

Please note that the translation provided below is only provisional translation and therefore does NOT represent an official document of the Republic of Croatia. It confers no rights and imposes no obligations separate from those conferred or imposed by the legislation formally adopted and published in Croatian language.

Please note that this translation is a final text version published in the Official Gazette no. 163/2003.

Witness Protection Act

1. Introduction

Article 1

This Act regulates the terms and procedures for providing protection and assistance to endangered persons, exposed to severe danger for life, health, corporal inviolability, freedom or property of large scale arising from witnessing in criminal proceedings for criminal offences anticipated in this Act.

Inclusion of endangered person into the Protection scheme is voluntary.

Application of measures from this Act in connection with the endangered minors may not be undertaken without approval of parents or trustee. Concerning the persons with restricted capacity or legally incapacitated persons, such approval is granted by the person authorized to represent the endangered person in accordance with the law or by the trustee.

Article 2

Certain expressions used in this Act have the following meanings:

1. **Endangered person:** a person whose inclusion into the Protection scheme is justified due to possibility of life, health, corporal inviolability, freedom or property endangering of large scale to herself or to persons related to him, because of importance of information known to him for the criminal proceeding.

2. **Close person:** is a household member to endangered person as well as any other member designated by him to be included into the Protection scheme.

3. **Included person:** a person having concluded the contract to be included into the Protection scheme.

4. **Protection unit** is a separate organizational unit within the Police Administration, Ministry of Interior in charge of Protection scheme execution.

5. **Protection scheme:** consists of measures and activities executed and organized by the Protection unit and competent body for prison administration of the ministry competent

for justice affairs in accordance with provisions of this Act in order to protect the included persons.

6. **Board:** is a body prescribed by this Act, authorized to bring decisions on inclusion and interruption of Protection scheme execution as well as other activities prescribed by this Act.

Article 3

Application of this Act is possible when there exists a possibility that a witness, due to a possible threat, would not freely testify in a criminal proceeding for grievous crimes; against the Republic of Croatia; against values protected by international law; crimes with elements of violence; organized crime and other grievous criminal offences when there were information about large scale dangers for life, health, corporal inviolability or property of the witness, while the witnessing is connected with disproportional difficulties without witnessing of endangered witness.

2. Board

Article 4

The Board consists of five members.

Board is made up by a representative of the Supreme Court of the Republic of Croatia out of the Supreme Court judges, State Attorney General's Office of the Republic of Croatia out of deputies of the State Attorney General, Ministry of Interior – Police Directorate and the Head of Protection unit.

Members of the Board have their deputies.

Members of the Board and their deputies are nominated and acquitted by the head of a body wherefrom such a Board member, i.e. deputy Board member originates from. The Head of Protection Unit is a Board member by his function, while his deputy is nominated, upon his proposal, by the Minister of Interior.

Article 5

Members of the Board, except the Head of Protection Unit, and their deputies are nominated for the period of five years and may be re-nominated.

Exceptionally after the first election, elapsing the three year period, re-election of the Board members and their deputies from the Supreme Court and State Attorney's Office will be made.

Article 6

Membership to the Board will terminate:

1. By termination of service in the body wherefrom the member or deputy member was nominated.
2. With good reasons upon request of the member or a deputy member.
3. Due to breach of the Board operation regulations.

Decision on termination of membership in the Board is brought by the Head of the body which nominated the board member or deputy member ex officio for the reasons mentioned in paragraph 1 item 1 of this Article, upon proposal of the member or deputy Board member for the reasons mentioned in paragraph 1, item 2 of this Article and upon proposal of the Board for the reasons mentioned in paragraph 1, item 3 of this Article.

Article 7

President of the Board is in charge of the Board. By his function the Board President is a Board member coming as a judge from the Supreme Court of the Republic of Croatia. In case of his disability, his deputy will be replacing him.

Board operations are secret.

The Board adopts a rulebook on its operations.

Article 8

The Board brings decisions on its sessions.

The Board can bring decision only providing at least four members or their deputies were present at the session.

Consent of four Board members is mandatory to bring a decision on application and termination of measures, while the other decisions are brought by majority of votes.

3. Procedure and method of approach

Article 9

Upon proposal of the competent state attorney or endangered person, State Attorney General may submit request to the Board to include the endangered person into the Protection scheme, in case that the free testimony of a witness in a criminal proceeding could not be assured in any other way.

In case that even after the lapse of the Scheme period designated in the contract a need for protection of included person continues to exist, the State Attorney General will submit request to the Board for continuation of the Scheme period.

Article 10

Simultaneously to the submission of request from Article 9, paragraph 1 of this Act, the State Attorney General will inform the Protection Unit in order to undertake urgent measures.

Before undertaking urgent measures, the Unit Head will obtain a written consent of the endangered person.

The Unit Head will immediately inform the Board President and the State Attorney General about the actions undertaken.

Article 11

Proposal of the competent state attorney to the State Attorney General must include:

1. data about the person proposed for inclusion into the protection scheme,
2. description of criminal offence and evaluation of existing evidences,
3. contents of possible testimony with evaluation of its importance for the proceeding,
4. description and evaluation of danger threatening the endangered person.

In case the endangered person submitted proposal for submission of request directly to the State Attorney General, before bringing his decision the State Attorney General will request the competent state attorney to submit to him the data from paragraph 1 of this Article.

The request for prolongation of the Scheme period must include the data from paragraph 1, item 4 of this Article.

Article 12

The proceeding judge submits proposal for inclusion of endangered person into the Protection scheme to the State Attorney General. Before submission of request to the Board, the State Attorney General will obtain the data from Article 11, paragraph 1 of this Act.

Article 13

Upon receipt of the request, President of the Board will convene the Board session immediately, but in any case within three days at latest.

In case the implementation of urgent measures is under way, they may last until the Board decision.

Article 14

After consideration, the Board will bring decision on inclusion of the person into the protection scheme and inform the State Attorney General and Protection Unit about such decision.

In case the request was accepted, the Board will authorize the Protection Unit to enter into contract with the endangered person.

4. Types of protection measures

Article 15

Protection measures for endangered persons are as follows:

1. physical protection
2. relocation
3. measures of disguising identity and ownership
4. change of identity.

It is possible to apply one or more measures from paragraph 1 of this Article in procedures of providing protection to endangered persons.

Protection measures from paragraph 1 of this Article are carried out and organized by the Protection unit, while in case of persons deprived of liberty in cooperation with the Prison system administration of the ministry in charge of justice affairs.

Article 16

Physical protection from Article 15, paragraph 1, item 1 of this Act is an immediate providing of protection in order to prevent endangering of life, health, corporal inviolability, freedom or property of endangered person.

Article 17

Relocation of endangered person from Article 15, paragraph 1, item 2 of this Act is a temporary or permanent resettling from the place of residence or domicile of endangered person to another location designated by the Protection Unit. Relocation is possible on the territory of Republic of Croatia or outside the territory of Republic of Croatia, in accordance with international treaties.

Regarding the endangered persons – prisoners on remand or prisoners, the relocation measure is applied within the prison system of the Republic of Croatia.

Article 18

Measure of disguising identity comprises the production and use of personal documents with temporary changed personal data, as well as production and use of title deeds of endangered persons.

Measures of disguising identity and ownership do not have as consequence the permanent change of personal data and data about ownership in the appropriate records.

Article 19

Change of identity from Article 15, paragraph 1, item 4 of this Act is a change of parts or all personal data of endangered person. Approval of the Board is necessary in order to apply this measure.

Acquisition of new identity has no impact on status and other rights and obligations of endangered person.

After change of identity, the Unit allows and supervises the approach to real identity.

Article 20

All the contacts of included person concerning his status and other rights and obligations are to be realized through the Unit.

Article 21

Measures from Article 15, paragraph 1, item 1, 2 and 3 may be applied as urgent measures pursuant to Article 10, paragraph 2 of this Act.

5. Application of measure disguising and changing of identity

Article 22

Endangered person may not use the documents from Article 18, paragraph 1 of this Act when concluding legal transactions that might have impacts on the third parties. In such cases the endangered person may, upon consent of the Unit, nominate a proxy who will conclude legal transactions on his behalf.

Article 23

In case the security of endangered person cannot be secured by application of measures from Article 15, paragraph 1, item 1-3 of this Act, the measure of change of identity may exceptionally be applied, upon approval of the Board.

The included person may not get his original identity in case the change of identity had a significant impact on status of the third person (marriage, fatherhood, motherhood etc).

Article 24

In case the change of identity measure has been approved, the Unit will invite the endangered person to fulfill his due obligations to the third parties.

In case the included person has not fulfilled his obligations mentioned in paragraph 1 of this Article, the change of identity measures will not be applied until such obligations were fulfilled.

Upon request of the Unit and based on the data provided by it, the competent bodies will issue the new necessary identity documents for the endangered persons within 15 days at latest.

Simultaneously, the competent bodies for issuance of personal documents and keeping of other records will enter the remark into the records that the Protection Unit must be informed about any further inquiries concerning the real identity.

The Unit will take over and safe-keep all the documents about real identity of the included person.

Article 25

In case the competent bodies for issuance of documents and keeping of other records find out that the changes in records would be contrary to the protection of common interest, they will inform the Unit accordingly, which will pass over these data to the Board.

Article 26

In order to fulfill his rights and obligations which have not terminated after the change of identity, the included person can nominate a proxy to represent him.

Change of identity may concern all the personal data of endangered person. Personal data entered into the new identity documents may not be identical to similar data of another person.

After the expiry of this measure, the included person will decide on the issue of preserving the new identity.

In case that, after change of identity, the Unit learns about an obligation arisen before, at the time the included person had its real identity but the included person had no knowledge about it, the Unit will invite the included person to fulfill such an obligation through the Unit. In case the included person cannot or does not wish to fulfill his obligation, the Unit will request the Board to bring decision on termination of measure implementation.

Article 27

In case of persecution for the criminal offence the included person committed before change of identity, the Unit will ensure his presence at the court upon the court request.

In case of persecution for the criminal offence the included person committed after change of identity, the Unit will inform the State Attorney General and the Board.

The included person participates in criminal proceedings for criminal offences committed before inclusion into the Scheme with his real identity.

In case the included person has been invited as a witness in the criminal proceedings for criminal offences committed before inclusion into the Scheme, the summon will be delivered to him through the Unit, which will ensure the included person's arrival at the court.

Article 28

With approval of the Unit and in accordance with security instructions, the included person may participate in official proceedings where the use of original personal data is inevitable using his original personal data.

Article 29

In case it determines that the security of included person can be ensured by implementation of any other measure described in Article 15, paragraph 1, items 1-3 of this Act, except in case described in paragraph 4 Article 23, the Unit can suggest to the Board, with prior approval of the included person, to terminate the measure of change of identity.

Article 30

Upon request of the Protection Unit, the administrative bodies and legal entities keeping records on civil status, data and registers about personal data, status and other rights of the citizens, as well as other records wherefrom the data about identity and residence of a person could be determined, will refuse to supply such data to any body or person. In case of a quest for such data, the competent body or legal entity will inform the Unit about it without delay.

The data from paragraph 1 of this Article could be supplied only upon approval of the Protection Unit.

Article 31

Production and use of documents utilized in accordance with this Act, in order to realize the measures disguising and changing of identity, is not a criminal offence.

6. Protection Unit

Article 32

Protection Unit carries out and organizes the Protection scheme, carries out and organizes urgent measures and performs all other duties connected to protection of endangered persons, unless this Act provides to the contrary. Protection Unit is responsible for implementation of the Protection scheme.

Protection Unit decides independently on types of measures to be implemented, save for change of identity measure (Article 15, paragraph 1, item 4 of this Act), while in connection with the persons deprived of liberty in cooperation with the competent body responsible for jail system management at the ministry competent for justice affairs.

The federal government bodies, government bodies, regional and local self-government bodies and other legal entities performing public authorities are obliged to provide assistance to the Protection Unit and, upon request of the Protection Unit, perform necessary activities from their competence in order to implement the measures from this Act, without any remuneration.

Article 33

In case the measures from Article 15, paragraph 1, item 1-4 of this Act cannot be carried out otherwise, in performing of activities from its competence the Unit may disguise the real identity of its employees as well as disguise ownership on articles used to perform certain measures.

7. Provision of assistance to a person included into the scheme

Article 34

The Unit will provide necessary psychical, social and legal assistance to the included person.

In order to assist the inclusion of included person into the new environment, the Unit will assist such a person providing economic and social support until the moment of his independence.

Economic and social support provided to the endangered person may not be higher than the sum necessary to cover costs of living and inclusion into the new existential environment and may not represent the basis for acquisition of wealth.

8. Accession to the program and the contract

Article 35

In the course of implementation of urgent measures, the Protection Unit will request from the endangered person to file the questionnaire on personal data, property conditions, obligations, cycle of close persons as well as on other data in accordance with the form enclosed to this Act, and to submit to medical examination.

Article 36

On basis of the gathered data, the Protection Unit will make recommendation on endangered person suitability for accession to protection, recommendation for accession of close person to the Protection scheme, as well as its opinion on the type of measure to be implemented, advising the Board about it accordingly.

Article 37

On basis of authorities from Article 14, paragraph 2 of this Act, the Protection Unit Head will enter into contract with the endangered person and his close person on implementation of the protection scheme.

The Protection scheme will commence upon entering into contract.

Article 38

The Contract is made in a single copy, which is kept with the Protection Unit and during the Protection scheme period is accessible only to the Board.

The Contract must contain;

1. the Parties to the Contract,
2. Statement of endangered person about voluntary accession to the Protection scheme as well as his statement that the data from the questionnaire are true and that in case of their falseness the Contract could be rescinded,
3. Obligations of endangered person;
 - to give full testimony in exactly specified procedure or procedures which is substantially in accordance with contents of the statement used as basis for accession into the program (Article 11, paragraph 1, item 3 of this Act),
 - to conform to instructions of the Unit, which are the precondition for successful realization of security and protection of endangered person,
 - to agree without specific court decision, for the purpose of protection, to surveillance and technical recording of long-range communication means, surveillance and technical recording of the premises where he resides and to the secret monitoring and recording;
 - to achieve financial independence until the expiration of the agreement,
 - to inform the Unit without delay about any change of circumstances having impact on realization of the protection scheme target,
4. Obligations to the included person;
 - to realize contracted protection measures with only essential restrictions to his personal freedom and rights,
 - to provide to him the necessary psychological, social and legal assistance during the Protection scheme,
 - time span and scope of essential economic assistance.
5. Duration of Scheme implementation and reasons for cancellation of the contract,
6. a clause that the contract was made in a single copy, which is kept with the Protection Unit, with the statement of endangered person to have understood the contents of the contract and to have been informed about the mutual rights and obligations.
7. Date and signature of the parties.

Article 39

On behalf of minors and legally incapacitated endangered persons, parent or legally authorized person will conclude the Contract.

9. Termination and interruption of the Protection scheme

Article 40

The Protection scheme of included person will terminate:

1. at expiry of the contract
2. by death of included person
3. in case the included person, its trustee or legal representative gives up the protection;
4. in case the Board brings decision on interruption of the Protection scheme.

Article 41

Upon proposal of the State Attorney General or the Protection Unit, the Board may bring decision on interruption of the included person Protection scheme;

1. in case there are no further conditions justifying the protection;
2. in case the included person does not fulfill contractual obligations related to the criminal proceeding;
3. in case that, in the course of protection, a criminal proceeding has been brought against the included person for committed crime,
4. in case that the included person deviates from the rules of behavior mentioned in the agreement or given by the Unit without a valid reason or breaches the obligation to inform the Unit and in such a way severely jeopardize or renders the protection impossible;
5. in case that the included person turns down employment possibility ensured by the Unit or rejects to continue other activity for making income without a reason;
6. in case a foreign country requests termination of protection of the included person which has been relocated to its territory;
7. in case the included person gives false data (Article 35 of this Act).

10. International cooperation

Article 42

International cooperation is realized on basis of assumed rights and obligations from international treaties signed by the Republic of Croatia.

International treaties may provide for relocation of endangered person outside the territory of the Republic of Croatia or reception to the territory of the Republic of Croatia.

11. Records and data protection

Article 43

During the Protection scheme implementation the Protection Unit keeps the following records:

1. on the personal data of the person which entered the Scheme, his residence and information related to the change of identity as well as on all other data arisen in the course of implementation of this Act
2. on the data from the questionnaire,
3. on concluded contracts .
4. on endangered persons included into the scheme on basis of international treaties.

Article 44

All the data about the Board activities, data from the records as well as other data arisen in connection with the implementation of this Act are considered as official secret, with the highest level of classification "Very classified".

According to Article 8, paragraph 8 of this Act the Board can bring decision on declassification.

12. Financing

Article 45

The funds for implementation of this Act are secured as a special separate budget item in the Budget of the Republic of Croatia.

The Unit Head manages the funds. The Unit Head is authorized to enter the payment legal affairs in order to implement the measures from this Act. He reports semi-annually to the Minister of Interior and to the Board about the utilization of funds.

Article 46

Members of the Board and their deputies are entitled to a separate remuneration for their work. The amount of remuneration will be determined by the Government of the Republic of Croatia.

13. Transitional and closing provision

Article 47

Within the period of 30 days after this Act has become effective, the Ministry of Interior will bring the decision on establishment of the Protection Unit, nominate its Head and

perform the necessary changes of regulations on internal order.

The Minister of Interior will bring the by-law regulations on the way of protection scheme implementation in accordance with this Act within the period of 45 days after this Act has become effective.

Article 48

The minister competent for justice affairs will bring the by-law regulations on the way of protection scheme implementation within the jail system within the period of 45 days after this Act has become effective.

Article 49

The competent ministries have to bring the implementation regulations connected to Article 24 of this Act within the period of 45 days after this Act has become effective.

Article 50

The Board has to be constituted within the period of 45 days after this Act has become effective. Within the additional period of 30 days it has to bring the rule-book on its operations.

Article 51

This Act becomes effective within the period of eight days after its publication in the Official Gazette, while its application will start six months after the day of publication.

Article 52

This Law comes into force on January 1, 2004.