the assignment of a state's attorney or a deputy state's attorney referred to under Paragraph 2 hereof shall be rendered by the minister competent for justice matters subject to the consent of the State's Attorney General.

#### Article 82

If a state's attorney or a deputy state's attorney be appointed head of or assigned as a deputy in a special organization unit referred to under Article 12 hereof, the state's attorney duties in the state's attorney office where he/she worked before being reassigned shall be suspended while filling that post.

#### Article 83

(1) The Republic of Croatia shall be responsible for the damage caused to a citizen or a legal entity by a state's attorney or a deputy state's attorney in the discharge of his/her duties by an improper or illegal action.

(2) The Republic of Croatia may claim from the state's attorney or a deputy state's attorney the reimbursement of the amount paid only if he/she has caused the damage deliberately or through gross negligence.

(3) The period of limitation relating to the claim referred to under Paragraph 2 hereof, expires six weeks from the day the compensation has been paid to the damaged party.

#### **4. DISCIPLINARY RESPONSIBILITY OF DEPUTY STATE'S ATTORNEYS**

##### Article 84

(1) A deputy state's attorney shall be responsible for disciplinary actions committed:

(2) The disciplinary actions are:

1. any abuse of power (misfeasance ) or malfeasance;
2. any unjustifiable omission to discharge or improper discharging of state's attorney duties;
3. any exercise of office, tasks or activities incompatible with the state's attorney office;
4. causing disorder in the work of state's attorney office which materially affects the operation of the state's attorney office;
5. any breach of official secrets relating to the exercise of state's attorney office;
6. any improper conduct affecting the reputation of the state's attorney office or the state's attorney function in any other way;
7. any action in contravention of Article 75 hereof.

(3) It shall be considered that a deputy state's attorney exercises his/her state's attorney function in an improper way when specifically:

- he/she without any justifiable reason fails to make state's attorney function related decisions and writs within a term prescribed;
- the state's attorney has evaluated his/her performance as unsatisfactory (Article 67, Paragraph 2, item 1 hereof);
- without any justifiable reason the number of decisions rendered within a period of a year is substantially below the average in the Republic of Croatia.

##### Article 85

(1) The following disciplinary punishments shall be pronounced for the disciplinary actions committed:

1. a reprimand;
2. a penalty up to one third of the salary earned in the previous month for a period not longer than six months;
3. the suspension of the promotion up to three years;
4. a dismissal.

(2) The punishment referred to under item 4, Paragraph 1 hereof may be imposed only for a disciplinary action referred to under Article 84 hereof, if it was committed under especially aggravating circumstances.

(3) When imposing a punishment for a disciplinary action the following shall be taken into account, specifically: a gravity of damage and the consequences caused, a degree of responsibility, the circumstances under which the disciplinary action was committed, a previous performance and conduct of a deputy state's attorney and other circumstances which affect the punishment.

(4) When deciding on the responsibility and a punishment for the disciplinary infringement committed, the provisions of the Criminal Procedure Act shall appropriately apply.

(5) The state's attorney office where a state's attorney discharges his/her state's attorney office and the ministry competent for justice matters, which keeps the records relating to the punishments imposed, shall be notified about the punishment pronounced.

#### Article 86

(1) The disciplinary proceeding may not be instituted six months after the infringement of discipline and the perpetrator thereof have become known or two years following the commission of the infringement of discipline, respectively.

(2) The disciplinary punishment may not be imposed after the expiration of one year from the date a disciplinary proceeding was instituted.

(3) If the disciplinary action involves criminal liability, the disciplinary proceeding may be instituted within a limitation period for the institution of the disciplinary proceeding, provided that such a proceeding has been instituted.

(4) The statute of limitations for the execution of the disciplinary punishment expires one year after the punishment has become final.

(5) The punishment of reprimand shall be deleted from the records *ex officio* two years following the date the decision imposing the punishment became legally effective, and a penalty after three years.

### **VIII. THE STATE'S ATTORNEY COUNCIL**

#### Article 87

The State's Attorney Council shall appoint, dismiss and decide on the disciplinary responsibility of the deputy state's attorneys.

#### Article 88

The State's Attorney Council (hereinafter referred to as the Council) shall have a seal, which contains its name, and the name and the coat of arms of the Republic of Croatia.

### **I. ELECTION AND DISMISSAL OF THE MEMBERS OF THE STATE'S ATTORNEY COUNCIL**

#### Article 89

(1) The Justice Committee of the House of Representatives of the Croatian Parliament shall in the course of the election procedure of the members of the State's

Attorney Council request from the State's Attorney General and the deans of law schools to institute a nomination procedure for the Council members.

(2) The State's Attorney General shall request from the state's attorney offices to recommend deputy state's attorneys as candidates from the state's attorney offices. On the basis of the recommendations gathered, the State's Attorney General subject to the consent of the extended collegiate of the State's Attorney General shall designate the candidates and submit the proposal to the House of Representatives of the Croatian Parliament.

(3) The recommendation of candidates from among deputy state's attorneys shall ensure an appropriate representation of candidates from the State's Attorney Office of the Republic of Croatia, county state's attorney offices and municipal state's attorney offices respectively.

(4) The candidates from among professors in law schools shall be designated by the session of the deans of law schools and submitted to the House of Representatives of the Croatian Parliament.

(5) The candidates from among the members of the House of Representatives of the Croatian Parliament shall be designated by the Justice Committee of the House of Representatives of the Croatian Parliament.

(6) For each seat in the Council no less than 3 candidates shall be recommended.

#### Article 90

(1) The Council members shall be elected by the House of Representatives of the Croatian Parliament.

(2) Seven Council members shall be elected from among deputy state's attorneys, two members from among the members of the House of Representatives of the Croatian Parliament and two members from among law school professors.

(3) The Council members shall from among themselves elect the president and deputy president. The president must be from among deputy state's attorneys.

(4) The president and deputy president shall be elected by secret vote for a two-year term and they may be reelected.

#### Article 91

(1) The Council members shall be elected for a four-year period, and no Council member may be reelected more than two times subsequently.

(2) The Council member elected shall be bound to assume office within 30 days from the date he/she was elected.

(3) If a Council member elected fails to assume office without any justifiable reason within the term referred to under Paragraph 1 hereof, it shall be considered that he has not been elected.

#### Article 92

(1) The term for which a Council member has been elected begins to run from the date he/she was elected.

(2) The president of the Council shall be bound, six months before the expiration of the term for which the Council member has been elected, to notify

thereof the Justice Committee of the House of Representatives of the Croatian Parliament.

#### Article 93

Before the assumption of office a Council member shall take the following oath of office before the President of the Croatian Parliament: "I hereby swear upon my honor that in discharging the duties as a Member of the State's Attorney Council I shall observe the Constitution and laws of the Republic of Croatia and that I shall conscientiously discharge my duties".

#### Article 94

(1) The president or a Council member shall not be called to account for the opinion given or for voting in the Council.

(2) The president or a Council member shall not be arrested or detained or the prosecution instituted against him/her without a prior consent of the Council.

(3) The president or a Council member may be arrested or detained without a prior consent of the Council only if caught in the commission of a criminal offense subject to imprisonment exceeding five years. In such an event the state body that arrested or detained the president or a Council member shall be bound to immediately notify the Council thereof.

#### Article 95

(1) The duties in the Council of the president or a member shall terminate by virtue of law as of the date when his/her duties which he/she exercised at the time when elected the president or a Council member terminate.

(2) It shall not be considered the termination of duties if a Council member be appointed a deputy state's attorney in another state's attorney office or be elected the professor at another law school.

(3) The president or a Council member shall be dismissed from office before the expiration of the term to which he/she has been elected:

- at his/her own request;
- if he/she has been appointed a state's attorney as of the day of the assumption of office;
- if he has been sentenced to imprisonment;
- if he/she has become permanently incapacitated to discharge his/her office;
- if he/she has taken citizenship of another country.

(4) The president or a Council member shall be dismissed from office before the expiration of the term to which he/she has been elected due to an unjustifiable failure to discharge the duties or improper discharge of the duties of the president or a Council member.

(5) The proposal for the dismissal from duties of a Council member before the expiration of the term to which he/she has been elected may be submitted by the State's Attorney General subject to the consent of the Collegiate of the State's Attorney Office of the Republic of Croatia extended with the county state's attorneys, the session of the deans of the law schools, each of them in respect to the Council members that they had recommended in the course of the designation of candidates

for the president or the Council members. The proposal for the dismissal may also submit the Justice Committee of the House of Representatives of the Croatian Parliament and the minister competent for the justice matters.

(6) The existence of reasons for dismissal of a Council member before the expiration of the term to which he/she has been elected shall be established by the Justice Committee of the House of Representatives of the Croatian Parliament, and he/she shall be dismissed from office by the House of Representatives of the Croatian Parliament.

#### Article 96

(1) If the president or a Council member requests dismissal from office, and the House of Representatives of the Croatian Parliament fails to render a decision thereof within three months from the filing of the request, the Council shall at the request of the president or a member determine that his/her office has terminated upon the lapse of three months from the date the request for dismissal was filed.

(2) The court which has imposed a sentence of imprisonment to the president or a Council member shall be bound without delay to deliver the legally effective judgment to the Council which shall thereof immediately notify the House of Representatives of the Croatian Parliament.

(3) The motion for the proceedings to be instituted in order to determine a permanent incapacitation of a Council member for discharging his/her office shall be filed with the Justice Committee of the House of Representatives of the Croatian Parliament by the president of the Council, and in the event of the president, by three members of the Council.

(4) The decision on the dismissal from office of the president or a Council member shall be rendered by the House of Representatives of the Croatian Parliament by a majority vote of all Members of Parliament.

#### Article 97

(1) If the proceedings referred to under Article 95, Paragraph 3, indented lines 3 and 4 hereof or the criminal proceedings have been instituted for the offense for which imprisonment may be imposed, the president or a Council member may be removed from office on the basis of the Council decision passed by a majority vote of all members.

(2) The decision regarding the removal from office shall be rendered by the Council:

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

(3) The Council may by a majority vote of all members decide that the president or a member, against whom the criminal proceedings have been instituted, shall not discharge their duties in the Council during the proceedings.

## 2. JURISDICTION AND MODUS OPERANDI

### *a) Jurisdiction*

#### Article 98

The competence of the Council shall include:

- the appointment of deputy state's attorneys;
- the conduct of the proceedings and the decision as regards disciplinary responsibility and the dismissal of deputy state's attorneys;
- the discharge of other duties in conformity with Act.

*b) Modus operandi*

Article 99

(1) The Council shall decide by sessions.

(2) The decision of the Council relating to the dismissal from office of a deputy state's attorney shall be in writing and shall contain a statement of reasons stating the facts in virtue whereof the Council in the course of the debate has established that the reasons for the dismissal exist. The decision shall be signed by the president of the Council.

(3) By way of exception the session shall be convened at the proposal of no less than three Council members.

Article 100

The president of the Council shall:

1. represent the Council;
2. convene and preside over the Council sessions;
3. propose the agenda of sessions;
4. announce the results of voting;
5. sign the documents rendered by the Council;
6. be in charge of the execution of the decisions rendered by the Council;
7. discharge other duties prescribed by law or a general act.

Article 101

(1) *Modus operandi* of the Council shall be regulated by the rules of procedure.

(2) The rules of procedure shall be rendered by the Council by the votes of no less than eight members of the Council.

Article 102

The Council shall have professional staff for the performance of administrative, technical and accounting activities.

**3. THE PROCEDURE FOR THE APPOINTMENT AND DISMISSAL FROM  
OFFICE OF DEPUTY STATE'S ATTORNEY**

Article 103

(1) A vacancy for a deputy state's attorney shall be announced by the State's Attorney of the Republic of Croatia *ex officio* or at the proposal of the persons authorized.

(2) The state's attorney in the state's attorney office where a deputy state's attorney or the immediately superior state's attorney is to be appointed shall be

authorized to submit the motion for the announcement of vacancies referred to under Paragraph 1 hereof.

(3) The announcement of vacancies referred to under Paragraph 1 hereof shall be as a rule published in "Narodne novine" and if necessary also in another way, and shall include an invitation to candidates to file applications within a term not longer than 30 days and not shorter than 15 days with all the documentation substantiating the eligibility as prescribed for the appointment of deputy state's attorneys attached thereto, and the information relating to their work.

(4) The State's Attorney General shall be bound to institute the proceedings for the reappointment of the deputy state's attorney ninety days prior to the expiration of the term referred to under Article 61 hereof. The procedure for the reappointment shall be conducted in the manner set forth under Article 104 hereof.

(5) The decision on the announcement of vacancies referred to under Paragraph 1 hereof, and also the decision regarding the annulment of the announcement, shall be rendered by the State's Attorney General.

#### Article 104

(1) Following the expiration of the term referred to under Article 103, Paragraph 3 hereof, the State's Attorney General shall request an opinion on all the candidates for deputy state's attorneys from the competent County State's Attorneys and the collegiate body. In addition to the request for an opinion, the State's Attorney General shall deliver application with the evidence and information provided by the candidates, and also the information relating to the candidates available to the State's Attorney Office of the Republic of Croatia *ex officio*.

(2) The opinion relating to candidates shall be issued by:

- the state's attorney of that state's attorney office, the county state's attorney and the collegiate body of the municipal state's attorney, where a vacancy for a deputy state's attorney has been announced, for a deputy state's attorney;
- the state's attorney of that state's attorney office, the State's Attorney General and the collegiate body of the county state's attorney where a vacancy for a deputy state's attorney has been announced, for a deputy county state's attorney;
- the State's Attorney General and the collegiate body of the State's Attorney Office of the Republic of Croatia, for a deputy State's Attorney General.

(3) In the procedure of issuing the opinion some information regarding the candidates may be requested from the following:

- the president of the court, in the event that a candidate served as a judge, an advisor or a justice apprentice or discharged any other duty in the administration of justice (*pravosuđe*);
- from other bodies and organizations which may provide information relevant for the fulfillment of general and special conditions for the appointment of a deputy state's attorney in the appropriate state's attorney office.

(4) If the performance of the duties of a candidate has been evaluated, the State's Attorney Council shall take such evaluations into account when issuing the opinion, and if such opinions are not available the Council shall obtain them from the

State's Attorney Office of the Republic of Croatia or the ministry competent for the justice matters.

(5) The opinion issued by the county state's attorney and the collegiate body regarding candidates for the state's attorney office shall be in writing and shall include a statement of reasons relating to the qualification as to the general and special conditions for the appointment of a deputy state's attorney in the appropriate state's attorney office. When making the statement of reasons the county state's attorney shall in an appropriate way recognize the criteria referred to under the provision of Article 65 hereof.

(6) The state's attorney and the collegiate body shall be bound to issue their opinion within the term no longer than 60 days. If the opinion be not delivered, the State's Attorney General shall submit to the State's Attorney Council a list with the names of all candidates who have qualified for the deputy state's attorney supported with their opinion and information available to them *ex officio*.

(7) In the appointment proceedings the Council may request only the information relating to the candidates referred to under Paragraph 3 hereof, from the appropriate bodies or organizations.

(8) The State's Attorney General shall submit to the Council a list of candidates who have qualified for the appointment supported with an opinion referred to under Paragraph 2 hereof. In addition to the list of candidates who have qualified the Council shall be notified about all the candidates who applied and shall also be delivered the applications of the candidates with all the relevant information gathered during the procedure of issuing an opinion.

#### Article 105

(1) When appointing a deputy state's attorney the Council shall recognize the criteria referred to under Article 65 hereof taking into account the opinion of the state's attorney and the competent collegiate body and the evaluation of the performance of the discharge of duties.

(2) The decision of the Council regarding the appointment of a deputy state's attorney containing a statement of reason in writing shall be delivered to all the candidates within 15 days following the announcement of the appointment.

(3) The decision relating to the appointment shall be published in "Narodne novine".

(4) A deputy state's attorney shall be bound to assume office within the term determined by the Council and not later than six months from the date he/she was appointed.

(5) If the deputy state's attorney fails to assume his/her office within the term referred to under Paragraph 3 hereof it shall be considered that he/she has not been appointed.

#### Article 106

The Council shall, at the request of the State's Attorney General or *sua sponte* annul the decision on the appointment if he establishes that:

- the appointed deputy state's attorney has not qualified for the appointment;
- the decision has been founded on false data and evidence;

- the deputy state's attorney failed, without any justifiable reason, to take the oath six months after he/she was appointed;
- the appointment was the result of a criminal offense committed by the candidate or the president or a member of the Council."

#### Article 107

(1) Prior to the assumption of office the deputy state's attorney shall take his/her oath of office before the president of the Council or a Council member he/she designates.

(2) The county state's attorney and the municipal state's attorney shall take their oath of office before the State's Attorney General.

(3) The State's Attorney General shall take his/her oath of office before the President of the House of Representatives of the Croatian Parliament.

(4) The oath shall read as follows:

"I hereby swear that while discharging my office I shall observe the Constitution and Acts and protect the integrity and sovereignty and justice system of the Republic of Croatia."

### 4. DISCIPLINARY PROCEEDING

#### *a) Disciplinary proceeding bodies*

#### Article 108

(1) The State's Attorney Council shall decide in the disciplinary proceedings in the first instance by a majority vote of all of its members.

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

#### Article 109

(1) If there is a founded suspicion that the deputy state's attorney has committed an infringement of discipline, the state's attorney where he discharges his/her state's attorney office shall be bound to file a request for the institution of a disciplinary proceeding against him/her.

(2) The request for the institution of the proceeding for the commission of a disciplinary infringement may be filed by the immediately superior state's attorney and the State's Attorney General or the minister competent for justice matters.

(3) The request for the institution of the proceeding before the Council shall be represented by the authorized submitter referred to under Paragraphs 1 and 2 hereof or the person authorized by him/her.

(4) If, before deciding on the institution of the proceeding, some inquiries are to be made, these inquiries shall be made by a deputy state's attorney designated by the president of the Council.

*b) The course of the disciplinary proceeding*

## Article 110

(1) The request for the institution of disciplinary proceedings shall be filed in writing and shall include personal data relating to a deputy state's attorney against whom the disciplinary proceedings are instituted, the description of the disciplinary infringement, the proposal for the imposition of a certain disciplinary punishment and a statement of reasons providing the grounds for the suspicion.

(2) Immediately upon the receipt of the request, the hearing shall be scheduled and the deputy state's attorney and the submitter of the request shall be summoned. The deputy state's attorney against whom the request for the institution of a disciplinary proceeding has been filed shall be notified in the summons that his/her defense attorney may be present at the hearing.

(3) The hearing shall not be public unless the deputy state's attorney against whom the request has been filed demands otherwise.

(4) If following the hearing the Council establishes that there are grounds for suspicion that the disciplinary infringement has been committed, it shall render a decision relating to the institution of disciplinary proceedings. In such a case the Council may request some inquiries to be undertaken by a deputy state's attorney he/she designates.

(5) A separate appeal shall not be permitted against the decision relating to the institution of disciplinary proceedings.

## Article 111

(1) If the authorized submitter has moved in his/her request for the imposition of a disciplinary punishment of dismissal from office, the Council shall without delay decide on the request for a temporary removal from office. The decision on the temporary removal from office shall be in writing including a statement of reasons.

(2) The decision for a temporary removal from office is not subject to an appellate review.

## Article 112

(1) The authorized submitter may amend the request. If the submitter amends the request outside the hearing, the Council shall schedule a hearing within 15 days on receipt of the request. The authorized submitter of the request, the deputy state's attorney and his/her defense counsel shall be summoned to appear at the hearing.

(2) Before the hearing all the evidence that may constitute the grounds for the decision in the disciplinary proceedings shall be excluded from the record.

## Article 113

(1) In the process of rendering a decision relating to a disciplinary responsibility, the deputy state's attorney against whom the proceedings are conducted shall be given the opportunity to defend himself/herself personally or using a defense counsel he/she selects.

(2) Voting and the rendering of the decision on disciplinary responsibility shall be closed to the public. The decision shall be publicly pronounced.

(3) The decision confirming that the deputy state's attorney is disciplinary responsible and whereby a disciplinary punishment is imposed may refer only to a disciplinary offense and a person the submitter of the request designated in his/her request.

(4) The decision must be made and delivered to parties within 15 days following its rendering.

#### Article 114

Against the decision on disciplinary responsibility proceedings before the Administrative Court (*upravni spor*) may be instituted.

#### Article 115

(1) The disciplinary proceedings shall be conducted according to the provisions of the Criminal Procedure Act, unless otherwise determined hereof.

(2) The disciplinary proceedings are not subject to the payment of any charges, and the costs of thereof shall be borne by the state's attorney office where a deputy state's attorney discharges his/her office.

#### *c) The removal from office*

#### Article 116

(1) A deputy state's attorney shall be removed from office if the prosecution has been instituted against him/her for the commission of the criminal offense for which the punishment of imprisonment of over five years is prescribed or while he/she is in detention.

(2) A deputy state's attorney may be removed from office:

1. if the prosecution has been instituted against him/her for the commission of the criminal offense for which the punishment of imprisonment of up to five years is prescribed;
2. if he/she discharges office, work or activity incompatible with the discharge of state's attorney office without a prior approval in writing from the state's attorney;
3. he/she has been sentenced for a criminal offense which makes him unworthy to discharge state's attorney office.

(3) The decision on the removal from office in the case referred to under Paragraph 1 hereof shall be rendered by the State's Attorney General.

(4) The deputy state's attorney may file an objection with the Council against the decision on the removal from office referred to in the previous Paragraph within three days. The Council shall have to render a decision within next 15 days. If the Council fails to render the decision within the term prescribed it shall be considered that the suspension of the discharge of state's attorney office has terminated.

#### *d) Dismissal procedure*

#### Article 117

(1) The request for the dismissal of a deputy state's attorney may be filed by the state's attorney in the state's attorney office where the deputy state's attorney serves, by a superior state's attorney or the State's Attorney General.

(2) The deputy state's attorney may file a request for his/her dismissal from office through the state's attorney whose deputy he/she is.

(3) The request for the dismissal of the deputy state's attorney because he/she has become permanently incapacitated to discharge his/her office may be grounded in a legally effective decision of the court relating to the divesting of disposing capacity or a legally effective decision of a competent body that mental and physical faculties of the deputy state's attorney are such that they incapacitate him/her to discharge his/her state's attorney office. If the deputy state's attorney refuses to undergo the medical tests as required, the State's Attorney Council, at the proposal of the submitter of the request for the dismissal, shall order him/her to undertake appropriate test and if he/she fails to do so shall dismiss him/her from office.

#### Article 118

(1) In the course of the dismissal proceeding, the State's Attorney Council only gathers the evidence or confers that to a designated state's attorney office.

(2) The deputy state's attorney whose dismissal is required shall be given an opportunity to explain himself/herself as to the request, unless he/she himself/herself has filed the request for dismissal.

(3) The decision on the dismissal shall be rendered by a majority of votes of the total number of members of the State's Attorney Council.

(4) The decision on the dismissal shall be issued in writing and shall include the statement of reasons.

(5) The deputy state's attorney may institute proceedings before the Administrative Court against the decision on dismissal.

#### Article 119

If the deputy state's attorney has requested dismissal from office, and the Council fails to render a decision thereof within three months from the date the request was filed, the State's Attorney General shall determine by a decision that the deputy state's attorney terminated to discharge his/her office on the date following three months from the date the request for dismissal was filed.

#### *e) The funds for operation*

#### Article 120

(1) Special funds shall be secured from the State Budget of the Republic of Croatia for the operation of the Council.

(2) The President of the Council shall be the executive authority responsible for the execution of the financial plan relating to the funds referred to under Paragraph 1 hereof.

#### Article 121

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

(2) The decision regarding the conditions and the level of compensation and the fees referred to under Paragraph 1 hereof shall be issued by the Government of the Republic of Croatia.

## Article 122

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

(2) The status, rights, obligations and responsibilities of civil servants and employees employed in the professional staff shall be regulated according to the provisions which apply to civil servants and employees.

(3) Before the establishment of the professional staff of the Council, administrative, technical and accounting tasks shall be executed by the State's Attorney Office of the Republic of Croatia.

**IX. PUBLIC SERVANTS AND EMPLOYEES IN THE STATE'S ATTORNEY OFFICE**

## Article 123

(1) The number of public servants for the performance of expert clerical and technical tasks shall be determined by the state's attorney subject to a prior consent of the minister competent for justice matters.

(2) The employment and the termination of the employment of public servants and employees, their salaries and other rights, obligations and responsibilities relating to work, the qualifications required, the duration and carrying out apprentice practice, the conditions for passing the Bar Exam, the program and the manner of taking this exam, and other related issues shall be regulated according to the regulations which apply to public servants and employees.

*a) The Secretary of the State's Attorney Office*

## Article 124

(1) A state's attorney office, employing more than ten deputy state's attorneys, may have a Secretary. The Secretary in the states' attorney office shall assist the state's attorney in the performance of administrative duties.

(2) Any person holding a degree from a Law school may be appointed Secretary in the state's attorney office.

(3) Any person who has qualified for a senior adviser or an adviser may be appointed Secretary in the State's Attorney General Office of the Republic of Croatia.

*b) Advisers*

## Article 125

(1) A state's attorney office may have advisers and senior advisers.

(2) Advisers shall assist the state's attorney or his/her deputy in work, they shall draft decisions, receive crime reports, briefs and statements of citizens, and execute autonomously or under the supervision and according to the instructions of the state's attorney or his/her deputy other expert tasks provided for by law or the regulations enacted thereon.

(3) Any person who holds a degree from a Law school and who has passed the Bar Exam may be appointed as adviser in the state's attorney office.

(4) Any person who in addition to the requirements referred to under Paragraph 3 hereof has been engaged for a minimum of three years in legal matters in

a court, in a state's attorney office, a practice of law or a notary public office may be appointed as adviser in a county state's attorney office.

(5) Any person who satisfies the requirements for a position of a state's attorney or his/her deputy in a county state's attorney office may be appointed as adviser in the State's Attorney Office of the Republic of Croatia.

(6) Any person who has performed the duties of a judge, a state's attorney or a deputy state's attorney, a practicing attorney or a notary public or who worked as a judicial adviser or an adviser in a state's attorney office for no less than five years may be appointed senior adviser.

*c) Expert Associates*

Article 126

(1) A state's attorney office may employ professionals of different professions holding a college or a university degree and having the working experience required in the field of special education, sociology, teacher training, economy, accounting or finances or any other appropriate field of knowledge.

(2) The expert associates referred to under Paragraph 1 hereof in their capacity shall assist the state's attorney or the deputy state's attorney in their work in the matters requiring expertise and they also may autonomously administer other matters as conferred by law or any other regulation.

*d) The State's Attorney Office Apprentices*

(1) The number of state's attorney office apprentices shall be determined by the state attorney subject to a prior consent of the minister competent for justice matters.

(2) The resources shall be provided from the State Budget of the Republic of Croatia for a determined number of state's attorney office apprentices.

(3) The requirements for the admission of state's attorney office apprentices, the duration and the manner of their apprentice practice as well as the requirements for taking the Bar Exam, the content and format and the manner of taking this exam and other related issues shall be regulated by law.

**X. KEEPING OFFICIAL SECRETS CONFIDENTIAL**

Article 128

(1) State's attorneys, deputy state's attorneys, advisers, expert associates, civil servants and employees shall be bound to keep official secret confidential notwithstanding the manner they have learnt about it.

(2) The following shall be considered specifically considered an official secret:

- everything determined to be an official secret by law or by any other regulation;
- everything determined to be an official or business secret under general acts of juridical persons and other bodies, organizations and institutions;
- the information and documents classified as an official or business secret by the state authorities or legal entities, other bodies, organizations or institutions;

- the information and documents classified as an official secret by the state's attorney or a deputy state's attorney.

(3) The regulations on internal operation of the state's attorney office shall determine which state's attorney related information and documents shall be considered a secret and the manner of how to designate confidentiality.

#### Article 129

(1) The obligation of keeping an official secret confidential shall also continue after the termination of work in a state's attorney office.

(2) A state's attorney may release any deputy state's attorney, civil servant or employee from the obligation to keep an official secret confidential if in a specific case justifiable reasons exist. As regards the state's attorney, the state's attorney of the immediately superior state's attorney office shall decide thereof, and as regards the State's Attorney General – the Government of the Republic of Croatia.

#### Article 130

Press releases through mass media relating to the proceedings in a specific case and also the work of the state's attorney office shall be given by the state's attorney or the deputy state's attorney authorized by him/her.

#### Article 131

(1) A state's attorney, a deputy state's attorney, a civil servant or an employee may not make information accessible to an unauthorized person regarding personal, family or civil law matters of natural persons, or regarding civil law matters of juridical persons that he/she learnt about during the proceedings.

(2) A state's attorney or a deputy state's attorney who substitutes him/her shall make the records of the state's attorney office accessible only to the persons who are entitled to see them either by law or by the Rules on Internal Operation of the State's Attorney Office.

### **XI. THE FUNDS FOR THE OPERATION**

#### *a) The provision of funds*

#### Article 132

(1) The funds for the operation of the state's attorney office shall be provided from the State Budget of the Republic of Croatia.

(2) The amount of funds shall be secured according to the provisions that apply to the provision of funds for the courts.

(3) The funds referred to under Paragraph 2 hereof shall be secured in such an amount to enable a regular execution of all the tasks in the state's attorney office.

#### Article 133

(1) The amount of funds for the operation of the state's attorney office shall be determined on the basis of the request made by the state's attorney for the provision of funds.

(2) The request regarding the provision of funds for the state's attorney shall include an estimate of the workload of regular and temporary tasks, the number of

officials, servants and employees required and other indicators relevant for the determination of the amount of funds required.

#### Article 134

The funds for the salaries of state's attorney, their deputies, servants and employees shall be provided in conformity with law.

#### *b) The Funds for Special Purposes*

#### Article 135

(1) The funds for special purposes shall be as follows:

1. the funds for the work of apprentices;
2. the funds for in-service training of state's attorneys, deputy state's attorneys, civil servants and employees in the state's attorney office;
3. special-purpose funds including:
  - the compensation for the execution of tasks relating to pre-trial criminal proceedings;
  - advances for the costs of a civil procedure and execution of decisions;
  - any other costs relating to the administration of other matters in the state's attorney office.

(2) The conditions and the amount of compensation for the execution of tasks of pre-trial criminal proceedings shall be prescribed by the minister competent for justice matters.

#### *c) Investments*

#### Article 136

The Republic of Croatia shall provide special funds for technical equipment and office space according to the standards relating to state's attorney offices prescribed by the minister competent for justice matters.

#### *d) Financial and Material Operations*

#### Article 137

(1) Financial and material operations in state's attorney offices shall be performed in the manner applied in the state administration bodies.

(2) The same regulations applied to the work of the state administration bodies as regards the provision of funds, shall apply to the work of the state's attorney offices.

## **XII. THE PROTECTION OF PERSONS, ASSETS AND STRUCTURES OF STATE'S ATTORNEY OFFICES**

#### Article 138

(1) The protection and safety of persons, assets and structures of the state's attorney offices and the preservation of public order shall be performed by the police authorities.

(2) Members of the police authorities shall perform the tasks referred to under Paragraph 1 by applying corporal and technical protection and according to the order of a state's attorney having jurisdiction.

(3) Corporal protection implies direct protection and safeguard of persons and assets by direct application of safety measures and coercion.

(4) Technical protection shall be performed by using technical means and facilities in order to prevent illegal actions directed against persons, the structure and assets referred to under Paragraph 1 hereof, and the prevention of bringing in weapons, tools, explosive devices and other dangerous things or the alienation of assets.

### **XIII. TRANSITIONAL AND FINAL PROVISIONS**

#### Article 139

The deputy state's attorneys appointed according to the legislation in effect until this Act comes into force shall continue to exercise their state's attorney duties in the State's Attorney Office where appointed.

#### Article 140

The county and municipal state's attorneys appointed according to the existing provisions shall continue to perform their office until the appointment of county and municipal state's attorneys in accordance with this Act.

#### Article 141

(1) The appointment of state's attorneys according to the provisions of this Act shall be carried out within a period of six months following its coming into force.

(2) A state's attorney not appointed as a state's attorney or who does not apply to the announced vacancy, shall continue to perform the duties of the deputy state attorney in the state's attorney office where he performed the duties of the state's attorney.

#### Article 142

The selection of members of the State's Attorney Council according to the provisions of this Act shall be carried out within 60 days following its coming into force.

#### Article 143

(1) Pending appointment procedures regarding deputy state's attorneys shall be made null and void by this Act coming into force.

(2) Pending disciplinary proceedings shall continue according to the provisions of this Act.

#### Article 144

(1) Until the enactment of the regulations, which according to the provisions of this Act shall be rendered by the minister competent for justice matters, the current provisions of the state's attorney office and the state's solicitor office shall apply if not contrary to this Act.

(2) The regulations which according to this Act shall be rendered by the minister competent for justice matters shall be rendered within a year following its coming into force.

#### Article 145

(1) The State's Solicitor of the Republic of Croatia and the deputy state solicitors of the Republic of Croatia shall continue to discharge their office as deputies of the State's Attorney General upon the date this Act enters into force.

(2) The county state's attorneys and the state's attorneys of the City of Zagreb upon this Act comes into force shall continue to discharge their office as deputies of the of the competent state's attorney in the county state's attorney office.

(3) The deputy state's solicitors of the counties and the City of Zagreb upon this Act comes into force shall continue to discharge their office as deputies of the competent state's attorney in the municipal state's attorney office.

#### Article 146

On the basis of a power of attorney of the state's attorney of the competent state's attorney office, advisers and senior advisers who until this Act comes into force have worked in the state's solicitor office may within two years from the date this Act comes into force represent in civil and administrative matters before courts, administrative and other public bodies.

#### Article 147

(1) The time spent in service as a state's solicitor or a deputy state's solicitor shall become level with the time spent in service as a state's attorney or a deputy state's attorney.

(2) The provision referred to under Article 139 hereof shall apply fully to the officials referred to under Article 145.

(3) The time spent in service in the state's solicitor office, as an adviser or a senior adviser, shall be taken as the time spent in service in the state's attorney office.

#### Article 148

(1) The minister competent for justice matters shall within one year following coming into force of this Act render a decision on the present branch offices of the county state's solicitor offices whose seats are in different locations relative to the seats of competent state's attorney offices which shall assume the officials referred to under Article 145 of this Act.

(2) The number of deputy state's attorneys in single state's attorney offices shall be determined by the minister competent for justice matters at the proposal of the State's Attorney General in compliance with general standards regarding the work of state's attorney offices.

(3) The general standards shall be prescribed by the minister competent for justice matters at the proposal of the State's Attorney General within one year following the coming of this Act into force.

Article 149

(1) The State's Attorney General shall determine the manner and the procedure for the transfer of the records and pending cases of the state's solicitor offices to the competent state's attorney offices.

(2) The state's attorney offices shall assume the cases within their jurisdiction that have not been completed with a legally effective decision, within 6 months from the date this Act comes into force.

(3) Within the term referred to under Paragraph 2 hereof, the provisions of this Act, regarding the jurisdiction of the competent municipal and county state's attorney offices in representing the Republic of Croatia, shall not apply.

Article 150

(1) The cases which have not been completed by a legally effective decision and which according to this Act are not within the jurisdiction of the state's attorney offices, shall be returned to the parties represented, within six months.

(2) The competent state's attorney offices shall be authorized within the period referred to under Paragraph 1 to undertake all the actions relative to these cases involving representation.

Article 151

(1) The state's attorney offices which have assumed the officials referred to under Article 145 of this Act, shall assume the public servants and employees then employed in the state's solicitor offices where from the said officials have been assumed.

(2) The public servants and employees employed as on the date this Act comes into force in the state's solicitor offices and assumed according to Paragraph 1 hereof, may be reassigned to other state's attorney offices in the same town only to a position requiring the qualification they satisfy not later than six months from the day this Act comes into force.

(3) Subject to the consent of a public servant or employee referred to under Paragraph 2 hereof the reassignment may be performed also into the state's attorney office outside the seat of the state's solicitor office where he/she was employed.

(4) The decision regarding the reassignment referred to under Paragraphs 2 and 3 hereof shall be rendered by the state's attorney in the state's attorney office, which assumed the public servant or employee, subject to the consent of the state's attorney in the state's attorney office to which he/she has been assigned.

(5) If the public servant or employee fails to observe the decision on the reassignment his/her employment shall terminate within six months.

Article 152

The state's attorney offices, which according to this Act have assumed officials, public servants and employees from the state's solicitor offices, referred to under Articles 145 and 151 hereof, shall assume the entire assets of the state's solicitor offices.

Article 153

On the date this Act comes into force the Act on the State's Attorney Office (Narodne novine, No. 75/95, 36/98) and the Act on the State's Solicitor Office (Narodne novine, No. 75/95) shall cease to be valid.

Article 154

This Act shall come into force on the eighth day following its publication in "Narodne novine".

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