DEUTSCHE STIFTUNG FÜR INTERNATIONALE RECHTLICHE ZUSAMMENARBEIT E.V.

EU-projekt: Podrška Pravosudnoj akademiji: Razvoj sustava obuke za buduće suce i državne odvjetnike

EU-project: Support to the Judicial Academy: Developing a training system for future judges and prosecutors

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CRIMINAL PROCEDURE CODE 2009

Zakon o kaznenom postupku

NN 152/08
NN 76/09

Last check / zadnja provjera: 3 July 2009

Part one
GENERAL PROVISIONS

Chapter I
PRELIMINARY PROVISIONS

Article 1

(1) This Act establishes the rules which guarantee that an innocent person shall not be convicted and that a punishment or some other measure shall be imposed on the person who commits a criminal offence, under the conditions stipulated by law and in lawful proceedings before the competent court.
(2) Before the judgement becomes final, the freedom and other rights of the defendant may be restricted only under the conditions stipulated by this Act, commensurate with the

severity of the criminal offence, the suspicion degree and the severity of endangering or damaging protected property.
(3) Under the conditions stipulated in this and other acts, actions may be undertaken in order to disclose the perpetrator of the criminal offence.

Article 2
(1) Criminal proceedings shall be conducted upon the request of the authorized prosecutor.
(2) In cases involving offences subject to public prosecution, the authorized prosecutor shall be the State Attorney, and in cases involving offences subject to private charge, the authorized prosecutor shall be a private prosecutor.
(3) Unless otherwise prescribed by this Act, the State Attorney shall be bound to institute the prosecution when there is reasonable suspicion that a certain person committed a criminal offence which is subject to public prosecution and when there are no legal obstacles to the prosecution of that person.
(4) For criminal offences regulated by law, the State Attorney shall institute the prosecution only upon the motion of the injured person (Article 197).
(5) The criminal prosecution shall commence upon the entry of the crime report into the crime report register (Article 205 paragraph 4) or upon any action or measure limiting personal rights and freedoms undertaken by the competent authority, and shall be aimed at clarifying a suspicion that a particular person committed a criminal offence. The criminal prosecution shall end when the State Attorney or any other authorized prosecutor desists from the prosecution or by the court’s decision.
(6) If the State Attorney determines that there are no grounds for the institution or conducting of a criminal prosecution, his role may be assumed by the injured person acting as subsidiary prosecutor under the conditions stipulated by this Act.

Article 3
(1) A person is innocent and no one may hold him culpable of a criminal offence until the culpability is established by a final judgement.
(2) Doubt regarding the existence of the facts which constitute the elements of the definition of the criminal offence, or which are conditions for the implementation of the criminal law, shall be decided by the court in a manner which is more favourable for the defendant.

Article 4
(1) The court shall ensure equal possibilities for establishing evidence at the hearing to the party and the defence counsel pursuant to this Act.
(2) The court and state authorities participating in criminal proceedings shall with equal solicitude examine and determine facts tending to incriminate the defendant, as well as those favourable to him.
(3) The State Attorney's office, the investigator and the police authority shall explicate the suspicion of a criminal offence, for which the public prosecution is undertaken, independently and without bias. These authorities shall be bound to collect data on the guilt and innocence of the defendant with equal solicitude.

Article 5
(1) The defendant shall have the right to defend himself in person or be assisted by a defence counsel of his own choice retained from the ranks of the Bar. Subject to the provisions of this Act, if the defendant does not retain a defence counsel, in order to

provide for his defence, a defence counsel shall be appointed to the defendant.
(2) Under the conditions stipulated by this Act, if the defendant has insufficient means to retain a defence counsel, the defence counsel shall be appointed to the defendant at his request and paid from the budget funds.
(3) The court or other authorities participating in criminal proceedings shall inform the defendant of his right to a defence counsel and to unimpeded communication with the defence counsel before the interrogation.
(4) The defendant must be accorded adequate time and opportunity to prepare his defence.

Article 6

(1) In the proceedings regulated by this Act, discrimination based on race, ethnic affiliation , colour of skin, gender, language, religion, political or other opinion, national or social origin, income, union membership, education, social position, marital or family status, age, health condition, disability, genetic origin, birth, expression or sexual orientation shall be forbidden.

(2) It is forbidden to apply any medical intervention on the defendant, witness or any other person, or to give them such medication which may influence their will when giving their statement, or to use force, threat or other similar means.

(3) The statement obtained contrary to paragraphs 1 and 2 of this Article may not be used as evidence in the proceedings.

Article 7

(1) Every person against whom measures of limiting personal freedom or other forced measures have been undertaken shall have the right, in accordance with the law, to be heard before the court or other competent state authority, informed of the reasons for undertaking the measure, and informed of the rights in the proceedings.
(2) A person arrested under suspicion of having committed a criminal offence shall be promptly informed of:
1) the reasons for his arrest in a way that he can understand,
2) that he is under no obligation to testify,
3) that he is entitled to legal assistance of a defence counsel of his own choice,
4) that the competent authority shall upon his request inform his family or another person designated by the defendant that he is under arrest.

Article 8

(1) The Croatian language and the Latin script shall be used in criminal proceedings, unless the law prescribes another language or script for certain areas.
(2) The parties, witnesses and other procedural participants shall have the right to use their own language. If proceedings are not carried out in their language, the interpretation of statements and the translation of documents and other written evidence shall be provided. The interpretation and translation shall be carried out by an interpreter.
(3) The person referred to in paragraph 2 of this Article shall be informed of his right to an interpreter and translator before the first interrogation takes place, and he may waive this right if he speaks the language in which the proceedings are conducted. The court shall enter into the record that such information was given and shall record the person's response.
(4) Decisions and letters (summons and other legal briefs) shall be submitted by the authority conducting the proceedings in the Croatian language and in Latin script.

Accusatory pleadings, appeals and other briefs shall be submitted to the court in the Croatian language and in Latin script. If another language or script for official usage in certain areas within the jurisdictional territory of the courts is prescribed under law, briefs may be submitted to the court in this language or script as well. After the commencement of the trial, the person who submitted the brief may not revoke his decision on the language he is going to use in proceedings without the approval of the court.
(5) An arrested person, a defendant in pre-trial detention or investigative detention or a person serving a sentence shall receive a translation of a decision, letters and summonses in the language used by this person during the proceedings.
(6) An alien deprived of freedom may submit briefs to the court in his language during the trial, and before and after the trial only under the condition of reciprocity.

Article 9

(1) The right of the court and state authorities participating in criminal proceedings to assess the existence or non-existence of facts shall not be bound or restricted by special formal rules of evidence.
(2) The court and other state authorities shall be bound to clearly state the reasons for the decisions they make.

Article 10

(1) The court decisions may not be founded on evidence obtained in an illegal way (illegal evidence).
(2) Illegal evidence is evidence:
1) obtained in a way representing a violation of the prohibition of torture, cruel or inhuman treatment guaranteed by the Constitution, domestic law or international law;
2) obtained in a way representing a violation of fundamental human rights to defence, dignity, reputation, honour and inviolability of private and family life, guaranteed by the Constitution, domestic law and international law,
3) obtained in a way representing a violation of criminal procedure provisions expressly provided in this Act;
4) obtained through illegal evidence.
(3) Evidence obtained in violation of the rights and freedoms referred to in paragraph 2, item 2 of this Article shall not be deemed illegal:
1) by an action whose illegality is excluded pursuant to the Penal Code;
2) in proceedings for severe forms of criminal offences in regular criminal proceedings where the violation of the rights, with regard to its force and nature, is significantly lesser with regard to the severity of the criminal offence.
(4) The court decision may not be founded exclusively on evidence referred to in paragraph 3 item 2 of this Article.

Article 11

(1) The defendant shall have the right to be brought before the competent court to decide on the charges in the shortest possible time. The duration of investigative detention or other measures of depriving or limiting freedom of the defendant shall be limited to the shortest time necessary.
(2) The proceedings shall be conducted without delay and the court and other state authorities shall be bound to prevent any abuse of the rights of the procedural participants. In proceedings in which the defendant has temporarily been deprived of freedom, the court and state authorities shall proceed with special expedition.

(3) The party, the defence counsel, the injured person, the legal representative or the legal guardian who in criminal proceedings apparently abuse a right under this Act with their action shall be denied the right to the action in question by a ruling of the court. An appeal shall not stay the execution of the ruling.
(4) If, in case of paragraph 3 of this Article, the defendant remained without a defence counsel, the president of the court shall, upon the request of the authority conducting the proceedings, assign a defence counsel to the defendant by virtue of the office.

Article 12

(1) No one shall be criminally prosecuted again for an offence for which he has already been tried for and for which a final judgement was pronounced.
(2) Criminal proceedings against a person who was acquitted by a final judgement may not be reopened.

Article 13

Unless otherwise stipulated by this Act (Article 544 paragraph 2), regarding the judicial remedy stated only on behalf of the defendant, the judgement may not be changed to his detriment.

Article 14

A person who was unjustifiably convicted or arrested shall be entitled to full rehabilitation, compensation from budget funds, and other rights established by law.

Article 15

The court or other authority conducting the proceedings shall inform the defendant or other procedural participant, who is likely to omit to perform an action or fail to exercise his rights due to ignorance, of the rights to which he is entitled according to this Act as well as about the consequences of omission.

Article 16

(1) The victim and the injured person shall have the rights in criminal proceedings pursuant to this Act.
(2) The police, the investigator, the State Attorney and the court shall act with special regard towards a victim of a criminal offence. These authorities shall instruct the victim pursuant to paragraph 3 of this Article and Article 43 to 46 of this Act and take care of the interests of the victim when making decisions on undertaking criminal proceedings against the defendant, or when taking actions in criminal proceedings in which the victim has to participate in person.
(3) A victim who suffers from severe psychophysical injury or severe consequences of a criminal offence shall have the right to use expert help of a free adviser pursuant to law..
(4) A victim of a severe criminal offence of violence shall have the right to damages from the state budget funds. The funds shall be collected from fines and confiscated pecuniary gains acquired by criminal offences in a special fund.
(5) A person may participate in criminal proceedings as an injured person under the conditions stipulated by this Act.
(6) The State Attorney and the court are bound in every stage of proceedings to examine if there is a possibility for a settlement between the defendant and the injured person regarding the damage caused by the criminal offence and, with the explicit consent of the injured person, to this end refer them to a psychosocial counselling centre of the authorized natural person or legal entity. The counselling centre must submit a report to

the competent state authority within six months.

Article 17

(1) The criminal proceedings shall commence:
1) by confirming the indictment;
2) by scheduling a trial on the basis of a private charge;
3) by pronouncing a judgement on issuing a criminal order (Article 541 paragraph 1).
(2) When it is stipulated that the commencement of criminal proceedings has as a consequence a limitation of certain rights, these consequences, unless otherwise provided by law, come into effect by confirming the indictment, whereas in criminal offences the main punishment of which is a fine or imprisonment up to five years they come into effect from the day when the condemning sentence was pronounced.

Article 18

(1) Where the application of criminal law depends on a prior decision concerning a question of law which falls within the jurisdiction of a court in some other type of proceedings or within the jurisdiction of some other state authority, the criminal court may decide on this question by applying the provisions regulating the evidence process in criminal proceedings. The decision on this question of law rendered by a criminal court shall affect only the case which is being tried before this court.
(2) If such prior question has already been decided by a court in some other type of proceedings or by another state authority, such a decision shall not be binding on the criminal court in deciding on whether a criminal offence has been committed.
(3) If the court conducting the proceedings deems that a decision of the European Court regarding the application or interpretation of regulations and measures of the European Union is necessary for the decision on the question from paragraph 1 of this Article, it shall withhold the proceedings and submit a request to the European Court to reach the decision.

Chapter II
JURISDICTION OF COURTS

1. Subject Matter Jurisdiction and Court Composition

Article 19

Subject matter jurisdiction and court composition shall be regulated by a special act.

2. Territorial Jurisdiction

Article 20

(1) As a rule, the court within whose territory the offence is committed or attempted shall have jurisdiction.
(2) A private charge may also be filed with the court within whose territory the defendant has domicile or residence.
(3) If the offence is committed or attempted within the territory of several courts or on their border, or if it is uncertain within which territory the offence has been committed or attempted, the court which upon the request of the authorized prosecutor has first

instituted proceedings shall have jurisdiction, and if proceedings have not yet been instituted, the court to which the request for institution of proceedings was first submitted shall have jurisdiction.
(4) Jurisdiction over the proceedings for the execution of the sentence shall be regulated by a special act.
(5) If the offence is committed on a domestic ship or aircraft while it is in a home port or airport, the court within whose territory this port or airport is located shall have jurisdiction. In all other cases where an offence has been committed on a domestic ship or aircraft, the court within whose territory the home port or home airport of the ship or aircraft is located or within whose territory a home port or airport which the ship or aircraft first reaches is located shall have jurisdiction.
(6) If the offence is committed at sea, where the Republic of Croatia has sovereign rights, the court which first instituted proceedings upon the request of the authorized prosecutor shall have jurisdiction.

Article 21
(1) If the offence is committed through the press, the court within whose territory the paper is printed shall have jurisdiction. If this location is unknown or if the paper was printed abroad, the court within whose territory the printed paper is distributed shall have jurisdiction.
(2) If according to law the compiler of the paper is responsible, the court within whose territory the compiler has domicile or the court within whose territory the event to which the paper refers took place shall have jurisdiction.
(3) The provisions of paragraph 1 of this Article shall also apply respectively to cases where the paper or statement was distributed via electronic media.

Article 22
(1) If the place of the commission of an offence is unknown or if this place is not on the territory of the Republic of Croatia, the court within whose territory the defendant's domicile or residence is located shall have jurisdiction.
(2) If proceedings are already pending in the court of the defendant's domicile or residence when the place of commission has been determined, this court shall retain its jurisdiction.
(3) If neither the place of the commission of the offence nor the domicile or residence of the defendant is known, or if both are outside the territory of the Republic of Croatia, the court within whose territory the defendant is apprehended or turns himself in shall have jurisdiction.

Article 23
If a person commits offences both in the Republic of Croatia and abroad, the court which has jurisdiction over the offence committed in the Republic of Croatia shall have jurisdiction.

Article 24
If according to the provisions of this Act it cannot be established which court has territorial jurisdiction, the Supreme Court of the Republic of Croatia shall designate one of the courts with subject matter jurisdiction to conduct proceedings.

3. Joinder and Severance of Cases

Article 25

(1) As a rule, joint criminal proceedings shall be conducted:
1) when one person is accused of committing several criminal offences;
2) when several persons are accused of committing one criminal offence;
3) against perpetrators, accomplices, accessories after the fact, persons who helped the perpetrator after having committed the criminal offence and persons who failed to report preparation of the offence, the commission of the criminal offence or the perpetrator;
4) when the injured person at the time of the commission of the offence has perpetrated a criminal offence against the defendant.
(2) Joint proceedings may also be conducted when several persons are charged with several offences, provided that the offences are interconnected and that evidence is common.
(3) If some of the offences from paragraphs 1 and 2 of this Article are subject to the jurisdiction of a lower court and some to that of a higher court, the higher court shall have jurisdiction over the joint proceedings. If the courts having jurisdiction are at the same level, the court which upon the request of an authorized prosecutor has first instituted proceedings shall have jurisdiction, and if the proceedings have not yet been instituted, the court to which the request for commencement of proceedings was first submitted.
(4) A joinder of proceedings shall be decided by the court having jurisdiction to conduct the joint proceedings. Rulings ordering the joinder of proceedings or rejecting a motion for joinder of proceedings are not subject to appellate review.

Article 26

(1) Until any time up to the closing of the trial, the court having jurisdiction in accordance with Article 25 of this Act may for important reasons or for reasons of efficiency order the severance of joint proceedings conducted for several offences or against several defendants, and thereupon proceed separately, or refer separate cases to another court having jurisdiction.
(2) Rulings on severance of proceedings shall be rendered by the court upon hearing a statement of the present State Attorney and the defendant.
(3) Rulings ordering the severance of proceedings or rejecting a motion for severance are not subject to appellate review.

4. Transfer of Jurisdiction

Article 27

If a court having jurisdiction is prevented from conducting proceedings due to legal or factual reasons, it shall inform the immediately superior court thereof which shall, after having heard opinion from the State Attorney on the action in the matter or on undertaking certain procedural actions, designate another court with subject matter jurisdiction which is located within its jurisdictional territory to conduct proceedings. Rulings on transfer are not subject to appellate review.

Article 28

(1) The immediately superior court may within its jurisdictional territory designate another court having subject matter jurisdiction to conduct the proceedings or to

undertake certain procedural actions if it is evident that the proceedings will be facilitated or if there are other important reasons.
(2) The court shall render a ruling from paragraph 1 of this Article upon the motion of the investigating judge, single judge or the president of the panel, or upon the motion of any of the parties to the case.
(3) Upon the motion of the Attorney General of the Republic of Croatia, the Supreme Court of the Republic of Croatia may determine that in an individual case under the jurisdiction of a municipal court, a county court shall have subject matter jurisdiction, if particularly important reasons exist.
(4) Rulings from paragraph 1 and 2 of this Article are not subject to appellate review.

5. Consequences of Lack of Jurisdiction and Jurisdictional Dispute

Article 29

(1) The court shall be bound to examine its subject matter and territorial jurisdiction, and as soon as it determines a lack thereof, shall declare itself incompetent and, after the ruling becomes final, shall refer the case to the court having jurisdiction.
(2) If, pending trial, the court determines that a lower court has jurisdiction to conduct the proceedings, it shall not refer the case to a lower court, but shall carry out the proceedings and render judgment.
(3) After the indictment is confirmed, the court may not declare itself territorially incompetent nor may the parties raise the objection of territorial incompetence.
(4) The court lacking jurisdiction shall undertake such procedural actions for which there is a risk of delay.

Article 30

(1) If the court to which the case has been referred as the court having jurisdiction considers that the court that referred the case or some other court is competent, it shall initiate the proceedings for resolving the jurisdictional dispute.
(2) When a higher court renders a decision upon an appeal against the ruling of a court at first instance by which it declared itself incompetent, this decision shall also be binding, with respect to jurisdiction, for the court to which the case has been referred, if the higher court has jurisdiction for resolving the jurisdictional dispute between the courts involved.

Article 31

(1) A jurisdictional dispute between courts shall be decided by the court immediately superior to the courts involved.
(2) Before rendering a ruling on a jurisdictional dispute, the court shall ask the opinion of the State Attorney representing the prosecution before that court when the proceedings are conducted upon his request. A ruling on a jurisdictional dispute shall not be subject to appellate review.
(3) If the conditions referred to in Article 28 paragraph 1 of this Act are met, the court may, at the same time as deciding on the jurisdictional dispute, render by virtue of the office a decision on the transfer of territorial jurisdiction.
(4) Until the jurisdictional dispute between the courts is resolved, each of the courts involved shall be bound to undertake procedural actions for which there is a risk of delay.

Chapter III
DISQUALIFICATION

Article 32

(1) A judge or a lay judge shall be excluded from the exercise of the judicial office:
1) if he has been injured by the criminal offence,
2) if he is the spouse, a relative by blood, either lineal, descending or ascending, or collateral to the fourth degree, or related by affinity to the second degree, to the defendant, his defence counsel, the prosecutor, the victim, the injured person, their legal guardian or legal representative,
3) if he is a legal guardian, ward, adopted child or adoptive parent, foster-parent or foster-child, accommodated person or accommodator to the defendant, his defence counsel, the prosecutor, the victim or the injured person,
4) if in the same criminal case he has carried out evidence collecting actions in the previous proceedings, or has taken part in deciding on an objection to the indictment, or if he has taken part in the proceedings as a prosecutor, defence counsel, legal guardian, advisor of the injured person or legal representative of the injured person or the prosecutor, or if he has testified or is scheduled to testify as a witness or as an expert witness, and it is not regulated otherwise by this Act,
5) if in the same case he has taken part in rendering a decision being challenged by an appeal or extraordinary judicial remedy.
(2) A judge and a lay judge may be removed from the exercise of the judicial office in a particular case if, apart from the cases enumerated in the previous paragraph, it shall be stated and proven that there are circumstances which render his impartiality doubtful.

Article 33

(1) A judge or a lay judge, as soon as he discovers a ground for exclusion referred to in Article 32 paragraph 1 of this Act, shall discontinue all the activity on the case and report this to the president of the court who shall appoint a substitute judge. If a judge who shall be excluded is the president of the court, he shall appoint a substitute judge from among the judges of his court, and if such an arrangement is not possible, he shall ask the president of the immediately superior court to appoint a substitute judge.
(2) If a judge or a lay judge holds that other circumstances exist which would justify his removal (Article 32 paragraph 2), he shall inform the president of the court thereof.

Article 34

(1) The judge may also be challenged by the parties.
(2) The parties may submit a petition to challenge any time up to the opening of the trial, and if they learn of a reason for exclusion later (Article 32 paragraph 1), they shall submit the petition immediately after they have learnt of that reason.
(3) The party may address a petition to challenge a higher court judge in an appeal or in a response to an appeal, but not later than the commencement of the session of the court.
(4) The party may challenge only an individually designated judge, lay judge or higher court judge who exercises his judicial office in that particular case.
(5) The party is bound to state in his petition evidence and circumstances that in his opinion support his allegation that legal ground for challenge exists. It is not permitted to state the same reasons to challenge that were mentioned in a previous petition which was rejected.

Article 35

(1) The president of the court shall decide on the petition to challenge referred to in Article 34 of this Act. Where a petition is submitted to also challenge the president of the court, the deputy president of the court or the judge appointed by the president of the court to be his deputy among the judges of the court shall decide on the petition to challenge the president of the court, the judge or the lay judge.
(2) The president of the immediately superior court shall decide on the petition to challenge the president of the court, and if the petition challenges the president of the Supreme Court of the Republic of Croatia, the decision shall be rendered at a general session of that court. These decisions are not subject to appellate review.
(3) Before the ruling on disqualification is rendered, a statement of the judge, the lay judge or the president of the court shall be obtained, and, if necessary, other inquiries shall be carried out.
(4) The ruling which accepts the challenge shall not be subject to appellate review.
(5) If the petition to removal referred to in Article 32 paragraph 2 of this Act is submitted after the beginning of the trial or if the petition does not comply with the provisions of Article 34 paragraphs 4 and 5 of this Act, the petition shall be dismissed entirely or partially. The ruling which dismisses the petition shall not be subject to appellate review. The ruling which dismisses the petition shall be rendered by the president of the court or by the panel pending trial. The judge who is challenged may participate in deciding on his qualification.

Article 36

When the judge or the lay judge learns that a petition challenging him has been submitted, he shall discontinue all activity on the criminal case and in the case of removal referred to in Article 32 paragraph 2 of this Act, he may, before the ruling on the petition has been rendered, undertake procedural actions for which there is a risk of delay.

Article 37

(1) The provisions on the disqualification of judges and lay judges shall also apply to State Attorneys and persons who are, pursuant to the Act on the State Attorney's Office authorized to represent the State Attorney in the proceedings, investigators, court reporters, interpreters, experts, and expert witnesses, unless otherwise provided (Article 311).
(2) The investigating judge shall decided on the disqualification of an investigator, court reporter, interpreter, expert and expert witness who is involved in the investigation conducted by that investigating judge (Article 225 paragraph 3). When the investigation is conducted by the court, the panel, the president of the panel or the judge shall decide on the disqualification of an investigator, court reporter, interpreter, expert and expert witness.
(3) Before indictment, the State Attorney shall decide on the disqualification of persons who are in accordance with the Act on the State Attorney's Office authorized to represent him in criminal proceedings, of investigators, court reporters, interpreters, experts and expert witnesses. The immediately superior State Attorney shall decide on the disqualification of a State Attorney. The assembly of the substitutes for the Attorney General shall decide on the disqualification of the Attorney General of the Republic of Croatia.
(4) When the investigator and other persons involved with the investigation conducted by

the State Attorney come to knowledge of grounds for their disqualification, they shall immediately report this to the State Attorney and propose their replacement. Until the State Attorney renders a ruling on disqualification they shall undertake only those actions for which there is a risk of delay.

Chapter IV
STATE ATTORNEY

Article 38

(1) The basic powers and main function of the State Attorney shall be the prosecution of perpetrators of criminal offences subject to public prosecution.
(2) Regarding the criminal offences subject to public prosecution, the State Attorney shall have the right and duty to:

1) undertake the necessary actions aimed at discovering criminal offences and finding the perpetrators;
2) undertake inquiries into criminal offences, and order and supervise the implementation of particular inquiries aimed at collecting the data relevant for the institution of an investigation;
3) bring decisions predicted by law;
4) conduct the investigation;
5) conduct and supervise evidence collecting actions;
6) make a motion for temporary security measures of seizing assets;
7) decide on a rejection of the crime report, delay or withdrawal of the prosecution;
8) negotiate and agree with the defendant about admittance of guilt and sanction;
9) prefer and press an indictment, or make motion to issue a criminal order before the court having jurisdiction thereof;
10) make a statement regarding his decision not to proceed with the criminal prosecution in cases referred to in Article 286 paragraph 2 of this Act;
11) take appeals against courts' decisions before they become final and submit extraordinary judicial remedies against final court decisions;
12) represent the prosecution in proceedings upon a request for judicial protection against a decision or action of an administrative authority having jurisdiction for the infliction of a sentence or imprisonment imposed by a final judgment in the criminal proceedings;
13) undertake other measures prescribed by law.

Article 39

(1) The subject matter jurisdiction of the State Attorney in criminal proceedings shall be prescribed by a special law.
(2) The territorial jurisdiction of the State Attorney shall be determined according to the provisions which prescribe the jurisdiction of the court within the jurisdictional territory to which the State Attorney is appointed.
(3) Jurisdictional disputes between State Attorneys shall be resolved by the immediately superior State Attorney.

Article 40

The State Attorney lacking jurisdiction shall undertake procedural actions when there is a risk of delay, and shall immediately inform the competent State Attorney thereof.

Article 41

(1) The State Attorney shall carry out all procedural actions he is authorized to by law, either by himself or by persons authorized by a special law to represent him in criminal proceedings.
(2) Other state authorities shall act upon the order of the State Attorney pursuant to this Act.

Article 42

The State Attorney may desist from prosecution up until the conclusion of the trial, except where provided otherwise by special law.

Chapter V
VICTIM, INJURED PERSON AND PRIVATE PROSECUTOR

1. Victim

Article 43

(1) A victim of a criminal offence shall be entitled to:
1) efficient psychological and other expert help and support of the authority, organization or institution for aiding victims of criminal offences in accordance with the law;
2) participate in criminal proceedings as the injured person;
3) other rights prescribed by law.
(2) In accordance with special regulations, a victim of a criminal offence for which punishment of imprisonment for a term of five years or longer is prescribed shall have a right to:
1) counsel at the expense of the budget funds before testifying in criminal proceeding, and in submitting claims for indemnification, if he suffers from more severe psycho-physical damage or more severe consequences from the criminal offence;
2) compensation for material and immaterial damages from the state fund under the conditions and in a manner determined by a special law. When the victim acquired the claim for indemnification prior to this, the amount of the claim shall be taken into consideration, and the court shall act in the same manner when the victim had previously realized damage claim from the state fund.
(3) When undertaking first action in which the victim is involved, the court, the State Attorney, the investigator or the police authority shall notify the victim of:
1) the rights referred to in paragraphs 1 and 2 of this Article and Article 44 of this Act;
2) the rights which the victim is entitled to as an injured person.

Article 44

(1) Other than the rights to which the victim is entitled as referred to in Article 43 and other provisions of this Act, a child or a minor under the age of 16 who is a victim of a criminal offence shall be entitled to:
1) a legal guardian at the expense of the budget funds;
2) confidentiality of personal data;

3) exclusion of the public.
(2) The court, the State Attorney, the investigator and the police authority shall treat the child or the minor under the age of 16 who is a victim of a criminal offence with consideration for his age, personality and other circumstances, in order to avoid possible harmful consequences to the future education and development of the child or the minor under the age of 16.

Article 45
(1) Other than the rights referred to in Articles 43 and 44 of this Act, a victim of a sex crime is also entitled to:
1) talk to a counsel at the expense of the budget funds before the interrogation;
2) be interrogated by a person of the same sex from the police authority and State Attorney's Office;
3) refuse to answer the questions related to the strictly private life of the victim;
4) request to be interrogated via an audio-video device pursuant to Article 292 paragraph 4 of this Act;
5) confidentiality of personal data;
6) request the exclusion of the public at the hearing.
(2) Prior to the first interrogation, the court, the State Attorney, the investigator and the police authority shall inform the victim of the criminal offence referred to in paragraph 1 of this Article of his rights as referred to in this Article.

Article 46
(1) The victim who was not informed of his right to participate in the proceedings as the injured person may declare himself an injured person before preferring the indictment to the police authority or the State Attorney, and before the end of the trial to the court.
(2) The court shall dismiss a declaration referred to in paragraph 1 of this Article if it establishes that it is obviously unfounded or made after the end of the trial.

2. Injured person

Article 47

In criminal proceedings, the injured person shall be entitled to:
1) communicate in his native language and be assisted by a translator;
2) file a claim for indemnification and a request for temporary insurance measures for such claim;
3) have a legal guardian;
4) point out the facts and suggest evidence;
5) be present at the evidentiary hearing;
6) be present at the hearing, participate in evidentiary proceedings and make a closing statement;
7) inspect documents and files;
8) file an appeal under the conditions stipulated by this Act;
9) file a motion for prosecution and a private charge pursuant to the provisions of this Act;
10) be informed if criminal charges are dismissed or the State Attorney decides not to proceed with the criminal prosecution;
11) take over the criminal prosecution from the State Attorney;
12) request the case to be reinstated to the prior state of affairs;

13) be informed on the outcome of the criminal proceedings.

Article 48

(1) As regards criminal offences prosecuted upon a motion, the motion must be submitted within a term of three months from the day when the authorized physical or legal person learns of the offence and perpetrator.
(2) The motion for prosecution shall be submitted to the State Attorney's Office.
(3) If the injured person himself reports the offence or makes a motion for indemnification in criminal proceedings, he shall be deemed to have submitted the motion for prosecution.
(4) A private charge submitted in due time shall be deemed to be a timely motion of the injured person if it transpires in the course of proceedings that an offence prosecuted upon motion is involved.
(5) A minor of sixteen years of age or more may submit a motion for prosecution by himself.

Article 49

If an injured person dies within the term for submitting a motion for prosecution, or pending proceedings, his spouse, common-law spouse, children, parents, siblings, adopted child or adoptive parent may within three months after his death submit a motion for prosecution or a charge or declare that they will continue the proceedings.

Article 50

If several persons are injured by the same criminal offence, the prosecution shall be instituted or continued upon the motion from each injured person.

Article 51

The injured person may in his statement given to the authority conducting the proceedings withdraw the motion for prosecution until the conclusion of the trial. In such a case he shall forfeit his right to submit the motion anew.

Article 52

(1) The injured person shall be entitled to call attention to all facts and to present evidence important for the determination of the offence, for discovering the perpetrator and for adjudicating their claims for indemnification.
(2) At the trial, the injured person shall be entitled to present evidence, to examine the defendant, witnesses and expert witnesses and to comment and clarify their statements as well as give other statements and make other motions.
(3) The injured person shall be entitled to inspect files and objects which are evidence in accordance with Article 184 paragraph 2 item 2 of this Act.
(4) The State Attorney and the court shall inform the injured person of the rights referred to in paragraphs 1 to 3 of this Article.

Article 53

(1) Where the injured person is a minor or a person declared incapable of performing legal acts, his legal guardian shall be authorized to give all statements and perform all actions to which, according to this Act, the injured person is entitled.
(2) An injured person of sixteen years of age or more may himself give statements and undertake procedural actions.

Article 54

(1) Only a member of the Bar may be a legal guardian of the injured person, and he may be replaced by an attorney apprentice who passed the Bar examination in proceedings before the municipal court.
(2) The injured person, his legal representative and legal guardian shall be bound to inform the court of any change of address or residence.

3. Subsidiary prosecutor

Article 55

(1) Except in cases referred to in Article 212, 521 and 522 of this Act, where the State Attorney determines that no grounds exist to institute the prosecution for an offence subject to public prosecution or where he determines that there are no grounds to institute the prosecution against one of the persons reported to the authorities, he shall be bound within eight days to notify the injured person thereof and instruct him that he may assume the prosecution by himself. The same procedure shall apply to the court when it renders a ruling discontinuing the proceedings by reason of the prosecutor's nolle prosequi in other cases.
(2) The injured person shall be entitled to institute or continue prosecution within eight days following receipt of the notice referred to in paragraph 1 of this Article.
(3) If the State Attorney withdraws the indictment, the injured person may, in assuming prosecution, adhere to the charge raised. If the injured person brings a new charge, the proceedings shall continue pursuant to Article 354 to 358 of this Act.
(4) The injured person who is not notified that the State Attorney has failed to institute the prosecution or has desisted from the prosecution may, within three months from the day the ruling discontinuing the proceedings was rendered or six months from the date the State Attorney dismissed the crime report, declare to the court having jurisdiction that he shall continue proceedings.
(5) When the State Attorney or the court notifies the injured person that he may assume or continue prosecution, it shall inform him of the procedural actions he may undertake in order to realize that right, and shall, for that purpose, allow the injured person to inspect and copy documents, and copy visual and audio files.
(6) If the injured person dies pending proceedings, his spouse, common-law spouse, children, parents, adopted children, adoptive parents, or siblings may within three months after his death declare that they shall continue proceedings.

Article 56

(1) When the State Attorney enters nolle prosequi at the trial, the injured person shall be bound to declare immediately whether he intends to assume the prosecution. If, having been duly summoned, the injured person fails to appear at the trial or if the summons could not have been served on the injured person because he had not reported a change of address or residence to the court, it shall be deemed that he does not intend to assume the prosecution.
(2) The president of the panel or the single judge shall allow reinstatement to the prior state of affairs in the case of the injured person who was not duly summoned or to whom the summons was duly served but for a justifiable reason could not appear at the trial at which the judgment rejecting the charge has been rendered on the ground that the State Attorney had withdrawn the indictment, provided that the injured person submits the petition for reinstatement within eight days of the receipt of the judgment and if in this petition it is stated that the petitioner intends to continue the prosecution. In such a case

the trial shall be rescheduled and the previous judgment superseded by the new one rendered following such a repeated trial. If the duly summoned injured person fails to appear at the repeated trial, the previous judgment remains effective. The provisions of Article 63 paragraphs 3 and 4 of this Act shall also apply in that case.

Article 57

(1) If the injured person does not initiate or assume the prosecution within the term prescribed by law or, having been duly summoned, fails to appear at the trial, or fails to receive the summons due to his failure to report the change of address or residence, he shall be deemed to have desisted from the prosecution.
(2) If the injured person who assumed the prosecution, having been duly summoned, fails to appear at the trial, the provisions of Article 63 paragraphs 2 to 4 of this Act shall apply.

Article 58

(1) The injured person who assumed the prosecution shall have the same rights as the State Attorney, except for those which are vested in the State Attorney as a state authority.
(2) In proceedings conducted upon the request of the injured person who assumed the prosecution, the State Attorney shall be entitled to assume and to represent the prosecution prior to the conclusion of the trial.

Article 59

(1) When proceedings are carried out upon the request of the subsidiary prosecutor for an offence punishable by imprisonment for a term of more than five years, the court may upon the request of the injured person assign a legal representative to him if this is to the benefit of the proceedings and if the injured person due to his financial situation has insufficient means to pay for legal representation.
(2) The court conducting the proceedings shall decide on the request referred to in paragraph 1 of this Article, and the president of the court shall appoint a legal representative from the ranks of the Bar. If in the seat of the court there are not enough attorneys, a legal representative shall be appointed by the president of the immediately superior court from the ranks of the Bar located in the territory of the higher court.

4. Private Prosecutor

Article 60

(1) A private charge shall be submitted to the court having jurisdiction over the case.
(2) The private prosecutor may in his statement given to the court withdraw the private charge until the conclusion of the trial. In such a case he shall forfeit his right to submit the private charge anew.
(3) The private prosecutor shall have the same rights as the State Attorney, except for those which are vested in the State Attorney as a state authority.
(4) The provisions of Article 54 to 59 of this Act shall apply to the private prosecutor respectively.

Article 61

(1) As regards criminal offences prosecuted upon a private charge, the private charge must be submitted within a term of three months from the day when the authorized physical or legal person learns of the offence and perpetrator.

(2) If a private charge is preferred in a case involving the criminal offence of insult, the defendant may, until the conclusion of the trial, prefer a counter charge against the prosecutor who has returned the insult on the same occasion, although the term referred to in paragraph 1 of this Article has expired. In such a case, the court shall render a single judgment.
(3) When the injured person reports an offence or makes the motion for prosecution and it transpires in the course of proceedings that an offence subject to private prosecution is involved, the crime report or the motion shall be deemed to be a timely private charge if submitted within the term prescribed for submitting private charges.

Article 62

(1) In the case of minors and persons declared incapable of performing legal acts, the private charge shall be submitted by their legal guardian.
(2) A minor of sixteen years of age or more may submit a private charge by himself.

Article 63

(1) If a private prosecutor fails to appear at the trial although he was duly summoned, or if the summons could not be served on him because he did not report the change of address or residence to the court, he shall be deemed to have withdrawn the private charge, unless otherwise stipulated by this Act.
(2) The president of the panel or the single judge shall grant reinstatement to the prior state of affairs to the private prosecutor who, for a justifiable reason, fails to appear at the trial or inform the court in due time about the change of address or residence, provided he files a petition for reinstatement within eight days from the removal of the impediment to appearance.
(3) After a lapse of three months from the day of failure, reinstatement to the prior state of affairs may not be claimed.
(4) The ruling granting reinstatement to the prior state of affairs shall not be subject to appellate review.

Chapter VI
DEFENDANT AND DEFENCE COUNSEL

1. Rights of the Defendant

Article 64

(1) In criminal proceedings, the defendant shall have the right to:
1. before the interrogation or any other action regulated by this Act, be dully informed of the grounds for the suspicion that he has committed the offence he is being charged with;
2. freely testify, refuse to testify completely or refuse to answer a posed question,
3. plead not guilty,
4. retain a defence counsel of his own choice,
5. be appointed a defence counsel in cases prescribed by this Act,
6. communicate freely with his defence counsel without supervision unless, by way of an exception, the court or the State Attorney orders supervision,
7. have the defence counsel present, or must have the defence counsel present in cases prescribed by law, at his interrogation,
8. inspect, copy, record files and objects which serve as evidence, pursuant to this Act,
9. suggest evidence,

10. participate in evidentiary and other procedural actions in accordance with this Act,
11. make a motion for certain actions, a petition rendering of rulings and file motions in the proceedings,
12. use his native language in the proceedings and be provided with an interpreter in accordance with this Act,
13. appeal to the indictment;
14. participate in the examination session of the indictment,
15. plead guilty and communicate about the sanction,
16. participate at the hearing and evidentiary hearing;
17. propose judicial remedies and other legal means.

(2) The Act shall specify:
1. the manner in which the rights referred to in paragraph 1 of this Article may be realized;
2. when the defendant is to be informed of the rights referred to in paragraph 1 of this Article and the consequences due to failure of providing him with such information;
3. the rights of the defendant who is deprived of freedom or subject to some other measure depriving him of or limiting his fundamental freedoms.

2. Defence counsel

Article 65

(1) The defendant may be represented by a defence counsel before the commencement and at any stage of criminal proceedings pursuant to this Act, and in the procedure of the execution of the sentence, precautionary measures or security measures in accordance with special regulations.

(2) Before the first interrogation or any other action regulated by this Act, the defendant must be informed of his right to have a defence counsel and of the right to have the defence counsel present during the interrogation.

(3) The defendant's legal guardian, spouse or common-law spouse, linear blood relative, adoptive parent or adopted child, sibling of a foster parent, foster, accommodated person or accommodator may engage a defence counsel for the defendant, unless the defendant expressly refuses it.

(4) Only a member of the Bar may be retained as a defence counsel, however, he may be replaced by an attorney apprentice who has passed the Bar examination in proceedings before the municipal court. Only a member of the Bar may be a defence counsel before the county court. In criminal proceedings for a case where a long-term imprisonment is prescribed, the defendant may only be represented by a member of the Bar who has practiced law for at least ten years.

Article 66

(1) The defendant must have the defence counsel present at his first interrogation:
1) if the defendant is mute, deaf, or otherwise incapable of defending himself;
2) if the proceeding is conducted for the criminal offence for which a regular proceeding is prescribed.

(2) The defendant must have the defence counsel present:
1) if he remained without a defence counsel because the right of the defence counsel to action and representation has been deprived by a decision (Article 11 paragraph 4),
2) from the time the investigation is initiated for an offence punishable by long-term imprisonment to when the final ruling is rendered;

3) from the time the decision is rendered by which the defendant is imposed pre-trail detention or investigative detention;
4) in cases of bringing an order on the suspension of investigation regulated by this Act (Article 223 paragraphs 1 and 2),
5) from the time the indictment is served to when the final ruling is rendered for the criminal offence punishable by imprisonment for a term of ten years or longer,
6) when negotiating on terms of plea, agreeing sanctions and signing declaration for adjudication based on agreement (Article 360 paragraphs 1 and 3 and Article 374),
7) from the time the ruling on the trial in absence is rendered (Article 402 paragraphs 3 and 4);
8) during the hearing which is held while the defendant is absent (Article 404 paragraph 2 and 3);
9) after preferring the indictment in proceedings with the defendant who is mentally disturbed (Article 550 paragraph 2);
10) in other cases regulated by this Act.
(3) When in the case of mandatory defence the defendant fails to retain or remains without a defence counsel, the president of the court shall, by virtue of the office, upon the request of the court or the State Attorney, appoint a defence counsel to represent him. The ruling to assign a defence counsel is not subject to an appeal.
(4) The court, or the authority conducting the proceedings, shall ensure enough time and possibility to the defence counsel to prepare the defence case.

Article 67

(1) A defence counsel shall be authorized to perform all actions in favour of the defendant to which the defendant is entitled.
(2) For purposes of building a defence case, the defence counsel may request a statement from citizens other than the victim or the injured person of the criminal offence.
(3) When summoning a citizen for the purpose of requesting a statement as referred to in paragraph 2 of this Article, the reason for summoning must be clearly stated. The defence counsel shall not threaten the citizen with consequences for failure to answer. A person who answers the summons but refuses to give a statement may not be summoned twice for the same reason.
(4) The form and the content of the summons referred to in paragraph 3 of this Article shall be determined by the Croatian Bar Association with the prior approval of the minister responsible for justice.

Article 68

(1) A defence counsel shall be bound to file his power of attorney with the authorities before whom proceedings are pending. The defendant may also give power of attorney to the defence counsel orally before the authority conducting the proceedings, in which case it must be entered into the record.
(2) The rights and obligations of a defence counsel shall cease when the defendant revokes the power of attorney or when the defence counsel resigns from duty and notifies the court thereof or if the appointed defence counsel is released.
(3) The defendant may in an additional statement revoke his statement or an action of the defence counsel. The revocation of the statement or an action shall be valid only if submitted in the term prescribed for taking the action.
(4) The defendant may renounce or withdraw from using a legal remedy only after having consulted his defence counsel.

(5) The defendant may always retain another defence counsel of his choice. If the court establishes that the defendant retained another defence counsel in order to delay the proceedings, it will determine a deadline for retaining a new defence counsel and instruct the defendant that after the expiry of the term the court shall act according to provisions of Article 11 paragraph 4 of this Act.

Article 69

(1) Several defendants may retain a common defence counsel, provided that criminal proceedings against them are not conducted for the same offence or that it is not contrary to the interests of their defence.
(2) If several defendants decide to retain a common defence counsel as referred to in paragraph 1 of this Article, the authority conducting the proceedings shall invite them to retain another defence counsel in a certain time frame, and in case of mandatory defence it shall act in accordance with Article 66 paragraph 3 of this Act.
(3) One defendant may not retain more than three defence counsels at the same time, and it shall be deemed that defence is ensured if one defence counsel participates in the proceedings.
(4) If a defendant has several defence counsels, the court shall instruct them to synchronize their defence cases within a certain time frame in order to avoid repetition. In case of repeated failure to meet this deadline, the court may act in accordance with Article 11 paragraph 3 of this Act.

Article 70

(1) A defence counsel may not be the victim, injured person, spouse or common-law spouse of the injured person, private prosecutor or subsidiary prosecutor, or their lineal relative in blood to any degree or a collateral relative in blood to the fourth degree or a relative by affinity to the second degree.
(2) A defence counsel may not be a person called as a witness except if, pursuant to this Act, he is exempted from the duty to testify and declares that he shall not testify or if the defence counsel is to testify as a witness in the case referred to in Article 284 item 2 of this Act.
(3) A defence counsel may not be a person who is charged as an accomplice in the same case, or acted as a judge, the State Attorney, an investigator or a police official.
(4) A defence counsel may not be an attorney against whom an indictment is preferred that, by receiving money or assets from the defendant, he committed or was an accomplice in the offence of money laundering as referred to in Article 279 of the Penal Code.
(5) Upon a motion with the statement of reasons by the State Attorney, the court may by a decision decide that the defence counsel may not be the attorney for whom there is reasonable doubt that, by receiving money or assets from the defendant, he committed or was an accomplice in the offence of money laundering as referred to in Article 279 of the Penal Code. A decision on the motion by the State Attorney shall be made by the judge before preferring the indictment, and after the indictment is preferred by the court before which the proceedings is conducted. An appeal against this decision shall not stay its execution.

Article 71

(1) The release of the defence counsel referred to in Article 69 and 70 of this Act shall be decided by the court upon the motion of the State Attorney or by virtue of the office after a testimony of the defence counsel and the defendant or after a testimony of the

defendant at the hearing session held without the defence counsel who was previously notified in the summons that there is a possibility of a hearing session being held in his absence. An appeal against such decision shall not stay its execution.
(2) A decision on the release of the defence counsel referred to in paragraph 1 of this Article shall be made by the investigating judge before the indictment, and after that by the court conducting the proceedings.
(3) The court may revoke its decision on the release of the defence counsel if it deems it to be justified.

Article 72
(1) When no conditions for mandatory defence exist, the court may, if the special circumstances of the case justify it, assign a defence counsel to the defendant at his request if he, due to his financial situation, is unable to pay the defence costs.
(2) A request for the assignment of a defence counsel according to paragraph 1 of this Article may be made only after the indictment has been preferred for the offence for which a sentence of imprisonment to five years or longer is prescribed. The investigating judge, the president of the panel or the single judge shall decide on the defendant's request. The defence counsel shall be assigned by the decision of the president of the court. An appeal against the decision shall not be allowed.

Article 73
(1) In lieu of the appointed defence counsel the defendant may retain another defence counsel. In such a case all procedural rights and obligations of the appointed defence counsel shall cease. The court shall render a special ruling on the release of the defence counsel.
(2) If it is obvious that the defendant retained another defence counsel with the aim to delay the criminal proceedings, the authority conducting the proceedings shall act in accordance with Article 11 paragraph 3 of this Act.
(3) The appointed defence counsel may request to be released only for a justifiable cause.
(4) The court shall release the appointed defence counsel as soon as the reasons for his appointment cease to exist.
(5) The decision on the release of the defence counsel as referred to in paragraphs 1 to 4 of this Article shall be made by the investigating judge, the president of the panel or the single judge. The appeal against the decision on the release shall not be allowed.
(6) The president of the court may release the appointed defence counsel who carries out his duties negligently. The president of the court shall assign another defence counsel instead of the released defence counsel. The Croatian Bar Association shall be notified of the release.

Article 74
The defence counsel shall have the right to inspect, copy or record the files and objects which serve as evidence pursuant to this Act (Article 184 paragraph 2 item 1).

Article 75
(1) The arrested person shall have the right to communicate freely and without obstructions with his defence counsel as soon as the arrested person retained a defence counsel, or as soon as the decision on assigning a defence counsel is made.
(2) The State Attorney may order by a decision to monitor the communication between the arrested person and the defence counsel, and shall notify the arrested person and the

defence counsel thereof by submitting the decision before the communication is initiated. The communication may be terminated if:
1) the arrested person is violating order and safety;
2) it is attempted to commit criminal offences of concealing (Article 236 and 279 of the Penal Code) or aiding the perpetrator after the criminal offence is committed (Article 301 of the Penal Code);
3) it is attempted to tamper the criminal proceedings by influencing witnesses, expert witnesses, co-principals or accessories after the fact.
(3) The arrested person may, within two hours, file an appeal against the decision of the State Attorney on supervision referred to in paragraph 2 of this Article to the investigating judge. The investigating judge shall review the appeal within six hours. An appeal against this decision shall not stay its execution.

Article 76

(1) If the defendant is in pre-trail detention or investigative detention, the defence counsel may communicate with him orally or in writing without supervision.
(2) If not otherwise stipulated by this Act, upon a motion with a statement of reasons by the State Attorney, the investigating judge may decide, until preferring the indictment, to monitor letters, messages and conversation between the defendant and the defence counsel:
1) in proceedings for the following criminal offences referred to in the Penal Code: murder (Article 90), homicide (Article 91), kidnapping (Article 125), murder of the highest state officials (Article 138), kidnapping of the highest state officials (Article 139), criminal offences against values protected by international law (Chapter XIII), counterfeiting of money (Article 274) and money laundering (Article 279);
2) in proceedings for criminal offence for which there are grounds for suspicion that they were committed by a group of people or a criminal organization and there is a probability that a conversation with the defence counsel would lead to concealing criminal offences, aiding perpetrators after the offence is committed or if there are circumstances which indicate that the defendant may repeat the offence, finish the attempted offence or commit a felony.
(3) The investigating judge shall render a decision on supervision in the form of a ruling. The ruling on supervision shall be served to the defendant and the defence counsel before the implementation of supervision. An appeal against this ruling shall not stay its execution.
(4) Supervision referred to in paragraph 2 of this Article may last no longer than two months from the beginning of investigative detention.

Article 77

The defendant may issue a power of attorney to his defence counsel authorizing him to receive documents, summons, incriminating acts and rulings from whose delivery starts the appeal term.

Chapter VII
BRIEFS, ELECTRONIC DOCUMENTS AND RECORD

1. Briefs

Article 78

(1) Private charges, indictments, motions for prosecution, judicial remedies and other declarations and releases shall be submitted in writing unless otherwise prescribed by law.
(2) The briefs from paragraph 1 of this Article must be comprehensible and contain all matter that shall be necessary to undertake procedural action upon them.
(3) If the brief is not comprehensible or does not contain all matter that shall be necessary to proceed upon it, the court shall, unless otherwise prescribed by this Act, invite the person submitting the brief to correct or supplement it, and if he fails to comply with the summons within a specified term, the court shall dismiss the brief.
(4) In the summons to correct or supplement the brief the person submitting the brief shall be warned of the consequences of failure.
(5) The briefs which according to this Act are to be served on the other party shall be submitted to the court conducting the proceeding in a sufficient number of copies for the court and the other party. If such briefs are not submitted to the court in the sufficient number of copies, the court shall make the necessary copies at the expense of the person submitting the brief.

2. Electronic Documents

Article 79

(1) Briefs which are to be composed in writing and signed according to this Act, may be submitted in a form of an electronic document when they are made, sent, received and stored by the application of available information technologies and provide for establishing a unique marking by which the person who composed the electronic document is identified (electronic signature).
(2) A brief in the form of an electronic document shall be considered to be received in the information system or a device of the court, the State Attorney, the police authority or the attorney's office at the time when its receipt is registered in that system or device. A person receiving the document shall provide for regular functioning of the automated system for the confirmation of receipt. When the sender does not receive the confirmation of the receipt, he shall inform the person receiving the document of this and if he shall not receive such confirmation within a term he determined it shall be considered that the brief in the form of an electronic document has not been sent.
(3) The court, the State Attorney and the police authority shall make official record of the brief in the form of an electronic document referred to in paragraph 2 of this Article. In case that the brief is not understandable or is incomplete, Article 78 paragraphs 3 and 4 of this Act shall apply.
(4) The provisions of special regulations shall apply respectively in the evaluation of issues of legal validity, use, transfer, preservation and confidentiality of briefs in the form of an electronic document.
(5) The minister responsible for justice shall bring special regulations on technical conditions for submitting electronic documents.

Article 80

(1) The court shall impose a fine in an amount not exceeding HRK 50,000.00 on a defence counsel, legal representative, legal guardian, injured person, private prosecutor, subsidiary prosecutor, investigator, witness, expert witness or other person participating in the proceedings who in a brief, electronic document, orally or in other ways offends the court or a person participating in the proceedings. The ruling on a fine shall be rendered by the court before which the statement was made, and if it was made in a

brief, the ruling shall be rendered by the investigating judge before preferring the indictment, and after that by the court conducting the proceedings. This ruling shall be subject to an appeal. The Croatian Bar Association shall be informed of the fine imposed on an attorney or an attorney apprentice.
(2) If the State Attorney or the person representing him offends another person, the court shall inform the competent State Attorney and the State Attorney's Office thereof.
(3) The punishment imposed according to paragraph 1 of this Article shall have no effect on the prosecution or sentencing of the criminal offence committed by the offensive act.

3. Record

Article 81
(1) An official record on the important content of the statement or action which includes information referred to in Article 83 paragraph 1 of his Act shall be made regarding personal statements which are important to the criminal prosecution or the institution of criminal proceedings.
(2) It shall be determined by law when the record is made on the action performed before the institution of criminal proceedings and when that action is to be recorded.

Article 82
(1) Every procedural action performed in the course of proceedings shall be entered in the record as it is being performed, and if this is not possible, then immediately afterwards.
(2) A record shall be made by a court reporter. Only records of searches of dwellings or personal searches and records of actions undertaken outside official premises may be made by the person undertaking the action if a court reporter may not be provided.
(3) When the court reporter makes a record, the record shall be made in such a manner that the person performing the action dictates to the court reporter what shall be entered in the record, except where according to this Act the record may be drawn up by a court counsellor or a trainee judge.
(4) The interrogated person may be permitted to state answers directly on the record. In the case of abuse, this right may be denied to him.

Article 83
(1) The record shall contain the name of the authority performing procedural action, the place where it is undertaken, the day and hour when it is commenced and completed, the names and surnames of persons present as well as their role in the proceedings, and the number of the file of the criminal case in which the action is undertaken.
(2) The record must contain essential data on the course and the contents of undertaken actions. Only the essentials of statements and declarations given shall be put in a narrative form. Questions shall be entered into the record only if essential to the understanding of the answer. If necessary, the question and the answer to that question shall be entered in the record verbatim. If objects and documents are seized while undertaking a procedural action, this shall be entered into the record and the seized objects shall either be attached to the record or their location shall be stated.
(3) When undertaking procedural actions such as investigation, searching of dwellings or persons, temporary seizure of objects or identification, data which are of importance regarding the significance of such a procedural action or for the determination of the identity of certain objects (description, measurement and size of objects or traces,

labelling of objects, etc.) shall also be entered into the record, and if sketches, drawings, blueprints, photographs, film or other technical recordings are made, this shall also be entered in the record and attached to the record.
(4) Special provisions regarding the record shall refer to the record of the trial (Articles 409 to 412), deliberation and voting (Article 88), and all other records as prescribed by this Act.

Article 84

(1) The record shall be drawn up neatly and shall contain no additions or changes. Crossed out parts must remain legible.
(2) All changes, corrections and additions shall be entered at the end of the record and certified by the signatures of the persons who sign the record.

Article 85

(1) The interrogated person, persons whose presence is mandatory during the conduct of a procedural action, as well as parties, the defence counsel and the injured person if they are present shall have the right to read the record or to request that it be read to them. The person conducting the proceedings shall inform them of this right and the record shall note whether this information was given and whether the record was read. The record shall always be read if no court reporter is present and a note thereon shall be entered into the record.
(2) The record shall be signed by the interrogated person. If the record contains several pages, the interrogated person shall sign each page.
(3) The interpreter, if there is one, the witnesses whose presence during the conduct of a procedural action is mandatory, and in the case of a search, the person who is searched or the dwelling or other premises of whom are searched, if present, shall put his signature at the end of the record. If the record is not written by a court reporter (Article 82 paragraph 2), it shall be signed by the persons present while the action is being conducted. If such persons are not present or if they cannot understand the contents of the record, the record shall be signed by two witnesses except if it is not possible to provide for their presence.
(4) In lieu of his signature an illiterate person shall leave the print of the right hand index finger, and a court reporter shall note in writing his name and surname below the fingerprint. If the print of the right hand index finger cannot be taken and another fingerprint or the left hand fingerprint is used, a note from which finger and hand the print was taken shall be made in the record.
(5) If the interrogated person has no arms, he shall read the record and if he is illiterate, the record shall be read to him and this shall be noted in the record. A refusal by the interrogated person to sign a record or leave a fingerprint on it shall be noted in the record as well as the reason for the refusal.
(6) If the procedural action cannot be carried out without interruption, the date and hour of the interruption as well as the date and hour of the resumption of the procedural action shall be noted in the record.
(7) If objections are raised regarding the contents of the record, they shall be noted in the record as well.
(8) The person conducting the procedural action and the court reporter shall sign the record at the end of it.

Article 86

(1) Where this Act provides that the judicial decision cannot be based on certain evidence, the investigating judge shall upon a motion of the parties or by virtue of the office decide on the exclusion of this evidence from the file, and the investigating judge shall render this ruling before the conclusion of the investigation or before he gives consent for the indictment to be preferred, before examining it (Article 344 paragraph 4). The ruling of the investigating judge on the motion of the parties or on the exclusion is subject to a special appeal. A higher court renders a ruling on the appeal.
(2) After the ruling is final, the excluded evidence shall be kept in a separate cover by the court secretary apart from other files and they may not be examined or used in the proceedings. Records of excluded evidence are sealed in a separate cover and kept by the court secretary.
(3) After the conclusion of the investigation, the investigating judge shall proceed according to the provisions of paragraph 1 and 2 of this Article regarding all the information which in accordance with the Article 208 of this Act were provided by the citizens and in regard to the record as referred to in Article 206 paragraph 9 of this Act. If an investigation was not conducted, the investigating judge shall act in such manner after receiving indictment to be confirmed, before examining it (Article 344, paragraph 4).
(4) If the investigating judge failed to act in accordance with paragraph 1 to 3 of this Article, the exclusion of evidence as referred to in paragraph 1 of this Article, the notification and the record referred to in paragraph 3 of this Article shall be made by the court as prescribed by this Act.

Article 87

(1) When prescribed by this Act, a trial, an evidence collecting action or any other action may be recorded by audio-video or audio recording devices.
(2) Other than cases referred to in paragraph 1 of this Article, the authority conducting the evidence collecting action may always decide that evidence collecting actions be recorded by audio or audio-video recording devices.
(3) Before the recording of action referred to in paragraph 1 and 2 of this Article, the authority conducting the action shall inform the participating persons that the action is recorded by a particular technical device and that recorded statements may be used as evidence in the proceedings.
(4) The recording must contain information referred to in Article 83 paragraph 1 of this Act, information necessary to determine the identity of the person whose statement is being recorded and information regarding the procedural role of that person. When statements from more than one person are recorded, it must be clearly recognizable from the recording who is giving which statement. Upon the request of the interrogated person the recording shall be reproduced immediately and the corrections or explanations made by this person shall be recorded.
(5) If not otherwise prescribed by this Act, the record on the evidence collecting action shall, other than information referred to in Article 83 paragraph 1 of this Act, contain the information that a technical recording was made, who did the recording, which device was used in making the recording, that the interrogated person was previously informed that the recording would take place, a short summary of given testimonies and statements, whether the recording was reproduced and where the recording is kept if it is not attached to the case files.
(6) If not otherwise prescribed by this Act, the authority referred to in paragraph 2 of this Article may order the recording to be fully or partially copied and given to the party at his request. The copy shall be examined, certified by the signature of a person who

conducted the action and attached to the record on the performing of the action.
(7) The recording made according to the provisions of paragraphs 2 to 6 of this Article shall be kept as long as the criminal file is kept.
(8) The minister responsible for justice shall bring special regulations which shall regulate technical conditions, the method for recording, the protection of the recording from deletion or damage.

Article 88

(1) A separate record shall be made concerning deliberation and voting.
(2) The record on deliberation and voting shall contain the course of voting and the decision made.
(3) The record on deliberation and voting shall be signed by all members of the panel and the court reporter. Dissenting opinion shall be attached to the record on deliberation and voting if it is not entered in the record.
(4) The record on deliberation and voting shall be sealed in a separate cover. This record may be examined only by a higher court when deciding on a judicial remedy and in this case the court is bound to reseal the record in a separate cover and make a note on the cover thereon.

Chapter VIII
TERMS

Article 89

(1) Terms prescribed by this Act may not be extended except when expressly prescribed by law. If the purpose of a term regulated by this Act is the protection of the right to defence and other procedural rights of a defendant, this term may be shortened if the defendant or defence counsel so request in writing or orally on the record before the court.
(2) When a statement must be given within a prescribed term, it shall be deemed to be made in due time if delivered to the authorized recipient before the lapse of the term.
(3) If a statement is delivered through the post office by a registered mail, telegraph or by other means of telecommunications, the date of delivery to the post office, or sending via telecommunication devices in accordance with the provisions from Article 79 paragraph 2 of this Act shall be considered to be the date of delivery to the recipient. It shall be deemed that the sender of the statement did not fail to give a statement within a prescribed term if the recipient did not receive the statement due to malfunctioning of a device for sending or receiving messages which was unknown to the sender.
(4) A defendant who is in pre-trail detention or investigative detention shall deliver a statement limited by a term to the detention supervisor or prison administration, and a person serving a sentence or an inmate at an institution for the enforcement of educational measures or forcefully placed in a psychiatric institution shall deliver such a statement to the administration of the institution where he is placed. The day and the hour of the delivery of such a statement shall be deemed to be the time of delivery to the authority authorized to accept such statement.
(5) If the brief which must be submitted within a term is, due to ignorance or an obvious mistake on the part of the sender, sent or delivered to the authority lacking jurisdiction before the lapse of the prescribed term and therefore delivered to the authority having jurisdiction after the lapse of the term, it shall be considered that it was submitted in due time.

Article 90

(1) Terms shall be counted in hours, days, months and years.
(2) The hour or day when the delivery or release is effected or when the event from which the duration of the term is measured occurred shall not be counted into the term but the next following hour or day shall mark the beginning of the term.
(3) By way of derogation from the provision of paragraph 2 of this Article, terms for counting arrest, pre-trail detention and investigative detention shall start to be counted from the moment at which the person was detained.
(4) One day shall be counted as 24 hours and a month shall be counted according to calendar time.
(5) The terms prescribed in months or years shall expire with the lapse of the day of the last month or year which by its number corresponds to the day when the term began (pursuant to paragraph 2 of this Article). If such day does not exist in the last month, the term shall expire with the lapse of the last day of that month, and if days are being summed, 30 days shall be counted as one month.
(6) If the last day of the term falls on a state holiday or on a Saturday or Sunday, or on any other day when the state authority does not work, the term shall expire with the lapse of the first following working day.

Article 91

If the brief from whose delivery date the term is counted is delivered to the defendant and his defence counsel, but on different days, the term is counted from a later day.

Article 92

(1) The court shall grant the reinstatement to the prior state of affairs in order to file an appeal to the defendant who for justifiable reasons fails within a prescribed term to file an appeal to a judgment or to a ruling, provided that the defendant submits the petition for reinstatement to the prior state of affairs within eight days following the removal of the cause of a failure to act within the term, and that at the same time, with the petition, he submits the appeal. The same shall be permitted to the defence counsel for the defendant who in the case referred in Article 174 paragraph 2 of this Act failed to exercise his right to an appeal.
(2) After a lapse of three months from the day of failure, no petition for reinstatement to the prior state of affairs may be submitted.

Article 93

(1) The court which rendered the judgment or ruling challenged by an appeal shall decide on reinstatement to the prior state of affairs.
(2) The ruling granting reinstatement to the prior state of affairs shall not be subject to appellate review.
(3) If the defendant files an appeal to the ruling rejecting the reinstatement to the prior state of affairs, the court shall forward it together with the appeal to the judgment or to the ruling on educational measures or on confiscation of objects as well as the reply to the appeal and the entire file to the higher court for a decision.

Article 94

The petition for reinstatement to the prior state of affairs shall not, as a rule, stay the execution of a judgment or a ruling on educational measures or on confiscation of

objects; however, the court having jurisdiction to decide on the petition may decide to stay the execution until a decision on the petition is rendered.

Chapter IX
MEASURES FOR PROVIDING THE PRESENCE OF A DEFENDANT AND OTHER PRECAUTIONARY MEASURES

1. General Provision

Article 95

(1) When deciding on the measures for the presence of a defendant and on other precautionary measures, the court and other state authorities shall by virtue of the office be cautious not to apply a more severe measure if a milder measure can achieve the same purpose.
(2) The court and other state authorities shall by virtue of the office vacate the measures from paragraph 1 of this Article or replace them with milder measures when the legal conditions for their application have ceased to exist, or when the conditions are met for achieving the same purpose with a milder measure.
(3) The defendant shall have the right to request that his family or another person close to him is informed on his arrest, pre-trial detention or investigative detention (Article 7 paragraph 2 item 4).

2. Summons to the defendant

Article 96

The presence of the defendant while actions in criminal proceedings are being carried out shall be provided by serving him with a summons. The summons shall be issued pursuant to Article 175 of this Act.

3. Compulsory Appearance

Article 97

(1) A warrant for compulsory appearance shall be issued by the court if:
1) a ruling on investigative detention is issued;
2) a duly summoned defendant fails to appear and fails to justify his absence;
3) it is not possible to duly serve the summons and the circumstances clearly indicate that the defendant is evading the receipt of the summons;
4) in the case referred to in Article 129 paragraph 2 of this Act.
(2) The court shall decide on issuing a warrant for compulsory appearance within twelve hours from receiving a request.
(3) A warrant for compulsory appearance may, under the conditions referred to in Article 208 paragraph 3 of this Act, be issued by the State Attorney or the police authority.
(4) A warrant for compulsory appearance shall be issued in a written form and shall contain: the first and last name of the defendant who is to be brought in along with other known information, the offence he is charged with as well as the respective provisions of the Penal Code, the ground for the issuance of the warrant for compulsory appearance, the official seal of the authority and the signature of the person who issued the warrant.

(5) A warrant for compulsory appearance shall be executed by the police authority. The person to whom the execution of the warrant is conferred shall serve it to the defendant and shall invite the defendant to accompany him. If the defendant refuses to go calmly he shall be brought in by force.
(6) The police authority may bring in the defendant to official police quarters without a warrant for compulsory appearance, who shall, upon being brought in, be served with the summons in accordance with Article 169 paragraph 3 of this Act. An official record on the delivery of the summons shall be made, recording the time when the defendant was brought in, when the summons was delivered or the reason for refusing to receive the summons and the time when the defendant left the official police quarters.
(7) The police authority may, without a warrant for compulsory appearance, bring in the defendant who is released on bail to the official police quarters for the purpose of checking domicile, residence, or for other purposes important for successfully conducting the proceedings. The defendant who is brought in such manner may be detained for no longer than six hours. An official record shall be made of his detention including time when the defendant was brought in, actions or measures undertaken and time when the defendant was released from the official police quarters. The official record shall immediately be delivered to the State Attorney, and to the court after the indictment is preferred.

4. Precautionary Measures

Article 98

(1) When circumstances exist as referred to in Article 123 of this Act which constitute the ground for investigative detention, or the detention is already determined, the court and the State Attorney shall, if the same purpose may be achieved by any of the precautionary measures, issue a ruling with a statement of reasons to carry out one or more such precautionary measures. The defendant shall be warned that in the case of failure to carry out the ordered precautionary measure it may be replaced by investigative detention.
(2) Precautionary measures are:
1) prohibition to leave a residence;
2) prohibition to visit a certain place or territory;
3) obligation of the defendant to call periodically a certain person or authority;
4) prohibition to approach a certain person;
5) prohibition to establish or maintain contacts with a certain person;
6) prohibition to engage in a certain business activity;
7) temporary seizure of passport or other document which serves to cross the state border;
8) temporary seizure of a license to drive a motor vehicle.
(3) Precautionary measures may not entail the restriction of a defendant's right to his own apartment, to unimpeded connections with members of his household, spouse or common-law spouse, parents, children, adopted child or adoptive parent, except where the proceedings are conducted on account of a criminal offence committed to the detriment of any of these persons. The prohibition of the pursuit of a business activity may also include a lawful professional activity if the proceedings have been instituted for the criminal offence committed within the activity in question.
(4) Precautionary measures may not restrain the right of a defendant to unimpeded communication with his defence counsel.

(5) Precautionary measures may be ordered before and during the criminal proceedings. Prior to the indictment, the precautionary measures shall be ordered, prolonged and vacated by the State Attorney by a decision. When the indictment is preferred until the judgment becomes final, the measures shall be ordered, prolonged and vacated by the court before which proceedings are conducted.
(6) Precautionary measures may last as long as they are necessary and at the longest until the judgment becomes final. Duration of precautionary measures shall not be limited by duration terms of investigative detention. The State Attorney before the indictment, or the court conducting the proceedings shall examine every two months by virtue of the office whether the need for precautionary measures still exists and issue a ruling prolonging them or vacating them if they are not needed any more. The precautionary measures may be vacated before the expiry of two months if the need for them ceases to exist or if there are no longer legal conditions for their application.
(7) The parties may file an appeal against the ruling ordering, prolonging or vacating a precautionary measure, which does not stay the execution of the ruling. A decision on the appeal until preferring the indictment shall be made by the investigating judge.

Article 99

(1) In the ruling ordering the precautionary measure of the prohibition to leave a residence, the competent authority shall determine the place where the defendant must be as long as the precautionary measure is in effect as well as the borders beyond which he must not go.
(2) In the ruling ordering the precautionary measure of the prohibition to visit a certain place or a territory, the competent authority shall determine the place or the territory and the distance the defendant is not allowed to cross to approach them.
(3) In the ruling ordering the precautionary measure of the obligation of the defendant to call periodically a certain person or an authority, the competent authority shall appoint an officer whom the defendant must call, the terms for the calls and the method for keeping record of the calls the defendant made.
(4) In the ruling ordering the precautionary measure of restraint order regarding a certain person, the competent authority shall determine the distance the defendant must not cross to approach a certain person.
(5) In the ruling ordering the precautionary measure of prohibition to establish or maintain contacts with a certain person, the competent authority shall prohibit establishing or maintaining direct or indirect contact with a certain person.
(6) In the ruling ordering the precautionary measure of prohibition of engaging in a certain business activity, the competent authority shall determine the type and the subject of the business activity in more detail.
(7) In the ruling ordering the precautionary measure of temporary seizure of a passport or another document that serves to cross the state border, the competent authority shall state the personal data, the authority that issued the document, the number and the date of issue.
(8) In the ruling ordering the precautionary measure of temporary seizure of a license to drive a motor vehicle, the competent authority shall state the particulars of the license (personal data, the authority that issued the license, the number, the date, the type of vehicle, etc.).

Article 100

(1) The competent authority shall submit the ruling ordering a precautionary measure to the authority executing the precautionary measure as well.

(2) The precautionary measure of prohibition to leave a residence, prohibition to visit a certain place or territory, prohibition to approach a certain person and prohibition to establish or maintain contacts with a certain person, temporary seizure of a passport or another document that serves to cross the state border and temporary seizure of a license to drive a motor vehicle, issued by the court or the State Attorney, shall be executed by the policy authority.
(3) The order of a precautionary measure of the obligation of the defendant to call periodically a certain person or an authority shall be executed by the police or another state authority which the ruling determined as the authority that the defendant shall call.
(4) The order of a precautionary measure of prohibition of engaging in a certain business activity shall be executed by the authority competent for monitoring the business activity.
(5) The minister responsible for justice, with the prior approval of the minister responsible for interior affairs and the minister responsible for defence, shall bring regulations to regulate the manner for the execution of precautionary measures.

Article 101

(1) The authority ordering a precautionary measure may order an examination of its execution and require a report from the police or any other authority executing the precautionary measure. The authority executing the precautionary measure shall urgently conduct the examinations ordered and forthwith inform the competent authority thereof.
(2) The authority executing the precautionary measure shall forthwith inform the competent authority about any conduct of the defendant contrary to the prohibition or his failure to comply with the obligation imposed by means of the precautionary measure.
(3) The investigating judge may by a special ruling prohibit a person other than the defendant to engage in activities interfering with the precautionary measures related to the defendant. If that person fails to comply with the ruling, he shall be fined with an amount not exceeding HRK 50,000.00.

5. Bail

Article 102

(1) Investigative detention determined due to reasons referred to in Article 123 paragraph 1 item 1 to 3 of this Act may be terminated provided that the defendant personally, or another person on his behalf, gives bail and the defendant personally promises that he will not hide or leave his place of residence without permission, that he will not interfere with criminal proceedings and that he will not commit a new criminal offence.
(2) In the ruling on investigative detention, the court may set the amount of bail which may replace investigative detention. Bail shall always be set in a pecuniary amount determined with regard to the gravity of the criminal offence, personal circumstances and financial situation of the defendant.
(3) If the court establishes that bail cannot replace investigative detention, it shall cite the circumstances due to which it finds bail to be an unacceptable replacement of detention.
(4) In addition to bail, the court may order one or more precautionary measures as terms of bail.

Article 103

(1) In the ruling the court shall set bail which shall consist of depositions of cash, securities, valuables and other movables of more considerable value which may easily be cashed and kept or of mortgages of properties of the person providing bail in the amount of bail.
(2) The ruling on the amount of bail shall be subject to appeal within three days from when it is rendered. After the ruling on the amount of bail is final and the defendant makes a promise referred to in Article 102 paragraph 1 of this Act, and bail is deposited, the court shall render a ruling on vacating investigative detention and in that ruling it shall state the ground for which investigative detention was set and the terms which the defendant must abide by.

Article 104

(1) The police shall examine whether the defendant is acting in accordance with the terms set forth in the ruling on bail. In circumstances which may indicate the defendant is violating the terms of bail the police shall immediately notify he court thereof.
(2) If the defendant acts contrary to the terms of the ruling on bail, a ruling shall be rendered to collect the amount of bail in favour of the budget and investigative detention shall be ordered against the defendant. The court may decide in that manner, upon a motion by the State Attorney, also if there is a serious possibility that the defendant will act contrary to the terms of the ruling on bail.

Article 105

(1) The amount of bail may be altered by a ruling if the subsequently established circumstances justify it.
(2) If it is established that the defendant concealed true circumstances which are taken into consideration when setting bail, or if a reason for investigative detention other than the one he was held in investigative detention for and made bail for shall be established and the amount of the bail given is not appropriate for the new circumstances, investigative detention shall be ordered against him, and after he is detained bail shall be vacated, cash valuables, securities or other movables shall be returned and the mortgage shall be released. This ruling may set the new amount of bail to replace investigative detention.
(3) Bail shall also be vacated when the criminal proceedings are completed by a final judgment or by a ruling discontinuing the proceeding.
(4) If a judgment imposes a sentence of imprisonment, bail shall be vacated when the convicted person starts to serve his sentence.

6. Arrest

Article 106

(1) Any person may prevent the flight of a person who is in the act of committing a criminal offence subject to public prosecution.
(2) A person is considered to be caught in the act of committing a criminal offence when he is noticed by somebody while committing a criminal offence or if he is immediately after the commission of the criminal offence caught under circumstances indicating that he is the one who has just committed a criminal offence.
(3) A person whose flight was prevented shall be turned over to the police and may be detained until the arrival of the police.

Article 107

The police authority shall be entitled to arrest:
1) a person against whom the ruling for compulsory appearance or a ruling on pre-trail detention or investigative detention is being executed;
2) a person against whom there are grounds for suspicion of having committed a criminal offence subject to public prosecution, for which a sentence of imprisonment for three years or longer is prescribed, and if any of the grounds exist for ordering investigative detention as referred to in Article 123 of this Act;
3) a person who is caught in the act of committing an offence subject to public prosecution.

Article 108

(1) During the arrest, the arrested person must be immediately informed of the reasons of the arrest and informed of his rights referred to in Article 7 paragraph 2 of this Act, unless due to the circumstances this is not at all possible.
(2) If the arrest is made based on a warrant for compulsory appearance, the warrant must be read and served on the arrested person during the arrest, unless due to the circumstances of the arrest this is not at all possible.
(3) During the arrest only that force may be used which the police is entitled to use by a special law.
(4) The following shall be informed immediately about the arrest:
1) a person referred to in Article 7 paragraph 2 item 4 of this Act, unless the arrested person is against it;
2) the competent authority of social welfare if it is necessary to undertake measures of taking care of children and other family members of the arrested person that he is bound to maintain,
3) the defence counsel if requested by the arrested person.

Article 109

(1) A police officer must take the person arrested within the term set in paragraph 2 of this Article to a detention police station determined by a special law and surrender him to a detention supervisor or release him. A delay must be expressly explained. Items which may serve as evidence shall be submitted to a detention supervisor who handles them pursuant to paragraph 4 of this Article.
(2) A time frame within which the arrested person shall be brought in to a detention police station and surrendered to a detention supervisor or released shall start at the time of the arrest and shall be:
1) twelve hours if the person was arrested in the area of the police administration that he shall be taken to;
2) twenty-four hours if the person was arrested outside the area of the police administration that he shall be taken to.
(3) A detention supervisor shall make a record which will include personal data of the arrested person according to Article 272 paragraph 1 of this Act. Immediately upon the arrest, the information about the arrested person, the moment and reasons for his arrest shall be entered into the record of arrested persons in the information system of the ministry responsible for interior affairs. A detention supervisor shall notify the State Attorney immediately upon admission of the arrested person into custody. The notification shall be entered into the detention record of arrested persons.
(4) A detention supervisor shall make a special record on admission of items from the arrested person. If these are items which may serve as evidence, he shall deliver the

record and the items to the State Attorney taking special care that the items are not destroyed or their use in evidence procedure harmed. A detention supervisor shall submit a copy of the record to the police officer who brought in the arrested person.
(5) The State Attorney shall interrogate the arrested person not later than ten hours after he was surrendered to a detention supervisor.
(6) A detention supervisor shall release the arrested person or a detainee immediately if:
1) ordered so by the State Attorney,
2) pre-trail detention or investigative detention has not been ordered against the arrested person within 20 hours from the arrest as referred to in paragraph 2 item 1 of this Article, i.e. 32 hours from the moment of the arrest as referred to in paragraph 2 item 2 of this Article,
3) the arrested person has not been interrogated within the term referred to in paragraph 5 of this Article,
4) if detention has been terminated.
A detention supervisor shall make a note into the records referred to in paragraph 3 of this Article on the release of the arrested person and the detainee.
(7) A detention supervisor shall notify immediately a senior State Attorney on the release of the arrested person in cases referred to in paragraph 6 item 3) of this Article.

Article 110

(1) A detention supervisor shall order a search of the arrested person at the moment he is brought in to the detention police station. If necessary, medical examination of the a shall be ordered.
(2) Items and traces which may serve as evidence, or which may pose as a security risk or harm the course of the proceedings shall be temporarily taken away with a receipt.

Article 111

(1) A detention supervisor shall inform the arrested person who is brought in of his rights referred to in Article 7 paragraph 2 of this Act.
(2) A detention supervisor shall inform the arrested person who is a foreign national that he is entitled to communication with his consular representative.
(3) If the arrested person is a foreign national and the Republic of Croatia has signed an international agreement with his state which provides for mutual notification of arrest, the competent authority of a foreign state shall be notified immediately, except when the arrested person is a refugee for racial, national, political or religious reasons, or if he is in the process of applying for asylum and objects to such notification.
(4) A detention supervisor shall enter into the record the note on instructions given to the arrested person in accordance with the provisions of this Act, and on his demands in accordance with the provisions of this Article. The note shall also be signed by the arrested person.
(5) The minister responsible for internal affairs shall bring regulations on the admission of and proceedings with the arrested person and the detainee and in the detention police station.

7. Pre-trial Detention

Article 112

(1) The State Attorney shall order by a written ruling with a statement of reasons pre-trail detention of the arrested person if he establishes the existence of grounds for

suspicion that the arrested person committed the offence subject to public prosecution, for which a sentence of imprisonment for three years or a more severe punishment is prescribed and there are grounds for investigative detention referred to in Article 123 paragraph 1 items 1 to 4 of this Act, provided that pre-trail detention is necessary in order to determine the identity, check the alibi and collect data on items of evidence. The ruling on pre-trail detention shall be subject to appeal within six hours. The investigating judge shall decide on the appeal within eight hours. The appeal shall not stay the execution of the ruling.
(2) Pre-trail detention referred to in paragraph 1 of his Article may not last longer than forty-eight hours from the moment of the arrest. Upon the motion of the State Attorney, the investigating judge may render a ruling with a statement of reasons prolonging detention for another forty-eight hours if necessary to collect evidence of a criminal offence punishable by imprisonment for a term of twelve years or longer. The ruling of the investigating judge on prolonging detention shall be subject to appeal within six hours. The ruling on the appeal shall be rendered by the panel within twelve hours. The appeal shall not stay the execution of the ruling. The defendant may also state the appeal on the record.
(3) Pre-trail detention shall be vacated immediately if the reasons for detention ceased to exist.

Article 113

(1) The minister responsible for internal affairs shall bring regulations on the records of detainees in the detention police station.

Article 114

The detainee shall have the right to communicate with his defence counsel freely and without supervision, except in cases referred to in Article 75 paragraph2 and Article 76 paragraph 2 of this Act.

Article 115

(1) During pre-trail detention the detainee must be provided with a minimum of eight hours of rest within every twenty-four hours.
(2) A detention supervisor shall take care of necessary medical assistance and care of the detainee.

Article 116

Consular and diplomatic representatives may, in accordance with international laws, visit their citizens in pre-trail detention, communicate with them and assist them in retaining a defence counsel.

Article 117

In order to establish the identity of the arrested person the police may act in accordance with Article 211 of this Act.

Article 118

(1) The State Attorney may order that the police take the detainee for whom there are grounds for ordering investigative detention before detention expires as referred to in Article 112 of this Act before the investigating judge for a hearing to determine whether he should be ordered investigative detention or released. Prior to that, the detention supervisor shall provide the State Attorney with the detention record. The State Attorney

must be present at that hearing.
(2) Based on the ruling rendered by the investigating judge the detainee shall remain in custody until the hearing on investigative detention is held, and no longer than twelve hours from the moment he was brought to the investigating judge.

8. Home Detention

Article 119
(1) If there are circumstances referred to in Article 123 paragraph 1 items 1 to 4 of this Act, the court may order home detention when a restriction to the defendant to leave one's home is deemed sufficient for the purpose of investigative detention.
(2) Before ordering home detention the court shall request from the defendant a written consent from persons of age who live in the defendant's home on the application of technical devices used for surveillance purposes referred to in paragraph 3 of this Article.
(3) The ruling on home detention shall prohibit the defendant from leaving his home. This ruling of the court may provide for the use of technical surveillance devices in order to ensure the implementation of house arrest.
(4) A person who is ordered to be under home detention may be granted by the court, by way of an exception, to leave his home for a certain period of time if:
1) it is necessary for medical treatment of the person, or
2) it is necessary due to special circumstances in midst of which there may be serious consequences to the life, health or property of that person.
(5) If a person under home detention leaves his home contrary to the orders of the court, or interferes with implementation of home detention house arrest in another way, investigative detention shall be ordered against that person. The person shall be informed thereof in the ruling on home detention.

Article 120
If not otherwise prescribed by this Act, the provisions on investigative detention shall apply respectively to home detention.

Article 121
(1) Home detention shall be supervised by the police and the ministry responsible for justice with jurisdiction in the area of execution.
(2) In the area of home detention the police and the ministry responsible for justice shall be entitled to authorities prescribed by this Act (Article 135 to 143) and other regulations. The record on home detention shall be kept by the ministry responsible for justice.
(3) The minister responsible for justice shall bring regulations on the record and on the implementation of house arrest.

9. Investigative Detention

a) General Provisions on Investigative Detention

Article 122
(1) Investigative detention shall be vacated as soon as the grounds for ordering investigative detention cease to exist and the arrested person shall be released.

(2) When deciding on investigative detention, especially on its duration, a special consideration shall be taken on the proportionality between the gravity of the committed offence, the sentence which, according to data at the disposal of the court, may be expected to be imposed, and the need to order and determine the duration of investigative detention. Investigative detention may be ordered as an exception against a pregnant woman, a person who is physically impaired who is unable to move or can move with extreme difficulty, and a person over 70 years of age.
(3) The case in which investigative detention is ordered shall be proceeded especially urgently (Article 11 paragraph 2).

b) Grounds for Ordering Investigative Detention

Article 123
(1) Investigative detention may be ordered if there exists reasonable suspicion that a person committed an offence and if:
1) the person is on the run or there are special circumstances indicating a danger of flight (the person is in hiding, his identity cannot be established, etc.);
2) if there are special circumstances indicating that he will destroy, hide, alter or forge items of evidence or traces of importance to the criminal proceedings or that he shall impede the criminal proceedings by influencing witnesses, expert witnesses, co-principals or accessories after the fact;
3) if there are special circumstances indicating a danger that he will repeat the offence, or complete the attempted one, or perpetrate a felony he threatens to commit, for which the law foresees imprisonment for a term of five years or more;
4) if investigative detention is deemed necessary for undisturbed conducting of the proceedings due to especially grave circumstances of the offence and a sentence of long-term imprisonment is prescribed for such an offence;
5) if the duly summoned defendant evades appearance at the trial;
(2) Investigative detention shall not be ordered pursuant to the provision referred to in paragraph 1, item 2 of this Article if the defendant pleads guilty.
(3) When pronouncing a judgment of imprisonment for a term of five years or more, investigative detention against the defendant shall always be ordered or prolonged.
(4) When a first instance court renders a judgment of imprisonment for a term not longer than five years, after pronunciation of the judgment investigative detention may not be ordered or prolonged in accordance with paragraph 1, item 4 of this Article.
(5) Investigative detention shall not, contrary to the fact that circumstances referred to in paragraph 1 of this Article exist, be prolonged if the maximum term of duration of detention has expired (Article 133).

c) Ruling on Order and Prolongation of Detention

Article 124
(1) Detention shall be ordered and prolonged by a written ruling issued by the competent court.
(2) Other than information referred to in Article 272 paragraph 1 of this Act, a ruling on detention shall contain:
1) if investigation is conducted, specification of the warrant to conduct the investigation based on which the ruling on detention is rendered;
2) the legal ground for detention;
3) the duration of detention;

4) a provision on including any time the person was deprived of freedom before the ruling on detention was rendered with a note on the moment of arrest;
5) the amount of bail which may be substitute detention;
(3) The statement of reasons of the ruling on detention shall state specifically and fully the facts and the evidence supporting reasonable suspicion that the defendant committed the offence and the reasons referred to in Article 123 paragraph 1 of this Act, the reasons for which the court deems that the purpose of detention may not be achieved by a less severe measure, as well as the reason for the determined amount of bail.
(4) A ruling on detention shall be served on the detainee immediately after he has been put into detention. The detainee shall confirm the receipt and the time of receipt of the ruling by his signature.

d) Vacating Investigative Detention and Ruling on Investigative Detention

Article 125
(1) The court shall vacate investigative detention and the detainee shall be released:
1) immediately when the reasons for ordering or prolonging investigative detention cease to exist;
2) if further detention is not proportional to the gravity of the offence committed;
3) if the investigation is conducted, when the purpose may be achieved by using a less severe measure;
4) when the State Attorney makes such a motion before the indictment is preferred;
5) when the State Attorney unjustifiably fails to undertake actions within set deadlines in the proceedings even after prior notification to the higher State Attorney;
6) when the court renders a ruling on dismissing charges or the charges are rejected, or the judgment is rendered as a fine, suspended sentence, judicial admonition or a sentence of imprisonment for a term shorter or equal to the duration of investigative detention up to the time when the judgment is rendered;
7) when terms of investigative detention expire;
8) when investigative detention is ordered according to Article 123 paragraph 1 item 2 of this Act, if the defendant pleads guilty, or immediately upon the collection or presentation of evidence for security of which investigative detention was ordered, but not later than the end of the trial.
(2) Before vacating investigative detention pursuant to Article 123 paragraph 1 item 3 of this Act, the victim of the criminal offence shall be notified by the police thereof.
(3) Before rendering a decision on vacating investigative detention on the grounds referred to in item 5 paragraph 1 of this Article, the court shall notify the higher State Attorney about untimely actions and it shall determine a term in which the said action shall be undertaken. When the action fails to be undertaken even after the term has expired, it shall be acted in accordance with paragraph 1, item 5 of this Article.

Article 126
The court which rendered a ruling on ordering or prolonging investigative detention shall render a ruling vacating investigative detention if it establishes, after rendering the ruling and before the defendant is detained, that the grounds for which detention was ordered do not exist or legal prerequisites for such order do not exist. If a wanted notice was issued, the court shall order it to be revoked in a rescindment after the ruling is final.

e) Judicial Authority Having Jurisdiction to Order, Prolong and Vacate Detention

Article 127

(1) Before the indictment is preferred, the investigating judge shall order investigative detention upon the motion of the State Attorney and shall vacate the order for investigative detention upon the motion of the defendant, the State Attorney or by virtue of the office.

(2) The investigating judge shall decide on the motion of the State Attorney to order investigative detention immediately, and at least within twelve hours from the submission of the motion. If the investigating judge disagrees with the State Attorney's motion to order investigative detention, he shall render a ruling rejecting the motion, and if the defendant is in investigative detention, he shall order to release him immediately. In such a case the State Attorney may take an appeal within twenty-four hours. The panel shall decide on the appeal within forty-eight hours.

(3) If not otherwise prescribed by a special law, before the indictment is preferred, the investigating judge shall decide on the prolongation of investigative detention upon the motion of State Attorney.

(4) After an indictment has been preferred until the indictment is confirmed, investigative detention shall be ordered, prolonged and vacated by the prosecution panel. After the indictment is confirmed until the judgment is final, investigative detention shall be ordered, prolonged and vacated by the court in session and outside the trial by the panel, except in cases referred to in paragraph 5 of this Article.

(5) When deciding on an appeal against the judgment, the appellate panel shall order, prolong and vacate investigative detention.

(6) When the court deciding on extraordinary judicial remedies vacates the contended judgment and returns the case to renewed proceedings, it shall order investigative detention if grounds referred to in Article 123 of this Act exist and terms referred to in Article 130 and 133 of this Act have not yet expired.

Article 128

After the indictment has been preferred until the judgment is final, the defendant and his defence counsel may submit a motion to vacate investigative detention. The court conducting the proceeding shall render a ruling on the motion. The ruling rejecting the motion to vacate detention shall not be subject to an appeal.

f) Scheduled Hearing for Rendering the Ruling on Investigative Detention

Article 129

(1) The court shall decide on ordering, prolonging and vacating investigative detention in a non-public oral scheduled hearing.

(2) The State Attorney and the defence counsel shall be summoned to the scheduled hearing. The defendant shall be brought to the scheduled hearing unless unavailable or legally incompetent. Unless otherwise stipulated by this Act (Article 118 paragraph 1), the council session shall be held also if the orderly summoned State Attorney and the defence counsel do not come to the session, or if the defence counsel did not receive the summons because he changed his residence without notifying the court thereof, or because delivery was not possible due to his unavailability.

(3) At the scheduled hearing both parties shall present their position on investigative detention and if necessary on the amount of bail as well. The State Attorney shall speak first, followed by the defendant and his defence counsel. Both parties are entitled to rebuttal. The court shall decide which evidence shall be presented and in which order. The court may upon the motion of either party or by virtue of the office present evidence

which it deems necessary for rendering the ruling on detention and bail. The parties may pose questions to the witnesses and object to presented evidence. The defendant and his defence counsel shall be entitled to speak least. The court shall deliver the ruling on investigative detention orally at the end of the scheduled hearing.
(4) Prior to the scheduled hearing, the State Attorney shall inform the investigating judge on the course of investigation for the purpose of the evaluation of timely actions.
(5) If the court renders a ruling ordering or prolonging investigative detention, it shall inform the defendant of his right to appeal and his right to file a motion to vacate detention in accordance with the provisions of Article 128 of this Act.
(6) A record of the scheduled hearing shall be made and it shall be enclosed with the files along with the ruling on investigative detention.
(7) When deciding on any issue, even after the ruling on ordering or prolonging investigative detention has been rendered, the court shall by virtue of the office be careful that the reasons for detention exist.

g) Duration of Investigative Detention

Article 130

(1) Investigative detention ordered by the ruling of the investigating judge or the panel may last no longer than one month from the date the detainee was deprived of freedom.
(2) Upon the motion of the State Attorney, if there are justifiable reasons, the investigating judge may prolong detention, first time for a term no longer than two months and after that, for criminal offences for which regular criminal proceedings are conducted, or when prescribed by a special law, for additional term no longer than three months.
(3) Upon the expiry of the term for which detention was ordered or prolonged or upon the expiry of the term referred to in paragraph 3 of this Article, the detainee shall be released.

Article 131

(1) If the defendant is detained at the moment the indictment is preferred, the indictment panel shall immediately, but not later than forty-eight hours after the indictment is preferred, hold a hearing referred to in Article 129 of this Act and shall decide on detention and render a ruling on prolonging or vacating detention.
(2) After the indictment is preferred, detention may last until the judgment is final, and after the judgment is final it may last until the ruling on committing the defendant to serving a prison sentence becomes final.
(3) After the indictment is preferred, the ruling on detention shall not determine the duration of detention. However, every two months counting from the date the previous ruling on detention became final until the rendering of a judgment that is not final the court shall examine whether legal grounds for further application of detention still exist and shall render a ruling on prolonging or vacating detention. An appeal against this ruling shall not stay its execution. If the defendant is in detention at the time the judgment that is not final is pronounced, the panel shall review whether there are legal grounds for further application of detention and shall render a ruling on prolonging or vacating detention.
(4) The whole duration of investigative detention until the indictment is preferred, including the time of the arrest and pre-trail detention, may last no longer than six months, unless otherwise prescribed by a special law. After new indictment is preferred according to Article 356 of this Act, the provisions of paragraph 2 of this Article shall

apply.

Article 132

Investigative detention ordered pursuant to Article 123 paragraph 1 item 5 of this Act may last no longer than one month. Such detention may be renewed on the same basis for the same duration even after investigative detention has been vacated if the defendant continues to evade appearance at the trial.

Article 133

(1) Before a judgment of the court at first instance is rendered, the duration of investigative detention may not be longer than:
1) three months if the offence is punishable by imprisonment for a term of less than three years;
2) six months if the offence is punishable by imprisonment for a term of less than five years;
3) twelve months if the offence is punishable by imprisonment of less than eight years;
4) two years if the offence is punishable by imprisonment for a term of more than eight years;
5) three years if the offence is punishable by long-term imprisonment.
(2) In cases where a judgment is rendered that is not final, the whole duration of detention until the judgment becomes final shall be prolonged by one-sixth in the cases referred to in paragraph 1 items 1 to 3 of this Article, and by one-quarter in the cases referred to in paragraph 1 items 4 and 5 of this Article.
(3) When the judgment is revoked, in the proceedings for offences referred to in paragraph 1 items 1 to 3 of this Article, the whole duration of detention referred to in paragraphs 1 and 2 of this Article shall be prolonged for the additional term of six months, whereas for the offences referred to in paragraph 1 items 4 and 5 of this Article it shall be prolonged for the additional term of one year.
(4) When the second-instance judgment is subject to an appeal, the whole duration of detention referred to in paragraphs 1 and 2 of this Article shall be prolonged for the additional term of six months.
(5) The defendant who is detained and the judgment sentencing him to prison becomes final shall remain in that prison until being forwarded to serving sentence, but not longer that the expiry of the term of his sentence.

h) Appeal against Ruling on Ordering, Vacation or Prolongation of Investigative Detention

Article 134

(1) The defendant, his defence counsel and the State Attorney may within three days file an appeal against a ruling on ordering, prolongation or vacation of investigative detention. The ruling on ordering, prolongation or vacation of investigative detention by the panel of the court at second instance shall not be subject to appellate review, except where the panel of that court orders detention pursuant to Article 127 paragraph 5 of this Act for a defendant for whom no ruling on detention was ordered. The Supreme Court of the Republic of Croatia shall rule on the appeal within three days.
(2) An appeal against the ruling on ordering, prolongation or vacation of investigative detention shall not stay its execution.

i) Execution of Investigative Detention and Treatment of Detainees

Article 135

(1) Investigative detention shall be executed in accordance with the provisions of this Act and other provisions founded thereon.

(2) The defendant for whom investigative detention has been ordered on the ground from Article 551 paragraph 1 of this Act shall, by the decision of the administrator of the prison, be committed to a hospital for persons deprived of freedom or an adequate psychiatric institution where he shall be given proper medical care, with all the rights that the defendant is entitled to according to provisions of this Chapter and other regulations on serving the term of detention.

(3) Only those employees of the ministry responsible for justice who have the required knowledge, skills and professional education in accordance with regulations may work on the execution of detention.

(4) The minister responsible for justice shall bring regulations on prisons for investigative detention and on the conditions to be fulfilled by investigative detention employees.

Article 136

(1) Investigative detention shall be executed in conditions which do not offend the person and dignity of the detainee. Authorized employees of the judicial police and guards may, in executing detention, use means of force only when and in the manner prescribed by law, in cases where the execution of detention is not feasible due to the active or passive resistance of the detainee.

(2) The rights and freedom of the detainee may be restricted only to the extent necessary to achieve the purpose of detention, to prevent his flight, to prevent the commission of an offence and to remove the danger to life and health of people.

(3) The prison administration shall collect, process and keep data on the detainees. The data collection shall contain:

1) data concerning the identity of the detainee and his psycho-physical condition;

2) data on admission to investigative detention, the duration, prolongation and vacation of investigative detention;

3) data on the work the detainee is performing;

4) data on the conduct of the detainee and the disciplinary measures applied;

5) other data determined by the minister responsible for justice.

(4) The data referred to in paragraph 3 of this Article shall be kept and used while the detainee is in detention. Apart from the central register on detainees kept by the ministry responsible for justice, these data shall be given to the authorities of criminal proceedings and to the person the data refer to upon their written request.

(5) The minister responsible for justice shall bring a regulation on the data record referred to in paragraph 4 of this Article.

Article 137

Detainees shall be accommodated in rooms of an appropriate size which meet all necessary health requirements. Persons of opposite sex shall be detained separately. As a rule, detainees shall not be accommodated in the same room as persons who are serving a prison sentence. A detainee shall not be accommodated with persons who may be of harmful influence to him, or whose company may be prejudicial to the course of the proceedings.

Article 138

(1) Detainees are entitled to eight hours of uninterrupted rest every 24-hour-period. In addition, at least two hours of movement in the open air daily shall be provided.
(2) A detainee is entitled to have on him his personal belongings, hygiene articles, to obtain books at his own expense, newspapers and other publications as well as the means for public media transmission and to have other items in the quantity and size which does not disturb the sojourn in the room or the house rules of the institution. When personally searched on admission to detention, objects in relation to the offence shall be seized from the detainee while other objects which he is not allowed to retain shall be deposited and kept in accordance with his instructions or handed over to the person appointed by the detainee.

Article 139

(1) Upon the approval of the investigating judge or the president of the panel and under his supervision or the supervision of a person designated by him, the detainee may, in accordance with the house rules of the institution, receive visits from his relatives and upon his request from a physician or other persons. Particular visits may be denied if they may be prejudicial to the course of the proceedings.
(2) In conformity with the house rules of the institution, the investigating judge or the president of the panel shall approve a visit to a detainee who is a foreign national from the consular representative of the country to which he belongs.
(3) A detainee may correspond with persons outside the prison, subject to the knowledge and supervision of the investigating judge, and after the indictment is preferred, subject to the knowledge and supervision of the president of the panel. The detainee may be forbidden to send and receive letters and other shipments, except to send a petition, complaint or appeal.
(4) The investigating judge or the president of the panel shall grant the detainee to make telephone calls to a certain person at his own expense in accordance with the house rules and under the supervision of the prison administration. For that purpose, the prison administration shall provide for a public telephone connection which enables detainees to make at least one phone call of appropriate duration per day.
(5) A detainee is entitled to unrestricted, unimpeded and unsupervised communication with his defence counsel, except in cases referred to in Article 75 paragraph 2 and Article 76 paragraph 2 of this Act.

Article 140

(1) In the event of a disciplinary offence the investigating judge, single judge or the president of the panel may, upon the motion of the administrator of the prison, impose a disciplinary punishment consisting of restrictions on visits and correspondence. Such restrictions shall not refer to the communications between the detainee and his defence counsel or to the visits of a consular representative.
(2) A disciplinary offence is each grave breach of discipline that refers to:
1) physical attacks on other detainees, employees or officials and acts which offend them;
2) producing, receiving, bringing in, smuggling objects which serve for attack or flight,
3) bringing intoxicants or alcohol into the prison or preparing them in the prison;
4) bringing into the prison items which are contrary to regulations on detention,
5) breaches of the regulations on security at the work place, fire protection and preventing the consequences of natural calamities,
6) the intentional causing of considerable material damage,
7) improper conduct in the presence of other detainees or officials.

(3) A ruling on the disciplinary measure shall be subject to an appeal within twenty-four hours.
(4) The means of force against a detainee may be undertaken in cases regulated by the rules on police authorities and the execution of the sentence of imprisonment. The prison administration shall immediately, without delay, inform the investigating judge, single judge or the president of the panel of the use of the means of force against a detainee.

Article 141
(1) Supervision over the execution of detention shall be carried out by the president of the court having jurisdiction.
(2) The president of the court or the judge designated by him shall be bound to visit the detainees at least once a week and, if he considers it to be necessary even without the presence of the guards, shall inform himself about the prisoners' food, how their other needs are satisfied and how they are treated. The president of the court or the judge designated by him shall be bound to undertake measures necessary to remove improprieties seen while touring the prison.
(3) The president of the court and the investigating judge or the president of the panel or the single judge conducting the proceedings regardless of supervision referred to in paragraph 2 of this Article may at any time visit detainees, speak with them and receive their complaints.
(4) If the judge from paragraph 2 of this Article during the visit or upon the complaint of a detainee determines that the term of detention ordered by the ruling on detention has expired or that a lawful decision on the deprivation of freedom does not exist, he shall immediately order the release of the detainee.
(5) A detainee who considers that his right has been deprived or limited illegally may address the president of the court, who shall undertake measures referred to in paragraph 2 of this Article where necessary.

Article 142
Consular and diplomat representatives may in accordance with international law visit their citizens who are in detention, speak with them and assist them in retaining a defence counsel.

Article 143
The minister responsible for justice shall issue house rules for prisons which shall regulate the execution of detention in more detail in accordance with the provisions of this Act.

j) Investigative Detention Record

Article 144
(1) The ministry responsible for justice shall keep a record of persons against whom investigative detention was ordered and who were deprived of freedom based on a ruling on investigative detention (investigative detention record).
(2) The court shall deliver every ruling on ordering, prolongation and vacation detention and on invalidating a ruling on investigative detention to the ministry responsible for justice electronically.
(3) The ministry responsible for justice shall provide the court and the State Attorney with permanent access to data from the investigative detention record.

(4) The minister responsible for justice shall bring a regulation on the investigative detention record.

Chapter X
COSTS OF THE CRIMINAL PROCEDURE

Article 145

(1) Costs of criminal proceedings are expenses incurred from its institution to its termination, costs for undertaking evidence collecting actions before the commencement of the criminal proceedings, and costs for providing legal aid.

(2) Costs of criminal proceedings shall consist of:

1) expenses for witnesses, expert witnesses, interpreters and experts, expenses for technical recording, expenses for copying the audio records and expenses of judicial view,

2) expenses of transportation of the defendant,

3) expenses of bringing before the court the defendant or arrested person,

4) expenses of transportation and travelling expenses of officials,

5) expenses of medical treatment of the defendant who is not entitled to health insurance while he is in pre-trail detention or investigative detention or in a medical institution by virtue of a judicial decision, and expenses of child delivery,

6) a lump sum,

7) fees and necessary expenses of the defence counsel, necessary expenses of the private prosecutor and subsidiary prosecutor and their legal guardians, and fees and necessary expenses of their legal representatives,

8) necessary expenses of the injured person and his legal guardian and fees and necessary expenses of his legal representative.

(3) The lump sum shall be determined within the limits of sums prescribed by special regulations depending on the complexity and duration of the investigation and the criminal proceedings.

(4) The expenses referred to in paragraph 2 subparagraphs 1 to 5 of this Article other than those incurred in the institutions financed from the state budget as well as the necessary expenses of the appointed defence counsel and appointed legal representative of the subsidiary prosecutor in criminal proceedings for offences subject to public prosecution shall be paid from the budget of the authorities carrying out the criminal proceedings and shall be later collected from the persons required to pay them according to the provisions of this Act.

(5) The expenses of translation into languages of minorities in the Republic of Croatia which occur by the application of the provisions of the Constitution and the statute on the rights of minorities in the Republic of Croatia to use their language shall not be collected from persons who are according to provisions of this Act required to pay the costs of criminal proceedings.

Article 146

Every judgement and every ruling discontinuing criminal proceedings shall contain a decision on who will bear the costs of proceedings.

Article 147

(1) The defendant, injured person, subsidiary prosecutor, private prosecutor, defence

counsel, legal guardian, legal representative, witness, expert witness, interpreter and expert, regardless of the outcome of the criminal proceedings, shall pay expenses for bringing them before the court, for postponing the evidence collecting action or trial and other expenses in the proceedings caused by their culpability as well as a proportional amount of the lump sum.

(2) A separate ruling shall be rendered on expenses referred to in paragraph 1 of this Article.

Article 148

(1) When the court finds the defendant guilty, it shall state in the judgment that he must pay the costs of criminal proceedings.

(2) A person charged with several offences shall not bear the costs regarding the offences for which he was acquitted if these costs can be separated from the overall costs.

(3) In a judgment pronouncing several defendants guilty, the court shall order what proportion of the costs each of the defendants shall pay, and if this is not possible, the court shall order that the defendants shall be jointly liable for the costs. The payment of the lump sum shall be determined separately for each defendant.

(4) If no data is available on the amount of costs, a separate ruling on the amount of costs shall be rendered by the investigating judge, the single judge or the president of the panel when the data become available. The application with the data on the amount of costs may be submitted within months at the latest from the day of the delivery of the final judgment or the ruling to the person with the right to submit such an application.

(5) The court may, in a decision on costs, decide that the defendant shall not pay the entire or partial sum of the costs of criminal proceedings referred to in Article 145, paragraph 2 items 1 to 6 of this Act and the fee and necessary expenses of the appoint defence counsel if payment of these costs could imperil the maintenance of the defendant or persons he is bound to maintain. If these circumstances are determined after the decision on costs is rendered, the president of the panel may, in a separate ruling, dispense the defendant from the duty to bear the costs of criminal proceedings.

Article 149

(1) When criminal proceedings are discontinued or when a judgement of acquittal or a judgement rejecting the charge is rendered, the court shall state in its ruling or judgement that the costs of criminal proceedings referred to in Article 145, paragraph 2 items 1 to 5 of this Act as well as the necessary expenses of the defendant and the necessary expenses and fees of the defence counsel shall be paid from the budget funds, except in the cases referred to in paragraphs 2 to 5 of this Article.

(2) The person who deliberately makes a false report shall pay the costs of criminal proceedings.

(3) The private prosecutor and subsidiary prosecutor shall pay the costs of criminal proceedings referred to in Article 145 paragraph 2 items 1 to 6 of this Act, the necessary expenses of the defendant and the necessary expenses and fees of his defence counsel if the proceedings are terminated by a judgement of acquittal or a judgement rejecting the charge or a ruling discontinuing the proceedings except if the proceedings are discontinued or if a judgement rejecting the charge is rendered because of the death of the defendant or his permanent mental illness or because the period of limitation for the institution of prosecution has expired due to the delay of proceedings which cannot be blamed on the private prosecutor or subsidiary prosecutor. If the proceedings are

discontinued because the prosecutor withdraws the charge, the defendant and the private prosecutor or the subsidiary prosecutor may reach a settlement on their mutual expenses. If there is more than one private prosecutor or subsidiary prosecutor, they shall be jointly liable for costs.

(4) The injured person who has caused the discontinuance of the proceedings by withdrawing the motion for prosecution shall bear the costs of criminal proceedings unless the defendant has declared that he will do so.

(5) When the court rejects a charge due to lack of jurisdiction, the decision on costs shall be brought by the court having jurisdiction.

Article 150

(1) Fees and necessary expenses of the defence counsel and the legal representative of the private prosecutor or the injured person shall be paid by the person who retains them regardless of who, according to the judicial decision, shall bear the costs of the criminal proceedings, except when according to the provisions of this Act the fees and necessary expenses of the defence counsel shall be paid from budget funds. If the court appoints the defence counsel, the fees and necessary expenses of the defence counsel shall be paid from the budget funds. This shall also apply when the court has appointed a legal representative to the subsidiary prosecutor.

(2) A legal representative who is not a member of the Bar shall not be entitled to fees but only to the recovery of necessary expenses.

Article 151

The higher court shall decide on who shall bear the costs of proceedings held before that court according to the provisions of Article 145 of this Act.

Article 152

The minister responsible for justice shall bring regulations on reimbursement of costs of criminal proceedings.

Chapter XI
CLAIMS FOR INDEMNIFICATION

Article 153

(1) A claim for indemnification arising out of the commission of a criminal offence shall be considered in criminal proceedings upon the motion of authorized persons, provided that this does not considerably delay proceedings.

(2) The claim for indemnification may consist of an issue which may be litigate in a civil action.

Article 154

(1) A motion to assert a claim for indemnification can be made by a person who is entitled to litigate an issue in a civil action.

(2) When the motion referred to in paragraph 1 of this Article is submitted by the victim of the criminal offence, he shall quote in the motion if he acquired any compensation or submitted a request pursuant to Article 43 paragraph 2 of this Act.

Article 155

(1) A motion to assert the claim for indemnification in criminal proceedings shall be submitted to the authority charged with receiving crime reports or to the court conducting the proceedings.

(2) The motion referred to in paragraph 1 of this Article may be submitted before the conclusion of evidentiary proceedings before the court at first instance.

(3) The person entitled to submit a motion must specify his claim and offer supporting evidence.

(4) If the authorized person fails to submit a motion for indemnification in criminal proceedings until the indictment is preferred, he shall be informed of his right to make the motion until the conclusion of evidentiary proceedings.

Article 156

(1) A person entitled to assert a claim for indemnification (Article 154) may, until the completion of the evidentiary proceedings, withdraw his motion for indemnification in criminal proceedings and submit it as a civil action. In the event that the motion has been withdrawn it cannot be submitted again.

(2) It after the motion for indemnification has been submitted and prior to the conclusion of evidentiary proceedings, the claim is transferred to another person under the provisions of civil law, this person shall be invited to declare whether he is willing to continue pursuit of the claim. If a duly served person fails to appear it shall be deemed that he has withdrawn the motion.

Article 157

The authority conducting the proceedings shall examine the defendant with respect to the facts set out in the motion and explore the circumstances which are of importance for the decision on the claim for indemnification.

Article 158

(1) The court shall have jurisdiction to decide on claims for indemnification.

(2) The court may in a judgement of conviction satisfy the claim of the injured person fully, or it may satisfy it partially while directing the injured person to assert the rest of the claim in a civil action. If the data established in criminal proceedings furnish no reliable basis for either full or partial adjudication, the court shall direct the injured person to assert his claim in a civil action.

(3) When rendering a judgement of acquittal, a judgement rejecting the charge, or a ruling discontinuing criminal proceedings, the court shall direct the injured person to assert his claim for indemnification in a civil action. When the court declares itself incompetent, it shall instruct the injured person that he may assert his claim for indemnification in criminal proceedings which shall be instituted or continued by a court having jurisdiction.

Article 159

(1) In criminal proceedings the court may alter a final judgement which decides on a claim for indemnification only upon extraordinary judicial remedies.

(2) Except for the case referred to in paragraph 1 of this Article, a final judgement which decides on a claim for indemnification may be revised only in civil proceedings on the request of the convicted person or his heirs, provided that grounds exist for reopening the proceedings under rules on civil procedure.

Article 160

(1) Provisional measures securing a claim for indemnification arising out of the perpetration of an offence may be ordered in the criminal proceedings upon the motion of an authorized person and according to the rules on enforcement proceedings.

(2) In the course of the investigation, the ruling from paragraph 1 of this Article shall be rendered by the investigating judge. After the indictment is preferred, the ruling shall be rendered by the indictment panel and at the trial by the court conducting the trial. An appeal against the ruling on provisional measures shall not stay its execution.

Article 161

(1) The objects that undoubtedly belong to the injured person and do not serve to determine facts in the criminal proceedings shall be handed over to the injured person even prior to the termination of proceedings.

(2) If several injured persons claim ownership of an object, they shall be instructed to institute a civil action and the criminal court shall only order sequestration of the object as a provisional measure securing the claim.

(3) The objects of evidentiary value shall be seized temporarily from the owner and returned to him after the termination of proceedings. If such an object is indispensable to the owner it may be returned to him even before the termination of proceedings but he shall be obliged to bring it upon request.

Article 162

(1) If the injured person has a claim against a third party because he is in possession of objects acquired by the commission of an offence or because a third party acquired pecuniary benefit in consequence of the commission of an offence, the court may in criminal proceedings on the motion of an authorized person order a provisional measure securing the claim against that third party as well, according to the rules on enforcement proceedings. The provisions referred to in Article 160 paragraph 2 of this Act shall also apply in this case.

(2) In a judgement of conviction the court shall either vacate the measures referred to in paragraph 1 of this Article if these have not already been vacated or instruct the injured person to institute civil proceedings, with the proviso that these measures shall be vacated if the civil proceedings are not instituted within a term set by the court.

Chapter XII
DECISIONS, SERVICE, INSPECTION OF DOCUMENTS AND FILES, CRIMINAL RECORDS, PERSONAL DATA, FOUND AND CONFISCATED ITEMS

1. Rendering and Pronouncing Decisions

Article 163

(1) Decisions in criminal proceedings shall be in the form of a judgement, ruling, or warrant and order.

(2) Only the court shall render a judgement, while rulings and warrants and orders may

also be rendered by other authorities taking part in criminal proceedings.

Article 164

(1) The panel shall render a decision after oral deliberation and voting. A decision shall be rendered by a majority vote.

(2) The president of the panel shall chair the deliberation and voting and shall give his vote last. He shall see to it that all the issues are thoroughly and fully considered.

(3) If the votes are divided into more than two opinions so that none has the necessary majority, the issues shall be separated and the voting repeated until a majority is reached. If in such a manner a majority is not reached, the decision shall be rendered by adding the votes most favourable for the defendant to the votes less favourable for him until a required majority is reached.

(4) The members of the panel may not abstain from voting on issues presented by the president of the panel but a member of the panel who voted for the acquittal of the defendant or for vacation of the judgement and was outvoted shall not be required to vote on the issue of sanctions. If he fails to vote, it shall be deemed that he assents to the vote most favourable for the defendant.

(5) Upon a request from a panel member who singled the vote, his written statement of reasons of his singled vote shall be attached to the written decision.

Article 165

(1) When deliberating, the court shall first vote on the issue of the court's jurisdiction, on the issue whether proceedings should be supplemented and on other threshold questions. After deciding on threshold questions the court shall decide on the subject matter of the case.

(2) When deciding on the subject matter of the case, the court shall first vote to determine whether the defendant committed the offence and whether he is guilty, and thereafter it shall vote on punishment or on other criminal sanctions, the costs of criminal proceedings, claims for indemnification and other issues on which a decision must be rendered.

(3) If the same person is charged with committing more than one offence, the court shall vote on culpability and punishment for each offence and thereafter on an aggregate punishment for all the offences.

Article 166

(1) Deliberation and voting shall take place in closed session.

(2) Only members of the panel and the court reporter may be present in the room where deliberation and voting take place.

(3) The data on the course of deliberation and voting shall be kept secret, except in the case referred to in Article 164 paragraph 5 of this Act.

Article 167

(1) If not otherwise provided by this Act, the decisions shall be conveyed to the interested persons by oral pronouncement if they are present and by the service of a certified copy if they are absent.

(2) When pronouncing a decision orally, this shall be noted in the record or in the files. If the person who has the right to appeal states that he shall not take an appeal, the certified

copy of the orally pronounced decision shall not be served on him, unless otherwise provided by this Act.

(3) Copies of the decision subject to appellate review shall be served along with an instruction on the right to appeal.

Article 168

(1) A written ruling or a warrant and order must be composed of the introduction and the ordering part, and the ruling of the statement of reasons.

(2) The introduction of the ruling or warrant and order shall always include:

1) title of the authority;

2) name, surname and the role of the official person or persons who rendered the ruling or the warrant and order;

3) name and surname of the court reporter if the decision was brought at a session;

4) name and surname of the defendant and the personal identification number;

5) criminal offence which is the subject of the proceedings;

6) date of rendering the ruling or the warrant and order.

(3) The ordering part of the ruling or the warrant and order shall include the legal ground for bringing a decision and the decision.

(4) The statement of reasons shall state the determined facts and grounds for the application of legal provisions.

(5) Rulings subject to appellate review shall be served along with an instruction on the right to appeal.

2. Service

Article 169

(1) Decisions and letters (summons and other briefs) shall be served by:

1) the official of the authority participating in the criminal proceedings;

2) mail;

3) public or private organisation authorized for the activity of service in criminal proceedings by a special decision of the minister responsible for justice;

4) a postal box at the court;

5) means of telecommunications.

(2) Service of decisions and letters may be performed directly at the authority for criminal proceedings if the recipient is present.

(3) In the case prescribed by this Act, the police shall, upon the request of the court or the State Attorney, find the persons whose address is not known and shall serve them with the summons (Article 97 paragraph 6).

(4) The minister responsible for justice shall prescribe:

1) conditions to be fulfilled by the organisation performing the service referred to in paragraph 1 of this Article and shall supervise its application;

2) technical conditions of the system for the exchange of telecommunication messages in order to ensure their functionality and possibility to verify their receipt.

Article 170

(1) The authority which has composed the decision and letter shall serve it on the person to whom it is addressed (recipient) to the address of domicile or residence or the address of employment, and may also be sent to another address where the recipient may be found.

(2) Decisions and letters to the state authority shall be delivered by serving them on the clerk's office or using the means of telecommunications.

(3) Decisions and letters to the attorneys shall also be served by placing them in their postal boxes at the court or using the means of telecommunications.

(4) The provisions of Article 79 and 169 paragraph 4 item 2 of this Act shall apply to the service of letters by means of telecommunications.

(5) Decisions and letters addressed to a legal person shall be served to the address of its seat or the seat of its branch office.

(6) Service of letters upon military personnel, members of the police authorities and judiciary police may be effected to their command or the leader of the organizational unit they belong to.

(7) Service of decisions and letters upon prisoners shall be made to the court or through the administration of the institution where they are placed.

(8) Service of decisions and letters on persons enjoying immunity under international law in the Republic of Croatia shall be made through the ministry responsible for foreign affairs, if not otherwise provided by international treaties.

(9) Decisions and letters to nationals of the Republic of Croatia abroad, if the procedure prescribed by provisions on international judicial assistance is not applicable, shall be served through the diplomatic or consular mission of the Republic of Croatia in the foreign country, subject to the condition that the foreign country does not object to such a manner of service. If the letter is served in the mission, the authorized employee of the diplomatic or consular mission shall sign the service receipt as process server, and if the service is made by mail he shall confirm this on the service receipt.

(10) Persons involved in the witness protection programme according to this Act and other regulations, a decision and letter shall be served through the authority conducting the protection.

Article 171

(1) A decision and letter shall be served directly to the person to whom it is addressed, and the person shall be bound to receive it. If that person cannot be reached at the address of domicile or residence, the process server shall serve it on one of the adult members of the household, who are bound to receive the letter. If they are not found in the apartment, the letter shall be served on the janitor or a neighbour, if they are willing to receive it. It shall be deemed by such acts that the letter is served.

(2) If a decision and letter is served on a person at his place of work, and the person cannot be reached, delivery can be effected to the person authorised to receive mail who is bound to receive it, or to the co-employee, if he is willing to receive it. It shall be deemed by such acts that the letter is served.

(3) If it is determined that the person to whom the decision and letter is to be served is absent and that persons from paragraphs 1 and 2 of this Article for that reason are unable to serve it on him in due time, the process server shall inform himself where the recipient can be found and shall return the letter to the sender with a notice stating the address at which the letter could be served on the recipient. The process server shall leave the notice on attempted service at the address where the service should have been performed.

Leaving of such note shall not deem that the service was duly effected.

Article 172

(1) Upon receiving the decision and letter, the recipient shall sign the service receipt and indicate the day and hour of receipt. The service receipt shall also be signed by the process server.

(2) If the recipient is illiterate or otherwise unable to sign the service receipt, the process server shall sign the recipient's name, indicate the day of receipt and note the reasons why he signed in place of the recipient.

(3) If the recipient or the person who is bound to take the decision and letter (Article 171 paragraphs 1 and 2) refuses to accept the letter or to sign the service receipt, the process server shall leave the letter at the place where he found the receiver and shall make a note thereof on the service receipt indicating the day, hour and place of delivery. This act shall signify that the service was duly made.

Article 173

(1) Unless otherwise stipulated by this Act, the summons to witnesses and experts for interrogation before the indictment and in criminal proceedings shall be served by the parties. The authority which shall conduct the action shall previously determine the time and place of conducting the action.

(2) The court secretary shall, after the party presents him with evidence on the contents and service of the summons on witnesses and experts who failed to answer the proper summons, or evidence about impossibility of serving the summons, issue the subpoena for the session or the hearing, with the warning on the consequences of non appearing. The court secretary shall also act accordingly on the basis of a court order in other cases.

(3) Summoning as a witness a juvenile person who has not yet reached the age of sixteen years shall be performed through his parents or a legal representative, except when that is not possible because of the need for urgent action or for other justifiable circumstances.

(4) If the summons cannot be served on the injured person, private prosecutor, subsidiary prosecutor, his legal representative and legal guardian to the previous address, or it is obvious that the recipient avoids receipt of the summons, the summons shall be posted on the notice board and the Internet site of the authority conducting the criminal proceedings, and after the lapse of eight days, it shall be deemed that it was duly served.

(5) The court shall impose a fine to the participants in the proceedings in an amount not exceeding HRK 50,000.00 if they avoid to receive the letter.

Article 174

(1) If the decision and letter has to be served on the defendant’s defence counsel, and the defendant has retained several defence counsels, the service shall be made on the defence counsel they designated, and if they have not, the service shall be made to one of them.

(2) If the defendant is tried in his absence, the decisions and letters shall be served on his defence counsel and it shall be deemed that the service was duly effected.

(3) If the victim, injured person, subsidiary prosecutor or private prosecutor is represented by a legal adviser, legal guardian or legal representative, the letters shall be served only on the adviser, guardian or representative, and in case where there are

several, then only one of them shall be served.

Article 175

(1) The summons to the defendant for the hearing before laying the indictment shall be sent by the State Attorney. If the defendant fails to answer to the summons for unjustified reasons, the State Attorney shall propose to the investigating judge to issue a warrant for compulsory appearance.

(2) Summoning shall be performed by delivery of the closed written summons containing: the name of the authority who is summoning, name and surname of the defendant, name of the criminal offence that he is the subject of, place where the defendant has to appear, day and hour when he has to appear, an indication that he is summoned as a defendant and a warning that in case of non-appearance he will be forcefully brought in, the official seal of the authority and the signature of the person who is sending the summons. The defendant shall be instructed in the summons that he is bound to inform immediately the authority conducting the proceedings of the change of address and on the intention to change residence, and shall be warned on the consequences stipulated by this Act if not acting accordingly.

(3) When the defendant is summoned for the first time, information on the rights shall be delivered to him in addition to the summons (Article 239).

(4) The summons to the defendant for evidentiary hearing, hearing of the indictment panel, preliminary hearing and main hearing shall be issued by the court secretary and sent to the defendant, based on the order of the court.

(5) If the defendant fails to answer to the summons referred to in paragraph 4 of this Article for unjustified reasons, the court secretary shall inform about the service of the summons the court authority undertaking the action for issuing measures to ensure the defendant's presence.

(6) If the letter cannot be served on the defendant because he did not report the change of address, or it is obvious that he avoids receipt of the letter, the letter, in addition to the summons and the judgment in cases referred to in paragraph 7 of this Article, shall be posted on the notice board and the Internet site of the authority conducting the criminal proceedings, and after the lapse of eight days, it shall be deemed that it was duly served.

(7) If the defendant who does not have a defence counsel should be served with a judgement imposing a sentence of imprisonment or a judgement pronouncing punishment, and the judgement cannot be served at his present address, the court shall assign a defence counsel to the defendant by virtue of the office who shall perform this duty until the new address of the defendant is determined. The court shall grant the appointed counsel a necessary term, which shall be not less than eight days, to familiarize himself with the files, after which the judgment shall be served on the appointed counsel and the proceedings resumed.

(8) If the defendant issued a power of attorney to his defence counsel authorizing him to receive documents, summons, incriminating acts and rulings from whose service starts the appeal term (Article 77), the service shall be considered to be duly performed as of

the day of the service of the letter to the attorney's office of the defender or as of the day of sending the letter to that office may means of telecommunications. The judgement imposing a sentence of imprisonment shall always be delivered also to the defendant.

Article 176

(1) The summons for the evidentiary hearing, hearing of the indictment panel and main hearing may also be served orally to the person present before the acting authority. The summons served in such a manner shall be noted in the record or in the official note, and signed by the summoned person, except if this summons is noted in the record of the trial. The summoned person shall be instructed about consequence of a failure to appear.

(2) The summons for the persons who participate in the proceedings, except for the defendant, may be served on the participant of the proceedings who is willing to deliver it to the person it is addressed to, if the authority conducting the proceedings deems that the service is guaranteed in such manner. The court order on handing over the summons for the service on the person who participates in the proceedings is mandatory for the prosecutor and the defence counsel in relation to the persons whose interrogation they proposed.

(3) The persons from the paragraph 1 of this Article may also be informed about the summons for hearing or other summons, or about the decision on postponement of the hearing or other activities by means of telecommunications, if, under the circumstances, it may be assumed that the notification sent in such manner will reach the person to whom it is addressed to.

(4) An official note shall be made in the document on the summons and service of the decision made in the manner regulated in paragraphs 2 and 3 of this Article.

(5) The person who was informed according to paragraph 2 or 3 of this Article, or to whom the decision was sent in such manner, may bear the consequences of a failure to appear only if is determined that the person received the summons in due time and that it was instructed on the consequences of a failure to appear.

Article 177

(1) The court secretary shall supervise a despatch of court decisions, letters and summons, shall verify whether they were properly served on the receivers, and if necessary, and shall order their repeated despatch. It shall issue the subpoena to the parties upon their request.

(2) The court secretary shall inform the investigating judge or the president of the panel or the judge conducting the proceedings and, if necessary, the court president about failed attempts to despatch and deliver the letters he cannot resolve, in order to take measures necessary to ensure the efficient delivery.

3. Enforcement of Decisions

Article 178

The judgement and the ruling shall become final after they may no longer be challenged by an appeal or when they are not subject to appellate review.

Article 179

(1) The final judgement shall be executed after it is duly served and when there are no legal obstacles to its execution. If an appeal is not filed or the parties waive their right to an appeal or they withdraw the appeal, the judgement shall be enforceable after the expiry of the term for the appeal or from the day when the parties waive their right to appeal or withdraw the appeal.

(2) The court secretary shall serve a certified copy of the judgement with an attestation of its executability to the authority which has jurisdiction for execution and takes care of the timely initiation of activities necessary for its execution.

(3) If a punishment is inflicted upon an active military officer, civil servant or employee of the Armed Forces of the Republic of Croatia, the court secretary shall serve a certified copy of the final judgement on the ministry responsible for defence, and if a punishment is inflicted upon a reserve commissioned or non-commissioned officer, a certified copy of the final judgement shall be served on the authority competent for matters of defence where the military registry of convicted persons is kept.

(4) Except as otherwise provided by this Act, rulings shall be executed when they become final. Warrants and orders shall be executed immediately if the authority issuing them does not decide otherwise.

(5) Except as otherwise provided, rulings and warrants and orders shall be executed by the authorities which render them.

Article 180

(1) The execution of punishments, security and educational measures shall be regulated by special legislation.

(2) If doubts arise regarding the permissibility of enforcing a court's decision or fixing a punishment, or if a final judgement fails to include the time spent in pre-trial detention, investigative detention or served under an earlier sentence, or if these computations are erroneous, the president of the panel at first instance shall decide on these issues by a special ruling. The appeal shall not stay the execution of the ruling, provided the court does not decide otherwise.

(3) If doubts arise regarding the interpretation of a court's decision, the court which rendered the final decision shall decide on it in the manner as stated in paragraph 2 of this Article.

Article 181

(1) The court secretary shall, when the judgement becomes enforceable, invite the person to whom the judgement ordered to pay the costs of criminal proceedings or from whom pecuniary benefit is confiscated, to deliver evidence on the fulfilment of the obligation within the period determined in the judgement.

(2) If the court decided by a ruling on costs of criminal proceedings or on seizure of objects, such decisions shall be executed according to the provisions of paragraphs 5 and 6 of this Article.

(3) After the decision on a claim for indemnification becomes final and enforceable, the injured person may request that the court at first instance issues him with a certified copy of the decision with a note that the decision is enforceable.

(4) If the judgement had not specified a time period for voluntary fulfilment of the obligation, the obligation must be fulfilled within fifteen days from the moment the

judgement becomes final. When that period expires, the judgement becomes enforceable for that part.

(5) If the person from paragraph 1 of this Article fails to fulfil the obligation in the given timescale, the court secretary shall deliver the judgement with an attestation of its executability to the competent State Attorney. The State Attorney shall by virtue of the office initiate the distraint procedure to reimburse the said costs of criminal proceedings which shall be paid to the benefit of the budget funds and to confiscate pecuniary benefit. The costs of the distraint procedure shall be advanced from the budget funds of the court that executes the distraint procedure.

(6) If money or other valuables which are kept with the Court are temporarily seized from the persons from paragraph 1 of this Article, the court secretary shall order reimbursement of the owed amount from such money or other valuables according to the provisions that apply for the distraint procedure. A claim for indemnification shall be first reimbursed from that amount, then the confiscated pecuniary benefit and the costs of proceedings. If all claims cannot be reimbursed in full from the confiscated money and other valuables, the provisions of paragraph 1 and 2 of this Article shall apply for the outstanding amount.

(7) If the security measure of seizure of an object is ordered in the judgment, the court which rendered the judgment at first instance shall decide whether these objects shall be sold pursuant to the provisions on enforcement procedure, given to a museum of criminology or other institution or destroyed. Proceeds of the sale shall be assigned to public funds.

Article 182

When a fine imposed in accordance with the provisions of this Act is not paid entirely or partially in the prescribed term, the court shall replace it with imprisonment which shall be determined by an appropriate application of the provisions of the Penal Code.

4. Inspection of files and objects that serve as evidence

Article 183

(1) Anyone having a justified interest may be permitted to inspect, transcribe, copy and record particular criminal files in accordance with the Law.

(2) The Act shall stipulate secrecy in the proceedings. The inspection, transcribing, copying and recording of files for which the proceedings are secret shall be allowed pursuant to this Act only to persons who may participate in the proceedings. Data on a juvenile person who participates in the proceedings represent a secret. Personal data on the defendant, except the name and surname, until the indictment is preferred, and personal data on the victim, injured person or witness, except the name and surname, shall also represent a secret. The authority and the person that learns such data shall be bound to keep them secret.

(3) If concern exists, as stated in Article 294 paragraph 1 of this Act, the investigating judge shall in the appropriate manner (by the transcription of the record or official notes without the data on the identity of the person, by their exclusion in a separate cover, etc.) protect the confidentiality of the data of the persons who are in the files.

(4) The person who permitted inspection of files shall warn the person who is allowed to inspect the files that he is bound to keep secret the data from paragraph 1 and 2 of this Article and warn him that the disclosure of secrets is a criminal act. This shall be noted

on the files that are being inspected, and signed by the person so warned.

(5) When proceedings are pending, examination, transcribing, copying and recording of the files shall be permitted by the authority conducting the proceedings.

(6) When proceedings are terminated, examination, transcribing, copying and recording of the files shall be permitted by the president of the court or an official designated by him. Permission to inspect, transcribe, copy and record the State Attorney's file shall be granted by the competent State Attorney pursuant to the provisions of the Act on State Attorneys.

Article 184

(1) The private prosecutor shall have the right to inspect and transcribe the files and objects.

(2) If not otherwise prescribed by law, the following shall have the right to inspect, transcribe, copy and record the files and objects that will serve as evidence:

1) the defendant and the defence counsel after the defendant was interrogated;

2) the victim, injured person and legal representative after the victim and the injured person were interrogated.

(3) Upon his request with a statement of reasons, the court may deliver the criminal case to the State Attorney for examination. If a term for filing an appeal is pending or if it is demanded by other circumstances, the court shall order a term in which the State Attorney should return the case.

5. Criminal Register

Article 185

(1) The criminal register shall be established and kept by the ministry responsible for justice in such a manner as to enable the courts and the State Attorneys to have direct access to the data in real time.

(2) The minister responsible for justice shall bring regulations on a register of data from the criminal register.

(3) The minister responsible for social welfare shall bring regulations on a register of educational measures.

6. Collection, Use and Protection of Personal Data for Use in Criminal Proceedings

Article 186

(1) The police, the State Attorney and the court shall collect, store and process personal data of citizens that are important for the purpose of criminal proceedings, paying attention that it is used as appropriate for the nature of the data required in a specific case. For every collection of personal data these authorities shall keep a register according to special regulations.

(2) The personal data collected for the requirements of criminal proceedings may be delivered to the state administration bodies pursuant to a special law, and to other legal entities only if the State Attorney or the court determine that they need such data for a purpose prescribed by law. During delivery, such legal entities shall be warned that they

are bound to apply measures for the protection of the data of the person to which they apply.

(3) The personal data from paragraph 1 of this Article may, according to regulations, be used in other criminal proceedings, in other proceedings for punishable acts in the Republic of Croatia, in proceedings of international criminal law assistance and international police cooperation.

(4) The minister responsible for justice shall bring regulations on automated collections of personal data for the use of the State Attorney and courts.

Article 187

(1) Incorrect data or data collected contrary to the provisions of Article 186 and 188 of this Act must be, without delay, corrected or deleted. Accuracy of the data collected in the registers of automated processing systems shall be validated every five years.

(2) If not otherwise prescribed by special law, personal data on the defendant's identity shall be deleted from automated data collections:

1) five years from the completion of the sentence rendered by a final judgement or after expiry of a probation period for a suspended sentence;

2) three years from rendering a final judgment;

3) two years from rendering a decision on imposing a criminal sanction to a juvenile person.

(3) Instead of deletion, the court may order that a provision on the prohibition of their publication is entered in the automated data collection referred to in paragraph 2 of this Article, if their deletion could be made only with unreasonable difficulties and costs.

(4) Personal data collected exclusively on the basis of determination of identity, physical examination or molecular-genetic analysis may, after the criminal proceedings and according to regulations, be used only for detection or prevention of a criminal offence.

(5) Personal data used to determine the identity of the defendant, collected by the security intelligence services, may be used exceptionally only as evidence in processes for the following criminal offences from the Penal Code: murder of the highest state officials (Article 138), punishment for the most severe forms of criminal offences against the Republic of Croatia (Article 155) and terrorism (Article 169).

Article 188

(1) If not otherwise prescribes by law, the State Attorney or the court shall deliver to a person, at the person's request, a notification on whether his personal data were collected, stored and processed for the use in criminal proceedings. The notification cannot be delivered before the expiry of the one-year period after rendering the order on investigation.

(2) If not otherwise prescribed by this Act, the provisions of a special regulation shall apply to activities involving personal data for the use in criminal proceedings.

7. Handling Found and Seized Objects

Article 189

(1) The objects of higher value that were found or temporarily seized during the criminal proceedings shall be returned to the owner as soon as it is established that no reasons exist for their seizure. If the item is perishable or its storage incurs significant costs, it

may be sold earlier, and the money earned by selling shall be given to the owner.

(2) If the owner does not take over the objects or money from paragraph 1 of this Article, in the timescale determined by the authority that brought the decision on the return of the objects, the objects or money shall be advanced to the budget funds.

(3) The objects of lower value shall be returned to the owner, if he requests so within one year after the final termination of the criminal proceedings. If the owner does not request the return of the objects during that period, the objects shall be given to a museum of criminology or destroyed.

(4) If the owner is not known, the objects or money from the previous paragraphs shall be returned to the possessor. If the objects are of higher value, and the previous possessor is not known, the authority conducting the proceedings shall describe the object and publish the description on the notice board and the Internet site of that authority. The notice shall invite the owner to contact the authority within three months from the day of publishing the notice; otherwise the object shall be sold. The money earned by sale shall be advanced to the budget funds.

Article 190

(1) Temporarily seized objects the storage of which would be dangerous or incur unreasonable difficulties and the seizure of which is prescribed by the penal or some other special law, may be destroyed.

(2) Before acting according to paragraph 1 of this Article, the necessary evidence collecting actions shall be performed.

(3) A destruction of such objects shall be ordered by the court with an order, at the proposal of the State Attorney.

Chapter XIII
LEGAL ASSISTANCE

Article 191

(1) The police, the investigator, the State Attorney and the court may, for the purpose of criminal proceedings, request assistance from the courts, investigators, State Attorneys, state administration authorities and other state authorities. These authorities shall respond to the request in the shortest possible time, and shall inform about possible obstacles without delay. If necessary, a copy of a part of the criminal file may be submitted to them.

(2) The state administration authorities and other state authorities may refuse the request from paragraph 1 of this Article, with the decision accompanied by the statement of reasons if the fulfilment of such request would mean a breach of the obligation to protect the secret data until the authorised body cancels such obligation.

(3) The police, the State Attorney and Courts may submit the personal data collected according to this Act to the state administration authorities including the security services and to their supervisory bodies.

(4) If criminal proceedings (Article 17) are initiated against a civil servant or employee, the court shall report this to the head of the authority or the institution within eight days.

Article 192

(1) Except for cases specified in this Act, the court may, by a written order, order that the evidentiary hearing is conducted by means of a closed technical device for remote connection (audio-video conference).

(2) The order shall include the place and time of the audio-video conference and the names and addresses of the persons that are to be questioned. The summons to the witness and the defendant shall be sent pursuant to Article 175 paragraphs 1 and 2 of this Act.

(3) The order may specify that the person who keeps the objects that must be seized pursuant to the Penal Code or which may be used to determine facts in criminal proceedings, to show the objects upon the request of the court during the audio-video conference, and after it, to hand them over to the court pursuant to the provision of Article 261 of this Act.

Article 193

(1) The court that requested the issue of the order may, after determining the data from paragraph 2 of this Article, pose questions directly to the interrogated person. The parties may be present at the audio-video conference and take part in it pursuant to provisions of Article 292 paragraph 3 of this Act. The defendant in pre-trail detention or investigative detention shall be enabled in an appropriate manner to follow up the audio-video conference, to pose questions and make comments.

(2) An expert person operating the devices must be present at the audio-video conference.

Article 194

(1) The authority conducting the proceedings shall make a record on the audio-video conference, indicating the time and place of the action, persons who were present, type and state of technical devices for remote connections and the expert person who operated the device. This record may be made by a court advisor or a court apprentice.

(2) The authority conducting the proceedings may also comply with a special request of an international body regarding the form and the contents of the audio-video conference or with another special request of an international body according to the regulations of a special law or an international contract.

(3) The minister responsible for justice shall bring regulations on procurement and maintenance of closed technical devices for audio–video conference in the courts.

Article 195

The State Attorney or the police may check the alibi and other important facts for the institution and conducting of the criminal proceedings by means of a telephone link that allows a simultaneous communication to the interrogated persons (telephone conference).

Article 196

(1) The records of the telephone conference must contain the data on the identity of the persons in the telephone communication, the data on the status in which the person gives the statement, and, depending on that status, the appropriate personal data.

(2) The recording of the telephone conference from paragraph 1 of this Article may be used as evidence in criminal proceedings:

1) if the person that was interrogated as a witness was warned according to Article 288 paragraph 3 and 289 of this Act and warned about the recording, and accepted that the recording is used as evidence

2) if the defendant was previously instructed on his rights according to Article 239

paragraph 1 and Article 275 paragraph 3 of this Act;
3) if the defence counsel was present when the defendant was interrogated.

Chapter XIV
SPECIAL ASSUMPTIONS FOR CRIMINAL PROSECUTION AND INITIATION OF CRIMINAL PROCEEDINGS

Article 197

(1) When the prosecution is contingent on the motion for prosecution of the injured person, the State Attorney may not request the opening of the investigation or prefer an indictment as long as the injured person makes such motion.

(2) Where the prosecution for certain offences requires the previous approval of a competent state authority, the authorized prosecutor may not request the opening of the investigation or immediately prefer an indictment or private charge unless proof is submitted that such approval has been granted.

(3) Where the law provides that the State Attorney's Office shall undertake the criminal prosecution by virtue of the written request or consent of certain persons, the written request may be submitted or consent given within the term from Article 48 paragraph 1 of this Act.

(4) The provision of paragraph 1 of this Article shall not restrict the right and duty of the State Attorney and the police authority to conduct the inquiries into criminal offences pursuant to the provisions of a special law.

Article 198

(1) If criminal proceedings are initiated against an alien, the court and other state authorities shall proceed in conformity with the provisions of the corresponding consular convention which is in force in the Republic of Croatia.

(2) A notification on ordering pre-trial detention, house arrest and investigative detention against a civil servant or public official shall be delivered to the head of the authority or the institution pursuant to a special regulation.

(3) The State Attorney shall inform the ministry responsible for defence that an investigation is instituted against military persons, civil servants and public officials in the Armed Forces of the Republic of Croatia and that pre-trail detention, house arrest or investigative detention is ordered. In the same manner the court shall proceed when the indictment is confirmed or a non-final judgment rendered.

(4) If the offence affects protected cultural heritage, archive files or works of art which are of importance for the Croatian or world cultural heritage, the police shall inform the ministry responsible for culture of the inquiries undertaken. The State Attorney shall act in the same manner when issuing the order on the initiation of investigation, or preferring an indictment, as shall the court when the judgement referring to such offences becomes final.

Article 199

If not otherwise prescribed by this Act, if pending proceedings it is determined that the defendant has died, the State Attorney shall discontinue the criminal proceedings by an order before the indictment is confirmed, and after that by a ruling of the court.

Article 200

(1) As regards exemptions from the criminal prosecution of persons enjoying immunity in the Republic of Croatia, the rules of international law shall apply.

(2) In the case of doubt as to whether a person enjoys immunity pursuant to the rules of international law, the court shall ask for clarification from the ministry responsible for foreign affairs.

Article 201

Under the conditions provided for in the international agreement and a special law, the joint investigation may be undertaken for criminal offences provided for by this agreement and a special law.

Chapter XV
MEANING OF LEGAL TERMS

Article 202

(1) Terms and expressions which have a gender meaning regardless whether they are used in this Act in the male or female gender shall refer equally to the male and female gender.

(2) If not otherwise prescribed, the terms used in this Act shall have the following meaning:

1) the **suspect** means the person against whom the crime report has been submitted, or the inquiries are made or the investigation is conducted before the commencement of the criminal proceedings;

2) the **defendant** means the person against whom the indictment is preferred but is not yet confirmed, the person against whom a private charge is preferred, and the person against whom a criminal order was issued in a judgement;

3) the **accused** means the person against whom the indictment is confirmed or a hearing is scheduled regarding the private charge;

4) the **convicted person** means the person for whom it was determined, by a final judgment, that he is guilty of a particular criminal offence;

5) the terms under items 1 to 3 shall also apply to the legal person pursuant to a special law.

(3) If not otherwise prescribed by this Act, the provisions on the **defendant** shall also apply to the suspect, the defendant, the accused and the convicted person, and to persons against whom special proceedings are conducted as prescribed by this or other acts.

(4) the **arrest** means forced detention of a person who is under suspicion to have committed a criminal offence.

(5) The **arrested** means the person against whom the measure of arrest is applied.

(6) The **detainee** means the person against whom the measure of detention is applied.

(7) A **detention supervisor** means a police officer designated by a special law.

(8) A **person under home detention** means the person against whom the measure of house arrest is applied.

(9) The **prisoner** means the person against whom the measure of investigative detention is applied.

(10) The **victim of the criminal offence** means the person who, due to the criminal

offence committed, suffers physical and mental consequences, property damages or substantial violation of the basic rights and liberties.

(11) The **injured person** means, in addition to the victim, any other person whose any personal or property right is violated or endangered by a criminal offence, and who participates in the status of the injured person in criminal proceedings.

(12) The **parties** mean the prosecutor and the defendant

(13) The **subsidiary prosecutor** means the person who assumed the prosecution from the State Attorney who had not initiated or had withdrawn from the criminal prosecution.

(14) The **private prosecutor** means the person who submitted a private charge for prosecution of criminal offences that are prosecuted upon a private charge.

(15) The **prosecutor** means the State Attorney, subsidiary prosecutor and private prosecutor.

(16) The **legal representative** means the attorney who may be replaced by the attorney apprentice pursuant to this Act.

(17) The **defence counsel** means the attorney who may be replaced by the attorney apprentice pursuant to this Act.

(18) The **advisor** means a person appointed pursuant by law.

(19) **The European Court of Human Rights** means the court according to Article 19 of the Convention for the Protection of Human Rights and Fundamental Freedoms (Official Gazette – International agreements 18/1997, 6/1999, 8/1999).

(20) The **European Court of Justice** means the court from Article 31 of the Treaty establishing the European Coal and Steel Community, and Article 46 and 220 to 245 of the Treaty of Nice amending the Treaty on European Union, the Treaties establishing the European Communities and certain related acts.

(21) The **court** means, if not otherwise prescribed by this Act, the judiciary body that brings a decision, conducts the activity or before which proceedings are conducted.

(22) The **investigator** means the person who is, pursuant to a special regulation brought on the basis of the law, authorised to conduct evidentiary and other activities.

(23) The **police** means a police official of the ministry responsible for internal affairs or an authorised person of the ministry responsible for defence within the scope of rights and duties prescribed by special regulations, and a foreign police official who, according to the international law and based on a written approval from the minister responsible for internal affairs, conducts the activities on the territory of the Republic of Croatia, or on board its ship or airplane.

(24) The **undercover investigator** means a police official who participates in a special evidence collecting action pursuant to this Act.

(25) The **confidant** means a citizen who participates in a special evidence collecting action pursuant to this Act.

(26) The **bank** means banks and other financial institutions.

(27) The **document** means the item from Article 89 paragraph 24 of the Penal Code.

(28) The **recording** means the record recorded by a technical device.

(29) The **personal data** mean, in the sense of this Act, information relating to a particular physical person or a physical person that can be determined.

(30) The **collection of personal data** means a set of personal data determined by the special law.

(31) The **molecular - genetic analysis** means, in the sense of this Act, the procedure that serves for the analysis of DNA that forms the basic genetic material of humans and other

live beings.

(32) The **electronic (digital) evidence** means data that was collected as evidence in the electronic (digital) form pursuant to this Act.

(33) The **extra-marital cohabitation** means the living union of a woman and a man that are not married and which lasts for a longer time period, or such union that lasts for a shorter period if a common child was born in the union.

(34) The **authority conducting the proceedings** in the previous proceedings means the State Attorney who acts before preferring an indictment and the court which conducts the investigation upon the request of the subsidiary prosecutor and pending evidentiary hearing. After preferring the indictment or a private charge, the court shall be the authority conducting the proceedings.

Part two
REGULAR PROCEEDINGS
Common provision

Article 203

(1) The provisions on regular proceedings from Article 203 to 519 of this Act shall apply in the proceedings for criminal offences for which jurisdiction of the county court is prescribed by law.

(2) The provisions on regular proceedings shall apply, if not otherwise prescribed by this Act, also in summary proceedings (Article 520 to 548), and in special proceedings (Article 549 to 569).

A. Pre-trial proceedings

Chapter XVI
CRIMINAL PROSECUTION

1. Crime report

Article 204

(1) All state authorities and all other legal entities shall be bound to report criminal offences subject to public prosecution about which they have learned themselves or have learned from other sources.

(2) A submission of a crime report by the police shall be regulated by a special law.

(3) When submitting a crime report, state authorities and legal entities shall indicate evidence known to them and undertake measures to preserve traces of the offence, the objects upon which or by means of which the offence was committed as well as other evidence.

(4) Citizens shall be bound to report criminal offences subject to public prosecution.

(5) Cases in which a failure to report a criminal offence is a criminal offence shall be prescribed by law.

(6) The data on the identity of the person against whom a crime report has been submitted and the data that might lead to conclusions about the identity of the person shall be kept

confidential.

Article 205

(1) The report shall be filed with the competent State Attorney in writing, orally or by other means.

(2) If the report is filed orally, the person who filed it shall be warned about the consequences of a false report. An oral report shall be entered in the record and if the report was conveyed by telephone or using other means of telecommunications, its electronic recording shall be ensured, when possible, and an official note shall be made.

(3) If the report was filed with the court, the police authority or a State Attorney lacking jurisdiction, they shall receive it and immediately forward it to the State Attorney having jurisdiction.

(4) The State Attorney shall log the crime report in the crime report register as soon as it was filed, except in the case referred to in Article 206 paragraphs 7 and 8 of this Act.

(5) The minister responsible for justice shall regulate the method for keeping the crime report register.

Article 206

(1) After inspection of the report and verification in the Information System of the State Attorney, the State Attorney shall dismiss a crime report by a ruling with a statement of reasons:

1) if it follows from the report that the reported act is not a criminal offence subject to public prosecution;

2) if the period of limitation for the institution of prosecution has expired and if the offence is amnestied or pardoned,

3) if other circumstances exist excluding culpability or barring prosecution,

4) if no reasonable suspicion exists that the suspect committed the reported offence,

5) if the data in the report point to the conclusion that the report is not credible.

(2) The ruling of the State Attorney on the dismissal of the crime report shall not be subject to appellate review.

(3) Unless otherwise stipulated by this Act (Article 521 and 522), the State Attorney shall notify the injured person within eight days on the dismissal of the report and on the grounds thereof except if he decides not to institute prosecution in cases from Article 212 of this Act, with the instruction from Article 55 of this Act, and if the report was made by the police authorities or another state authority, the State Attorney shall notify the person who filed a crime report and upon his request the person against which the report was made.

(4) If the State Attorney is unable to establish from the crime report whether or not allegations in the report are credible, or if facts stated in the report do not suffice for a decision on whether he should order the opening of an investigation, or undertake evidence collecting actions, or if only rumours reach the State Attorney that a criminal offence has been committed, the State Attorney shall, if he cannot do this himself or through other authorities, order the police authorities to obtain necessary information by making inquiries and undertaking other measures for collecting the data necessary for a decision on the opening of the investigation. The State Attorney may in his order to the police authorities determine the content of the inquiry or measure in more detail and order immediate information from the police authorities about the inquiry or measure

undertaken. If the State Attorney orders to be present during the inquiry or measure, the police authorities shall undertake the inquiry or measure in such a manner as to enable his presence. The police authorities are bound to proceed in accordance with the order of the State Attorney, and unless the State Attorney has ordered otherwise, they shall notify the State Attorney within a term of thirty days from the submission of the request of the inquiries or measures undertaken.

(5) Upon the request of the State Attorney, the police authorities, the ministry responsible for finance, the State Audit Office and other state authorities, organizations, bank and other legal entities shall deliver to the State Attorney required information, except the information representing a lawfully protected secret. The State Attorney may request from the aforesaid authorities to control the operations of a legal entity or physical person and, according to the appropriate regulations, to seize temporarily, until a judgement is rendered, of money, valuable securities, objects and documentation that may serve as evidence, to perform supervision and delivery of data that may serve as evidence on the committed criminal offence or property gained by the criminal offence, and to request information on collected, processed and stored data regarding unusual and suspicious monetary transactions. In his request, the State Attorney may in more detail specify the content of the requested measure or action and demand to be informed thereof, in order to be able to attend its execution.

(6) For failure to comply with the request, the investigating judge may, upon a motion with the statement of reasons by the State Attorney, impose a fine to the responsible person in the amount of up to HRK 50,000.00, and to legal entity in the amount of up to HRK 5,000,000.00, and if even after that such person fails to act upon the request, the person may be punished with imprisonment until the request is complied with, and not longer than one month. The court which rendered the ruling on imprisonment may abolish the ruling if, after the ruling was rendered, the responsible person acts according to the request.

(7) The State Attorney may for the purpose of collecting necessary information summon the person who filed a crime report and other persons if he considers that their statements may contribute to the assessment of the credibility of the allegations made in the report. The summons shall state the reasons for the summons. If the person who is summoned fails to answer, it shall be preceded according to Article 208 paragraph 3 of this Act.

(8) If the crime report does not contain the data on the criminal offence or if the State Attorney cannot conclude from the crime report for which criminal offence the report is filed, the person who filed a crime report shall be summoned to correct and supplement the crime report within fifteen days. If the person who filed a crime report fails to act on the summons to correct or supplement the report, the State Attorney shall make a note thereof and attach the crime report and the summons for correction or supplement thereto. Such crime report shall not be entered recorded in the crime report register; instead it shall be entered in the register of miscellaneous criminal files. The crime report and the summons shall be stored. The higher State Attorney shall be notified thereof within seven days from the expiry of the period for correction or supplement of the crime report, who may order entering of the crime report in the crime report register.

(9) The State Attorney shall make the records on the collected statement as referred to in paragraph 7 of this Article which, as well as the material referred to in Article 208 paragraph 5 of this Act, may be used during the evidence collecting actions before preferring the indictment. The records and material shall be excluded from the file pursuant to Article 86 paragraph 3 of this Act and may not be used as evidence in the proceedings.

(10) The minister responsible for justice shall regulate the method for keeping the register referred to in paragraph 8 of this Article.

2. Inquires into Criminal Offences

Article 207

(1) When making inquiries into criminal offences the police authority shall act according to the provisions of a special law and regulations brought on the basis of that law.

(2) If there are grounds for suspicion that a criminal offence subject to public prosecution has been committed, the police shall have the right and duty:

1) to take necessary measures aimed at discovering the perpetrator of the criminal offence, preventing the perpetrator or accomplice from fleeing or going into hiding;

2) to discover and secure traces of the offence and objects of evidentiary value, and

3) to gather all information which could be useful for successfully conducting criminal proceedings.

(3) The police shall make an official note on the facts and circumstances that were determined while conducting the actions from paragraphs 1 and 2 of this Article, which may be of interest for criminal proceedings.

(4) The police shall notify the State Attorney on the inquiries into criminal offences immediately, and not later than twenty four hours from the moment the action was conducted.

Article 208

(1) The State Attorney may conduct the investigation by himself or order the police to conduct the investigation.

(2) The State Attorney shall have the right and duty to constantly supervise the conducting of the inquiries ordered to the police. The police shall be bound to execute the order or request of the State Attorney in performing supervision of the inquiries and shall respond for their action to the State Attorney.

(3) With a prior notification to the State Attorney, the police may summon citizens. With a prior notification to the State Attorney, a suspect who has failed to appear may be brought in by force only if he was informed about it in the summons or if the circumstances clearly indicate that the suspect evades the receipt of the summons. A person who appears upon being summoned or is brought in by force and refuses to give information cannot be summoned again for the same reason.

(4) While conducting the inquiries, the police authorities may not examine citizens in the role of defendants, witnesses or expert witnesses. If it is necessary for discovering other offences committed by the same person, his accomplices or offences committed by other persons, information may also be collected from persons in pre-trail detention, investigative detention or in some other institution for persons deprived of freedom, provided that, upon a written motion from the State Attorney, the investigating judge or the president of the panel grants his permission and only in the presence of the investigating judge or defence counsel.

(5) On the basis of the conducted inquiries, the police authority shall, according to a special regulation, draw up a report on the conducted inquiries stating the evidence discovered. The report shall not include the contents of the statements given by particular citizens in the course of collecting information. The objects, sketches, photographs, records on measures and actions undertaken, official notes, statements and other material

which may be useful for successfully conducting proceedings shall be attached to the report. If the crime report was not previously filed, the State Attorney shall act according to Article 205 and 206 of this Act.

(6) If the police authorities subsequently discover new facts, evidence or traces of the offence, they shall be bound to collect necessary information and deliver a report on this to the State Attorney immediately.

Article 209

Under the conditions and in the manner prescribed in a special law, the inquiries into criminal offences committed on a Croatian ship shall be carried out by the commanding officer of the ship. If there are no special provisions on the manner of conducting the inquiries, the provisions of this Act shall apply respectively.

Article 210

The police authorities shall be entitled to send persons found at the place of the commission of a criminal offence to the State Attorney or to hold them until his arrival if these persons may disclose important facts for the proceedings and if it appears likely that their examination at a later point might be impossible or might entail considerable delays or other difficulties. Such persons shall not be held for the purpose of bringing them before the State Attorney or held at the place of the commission of a criminal offence for more than six hours from the arrival of the police authority to the place of the commission.

Article 211

(1) In order to establish the identity of the suspect the police authorities may take his photograph, take his fingerprints, and enter the data on the identity into the appropriate data collections.

(2) In order to establish the identity of the suspect the police authorities may, upon the approval of the State Attorney, publish the suspect's photograph.

(3) Non-intimate samples may be taken from the suspect for a criminal offence for which a punishment of imprisonment is prescribed even without his consent for molecular genetic analysis necessary for the purpose referred to in paragraph 1 of this Article.

(4) The minister responsible for internal affairs and the minister responsible for defence shall issue regulations on the structure and manner of keeping a database with automatic data processing for the purposes from paragraph 1 of this Article.

(5) The minister responsible for internal affairs with the consent of the minister responsible for health shall issue regulations on the structure and manner of keeping a database with automatic data processing for the purposes from paragraph 3 of this Article, in the sense of Article 327 paragraph 7 of this Act.

3. Dismissal of Crime Report and Desistance from Prosecution pursuant to a Special Law

Article 212

(1) The State Attorney General of the Republic of Croatia may under the conditions and

in the manner prescribed in a special law dismiss a crime report by a ruling or desist from the prosecution in the course of criminal proceedings if this is in proportion with the gravity of the offences committed and with the importance of that person's statement and if this is of importance for the discovery of offences and of the members of a criminal organization.
(2) The ruling of the State Attorney General referred to in paragraph 1 of this Article shall not be subject to appellate review.

4. Evidence Collecting Actions before Commencement of Proceedings

Article 213
(1) The State Attorney, or the investigator upon his order, may before the commencement of the investigation, when the investigation is mandatory (Article 216 paragraph 1), conduct evidence collecting actions for which there is danger in delay, and the police may temporarily seize the items referred to in Article 261 of this Act when conducting investigation of criminal offences.
(2) If the investigation according to this Act is not mandatory, the State Attorney or the investigator upon his order, may carry out evidence collecting actions for which there is danger in delay or that are purposeful for deciding on preferring the indictment.
(3) In the case from paragraph 2 of this Article, and after receiving the instruction on the rights (Article 239), the suspect may propose evidence collecting actions to the State Attorney, and the conduct of an evidentiary hearing to the investigating judge in the cases referred to in Article 236 paragraph 2 of this Act.

Article 214
(1) If the perpetrator of a criminal offence is unknown, the State Attorney or the investigator may interrogate witnesses if that is purposeful for the detection of the perpetrator or if there is danger in delay.
(2) The investigator must prior to, and if that is not possible, immediately after the execution of the action inform the State Attorney on all actions taken.

Article 215
(1) The State Attorney may prior to the commencement of the proceedings, require from the investigating judge an order for special evidence collecting actions (Article 332 to 339).
(2) Under the conditions from Article 332 paragraph 2 of this Act the order on conducting special evidence collecting actions may also be issued by the State Attorney.
(3) The order on conducting special evidence collecting actions referred to in paragraph 1 and 2 of this Article shall be executed by the police (Article 219 paragraph 3).

Chapter XVII
INVESTIGATION
1. Institution, Course and Completion of Investigation

Article 216
(1) The investigation must be conducted for criminal offences for which a punishment of long term imprisonment is prescribed.

(2) The investigation may be conducted for other criminal offences for which a regular criminal proceeding is conducted.

(3) In the course of the investigation, evidence and information shall be collected that are necessary for a decision on whether to prefer an indictment or to discontinue proceedings as well as evidence which may not be possible to repeat at the trial or if its examination may involve some difficulties.

Article 217

(1) The State Attorney shall bring an order for investigation if a reasonable suspicion exists that a criminal offence was committed for which the investigation must be conducted. The State Attorney shall issue the order for investigation within ninety days from the date of entry of the crime report in the crime report register (Article 205 paragraph 4). The issue of the order for investigation shall be recorded in the crime report register.

(2) The order for investigation shall contain the description of those factual aspects of the act which constitute the elements of the definition of the offence, the statutory name of the offence, the circumstances on which the reasonable suspicion is founded, the name and surname and personal data of the suspect, if they are known, and a short statement of reasons.

(3) In the order for investigation, the State Attorney shall order the investigation of certain circumstances, undertaking particular actions and examination of certain persons on certain issues.

(4) The State Attorney may deliver to the investigating judge a motion with a statement of reasons that investigative detention is ordered against the suspect or that other measures are undertaken necessary for the efficient conduct of criminal proceedings and the protection of persons.

Article 218

(1) The order for investigation shall be delivered to the suspect within eight days from the date of issue, together with the instruction on the rights referred to in Article 239 paragraph 1 of this Act, except when the defendant is unknown.

(2) If the identity of the suspect is established later, the State Attorney shall supplement the order pursuant to Article 217 paragraph 2 of this Act and act pursuant to paragraph 1 of this Article.

(3) The State Attorney may postpone the delivery of the order for investigation up to one month if the delivery would endanger life or body or property to a greater extent. The State Attorney shall make an official note on the grounds for the postponement of the delivery of the order for investigation, and shall enter it into the register referred to in Article 205 paragraph 4 of this Act.

(4) If prior to the issue of the order for investigation, search of the suspect or his home or other premises he uses, temporary seizure of objects from the defendant, recognition or expertise with the participation of the defendant , taking of the fingerprints and other parts of the body of the defendant were conducted, or the defendant was questioned, the order for investigation must be delivered to the defendant within the timescale from paragraph 1 of this Article. If, prior to the delivery of the order, other evidence collecting actions were undertaken, the State Attorney shall notify the defendant thereof when delivering the order.

(5) The State Attorney shall deliver the order for investigation to the injured person with

the instruction on the rights referred to in Article 55 paragraph 5 of this Act.

Article 219

(1) The investigation shall be conducted by the State Attorney.

(2) The State Attorney may, by an order, entrust the performance of particular evidence collecting actions to the investigator. In the order, the State Attorney shall designate the investigator, considering the subject matter of investigation and special regulations, the actions to be undertaken, and may also issue other orders which the investigator has to observe. The investigator shall be bound to act pursuant to the State Attorney's order.

(3) Special evidence collecting actions shall be conducted pursuant to Articles 332 to 340 of this Act.

(4) As regards personal data collected in the course of investigation, Article 186 of this Act shall apply.

(5) As regards objects to be used as evidence, Article 269 of this Act shall apply.

Article 220

(1) After issuing the order for investigation, and prior to than when provided so by this Act (Article 213 to 215), the State Attorney shall undertake or order actions he deems necessary for a successful conduct of proceedings.

(2) The State Attorney or the investigator undertaking evidence collecting actions shall conduct, if necessary, other evidence collecting actions that are related to this or derive from them.

(3) The investigator shall report on the action undertaken to the State Attorney prior to undertaking the action referred to in paragraph 2 of this Article, or if he was not able to do it, immediately upon its undertaking.

Article 221

The injured person may submit to the State Attorney proposals that the investigation is supplemented and other proposals in order to exercise the rights prescribed by law, and participate in the evidence collecting actions when regulated so by this Act, and achieve the rights from Article 52 of this Act.

Article 222

(1) The State Attorney or the investigator shall perform evidence collecting actions within the territory of their jurisdiction. If the purpose of the investigation so requires, they may conduct certain evidence collecting actions outside the territory of jurisdiction, but in such case they shall be bound to inform thereof the State Attorney in whose territory they are conducting the evidence collecting actions.

(2) Upon the decision of the State Attorney, in addition to the investigator, the State Attorney’s counsellors and professional co-workers shall participate in complex investigative cases. They can make preparations for certain evidence collecting actions, receive declarations and motions of the parties, and independently undertake an evidence collecting action entrusted to them by the State Attorney. The State Attorney shall verify the record of such an action within forty-eight hours after it was undertaken.

(3) In order to clarify certain technical or other expert questions that are asked regarding the collected evidence or when undertaking evidence collecting actions, the State Attorney may request from an appropriate professional institution or expert person to provide the required explanations of these questions, and the State Attorney shall make a

record thereof.

Article 223

(1) The State Attorney shall recess the investigation by a ruling if the defendant is not able to take part in the proceedings due to health problems. The defendant must have a defence counsel from the moment when the ruling on recess was issued until his health problems are solved.

(2) If the defendant put himself in a state or position due to which he is incapable to participate in the proceedings, the investigation shall not be recessed. While such circumstances exist, the defendant must have a defence counsel.

(3) The investigation shall not be recessed in the case from Article 549 paragraph 4 of this Act.

(4) The investigation may be recessed if the defendant is unknown, or if the defendant has fled or is otherwise not amendable to state authorities.

(5) Before recessing an investigation, all evidence which can be obtained in relation to the offence and the culpability of the defendant shall be collected.

(6) If the measures to ensure presence were ordered, the State Attorney shall without delay deliver to the investigating judge the ruling on recess of investigation. The investigating judge shall act pursuant to Article 226 paragraph 1 of this Act.

(7) When obstacles leading to recess cease to exist, the State Attorney shall issue the order to continue the investigation.

(8) If, in the course of the recess of the investigation, the period of limitation for the institution of prosecution expires, it shall be proceeded in accordance with Article 224 paragraph 1 item 3 of this Act.

Article 224

(1) The State Attorney shall discontinue an investigation by an order:

1) if the offence the defendant is charged with is not an offence subject to public prosecution,

2) if circumstances excluding the defendant's culpability exist, except in the case from Article 549 paragraph 3 of this Act,

3) if the period of limitation for the institution of prosecution has expired or the offence is amnestied or pardoned or if other circumstances exist barring prosecution,

4) if there is no evidence that the defendant committed the offence.

(2) The order to discontinue the investigation shall be served on the injured person and the defendant who shall be immediately released if he is in pre-trail detention or investigative detention. The injured person shall, in addition to the delivery of the order, be instructed in the sense of Article 55 paragraph 5 of this Act.

Article 225

(1) If the State Attorney rejects the crime report or withdraws the investigation, the injured person that took over the criminal persecution may make a motion to the investigating judge to conduct the investigation, or to conduct evidentiary hearing .

(2) The investigating judge shall decide on the motion of the subsidiary prosecutor by a ruling. The ruling ordering the opening of an investigation shall state the data from Article 217 paragraph 2 and 3 of this Act. If he does not accept the motion, the investigating judge shall reject by a ruling the injured person's motion for the opening of

an investigation.

(3) If the motion for conducting an investigation by the subsidiary prosecutor is accepted, the investigation shall be conducted by the investigator upon the order of the investigating judge. The subsidiary prosecutor may be present during the evidence collecting actions and may propose to the investigating judge to order the investigator to conduct certain actions. If the investigating judge does not accept the motion from the subsidiary prosecutor on the conduct of activities, he shall inform the injured person thereof.

(4) When the investigating judge finds that the investigation is concluded, he shall inform the subsidiary prosecutor thereof. The investigating judge shall inform in a notification the subsidiary prosecutor on the location where the documentation and other files are stored and on the time when he can inspect them, as well as on the right to prefer an indictment within eight days and to inform the investigating judge thereof. If the i subsidiary prosecutor fails to prefer an indictment within that period, it shall be deemed he has desisted from the persecution, and the investigating judge shall discontinue the proceedings by a ruling.

Article 226

(1) When the investigating judge decides on an issue and determines that there are grounds to recess or discontinue the investigation according the Article 224 paragraph 1 to 3, he shall issue a ruling on recessing or discontinuation of the investigation.

(2) The ruling on recessing or discontinuation of the investigation shall be delivered to the State Attorney, the subsidiary prosecutor and the defendant, who shall be released immediately if he is in investigative detention. The higher court shall decide on the appeal against the ruling of the investigating judge on recessing or discontinuation.

(3) The investigating judge shall act as provided in paragraph 1 of this Article also when he conducts the investigation upon the request of the injured person.

Article 227

Before the conclusion of the investigation, the State Attorney shall obtain information on the defendant stated in Article 272 paragraph 1 of this Act if it is missing or if it requires a review, as well as the information on the defendant's previous convictions and, if necessary, the files from those case, and if the defendant is still serving a sentence or another sanction which is connected to the deprivation of freedom, information on his behaviour while serving a prison sentence or other sanction.

Article 228

(1) The State Attorney or the investigating judge shall conclude the investigation when the actions prescribed by law are conducted, and when he finds that the case has been sufficiently clarified so that the indictment may be preferred or the proceedings discontinued.

(2) The order for investigation, decisions, records on actions taken in the course of investigation and all other files that may be used as evidence at the hearing shall be entered into the investigation case file the investigation before it is concluded.

(3) The conclusion of the investigation shall be recorded in the crime report register.

Article 229

(1) After the conclusion of the investigation, the State Attorney shall within a term of fifteen days prefer an indictment or discontinue the investigation. Upon a motion of the State Attorney, the higher State Attorney may prolong this term for another fifteen days at the longest, and for another two months in specifically complex cases.

(2) If the indictment has not been preferred and submitted to the court even after the expiry of the prolonged term referred to in paragraph 1 of this Article, it shall be deemed that the State Attorney desists from prosecution. In any case, it shall be deemed that the State Attorney desists from prosecution if the indictment has not been preferred six months after the conclusion of the investigation.

(3) The State Attorney shall within the period from paragraph 1 of this Article, notify the injured person on preferring the indictment or discontinuation of the investigation, with the instructions from Article 55 paragraph 5 of this Act.

(4) If the State Attorney fails to act according to paragraph 1 and 2 of this Article, he shall be bound to notify the higher State Attorney of the reasons thereof.

Article 230

(1) If the investigation is not concluded within a term of six months, the State Attorney shall be bound to notify the higher State Attorney of the reasons which hinder its conclusion.

(2) The higher State Attorney shall be bound to undertake measures in order to conclude the investigation. In complex case, the higher State Attorney may, upon the motion with a statement of reasons of the State Attorney, prolong the term referred to in paragraph 1 of this Article for another six months. In specially complex and grave cases, the State Attorney General of the Republic of Croatia may upon the motion with a statement of reasons of the State Attorney prolong the term for the conclusion of the investigation from paragraph 1 of this Article for twelve months.

(3) The defendant and the injured person may always submit complaints to the higher State Attorney regarding the delay of the proceedings and other irregularities in the course of the investigation.

(4) The higher State Attorney shall check the allegations in the complaint and if the person who submitted the complaint requests, shall inform him of any action taken.

(5) If the investigation is conducted by the investigating judge, the defendant and the subsidiary prosecutor submit complaints to the president of the court regarding the delay of the proceedings and other irregularities in the course of the court investigation. If the person who submitted the complaint requests, the president of the court shall inform him on any action taken.

Article 231

(1) Actions in the course of the investigation are secret.

(2) The authority that takes an action shall warn the persons participating in evidence collecting action that revealing of the secret is a criminal offence.

(3) When there is a public interest or other justified reasons, and it is not contrary to the interests of the investigation nor other provisions of this Act, the authority conducting the investigation may decide that a certain evidence collecting action or a part of the evidence collecting action is not secret.

Article 232

When the investigating judge or the panel make decisions in the course of the

investigation, they may request necessary explanations from the State Attorney, the injured person and the defendant. The investigating judge or the panel may summon the State Attorney, the defendant and the injured person to explain orally their standpoints.

Article 233

(1) The defendant must be interrogated before the investigation is concluded. The interrogation of the defendant shall be conducted pursuant to Article 272 to 282 of this Act.

(2) The defendant shall be interrogated by the State Attorney or, upon his order, by the investigator. The interrogation of the defendant shall be performed in the premises of the State Attorney or the investigator.

(3) When summoning the defendant, it shall be acted pursuant to Article175 of this Act, and if the defendant did not receive a written instruction on his rights, the authority conducting the interrogation shall, before commencing the interrogation, act pursuant to Article 273 paragraph 1 of this Act.

Article 234

(1) After the receipt of the order for investigation, the defendant may propose to the State Attorney to conduct evidence collecting actions. If the State Attorney accepts the proposal of the defendant, he shall conduct the relevant evidence collecting action.

(2) If the State Attorney does not agree with the proposal of the defendant, he shall within eight days deliver the proposal to the investigating judge and notify the defendant thereof in writing. The investigating judge shall decide on the proposal of the defendant by an order.

2. Evidentiary Hearing

Article 235

(1) The evidentiary hearing shall be conducted by the investigating judge upon the motion of the State Attorney, the subsidiary prosecutor or the defendant.

(2) Evidence collecting actions referred to in Article 236 of this Act may be conducted at the evidentiary hearing.

Article 236

(1) The evidentiary hearing shall be conducted if:

1) it is necessary to interrogate the witness from Article 292 and 293 of this Act.

2) the witness could not be interrogated at the main hearing;

3) the witness is exposed to influence that may bring into question the truthfulness of his testimony;

4) other evidence could not be presented at a later time.

(2) The evidentiary hearing may be conducted if this is necessary to make a decision in the cases prescribed by this Act.

Article 237

(1) If the investigating judge accepts the motion for conducting an evidentiary hearing, he shall issue an order within forty-eight hours in which he:

1) determines the time and place of the evidentiary hearing;

2) summons the State Attorney, the defendant and his defence counsel, the injured person

and other persons, except if it not otherwise prescribed by this Act;

3) orders obtaining of objects and secures conducting the actions.

(2) If he does not accept the motion on conducting an evidentiary hearing, the investigating judge shall reject the motion by a ruling within the forty-eight hours. The person who filed the motion shall have the right to appeal against such ruling within twenty-four hours. The panel shall decide upon the appeal within forty-eight hours.

(3) If a witness referred to in Article 294 of this Act is interrogated at the evidentiary hearing, the investigating judge shall conduct the interrogation pursuant to Article 297 of this Act.

Article 238

(1) The State Attorney must be present at the evidentiary hearing if he made a motion for the hearing.
(2) The suspect, the subsidiary prosecutor, the defence counsel and the injured person may attend the evidentiary hearing, unless otherwise stipulated for the action undertaken..
(3) The evidentiary hearing may not be held without the defence counsel if the defence is mandatory.
(4) The persons that participate at the evidentiary hearing may propose to the investigating judge to ask a witness or an expert some specific questions for the clarification of matters. With the permission of the investigating judge, they may also ask the questions directly.
(5) If the suspect is present at the evidentiary hearing, the investigating judge must, when opening the evidentiary hearing, verify whether he received the written instruction on the rights (Article 239 paragraph 1). If the suspect did not receive the instructions, the investigating judge shall act according to Article 239 paragraph 4 of this Act, and if the criminal prosecution is assumed by the subsidiary prosecutor, he shall deliver the instructions to the suspect.
(6) The investigating judge may in the course of the evidentiary hearing act according to Article 222 paragraph 3 of this Act.

3. Instruction on Rights

Article 239

(1) The instruction on the rights of the defendant must contain the notification on the following:
1) why is he charged and which are the basic suspicions against him, if he had not beforehand received the order on conducting the investigation;
2) that he is not obliged to present his defence nor is he obliged to answer the questions;
3) that according to the provisions of Article 184 paragraph 2 item 1 of this Act he has the right to inspect, transcribe, copy and record the files and objects that may be used as evidence
4) that he has the right to retain a defence counsel of his own choice, or, when provided by this Act, a defence counsel shall be appointed to him by the virtue of the office.
(2) The instruction on the rights must be delivered to the defendant with:
1) the search warrant;
2) the summons to the first interrogation;
3) the order on conducting the investigation;
4) the summons for the evidentiary hearing;
5) the ruling on investigative detention.

(3) The State Attorney or the authority conducting the action shall deliver the instruction on the rights from paragraph 1 of this Article. In the case from paragraph 2 item 1 of this Article, the instruction on the rights shall be delivered only if the person who is being searched is present or whose premise or object is being searched. In the case from paragraph 1 item 5 of this Article the instruction shall be delivered by the authority executing the measure.
(4) When prescribed by this Act, the authority conducting the action shall by virtue of the office verify whether the defendant received the instruction on the rights before the commencement of the action and if it is determined that the instruction on the rights was not given, the proceedings shall be recessed, it shall first be ordered to deliver the instruction, and only then the proceedings shall be continued.

CHAPTER XVIII
EVIDENCE COLLECTING ACTIONS

1. Search
a) Common Provisions

Article 240
(1) The search represents the investigation of the searched object by means of senses and aids under conditions and in the manner stipulated in this Act and in other regulations.
(2) A search of a dwelling, other premises, means of transportation, movable and a person shall be undertaken with the purpose of finding the perpetrator of a criminal offence, objects or traces important for the criminal procedure, when it is probable that these may be found in certain premises, with a certain person or on its body.
(3) The regulations on search shall not apply to natural, public or abandoned premises.

Article 241
(1) The search of a person must be carried out in a manner as to preserve the dignity of the searched person.
(2) The search of a dwelling and other premises must be carried out in the manner that enables the least possible violation of house regulations and disturbance of the citizens.
(3) Should it not be possible to achieve the purpose of the search of a dwelling, other premises and movable property in any other manner, the authority carrying out the search shall dismantle the searched object with the help from an expert person. Unnecessary damage shall be avoided when dismantling an object of the search.

Article 242
(1) Unless otherwise prescribed by this Act, the investigating judge shall order a search upon the request of the State Attorney by a written search warrant with a statement of reasons. The search warrant must contain the following:
1) designation of a subject of search (person, dwelling, other premises or movable property);
2) purpose of the search;
3) authority that shall carry out the search.
(2) The investigating judge shall make a decision on the request for search immediately and at least within four hours from the receipt of the request. Should he deny the request, the investigating judge shall bring a ruling. The State Attorney shall be entitled to appeal

against the ruling of the investigating judge within eight hours. The panel shall bring a decision on the appeal within twelve hours.
(3) The search warrant issued by the investigating judge referred to in paragraph 1 of this Article shall be executed within three days from issuing. After the expiry of this term, the search may not be carried out based on that warrant. The warrant shall be returned without delay to the investigating judge who shall cancel it by making a note on it.
(4) The search shall be carried out by the State Attorney, the investigator or the police authorities.
(5) When the search is carried out by the investigating judge, he shall designate an investigator in the search warrant who shall carry out the search. The investigator shall be bound to carry out the search in compliance with the warrant and shall immediately deliver a record and objects that were temporarily seized.

Article 243

(1) Unless otherwise prescribed by this Act, the search warrant shall be given before the commencement of the search to the person whose premises are to be searched or who is to be searched, or who disposes with the subject of the search.
(2) Before the commencement of the search, the person referred to in paragraph 1 of this Article shall be invited to voluntarily hand over a person or objects that are searched for.

Article 244

A search may be commenced, by way of exception, even without previously giving a warrant (Article 243 paragraph 1) and the instruction on the rights (Article 239 paragraph 1), or without an invitation to hand over the person or objects (Article 243 paragraph 2), if
1) armed resistance is expected;
2) it is required to carry out a search by surprise in cases where it is likely that serious offences are involved, committed by a group or criminal organisation or whose perpetrators are connected with person from abroad;
3) if the search is to be carried out on public premises;
4) there is doubt that prior announcement would result in hiding, destruction or damaging of objects or traces that are to be seized;
5) there is doubt that prior announcement could threaten the safety of the person carrying out a search:
6) the owner or inhabitant of a dwelling or movable property is unavailable.

Article 245

(1) By way of an exception, should doubt arise that the following criminal offences referred to in the Penal Code had been committed: murder (Article 90), felony murder (Article 91), kidnapping (Article 125 paragraph 2 and 3), assassination of the highest state officials (Article 138), kidnapping of the highest state officials (Article 139), disclosure of state secrets (Article 144 paragraph 1 and 3), espionage (Article 146 paragraph 4), association for the purpose of committing criminal offences against the Republic of Croatia (Article 152), criminal offences against values protected by international law (Chapter XIII) that are punishable by imprisonment for not less than five years, counterfeiting of money (Article 274) and money laundering (Article 279), avoiding customs control (Article 298), association for the purpose of committing criminal offences (333), accepting a bribe (Article 347), offering a bribery (Article 348),

as well as criminal offence committed by a group or criminal organisation in gain, and a search must be carried out immediately, since its postponing would threaten achieving of search objectives, the State Attorney may himself order a search of a person and a means of transportation by a written warrant with a statement of reasons.
(2) The search from paragraph 1 of this Article shall be conducted pursuant to Article 244.
(3) The State Attorney must hand over the search warrant referred to in paragraph 1 of this Article, together with records on the search conducted to the investigating judge immediately, or within eight hours at the latest from the completion of the search.
(4) The investigating judge shall decide by a ruling on legitimacy of the State Attorney's search warrant and conducted search within eight hours from the receipt of the records. The State Attorney shall be entitled to file an appeal against the ruling of the investigating judge to decline to verify the search warrant or the records on conducted search. The panel shall reach a decision on the appeal within forty-eight hours.

Article 246

(1) A search may be carried out without a warrant by the State Attorney, the investigator or the police authorities when they carry out an on-site investigation of the site where a criminal offence was committed which is subject to public prosecution, immediately or at least eight hours after the criminal offence was discovered, except in cases of a search of a dwelling or premises pursuant to Article 256 of this Act.
(2) The police authorities may carry out a search of a dwelling or other premises without a search warrant:
1) if it is authorised by a special law to enter a person's dwelling or other premises provided that there are grounds referred to in Article 240 paragraph 2 of this Act;
2) if it is absolutely necessary to execute an arrest warrant or to apprehend a perpetrator of an offence (Article 107 item 2) punishable for not less than three years.
(3) In case of a search referred to in paragraph 2 of this Article, the search can be carried out to find or secure evidence if it is carried out in the dwelling or other premises of the perpetrator. This search may only be carried out in the presence of two witnesses.
(4) The police authorities may without a search warrant and without witnesses carry out a search of a person when executing a warrant for compulsory appearance or to make an arrest if it is likely that person is in possession of offensive weapons or tools or if it is likely that he will throw away, hide or destroy the objects which need to be seized as evidence in the proceedings.
(5) In case the police authorities carries out a search without a warrant, it shall be bound to submit the records on the search and the report to the State Attorney having jurisdiction immediately.

Article 247

(1) The search shall be carried out during the day, from 7 a.m. until 10 p.m.
(2) The search may be carried out at night if:
1) it was commenced during the day, but has not been completed;
2) it is a search according to Article 245 paragraph 1 and Article 246 of this Act,
3) the very person whose premises are to be searched or is being searched requests so, which is to be entered into the records of search immediately and signed by that person.
(3) The investigating judge may upon a written search warrant with a statement of reasons allow a search outside the time period referred to in paragraph 1 of this Article and when there is a possibility that:
1) the searched objects or traces could be destroyed or hidden;

2) the searched person could hide or escape;
3) the searched person could commit a criminal offence;
4) safety of persons may be threatened if the search is not carried out outside the time period referred to in paragraph 1 of this Article.

Article 248

(1) A record of each search shall be made, and shall be signed by the person whose premises have been searched or who has been searched and by the persons whose attendance at the search is obligatory. A copy of the record shall be submitted to the person whose premises have been searched or who has been searched.
(2) Only objects and documents related to the purpose of the respective search shall be temporarily seized in the course of the search, as well as the objects stipulated in Article 249 paragraph 1 and 2 of this Act.
(3) It shall specifically be stated in the record which objects and documents are seized and this shall be written in a receipt which shall be issued immediately to the person from whom the objects or documents have been seized.

Article 249

(1) If in the course of a search objects are found unrelated to the criminal offence for which the search warrant was issued, but indicating another criminal offence subject to public prosecution, they shall be noted in the record and temporarily seized and a receipt on seizure shall be issued immediately. The State Attorney shall be immediately notified thereof.
(2) These objects shall be returned immediately if the State Attorney determines that there are no grounds to institute criminal proceeding and if no other legal ground for the seizure of these objects exists, whereof a record shall be made. The objects used to search a computer and similar devices shall be returned after the search, provided they are not necessary in further criminal proceedings.
(3) Personal data obtained by the search may only be used for purposes of criminal proceedings and shall be erased immediately when this purpose ceases to exist.

Article 250

The record of search and evidence obtained in the search may not be used as evidence in criminal proceedings if:
1) the search is conducted without a written search warrant contrary to this Act;
2) the search without a warrant is carried out contrary to provisions of Article 246 paragraph 1 to 3 of this Act ;
3) the State Attorney did not deliver the warrant and record on the conducted search to the investigating judge within the term referred to in Article 245 paragraph 2 of this Act;
4) a request for verification of a written search warrant of the State Attorney or the record on the conducted search (Article 245 paragraph 3) has been denied;
5) circumstances due to which a search of a person has been carried out by a person of opposite sex were not entered into the record (Article 251 paragraph 2);
6) the search was carried out contrary to the provisions of Article 251 paragraph 3 and 4 of this Act;
7) the search was carried out without a person that has to be present during search (Article 254 paragraph 2);
8) the search was carried out contrary to the conditions of search legitimacy regulated in a special act (Article 256).

b) Search of a Person

Article 251

(1) A search of a person shall include a search of clothes, footwear, body surface, movable property carried by the person or which are in his possession, premises where the person is found at the time of the search and a means of transportation which is used at the time of the search.
(2) A search of a person shall be carried out by a person of the same sex, unless this is not possible due to circumstances of the search conduct. The circumstances due to which a search of a person has been carried out by a person of opposite sex must be entered into the record of search.
(3) When searching a person, the body of the searched person shall not be penetrated nor shall artificial body parts or artificial organs attached to the body (artificial limbs, etc.) be taken off.
(4) If it is required during the search to penetrate the body cavities, take off artificial organs or if there is doubt that the search directly and seriously threatens the health of the searched person, the authority carrying out the search shall stop the search and proceed within three hours in accordance with Article 326 paragraph 2 of this Act. If it is not possible to continue with the search within the stipulated time, the State Attorney shall be informed thereof and the search shall be cancelled.

b) Search of a Dwelling and Other Premises

Article 252

(1) During a search of a dwelling, one or more spatially connected rooms which the person uses as his dwelling, as well as premises that are spatially connected with the dwelling and have the same purpose shall be searched.
(2) A search of other premises shall regard the premises different from a dwelling which are stipulated in the search warrant and in which no search without a search warrant may be carried out (Article 246 paragraph 2 items 1 and 2).
(3) A search of a dwelling and other premises shall also include the search of movable property and all persons found at the dwelling and other premises, if this is stipulated in the search warrant or if the preconditions for a search without a warrant with regard to found persons exist.

Article 253

(1) Prior to the commencement of the search the person to whom the search warrant refers shall be instructed that he is entitled to notify a defence counsel who may be present during the search.
(2) The authority carrying out the search shall allow this person to call a defence counsel of his own choice and shall therefore halt the search until arrival of the defence counsel, up to three hour at the latest from the moment when the person stated he would like to call a defence counsel. If it proves that the chosen defence counsel cannot appear within that deadline, the authority carrying out the search shall allow this person to retain a defence counsel from the list of attorneys on duty, which is compiled by the Croatian Bar Association for the territory of the county and delivered to the competent police administrations along with the report made for the investigating judge. The stopping time of the search of a dwelling shall not be included in the legal term of handing over referred to in Article 109 paragraph 2 of this Act. The authority carrying out the search shall note the stopping time in the record of search.

(3) Should this person decide not to call a defence counsel or should the summoned defence counsel fail to appear within the term provided, the authority may resume the search of a dwelling.

Article 254

(1) A person who owns the premises or resides there or the person authorised by such persons for attending the search may be present during the search of a dwelling or other premises.
(2) At least two citizens of age shall be present as witnesses during the search of a dwelling or other premises.
(3) Before the commencement of the search, the witnesses shall be instructed to observe how the search is carried out and that they are entitled to place their objection prior to signing the record of the search, if they of the opinion that the search has not been carried out in accordance with the provisions of this Act or that the contents of the record are incorrect.
(4) When conducting a search of premises of state authorities, a representative of such authorities shall be invited who may be present at the search.
(5) When a search is carried out in the premises of other legal entities, their representative shall be invited who may be present at the search.

Article 255

If a search is to be carried out in military premises, the search warrant shall be delivered to the military authorities who shall designate a military person to be present at the search. The search in military premises shall be in general carried out by the military police or it shall take part in it.

Article 256

A special law may regulate special conditions of carrying out of the search in certain premises.

d) Search of Movable Property and Bank Safe

Article 257

(1) The search of movable property also includes a search of a computer and devices connected with the computer, other devices for collecting, saving and transfer of data, telephone, computer and other communications, as well as data carriers. Upon the request of the authority carrying out the search, the person using the computer or having access to the computer or data carrier or the telecommunications service provider shall provide access to the computer, device or data carrier and give necessary information for an undisturbed use and the fulfilment of search objectives.
(2) Upon the order of the authority carrying out the search, the person using the computer or having access to the computer and other devices referred to in paragraph 1 of this Article or the telecommunications service provider shall immediately undertake measures for preventing the destruction or change of data. The authority carrying out the search may order a professional assistant to undertake such measures.
(3) The person using the computer or having access to the computer or other device or data carriers or the telecommunications service provider, who fail to comply with paragraphs 1 and 2 of this Article, even though there are no justifiable causes whatsoever, may be penalized by the investigating judge upon the motion of the State Attorney in

accordance with provisions of Article 259 paragraph 1 of this Act. The penalty clause shall not apply to the defendant.

Article 258

If a search is to be carried out on a ship or an aircraft, the search warrant shall be delivered to the captain of the ship or of the aircraft, who shall be present at the search.

Article 259

(1) In the course of carrying out a search of a transportation means, dangerous, poisonous, easily inflammable and similar materials or means and upon the order given by the authority carrying out the search, the person who is operating or using the respective matter shall undertake all measures required for safe and undisturbed carrying out of the search. The person who fails to comply with the order shall be imposed a fine amounting to HRK 50,000.00 by the investigating judge upon the motion with a statement of reasons of the State Attorney, and should this person even after such a fine not comply with the order, he may be sentenced to imprisonment until the order is executed, but no longer than one month. The appeal against the ruling on the fine and imprisonment shall not stay the execution of the ruling. The authority carrying out the search shall instruct the persons referred to in paragraph 1 of this Article prior to carrying out the search of the consequences that arise from failure to comply with the order. The defendant may not be imposed a fine.

(2) The authority carrying out the search referred to in paragraph 1 of this Article may for the purpose of undertaking the measures necessary for undisturbed carrying out of the search designate an expert.

Article 260

(1) If it is probable that in a bank safe there are objects acquired through a criminal offence or intended for committing a criminal offence for which a punishment of imprisonment for not less than five years is prescribed, and the objects are important for criminal proceedings or underlie forceful seizure in accordance with the law, the State Attorney shall by a request with a statement of reasons require from the court to order the bank to allow for access to the safe. The court shall forbid by a ruling disposing with the objects in the safe and stipulate a term within which the bank must comply with the ruling. Before the commencement and during the search the investigating judge shall make a ruling on the State Attorney's request and after the indictment is confirmed by the court where the trial shall be held.

(2) The investigating judge shall immediately bring a ruling on the State Attorney's request referred to in paragraph 1 of this Article, or within twelve hours at the latest. If the investigating judge denies the State Attorney's request, the State Attorney shall be entitled to file an appeal to the panel within twelve hours. The panel shall bring a decision within twenty-four hours.

(3) The investigating judge shall impose a fine to a person who fails to act pursuant to the ruling from paragraph 2 of this Article without a justified reason pursuant to Article 259 paragraph 1 of this Act.

2. Temporary Seizure of Objects

Article 261

(1) Objects which have to be seized pursuant to the Penal Code or which may be used to determine facts in proceedings shall be temporarily seized and deposited for safekeeping.

(2) Whoever is in possession of such objects shall be bound to surrender them upon the request of the State Attorney, the investigator or the police authorities. The State Attorney, the investigator or the police authorities shall instruct the holder of the object on consequences arising from denial to comply with the request.
(3) A person who fails to comply with the request to surrender the objects, even though there are no justified causes, may be penalized by the investigating judge upon a motion with a statement of reasons of the State Attorney pursuant to Article 259 paragraph 1 of this Act.
(4) The measures referred to in paragraph 2 of this Article shall not apply either to the defendant or persons who are exempted from the duty to testify (Article 285).

Article 262

(1) Temporary seizure shall not apply to:
1) files and other documents of state authorities, the publication of which would violate the confidentiality obligation, until decided otherwise by the competent authority;
2) written notices of the defendant to the defence counsel, unless the defendant requires otherwise;
3) tapes and private diaries found with the persons referred to in Article 285 paragraphs 1 to 3 of this Act, which were taken or written by this person and contain recordings or notes on the facts regarding which these persons are exempted from the duty to testify;
4) records, registry excerpts and similar documents possessed by the persons referred to in Article 285 paragraph 1 item 3 of this Act that have been made by these persons regarding facts disclosed to them by the defendant while performing their respective professions;
5) written records of facts made by journalists and editors in the media regarding sources of information and data disclosed to them during performance of their profession and which were used in the media editorial process and which are in their possession or in possession of the editorial office they work for;
(2) The ban on the temporary seizure of objects, documents and recordings referred to paragraph 1 items 2 to 5 of this Article shall not apply:
1) with regard to a defence counsel or persons who are exempted from the duty to testify pursuant to Article 285 paragraph 1 of this Act if there is probability that they have helped the defendant in committing the criminal offence, assisted him after committing the criminal offence or acted as accessories;
2) with regard to journalists and editors in the media if there is probability that they have helped the defendant in committing the criminal offence, assisted him after committing the criminal offence or acted as accessories of the criminal offence, and criminal offences referred to in Article 305 and 305(a) of the Penal Code;
3) in case these are objects that may be seized pursuant to law;
(3) Until preferring the indictment, at the request of the State Attorney, the investigating judge shall decide by a ruling on the probability of providing help in the criminal offence referred to in paragraph 2 of this Article. The investigating judge shall bring a ruling within 24 hours from the submission of the request by the State Attorney. The panel shall decide on the appeal against the ruling of the investigating judge. After preferring the indictment, the court before which the proceeding is conducted shall bring a decision. The appeal against the decision of the indictment panel and the trial court shall not be allowed.
(4) The ban on temporary seizure of objects, documents and recordings pursuant to paragraphs 1, items 2 and 3 of this Article shall not apply in relation to investigations of

criminal offence committed against children and minors referred to in Article 117 of the Juvenile Court Act.
(5) The State Attorney, the investigator or the police authorities may seize objects pursuant to paragraphs 1, 2 and 3 of this Article even when they are carrying out inquiries into criminal offences or when the investigator or the police authorities are executing a court's warrant.
(6) When seizing an object it shall be noted in the record where it has been found and it shall be described, and if necessary its identity shall be stipulated in another way. A receipt shall be issued for temporarily seized objects.
(7) An object seized contrary to the provisions of paragraph 1 of this Article cannot be used as evidence in criminal proceedings.

Article 263

(1) The provisions of Article 261 of this Act also apply to data saved on the computer and devices connected thereto, as well as on devices used for collecting and transferring of data, data carriers and subscription information that are in possession of the service provider, except in case when temporary seizure is prohibited pursuant to Article 262 of this Act.
(2) Data referred to in paragraph 1 of this Act must be handed over to the State Attorney upon his written request in an integral, original, legible and understandable format. The State Attorney shall stipulate a term for handing over of such data in his request. In case handing over is denied, it may be pursued in accordance with Article 259 paragraph 1 of this Act.
(3) Data referred to in paragraph 1 of this Act shall be recorded in real time by the authority carrying out the action. Attention shall be paid to regulations regarding the obligation to observe confidentiality (Articles 186 to 188) during acquiring, recording, protecting and storing of data. In accordance with the circumstances, data not related to the criminal offence for which the action is taken, and are required by the person against which the measure is applied, may be recorded to appropriate device and be returned to this person even prior to the conclusion of the proceedings.
(4) Upon a motion of the State Attorney, the investigating judge may by a ruling decide on the protection and safekeeping of all electronic data from paragraph 1 of this Article, as long as necessary and six months at longest. After this term data shall be returned, unless:
1) they are related to committing the following criminal offences referred to in the Penal Code: breach of confidentiality, integrity and availability of electronic data, programs and systems (Article 223), computer forgery (Article 223a) and computer fraud (Article 224a);
2) they are related to committing another criminal offence which is subject to public prosecution, committed by using a computer system;
3) they are not used as evidence of a criminal offence for which proceedings are instituted.
(5) The user of the computer and the service provider may file an appeal within twenty-four hours against the ruling of the investigating judge prescribing the measures referred to in paragraph 3 of this Article. The panel shall decide on the appeal within three days. The appeal shall not stay the execution of the ruling.

Article 264

(1) State authorities may refuse to present or surrender their files and other documents if these are confidential information pursuant to a special law (classified information).

(2) Legal entities may request that data related to their business be not disclosed.
(3) A decision on declassification of data pursuant to paragraph 1 of this Article shall be made by the state authority upon the motion of the State Attorney or the court.
(4) A decision on disclosure of data referred to in paragraph 2 of this Article shall be made by the investigating judge or the court before which the hearing is conducted upon the motion with a statement of reasons of the State Attorney. The ruling of the court before which the hearing is conducted shall not be subject to appellate review.

Article 265

(1) If access to data considered to be a bank secret is denied, the court may issue a ruling on disclosure of data representing a bank secret upon the motion with a statement of reasons of the State Attorney. The court shall stipulate the term within which the bank must disclose data in the ruling.
(2) When it is probable that a certain person receives, holds or disposes in any other way of income arising from a criminal offence on his bank account and this income is important for the investigation of that criminal offence or it underlies forceful seizure, the State Attorney shall, by a request with a statement of reasons, propose to the court to order the bank to hand over data on that account and income to the State Attorney. The request shall include data on legal entity or physical person who holds these means or this income or disposes of them. A description of income must include the currency designation, but not its exact amount if it is not known. The court shall stipulate a term within which the bank must proceed as ordered.
(3) Before the commencement and during the investigation a decision on the request of the State Attorney referred to in paragraph 1 and 2 of this Article shall be brought by the investigating judge, on indictment by the panel examining the indictment, and after it becomes final by the court before which the hearing is to be conducted.
(4) The investigating judge shall decide on the State Attorney's request referred to in paragraphs 1 and 2 of this Article immediately or within twelve hours at the latest from the receipt of the request. Should the investigating judge deny the request, the State Attorney may file an appeal within twelve hours. The panel shall decide on the appeal within twenty-four hours. An appeal against the ruling of the court brought on indictment shall not be allowed.
(5) If circumstances referred to paragraphs 2 and 3 of this Article exist, the investigating judge may upon the motion with a statement of reasons of the State Attorney order the bank or any other legal entity to follow up on money transfer and transactions on the account of a certain person and to regularly inform the State Attorney thereof during the term stipulated in the ruling.
(6) Measures of the follow-up on money transfer may be applied for a year at longest. As soon as the reasons for the follow-up have ceased to exist, the State Attorney shall inform the investigating judge who shall cancel the follow-up by a ruling. Should the State Attorney desist from the criminal prosecution or the evidence collected are not required for the criminal proceedings, data on the follow-up shall be destroyed under supervision of the investigating judge who shall compile a special record thereon. The State Attorney shall deliver the ruling on the follow-up to the person against whom it was issued, together with the indictment or the decision on desisting from the criminal prosecution.
(7) The bank or any other legal entity shall refrain from disclosure of information or data on the proceedings pursuant to paragraphs 1 to 5 of this Article.
(8) Upon the motion with a statement of reasons of the State Attorney, the investigating judge shall by a ruling impose a fine amounting to HRK 1,000,000.00 upon the bank and

a fine amounting to HRK 200,000.00 upon the responsible person in the bank or any other legal person for proceedings contrary to paragraphs 1 to 5 of this Article. In case the order is not complied with even after such a fine, the responsible person may be punished by imprisonment until the order is executed, but not longer than one month. The appeal against the ruling on a fine and imprisonment shall not stay the execution of the ruling.

Article 266

(1) Upon the motion with a statement of reasons of the State Attorney, the court may order by a ruling a legal entity or a physical person to suspend temporarily the execution of a financial transaction if the suspicion exists that it represents an offence or that it serves to conceal an offence or to conceal the benefit obtained in consequence of the commission of an offence.
(2) By the ruling referred to in paragraph 1 of this Article the court shall order that the financial means assigned for the transaction referred to in paragraph 1 of this Article and cash amounts of domestic and foreign currency temporarily seized pursuant to Article 256 paragraph 2 of this Act shall be deposited in a special account and be kept safe until the termination of the proceedings, or until the conditions are met for their recovery, but not longer than two years. After the indictment becomes final, the court may prolong the duration of safekeeping to two years at longest.
(3) Before the commencement and during the investigation, the decision shall be made by the investigating judge, on indictment by the panel examining the indictment, and after it becomes final by the court before which the hearing is to be conducted. The investigating judge shall decide by a ruling on the State Attorney's request within twenty-four hours from the receipt of the request. Should the judge deny the request, the State Attorney may file an appeal within twelve hours. The panel shall decided on the appeal within twenty-four hours. The appeal shall not stay the execution of the ruling.
(4) A legal entity or a physical person must not reveal information or data on the proceeding pursuant to paragraphs 1 to 3 of this Article.

Article 267

(1) Files or documents which are temporarily seized because they may be used as evidence shall be listed. If this is not possible, files or documents shall be put in a separate cover and sealed. The person from whom a file or document is temporarily seized may put his own seal on the cover.
(2) The cover shall be opened by the State Attorney. While examining the file or document, attention must be paid not to disclose their contents to unauthorised persons. A record on the opening of the cover shall be made.
(3) The person from whom the files or documents have been seized shall be summoned to attend the opening of the cover. If this person fails to attend the opening or is absent, the cover shall be opened; the files or documents examined and a list of them made in his absence.

Article 268

In case of non compliance with the ruling of the court referred to in Article 265 paragraphs 1 to 5 and Article 266 paragraphs 1 to 3 of this Act or acting contrary to Article 265 paragraph 7 and Article 266 paragraph 4 of this Act, the legal entity shall be imposed a fine amounting up to HRK 1,000,000.00 and a responsible person of the legal entity or a physical person a fine amounting to HRK 200,000.00, and in case the decision is not executed even after that, a responsible or physical person may be punished by

imprisonment until the decision is executed, but not longer than one month. The panel shall decide on the complaint against the ruling on a fine or imprisonment. The appeal against the ruling on a fine or imprisonment shall not stay the execution of the ruling. The punishment shall not interfere with the criminal prosecution for a criminal offence of disclosure of confidential data.

Article 269

(1) Objects that are to be used as evidence shall be kept in a special State Attorney's premise before preferring the indictment, and in a special court room after preferring the indictment. By way of derogation, if that is not possible, the objects shall be kept outside the State Attorney's or the court's premises.
(2) The authority conducting the proceedings shall take care of supervision over these objects.
(3) The minister responsible for justice shall bring regulations to determine the method and conditions under which the objects referred to in paragraph 2 of this Article are kept.

Article 270

(1) Temporarily seized objects must be returned unless they underlay the provisions on seizing pursuant to law or if legal grounds for applying the measure referred to in Article 266 paragraph 2 of this Act cease to exist.

(2) The State Attorney and the court shall by virtue of the office pay attention to the existence of grounds for keeping temporarily seized objects.

Article 271

(1) Upon the motion of the State Attorney, preliminary or temporary safety measures for the confiscation of pecuniary benefit may be ordered in the criminal proceedings pursuant to the provisions on the distraint procedure.

(2) The investigating judge shall decide on preliminary or temporary safety measures until preferring the indictment, the panel examining the indictment upon preferring the indictment, and the trial court after that. The panel shall decide on the appeal against the decision of the investigating judge. The appeal against the decision by the panel examining the indictment and by the trial court shall not be allowed.

(3) A claim for indemnification for an ungrounded preliminary or temporary measure shall be asserted in a civil action.

3. Interrogation of Defendant

Article 272

(1) When the defendant is interrogated for the first time, he shall be asked for his first name and surname, nickname if he has one, first name and surname of parents, maiden name of his mother, place of birth, address, day, month and year of birth, ethnic group, nationality and citizenship, occupation, profession, employment situation and educational background, personal identification number, family situation, whether he has the rank of an officer or military official, whether he was decorated, what his financial situation is, whether he has been convicted and if so when and why, whether he has served a sentence

and when, whether criminal proceedings against him for another offence were in progress and if he is a minor, who his legal guardian is.
(2) The defendant shall be instructed that he is bound to appear upon a summons and immediately to notify the court of changes of his address as well as of an intention to change the address and shall be warned of the consequences of failure to comply.
(3) If the defendant cannot appear upon the summons due to illness or any other unavoidable impediment, he may be interrogated at the place where he is residing or his transportation shall be ensured to the court's building or other premises where the interrogation shall take place, or his interrogation may be postponed.
(4) The authority conducting the proceedings may order physical examination or expert examination for the purpose of verifying the existence of circumstances referred to in paragraph 3 of this Article.

Article 273

(1) The interrogating authority shall ask the defendant prior to the first interrogation whether he had received written instructions on his rights (Article 239 paragraph 1) and if so, it shall assure itself that the defendant understood the instructions. In case that the defendant did not receive written instructions on his rights, they shall be handed over to him prior to the interrogation and if he does not understand them, the interrogating authority, in addition to handing over the instruction, shall instruct the defendant on the rights referred to in Article 239 paragraph 1 of this Act so that he may understand them. The receipt of the instruction and all other actions related thereto shall be noted in a record.
(2) The defendant who has been instructed on his rights pursuant to paragraph 1 of this Article shall be invited to explicitly declare oneself whether he will retain a defence counsel of his own choice. The defendant's statement shall be entered into the record.
(3) The interrogating authority shall allow the defendant to retain a defence counsel of his own choice and shall therefore recess the interrogation until the arrival of the defence counsel at the latest up to three hours from the moment when the defendant stated he would like to retain a defence counsel of his own choice and that he would like him to be present at interrogation. If the circumstances indicate that the selected defence counsel cannot arrive within this term, the interrogating authority shall allow the defendant to retain a defence counsel from the list of attorneys on duty which is compiled by the authority referred to in Article 253 of this Act for the territory of the county and is delivered to the court, the State Attorney and the competent police administrations. The recess time of interrogation shall be noted in the interrogation records and shall not be included in a legal term for bringing before the investigating judge.
(4) If the defendant did not retain a defence counsel from the list referred to in paragraph 3 of this Act, and the interrogation is conducted for the criminal offence for which a regular procedure is conducted, the interrogating authority shall proceed pursuant to Article 66 paragraph 3 of this Act.
(5) The defendant may consult with the defence counsel on his rights prior to the first interrogation which shall be entered into the record.
(6) If it is doubtful whether the defendant understands the official language of the court or the circumstances referred to in Article 280 of this Act, the defendant shall be instructed that the interrogation shall be carried out by means of an interpreter. The authority conducting the investigation shall provide presence of the interpreter prior to the interrogation.

Article 274

In case the defendant who waived the right to a defence counsel and defence is not obligatory states during later interrogation that he would like to retain a defence counsel, the interrogation shall be suspended immediately. The reason of suspending shall be entered into the records. The defendant shall be allowed to retain a defence counsel. The authority conducting the interrogation shall suspend the interrogation until the defendant retains a defence counsel, but not longer than two hours from the moment when the defendant stated he would like to retain a defence counsel and requested his presence during interrogation. If the defence counsel does not appear at the hearing within that term, the interrogation shall be continued without a defence counsel and a note thereof shall be made in the record.

Article 275

(1) Prior to the first interrogation the defendant shall sign a statement that he had received written instructions on the rights referred to in Article 239 paragraph 1 of this Act. During all further interrogations the defendant shall be warned of the signed statement on having received written instructions of his right prior to the first interrogation and this shall be noted in the record.
(2) The first interrogation shall be recorded by an audio- video recording device. The recording device shall be operated by an expert. Further interrogations may be recorded upon a decision of the decision of the interrogating authority.
(3) The authority conducting the interrogation shall, in addition to the warning and instructions referred to in Article 273 paragraph 1 of this Act, enter into the records a warning that the interrogation is being recorded and that the recorded statements may used as evidence in proceedings. The warning and the statement of the defendant on use of right to retain a defence counsel shall be recorded and entered into the record.
(4) The authority conducting the interrogation shall state information which are to be entered into the record on interrogation of the defendant (Article 83 paragraph 1 and Article 272 paragraph 1), information on recording referred to in Article 87 paragraph 5 of this Act and shall afterwards state the beginning, interruption, continuance and the termination of the interrogation, as well as other circumstances relevant to the course of interrogation.
(5) The defendant's statements shall not be entered into the records of interrogation being recorded.
(6) Three recordings of the interrogation shall be made, one of which shall be sealed and handed over to the investigating judge for safekeeping. A sealed envelope shall be signed by the person who conducted the interrogation, the defendant, the defence counsel if present and the expert who made the recording. One recording shall immediately be handed over to the State Attorney and the defendant.

Article 276

(1) Interrogation shall be performed in such a manner that the defendant's person is fully respected.
(2) The defendant shall be interrogated orally. During interrogation he may be permitted to use his notes.
(3) During interrogation the defendant shall be given the opportunity, notwithstanding his wish to answer the questions asked, to comment on all circumstances against him in an interrupted presentation and to present all the facts supporting his defence.
(4) After completing his statement, the defendant shall be asked further questions if this is necessary to present some evidence, to fill in gaps or remove contradictions and ambiguities in his statement.

(5) It is forbidden to use force, threat, deceit or other similar means to obtain a defendant's statement or confession.

Article 277

(1) The defendant must be asked questions clearly, accurately and explicitly, so that he may understand them completely. It may not be started from the assumption that the defendant confessed something he did not confess, nor may questions be asked that already contain an answer to be given.
(2) In case the subsequent statements of the defendant differ from the previous and especially if the defendant revokes his confession, he shall be invited to state the reasons why he gave different statements, or why he revoked his confession.

Article 278

(1) The defendant may be confronted with a witness or another defendant if their statements do not correspond regarding relevant facts.
(2) The confronted persons shall be separately interrogated on every circumstance on which their statements do not correspond, and their answers shall be entered in the record.
(3) Not more than two persons may be confronted at the same time.
(4) A record on confrontation shall be made. The confrontation during interrogation must be recorded by an audio or video recording device. The recording shall be enclosed with the record. If the confrontation has not been recorded, the record may not be used as evidence.

Article 279

(1) In case the defendant's statement is not being recorded by an audio or video recording device, it shall be entered into the records in a narrative form. Relevant questions and answers thereto shall be entered literally into the record.
(2) The defendant may be permitted to dictate his statement into the record by himself.

Article 280

(1) The defendant's interrogation shall be carried out through an interpreter in cases prescribed by this Act.
(2) If the defendant is deaf, the questions shall be posed in writing, and if he is mute, he shall be instructed to answer in writing. If the interrogation cannot be performed in such a manner, a person with whom the defendant is able to communicate shall be called as an interpreter.
(3) If the interpreter has not previously taken an oath, he shall take the oath to faithfully communicate questions put to the defendant, as well as statements given by the defendant.
(4) The provisions of this Act related to expert witnesses shall be respectively applied to interpreters as well.

Article 281

Except in cases referred to in Article 6 and 10 of this Act, the recording and the record on interrogation of the defendant may not be used as evidence in criminal proceedings also when it was proceeded contrary to the provisions of Article 273 and Article 275 paragraphs 1 to 4 and paragraph 6 of this Act.

Article 282

The interrogation of the defendant may be carried out under the conditions and in a manner prescribed by an international treaty.

4. Examination of Witnesses

Article 283

(1) Persons who are likely to provide information regarding the criminal offence, the perpetrator and other relevant circumstances shall be summoned as witnesses.
(2) The injured person, subsidiary prosecutor and private prosecutor may be examined as witnesses.
(3) Every person summoned as witness is bound to comply with the summons and if not otherwise prescribed by this Act, this person is also bound to testify.

Article 284

The following persons may not testify as witnesses:
(1) a person who would by giving a statement violate a legally binding confidentiality obligation until the competent authority releases this person from this obligation;
1) a defence counsel of the defendant, unless the defendant so requests;
2) a defendant in proceeding to which the provisions of Article 25 of this Act apply;
3) a religious confessor with regard to the contents of a confession.

Article 285

(1) The following persons are exempted from the duty to testify:
1) the defendant's spouse or common-law spouse,
2) the defendant's linear relatives by blood, collateral relatives by blood to the third degree and relatives by affinity to the second degree,
3) the defendant's adopted child and the defendant's adoptive parent,
4) notaries public, tax consultants within the scope of a legally binding confidentiality obligation,
5) attorneys, physicians, dentists, psychologists and social workers regarding information disclosed to them by the defendant while performing their respective professions,
6) journalists and their editors in the media regarding sources of information and data coming to their knowledge in the performance of their profession and provided that their sources were used in the editorial process, except in criminal proceedings for offences against honour and reputation committed by the means of the media in a case prescribed by special law.
(2) Persons referred to in paragraph 1 items 4 to 6 of this Article cannot refuse to give a statement if a legal ground exists exempting them from their duty to keep information confidential.
(3) The authority conducting the proceedings is bound to remind the persons referred to in paragraph 1 of this Article that they are exempt from testifying before their examination or as soon as the court finds out about their relation to the defendant. The reminder and the answer shall be entered into the record.
(4) A minor who due to his age and mental development is unable to understand the meaning of the right to exemption from testifying cannot testify as a witness; however the information obtained from him through experts, relatives or other persons who have been in contact with him may be used as evidence.

(5) A person entitled to refuse to testify in respect of one of the defendants shall be exempted from the duty to testify in respect of other defendants as well if his testimony cannot be, by the nature of the matter, limited only to other defendants.
(6) Persons referred to in paragraph 1 items 1 to 6 of this Article, except the defence counsel, cannot not refuse to testify with regard to criminal offences of criminal law protection of children and minors referred to in Article 117 of the Juvenile Court Act.

Article 286

(1) A witness is not obliged to answer particular questions if it is likely that he would thus expose himself or his close relative to criminal prosecution, serious disgrace or considerable material damage. The authority conducting the proceedings shall instruct the witness thereof.
(2) If the witness has denied an answer to questions referred to in paragraph 1 of this Article since he would expose himself or his close relative to criminal prosecution, the State Attorney may make a statement that he shall not institute a criminal prosecution and make a motion on discontinuing the action for giving a statement within the meaning of paragraph 4 of this Article.
(3) The statement referred to in paragraph 2 of this Article may be given by the State Attorney only if the answer to certain questions is relevant for proving of a more serious criminal offence of the other person which is punishable by imprisonment for ten or more years. Prior to giving of the State Attorney's statement, the witness may consult a counsel from the rank of the Bar.
(4) The statement of the State Attorney referred to in paragraph 2 of this Article must be in writing and verified by the stamp and signature of the higher State Attorney. The State Attorney shall hand over the statement to the witness. A criminal prosecution against the witness and the person referred to in paragraph 2 of this Article may not be instituted for a criminal offence referred to in the statement, but they may be prosecuted for a criminal offence of false testimony.

Article 287

If not otherwise prescribed by this Act, a witness shall be called to appear by the service of a written summons indicating the first name, surname, occupation of the person summoned, time and place of appearance, the criminal case related thereto, the note that he is being summoned as a witness and the instruction on the consequences of an unjustified failure to appear.

Article 288

(1) Witnesses shall be examined separately and in the absence of other witnesses. The witness shall be bound to give his answers orally.
(2) The witness shall first be asked of his first name and surname, his father's first name, occupation, place of residence, place of birth, age, personal identification number and his relation to the defendant and the injured person.
(3) Thereafter, the witness shall be informed that he is bound to tell the truth, that he may not withhold any information and that giving false testimony is a criminal offence. The witness shall also be instructed that he is not bound to answer the questions referred to in Article 45 paragraph 1 item 3 and Article 286 paragraph 1 of this Act and these instructions shall be entered in the record.

Article 289

(1) After general questions, the witness shall be called upon to state everything known to him about the case, whereupon questions shall be directed to him in order to check, complete or clarify his testimony.
(2) The witness shall always be asked to indicate the source or his knowledge regarding the testimony given.
(3) It is forbidden to deceive the witness or to ask leading questions during examination of the witness, unless otherwise prescribed by this Act (Article 420 paragraph 3).
(4) The witness may be confronted with the other witness or the defendant if their testimonies do not correspond regarding the relevant facts. The confronted persons shall be separately examined on any circumstance on which their testimonies do not correspond, and their answers shall be entered into the record. Only two persons may be confronted at a time.
(5) A record on confrontation shall be made. The confrontation must be recorded by an audio or video recording device. The recording shall be enclosed with the record. If the confrontation has not been recorded, the record cannot be used as evidence.
(6) If a victim of a criminal offence is examined as a witness it shall be proceeded pursuant to Articles 16, 43 to 46 and Article 292 paragraph 4 of this Act. A decision thereon shall be made by the interrogating authority. An appeal against the decision of the interrogating authority shall not be allowed.

Article 290

(1) If the witness testifies through an interpreter or if the witness is deaf or mute, he shall be examined pursuant to the procedure referred to in Article 280 of this Act.
(2) Interrogation carried out through an interpreter may be recorded by an audio or video recording device. The recording shall be enclosed to the record.

Article 291

(1) If a duly summoned witness fails to appear and does not justify his absence or if he leaves without authorisation or justifiable reason the place where he is to testify, the court may issue a warrant for compulsory appearance.
(2) If the witness appears and after being informed of the consequences refuses to testify without legal cause, he may be fined by the investigating judge upon a motion with a statement of reasons of the State Attorney to the amount not exceeding HRK 50,000.00 and if he thereafter still refuses to testify, he may be imprisoned. Such imprisonment shall last until the witness agrees to testify or until his testimony becomes unnecessary or until the proceedings are concluded, but not longer than one month.
(3) An appeal against the ruling referred to in paragraph 2 of this Article shall not stay its execution.

Article 292

(1) Unless otherwise prescribed by a special law, the examination of a child as a witness shall be carried out by the investigating judge. The examination shall be carried out in the absence of the judge and parties in the room where the child is situated through audio and video devices which are operated by an expert assistant. The examination is carried out with the assistance of a psychologist, educator or other expert person and unless this is contrary to the interests of proceedings or the child, parents or a guardian may be present during the examination. The parties may ask the child- witness questions authorised by the investigating judge through an expert. The examination shall be video-taped and audio-taped and the recording shall be sealed immediately and enclosed with the record. The child may be examined again only in exceptional cases and in the same manner.

(2) Unless otherwise prescribed by a special law, the examination of a minor as a witness shall be carried out by the investigating judge. During the examination of a minor, especially if the minor is the injured person of the criminal offence, special care shall be taken lest the examination have a harmful effect on the mental condition of the minor. According to circumstances, the examination may be conducted in the manner referred to in paragraph 1 of this Article, paying special attention to the protection of the minor.
(3) Witnesses who cannot obey the summons due to their old age, state of health, serious physical disabilities or mental state may be examined in their dwellings or other premises where they are situated. These witnesses may be questioned by means of audio and video devices which are operated by an expert assistant. If required so by the condition of the witness, the questioning shall be organized in such a manner that the witness can be questioned by the parties without their presence in a room where the witness is situated. If necessary, the interrogation shall be video-taped and audio-taped, and the recording sealed and enclosed with the record.
(4) In the manner referred to in paragraph 3 of this Article, upon the witness' request, the examination may be carried out as the examination of a witness of a criminal offence against sexual freedom and sexual morality or if a criminal offence is committed in the family.
(5) If the examination of a witness is carried out pursuant to paragraph 3 of this Article, it shall be proceeded pursuant to Article 297 paragraph 3 of this Act.

Article 293

The examination of witness may be carried out under the conditions and in the manner prescribed by an international treaty.

Article 294

(1) If it is likely that by giving a testimony or by answering any individual question, a witness might expose himself or any other person close to himself to a serious danger to life, health, physical integrity, freedom or property of considerable volume (witness in danger), the witness is entitled to refuse to disclose information referred to in Article 288, paragraph 2 of this Act, to refuse to answer to individual questions or to refuse to testify at all until witness protection measures have been provided.
(2) Witness protection referred to in paragraph 1 of this Article includes a special manner of questioning a witness and his participation in the proceedings (protected witness) and measures for protecting the witness and other persons close to him not participating in the proceedings. The authority participating in the proceedings is bound to proceed with special care regarding witness protection.
(3) Special manners of questioning a witness and of his participation in the proceedings are stipulated in this Act and may be implemented even before the commencement of the proceedings.
(4) Protection of a witness and other persons close to him not participating in the proceedings is prescribed in a special act.

Article 295

(1) As soon as he becomes aware of the probability of existence of circumstances referred to in Article 294 paragraph 1 of this Act, the State Attorney shall suggest to the investigating judge the implementation of a special manner of participation and examination of the witness. The State Attorney shall submit the suggestion to the investigating judge in a sealed cover with the note "Witness in Danger - Confidential",

whereof the witness shall be informed first. It shall be submitted personally or through an investigator.
(2) The State Attorney shall specify in his suggestion a special manner of participation in the proceedings (summoning of the witness, appearing at the hearing, etc.) and a special manner of examination of the witness suggested as well as the reasons for suggesting them.
(3) The State Attorney may submit the suggestion referred to in paragraph 1 of this Article to the investigating judge before and during the examination. Should the defendant suggest the examination of a protected witness, the State Attorney may submit a relevant suggestion to the investigating judge and should he disagree with the suggestion, he shall ask for a decision by the investigating judge.
(4) The investigating judge shall reach a decision on the State Attorney's suggestion within twelve hours from the receipt of the suggestion. The State Attorney may file an appeal against the decision of the investigating judge denying the suggestion referred to in paragraph 1 of this Article. The panel shall decide on the appeal within twenty-four hours.
(5) If the investigating judge accepts the suggestion of the State Attorney, he shall determine by a ruling:
1) a pseudonym for the protected witness;
2) a special manner of participation in the proceedings (summoning, appearing before the court, etc.);
3) a special manner of examination.
(6) An appeal against the ruling of the investigating judge shall not be allowed.
(7) Data on the protected witness to be examined and to participate in the proceedings in a special manner shall be put in a special and sealed cover by the investigating judge and submitted for safeguarding to the State Attorney. This shall be entered in the file under the pseudonym of the witness. Persons who in whatever circumstances find out the data on the protected witness shall be bound to keep the data confidential. The authority conducting the proceedings shall be responsible for the protection of data confidentiality.
(8) The sealed cover containing data on the protected witness may exceptionally be requested from the State Attorney and opened by the investigating judge, the council president for the purpose of verification of identity and by a second instance court when making a decision on an appeal against a verdict. The note shall be written on the cover stating that it has been opened and the names of persons familiar with its content shall be listed on it. After that the cover shall be resealed and returned to the State Attorney.
(9)After the ruling on the special manner of participating in the proceedings and special manner of examination, the investigating judge shall schedule a hearing and shall question the protected witness. During summoning, appearing of the protected witness, staying at and leaving the hearing the investigating judge and the State Attorney may order the police authorities to undertake measures of protecting the witness.

Article 296

(1) If the special manner of examination of a witness refers only to non-disclosure of information, the examination shall be carried out under a pseudonym without listing of other information referred to in Article 288 paragraph 2 of this Act. As regards its other parts, the examination of the protected witness shall be carried out pursuant to the general provisions of this Act related to the examination of witnesses.
(2) After the completion of the examination the protected witness shall sign the record by using a pseudonym.

Article 297

(1) If the special manner of examination of a witness refers not only to non-disclosure of information referred to in Article 288 paragraph 2 of this Act but also to non- disclosure of physical appearance of the witness, the examination shall be carried out by using audio and video devices. The audio and video devices shall be operated by an expert person. The appearance and the voice of the witness shall be changed during the examination. In the course of examination, the witness shall be situated in a room that is separated from the room in which the investigating judge and other persons attending the examination are situated. The examination shall be conducted pursuant to Article 292 paragraph 3 of this Act.

(2) The investigating judge may decide that the examination of the protected witness be recorded by an audio and video recording device or an audio recording device. The investigating judge shall bring a decision on recording and the manner in which the recording shall be performed taking special care of the protection of the witness. In that case the investigating judge shall not keep any records. The recording shall be transcribed within three days.

(3) Before the examination, the protected witness must be instructed according to Article 87 paragraph 3 of this Act, in addition to the warning and instructions referred to in Article 288 paragraph 3 and Article 289 paragraphs 1 and 2 of this Act.

(4) In case the examination of the protected witness is recorded, the investigating judge shall note in the record the ruling referred to in Article 295 paragraph 4 of this Act, and shall than proceed pursuant to Article 87 paragraph 5 of this Act taking special care of the protection of the witness.

(5) When the examination of the protected is being recorded, two copies of examination shall be made, one of which shall immediately be sealed and handed over to the investigating judge for safekeeping. This recording shall be signed by the investigating judge, the witness in danger by pseudonym and the expert person who made the recording. The other recording shall be handed over to the State Attorney. The State Attorney shall make a copy of the recording within fifteen days and enclose it with the file.

Article 298

The verdict and the establishment of the unlawfulness of the evidence may not be based only on the testimony of the witness acquired pursuant to Articles 296 and 297 of this Act.

Article 299

(1) Should during the examination the protected witness state that he no longer wishes a special manner of examination and participation that have been determined, the investigating judge shall note the statement of the witness in the record, order by a ruling recalling of the ruling referred to in Article 295 paragraph 4 of this Act and deliver the statement and the ruling on recall to the State Attorney. A prior statement of this witness shall remain in the file and may be used as evidence. An appeal against the ruling of the investigating judge referred to in paragraph 1 of this Article shall not be allowed.

(2) The witness referred to in paragraph 1 of this Article shall be examined by the authority conducting the proceedings pursuant to general rules on witness examination.

Article 300

(1) Except in cases specially prescribed by this Act, a witness testimony may not be used as evidence in the proceedings if:

1) a person that may not be examined as a witness has been examined as a witness (Article 284);
2) a person who is exempted from testifying as a witness has been examined as a witness (Article 285) and has not been warned thereof or did not expressly waive that right;
3) the instruction referred to in Article 285 paragraph 3 of this Act and the waiver had not been entered into the records;
4) a minor who cannot comprehend the meaning of the right not to testify has been examined as a witness (Article 285 paragraph 4);
5) the instruction referred to in Article 288 paragraph 3 of this Act has not been entered into the record;
6) the right to deny an answer referred to in Article 45 paragraph 1 item 3 of this Act has been violated;
7) in case referred to in Article 6 paragraph 3 of this Act.
(2) If it has not been proceeded pursuant to the provisions of Article 295 paragraph 4 and 5 of this Act, the testimony of a protected witness may not be used as evidence. The investigating judge shall decided thereon by a ruling upon the motion of a party or a witness. The court of higher instance shall decide on an appeal against the ruling of the investigating judge.

5. Identification

Article 301

(1) The identification is a determination of the identity of the person, object, area, sound, movement or other designation which had been observed by the defendant or the witness, which is determined through comparison with other person, object, area, sound, movement or other designation. Objects which may be used for clarification of the matter shall be shown to the defendant and, if so required, to the witnesses and experts.
(2) Prior to the identification the person performing the identification shall be asked whether he has been shown the subject of identification in nature, on the photograph, computer, records, tape, database or elsewhere after the observation period and prior to identification and whether he is aware of any circumstances that might affect the identification. Answers shall be noted in the record.
(3) The person carrying out the identification shall be asked to first describe the subject of identification in as much details as possible and to state the circumstances in which he distinguishes it from other objects. He shall also describe circumstances in which he observed the object and describe identification results in detail.
(4) The person carrying out the identification shall thereafter be shown a person or another object of identification together with other persons and objects which are unknown to this person. Identification of the area shall be carried out in such a manner that it is first described in as much details as possible and after that it is shown by the person on the recording and in nature of things.
(5) If a written consent of the person carrying out the identification is obtained, the identification may be carried out by means of corresponding technical devices and programs which allow for simultaneous presentation of photographs or audio/video recording pursuant to paragraph 3 of this Article. Identification carried out in such a manner may be recorded by an audio or video recording device.
(6) If the defendant conducts identification, it shall be proceeded pursuant to Article 273 of this Act. If the witness conducts identification, it shall be proceeded pursuant to Article 288 paragraphs 2 and 3 of this Act.

(7) A record shall be made of the identification and a corresponding recording of all presented objects and areas. Recording shall be performed by an expert assistant.

Article 302

Identification may be carried out under the conditions and in a manner prescribed by an international treaty.

Article 303

(1) If a justified fear exist that the life or physical safety of an identifying person or other persons close to the identifying person might be jeopardized, or a justified fear exist that the person who is being identified might influence the identification procedure, the authority carrying out the identification procedure shall arrange the procedure in such a manner that the person who is being identified can neither see nor hear the identifying person.
(2) Citizens are obliged to personally participate in the identification procedure upon having been summoned and to make available objects or area for the purpose of identification, unless they have a justifiable reason for the exemption from this duty. If a citizen refuses to participate in the identification procedure without a justifiable reason, he shall be fined to an amount not exceeding HRK 50,000.00. Making an area available shall not apply to a dwelling.

6. Judicial View

Article 304

A judicial view shall be conducted when facts in the proceedings are to be determined or explained by own senses or by aids.

Article 305

(1) In order to test the evidence examined or to determine the facts relevant for the clarification of the matter, the court may upon a proposal of the party order a reconstruction of the event a reconstruction of the event or an experiment.
(2) Reconstruction shall be conducted in a manner to repeat the acts or situations in the conditions as, according to the evidence examined, they existed at the time when the event took place. If the acts or situations were described differently in the testimony of certain witnesses or in the defendant's statement, the event shall, as a rule, be reconstructed according to each of them.
(3) The experiment shall be conducted in order to examine the influence of certain condition on a certain matter, state or relationship.
(4) The reconstruction and experiment shall not be conducted in a manner offensive to public order or moral considerations or which endangers life or health of people.
(5) If necessary, certain evidence may be presented again in the course of the reconstruction and experiment.

Article 306

(1) The authority conducting the judicial view or the reconstruction may ask for the assistance of an expert in the techniques of police science, traffic science or another expert who shall, if necessary, undertake measures to discover, secure and describe traces, execute the necessary measurements and recordings, make sketches, or collect other information.

(2) An expert witness may also be summoned to be present at the judicial view, reconstruction or experiment, if his presence would be useful for an expert's findings and opinion.
(3) The authority conducting a judicial view, reconstruction or experiment shall be entitled to limit as long as required access to and residing within the area or premises in which the facts requiring carrying out of such procedures are to be found, as well as to such objects.
(4) If the judicial view, reconstruction or experiment is carried out on a person's body, it shall be proceeded pursuant to the provisions of Article 326 paragraph 2 of this Act.

7. Taking Fingerprints and Prints of other Body Parts

Article 307
(1) If it is necessary to determine whose fingerprints or prints of other body parts are found on individual objects, such prints may be taken from persons who are likely to have been in the position of getting into contact with such objects.
(2) The prints referred to in paragraph 1 of this Article may be taken without the consent of the person who is likely to have been in the position of getting into contact with individual objects.
(3) The prints referred to in paragraph 1 of this Article shall be taken with regard to the application of certain rules stipulated for the procedure of taking fingerprints pursuant to Article 211 paragraph 1 of this Act and the rules stipulated in other act.

8. Expert Witness Testimony

Article 308
Expert witness testimony shall be ordered when, with a view to determine or assess relevant facts it is necessary to obtain findings and the opinion of a person who has the necessary expert knowledge.

Article 309
(1) Expert witness testimony shall be ordered by a written order of the authority conducting the proceedings. The order shall state the facts relevant for the expert witness testimony and the name of the expert witness. The order shall be delivered to the parties as well.
(2) If a specialized institution exists for a certain type of expert testimony, or the expert testimony may be given from a state authority, such expert witness testimony, particularly a complex one, shall as a rule be assigned to such an institution or such an authority. The institution or the authority shall appoint one or more experts who shall give expert witness testimony.
(3) As a rule, one expert witness shall be appointed and if the expert testimony is a complex one, two or more experts shall be appointed.
(4) If for certain expert witness testimony, permanent expert witnesses are appointed, other expert witnesses may be appointed only when there is a danger in delay, or when permanent expert witnesses are not available or if other circumstances so require.

Article 310
(1) A person summoned as an expert witness is bound to appear and present his findings and opinion.

(2) If a duly summoned expert witness fails to appear and does not justify his absence or if he refuses to give expert testimony, he may be fined to an amount not exceeding HRK 50,000.00 and in case of an unjustified absence may be brought before court by force. The panel shall decide on an appeal against the ruling imposing a fine.
(3) Notwithstanding the provision of paragraph 2 of this Article, the authority conducting the proceedings may request from the expert witness to state a term within which he shall submit his expert findings and opinion.

Article 311

(1) A person who may not testify as a witness or is exempted from testifying may not be appointed as an expert witness, and neither may a person against whom the offence was committed and if such a person is appointed, findings and opinion of this person may not be used as evidence in the proceedings.
(2) A reason for the disqualification of an expert witness applies also to the person who is employed by the same state authority r by the same employer together with the prosecutor, the defendant or the injured person.
(3) As a rule, a person examined as a witness shall not be appointed as an expert witness.

Article 312

(1) Before the commencement of the expert witness testimony, the expert shall be asked to thoroughly examine the object of his testimony, to indicate accurately everything he notices or discovers and to give his opinion without bias and in conformity with the rules of the pertinent science or skill. He shall be given a special instruction that giving false expert witness testimony is an offence.
(2) An expert witness may be asked to swear to give truthful testimony. The oath reads: "I do solemnly swear that I shall carry out expert testimony confided to me with due diligence and to the best of my abilities and I shall present my findings and opinion accurately, completely and objectively, in accordance with rules of this profession." A sworn court expert witness shall only be reminded of this oath.
(3) The expert witness may be permitted to inspect the files. The expert witness may propose that objects and information be obtained which are of relevance to his findings and opinion. If present at the judicial view or any other evidence collecting action, the expert witness may propose the clarification of certain circumstances or that the person who is testifying is asked certain questions.
(4) The authority conducting the proceedings may be present during the expert witness activities.

Article 313

If it is necessary for the purposes of giving expert witness testimony to carry out an analysis of some substance, only part of this substance, if possible, shall be made available to the expert witness while the rest shall be secured in a necessary quantity in case further analyses are needed.

Article 314

(1) The findings and the opinion of the expert witness shall be immediately entered into the record. The expert witness may be permitted to subsequently submit the findings and opinion in writing within a term determined by the authority conducting the proceedings, in enough copies for the court and the parties.
(2) The expert witness may be examined by means of an audio or video recording device when this is foreseen in an international treaty or when both parties agree thereon.

Article 315

(1) If the expert witness testimony is assigned to a specialized institution or state authority, the authority conducting the proceedings shall give a reminder that the person referred to in Article 311 of this Act may not participate in giving expert witness testimony nor persons for whom reasons for disqualification from expert testimony stipulated in this Act exist, and shall give information on the consequences of giving false testimony.
(2) The material necessary for expert witness testimony shall be made available to the specialized institution or state authority and if necessary the court shall further proceed according to the provisions of Article 313 of this Act.
(3) The specialized institution or state authority shall deliver the written expert findings and opinion signed by the persons who made the expert witness testimony.
(4) Upon a request of a party, the head of the specialized institution or state authority shall give the names of the experts who will provide the expert testimony.
(5) The provisions of Article 312 paragraphs 1-3 of this Act shall not apply when the expert witness testimony is assigned to a specialized institution or state authority. The authority conducting the proceedings may request explanations regarding the given expert findings and opinion from the specialized institution or authority.

Article 316

(1) The record on the expert witness testimony or the written expert findings and opinion shall state who gave the testimony as well as the occupation, educational background and field of specialization of the expert witness.
(2) When the expert witness testimony is given in the absence of the parties, they shall be notified that the expert testimony was given and that they may inspect the record on the expert witness testimony or the written expert findings and opinion.

Article 317

If the findings of the expert witness are unclear, incomplete or contradictory within themselves or with the investigated circumstances and if these anomalies cannot be removed by a re-examination of the expert witness, the same or other expert witness shall provide new expert witness testimony.

Article 318

If the opinion of the expert witness contains contradictions or other anomalies, or if grounds for suspicion arise that the opinion is inaccurate, and this drawbacks or suspicion may not be removed by a re-examination of the expert witness, the opinion of the other expert witness shall be requested.

Article 319

(1) A post-mortem examination and autopsy shall be performed whenever there is a suspicion or it is evident that death was caused by a criminal offence or that it is related to the commission of a criminal offence. If the corpse has already been buried, an exhumation shall be ordered for the purpose of its post-mortem examination and autopsy.
(2) While performing an autopsy necessary measures shall be taken to establish the identity of the corpse and for this purpose the external and internal physical characteristics of the corpse shall be described in detail.
(3) An exhumation may only be ordered by the court.

Article 320

(1) When the giving of expert witness testimony is not assigned to a specialized institution, the post-mortem examination and autopsy of a corpse shall be carried put by one physician and if necessary, two or more physicians who, if possible, are specialized in forensic medicine.
(2) A physician who treated the deceased may not be appointed as an expert witness. He may testify as a witness at the autopsy in order to clarify the course and circumstances of a disease.

Article 321

(1) In their expert opinions the expert witnesses shall specifically state the immediate cause of death, what brought it about and when the death occurred.
(2) If any injury is found on the corpse, it shall be determined whether such an injury was inflicted by another person and if so, by what instrument, in which way, how long before the death occurred, as well as whether such an injury was the cause of death. If several injuries are found on the corpse, it shall be established which particular injury caused the death and if there is more than one lethal injury, which particular one or which injuries in combination were the cause of death.
(3) In the case referred to in paragraph 2 of this Article it shall be specifically determined whether death was caused by the very type and general nature of the injury or due to the idiosyncrasy or peculiar condition of the injured body or due to accidental circumstances under which the injury was inflicted.
(4) In addition, it shall be determined whether medical assistance provided in time would have prevented death.

Article 322

(1) While performing an examination and autopsy of a foetus, its age in particular shall be determined, as well as its capability of independent existence outside the womb and the cause of death.
(2) While performing an examination and autopsy of a new born child, it shall be determined in particular whether it was born alive or dead, whether it was capable of sustaining life, how long it lived and the time and cause of death.

Article 323

(1) If there is suspicion of poisoning, the suspicious substances found in the corpse or elsewhere shall be sent for expert witness testimony to an institution which performs toxicological examinations.
(2) When examining suspicious substances, the expert witness shall separately determine the type, the quantity and the effects of the poison discovered, and if the substances examined were taken from the corpse, the quantity of the poison used shall also be established.

Article 324

(1) Expert witness testimony on bodily injuries shall in principle be based on an examination of the injured person and if this is neither possible nor necessary it shall be based on medical documentation or other data stated in the files.
(2) After accurately describing the injuries, the expert witness shall give his expert opinion particularly on the type and severity of each injury and their overall effect regarding the nature or particular circumstances of the case, as well as on what effect

these injuries usually have and what effect they had in this specific case, and by what instrument they were inflicted and in which way.

Article 325

(1) If suspicion arises that the defendant's mental capacity is excluded or diminished, that the defendant has committed a criminal offence due to the defendant's addiction to alcohol or drugs or that the defendant is unfit to stand trial due to mental health difficulties, the expert witness testimony based on the psychiatric examination of the defendant shall be ordered.
(2) If it is necessary for the expert witness testimony, the defendant may by a court ruling be committed to a relevant medical institution by force. Before confirming the indictment the ruling on the commitment shall be rendered by the investigating judge, whereas after confirming the indictment it shall be rendered by the court before which the proceedings are conducted. The commitment cannot exceed a period of one month. In case a new expert witness testimony is required, the commitment may be repeatedly ordered only once.
(3) If the expert witness testimony has been ordered for the purpose of assessing the defendant's mental capacity, the expert witness shall establish whether the defendant had any mental illness, temporary mental disorder, mental deficiency or any other severe mental health difficulty at the time the offence was committed and he shall determine the nature, type, degree and duration of the mental health difficulty as well as give his opinion on what effect such a mental condition had on the defendant's ability to understand the meaning of his acts or to control his own will.
(4) If the expert witness establishes that the defendant was not able to understand the meaning of his acts or to control his own will at the time an illegal act was committed, the expert witness shall give his opinion on the degree of probability that the same person might commit a more serious criminal offence due to his mental health difficulties, and if the expert witness establishes that the defendant's ability to understand the meaning of his acts and to control his own will was reduced, he shall give his opinion on whether there exists any danger that the reasons for such a condition might encourage him to commit a new criminal offence in the future.
(5) If the expert witness testimony has been ordered for the purpose of assessing the defendant's fitness to stand trial, the expert witness shall establish whether the defendant has any mental health difficulty and he shall give his opinion on whether the defendant is able to understand the nature and the purpose of the criminal proceedings, to understand individual procedural steps taken in the proceedings and their consequences, to communicate with the defence counsel and to instruct the defence counsel.
(6) If a defendant who is in investigative detention is sent to a medical institution, the investigating judge shall notify this institution of the grounds for investigative detention in order to undertake the measures necessary for securing the purpose of detention.
(7) The time spent in a medical institution shall be included in the term of pre-trial detention or investigative detention in the punishment if one is imposed.

Article 326

(1) A physical examination of the suspect or defendant shall be carried out without his consent if it is necessary to determine facts relevant to the criminal proceedings. A physical examination of other persons may be carried out without their consent only if it is necessary to determine whether there is a certain trace or consequence of an offence on his body.

(2) A physical examination shall also be carried out in searches during which body cavities are to be penetrated or artificial limbs or organs attached to body are removed from the body or when this is required by special conditions or health conditions of the person being searched.
(3) Taking blood samples and other medical procedures performed according to the rules of medical science in order to analyze and determine other relevant facts for the proceedings may be carried out even without the consent of the suspect or defendant provided no detrimental consequences for his health ensue therefrom.
(4) Taking blood samples and other medical procedures performed according to the rules of medical science in order to analyze and determine other relevant facts for the proceedings may be carried out only in order to determine whether there is a certain trace or consequence of a criminal offence on other person's body and only with the consent of this person. The authority conducting the proceedings shall proceed with this procedure pursuant to Article 16 and Article 43 to 46 of this Act and prior to that the person shall be instructed that the consent may be denied. If the consent is denied, the procedure cannot be undertaken.
(5) The procedures referred to in paragraphs 1, 2 and 3 of this Article shall be carried out before preferring the indictment by the order of the State Attorney, during examination of the indictment by the order of the panel examining the indictment, and after the indictment become final by the court before which the trial is to be held.

Article 327

(1) The authority conducting the proceedings may order a molecular genetic analysis if a probability exists that data important for proving the criminal offence would be obtained by such analysis.
(2) For the purpose referred to in paragraph 1 of this Article, the authority conducting the proceedings may prior to and pending criminal proceedings for a criminal offence punishable by imprisonment of at least six months order taking of samples of biological material:
1) from the scene where the criminal offence was committed and from other scene where there are traces of criminal offence;
2) from the defendant's body;
3) from the victim's body;
4) from the body of other person under the condition referred to in Article 326 paragraph 3 of this Act;
(3) In case of a person who is exempted from the duty to testify (Article 285), this person shall be instructed prior to sampling that he may deny his consent. The person exempted from the duty to testify shall sign a statement by which he confirms that he was instructed and gives consent to taking samples of biological material and its analysis. Should this person deny his consent, the sample may not be taken from that person.
(4) Taking samples of biological materials from the scene where the criminal offence was committed may be ordered by the authority conducting the search, temporarily seizure of objects, judicial view or other evidence collecting action prior to the commencement of the proceedings.
(5) Taking samples of biological material and the analysis may not be used for determination of health status or character of the person.
(6) The data collected by a molecular and genetic analysis must be deposited and kept for a term of twenty year after the conclusion of the criminal proceedings.
(7) The minister responsible for justice, with the consent of the ministers responsible for health, internal affairs and defence, shall regulate the conditions under which the data

referred to in paragraph 6 of this Article may be kept for a longer period than the period determined in paragraph 6 of this Article, the conditions for deletion of the data, the method for taking samples of biological material, storage, processing, keeping and supervision of storage, processing and keeping.

Article 328

(1) When it is necessary to give expert witness testimony on business records, the authority conducting the proceedings shall indicate to the expert witnesses the direction and the scope of the expert examination as well as the facts and circumstances to be determined.
(2) If an expert investigation of the business records of a company or other legal entity requires that they first put their book-keeping or data records in order, then the expenses incurred in such an operation shall be borne by the company or other legal entity.
(3) The authority conducting the proceedings shall render a ruling referred to in paragraph 2 of this Article on the ground of a sustainable written report from the expert witnesses appointed to give expert witness testimony on business records, documents and data. The ruling shall also state the amount which the company or other legal person is bound to pay to the court as an advance payment for the expenses of putting the book-keeping records or data records in order. This ruling is not subject to an appeal.
(4) After the completion of the procedures from paragraph 2 and 3 of this Article, the authority conducting the proceedings shall render a ruling, based on the report of the expert witness, determining the amount of expenses for putting the book-keeping in order and ordering that this amount be borne by the company or other legal entity. The company or other legal entity may file an appeal against the decision on expenses and the amount of the expenses assessed. The panel shall decide on the appeal.

9. Documentary Evidence

Article 329

(1) Documents used for establishing facts shall be obtained and kept by applying the provisions of this Chapter respectively, paying attention not to damage or destroy the document and to keep its content in an unchanged condition. If necessary, the authority conducting the proceedings shall, after relevant verification, make a copy of the document and return the original to the applicant.
(2) With regard to documents it shall be proceeded as with other objects that are to be used as evidence (Article 267 and 269).
(3) Unless otherwise prescribed by this Act, documentary evidence shall be carried out by applying Article 306 of this Act respectively. Upon the proposal of the parties, the investigating judge may order to examine the documents at the evidentiary hearing.

10. Recording Evidence

Article 330

(1) A recording used for establishing facts shall be obtained by applying the provisions of this Chapter.
(2) With regard to a recording it shall be proceeded as with other objects that are to be used as evidence (Article 267 and 269), paying attention not to damage or destroy the recording and to keep its content in an unchanged format. If necessary, appropriate measures shall be taken to keep the recording in an unchanged format or its copy be made.

(3) Unless otherwise prescribed by this Act, the contents of the recording shall be determined through its reproduction.
(4) The recording shall be reproduced by an expert.

11. Electronic (Digital) Evidence

Article 331
Unless otherwise prescribed by this Act, electronic evidence shall be obtained by applying the provisions of Articles 257, 262 and 263 of this Act.

12. Special Collection of Evidence

Article 332
(1) If the investigation cannot be carried out in any other way or would be accompanied by great difficulties, the investigating judge may, upon the written request with a statement of reasons of the State attorney, order against the person against whom there are grounds for suspicion the he committed or has taken part in committing an offence referred to in Article 334 of this Act, measures which temporarily restrict certain constitutional rights of citizens as follows:
1) surveillance and interception of telephone conversations and other means of remote technical communication;
2) interception, gathering and recording of electronic data;
3) entry on the premises for the purpose of conducting surveillance and technical recording at the premises;
4) covert following and technical recording of individuals and objects;
5) use of undercover investigators and informants;
6) simulated sales and purchase of certain objects, simulated bribe-giving and simulated bribe-taking;
7) offering simulated business services or closing simulated legal business;
8) controlled transport and delivery of objects from criminal offences.
(2) By way of exception, when circumstances require that the actions are to commenced immediately, the order from paragraph 1 of this Article may be issued by the State Attorney prior to commencement of the investigation for the term of twenty-four hours. The State Attorney must deliver the order with a note on the time of issue and a statement of reasons to the investigating judge within eight hours from the issue. The investigating judge shall decide immediately on the legality of the order. If the investigating judge accepts the order of the State attorney, he shall proceed pursuant to paragraph 1 of this Article. If the investigating judge denies the order, the State Attorney may file an appeal within eight hours. The panel shall decide on the appeal within twelve hours.
(3) If the panel does not approve the order, it shall be ordered by a ruling that the actions shall be immediately ceased and the data collected pursuant to the order of the State Attorney shall be handed over to the investigating judge who will destroy them. The investigating judge shall make a record on the destruction of the data.
(4) Actions referred to in paragraph 1 item 1 of this Article may be ordered against persons against whom there are grounds for suspicion that that he delivers to the perpetrator or receives from the perpetrator of the offences referred to in Article 334 of this Act information and messages in relation to offences or that the perpetrator uses their telephone or other telecommunications devices, who hide the perpetrator of the criminal

offence or help him from being discovered by hiding the means by which the criminal offence was committed, traces of the criminal offences or objects resulting or acquired through the criminal offence or in any other way.
(5) Under the conditions referred to in paragraph 1 of this Article, the measures referred to in paragraph 1 items 1, 2, 3, 4, 6, 7 and 8 of this Article may with his written consent be applied to means, premises and objects of that person.
(6) In case there is no knowledge about the identity of the accomplices in the criminal offence, the measure referred to in paragraph 1 item 8 of this Article may be determined in accordance with the object of the criminal offence.
(7) The application of measures referred to in paragraph 1 items 5 and 6 of this Article should not constitute an instigation to commit a criminal offence.

Article 333

(1) Recordings, documents and objects obtained by the application of the measures referred to in Article 332 paragraph 1 item 1 to 8 of this Act may be used as evidence in criminal proceedings.
(2) An undercover agent and an informant may be interrogated as witnesses on the content of discussions held with the persons against whom the measures referred to in Article 332 paragraph 1 items 5 to 8 of this Act are imposed, as well as all accomplices in the criminal offence for whose disclosure and evidence collecting the measure was imposed and their statements may be used as evidence in the proceedings.
(3) A ruling and evaluation on inadmissibility of evidence may not be based exclusively on the witness testimony referred to in paragraph 2 of this Article.

Article 334

(1) Special evidence collecting actions referred to in Article 332 paragraph 1 of this Act may be ordered for the following criminal offences referred to in the Penal Code:
1) offences against the Republic of Croatia (Chapter Twelve), offences against values protected by international law (Chapter Thirteen), against sexual freedom and sexual morality (Chapter Fourteen) and against the Armed Forces of the Republic of Croatia (Chapter Twenty-Six) punishable by imprisonment for a term of five years or more;
2) murder (Article 90), kidnapping (Article 125), pandering (Article 195), child pornography on a computer system or network (Article 197a), robbery (Article 218 paragraph 2), breach of confidentiality, integrity and availability of electronic data, programs and systems (Article 223), computer forgery (Article 223a), computer fraud (Article 224a), fraud to the detriment of the European Communities (Article 224b) extortion (Article 234), blackmail (Article 235), serious criminal offences against public safety (Article 271), counterfeiting of money (Article 274), money laundering (Article 279), receiving a bribe in economic transactions (Article 294a), offering a bribe in economic transactions (Article 294b), avoiding customs control (Article 298), obstruction of evidence (Article 304), duress against an official engaged in the administration of justice (Article 309), association for the purpose of committing a criminal offence (Article 333), as well as for criminal offences committed by that group or criminal organisation in concurrence, illicit possession of weapons and explosive substances (Article 335), abuse of office and official authority (Article 337), abuse in performing governmental duties (Article 338), illegal intercession (Article 343), bribe-taking (Article 347) and bribe-giving (Article 348);
3) abuse of children or minors in pornography (Article 196), introducing pornography to children (Article 196), violation of copyright and of the rights of performing artists

(Article 229), illicit use of an author's work or an artistic performance (Article 230), violation of the rights of producers of audio or video recordings and the rights related to radio broadcasting (Article 231), violation of patent rights (Article 232), infringement of industrial property rights and unauthorized use of another's company name (Article 285), if these criminal offences are committed through use of computer systems or networks;
4) offences punishable by long-term imprisonment.
(2) Special evidence collecting measures referred to in Article 332 paragraph 1 of this Act may be ordered also for criminal offences committed to detriment of children or minors.

Article 335

(1) The order referred to in Article 332 paragraph 1 of this Act shall state the available data on the person against whom the measures are to be applied, the facts justifying the necessity for applying the measures and the term for their duration that should be proportionate to the accomplishment of the goal, as well as the manner, the scope and the place of execution of the measure. the measures shall be executed by the police authorities. Officials and responsible persons taking part in the decision-making process and execution of the measures referred to in Article 332 of this Act shall be bound to keep the confidentiality of the information that came to their knowledge in the process.
(2) The technical operation centre for the supervision of telecommunications that carries out technical coordination with the provider of telecommunication services in the Republic of Croatia as well as providers of telecommunication services shall be bound to provide the necessary technical assistance to the police authorities. In case of proceeding contrary to this obligation, the investigating judge shall upon the motion with a statement of reasons of the State Attorney impose a fine on a provider of telecommunication services in an amount of up to HRK 1,000,000.00, and on a responsible person in the technical operative centre for the supervision of telecommunications that carries out technical coordination and on a provider of telecommunication services in the Republic of Croatia in an amount of up to HRK 50,000.00, and if thereafter the ruling is not complied with, the responsible person may be punished by imprisonment until the ruling is executed, but not longer than one month. The panel shall decide on the appeal against the ruling on the fine and imprisonment. The appeal against the ruling on the fine and imprisonment shall not stay its execution.
(3) Special evidence collecting measures may last up to six months. Upon the motion of the State Attorney the investigating judge shall, on account of important reasons, prolong the duration of such measures for a term of another six months. In specially complex cases, the investigating judge may prolong the measures for a further term of six months. If he denies the motion of the State Attorney to prolong the measures, the investigating judge shall issue a ruling against which the State Attorney may file an appeal within eight hours. The panel shall decide on the appeal within twelve hours.
(4) As soon as the conditions referred to in Article 332 paragraph 1 of this Act cease to exist, the investigating judge is bound to order the vacation of the measures undertaken. If the State Attorney desists from prosecution or if the data and information obtained by the application of the measures are not relevant for proceedings, they shall be destroyed under the supervision of the investigating judge, who will draw up a separate record thereon.
(5) The order referred to in paragraph 1 of this Article shall be kept in a separate cover. After the termination of the measure and even before that, the order on measure

may be delivered to the person the measure was ordered against if he so requests, provided that this is to the benefit of the proceedings.

(6) If in the course of the measures referred to in Article 332 paragraph 1 of this Act, data and information relating to another offence and perpetrator referred ton in Article 334 of this Act are recorded, that part of the recording shall be copied and delivered to the State Attorney and may be used as evidence in the proceedings for that criminal offence.

(7) The provisions of Article 75, 76 and 114 of this Act shall apply to the conversations of the defendant with the defence counsel in an appropriate manner.

(8) If the measures referred to in Article 332 of this Act are undertaken contrary to the provision of Article 332 of this Act, the evidence deriving from the data and information obtained in this manner may not be used as evidence in the criminal proceedings.

Article 336

(1) The State Attorney and the investigating judge shall prevent in an appropriate manner (a transcript of the record or official notes without personal data therein, excluding the official note from the file etc.) unauthorized persons as well as the suspect and his defence counsel from establishing the identity of the persons who carried out measures referred to in Article 332 paragraph 1 items 4 and 5 of this Act. If these persons are interrogated as witnesses, the court may proceed in accordance with the provisions referred to in Articles 294 to 299 of this Act.

(2) Persons who in any way find out data on the content of measures or persons who participated in carrying out the measures referred to in Article 332 of this Act shall be bound to keep such data confidential.

Article 337

(1) Measures referred to in Article 332 of this Act shall be carried out by the police authorities. The police authorities shall draw up daily reports on the process of execution and the documentation of the technical records, which they send to the State Attorney upon his request.

(2) Upon the termination of the measure, the police authorities draw up a special report for the State Attorney’s Office and the investigating judge stating as follows:

1) time of the commencement and time of the termination of the measure;

2) number and identity of persons covered by the measure;

(3) The police authorities shall draw up the documents on technical recordings in two copies. One copy shall be kept in the police archive. The other copy enclosed with a special report shall be handed over by the police authorities to the State Attorney together with collected recordings and documentation.

(4) Using undercover agents includes the right of the undercover agent to enter a person's home if the conditions are met as prescribed by legal regulations on police officers' entering a person's home without a court order.

(5) If beside the conditions referred to in Article 332 paragraph 1 of this Act evidence exists providing grounds for suspicion that as a result of preparing criminal offences stated in Article 334 of this Act particularly serious criminal offences are to be committed or that some of them have already been committed, the investigating judge may determined that the undercover agent, apart from entering a person's home, may use technical equipment to record conversations that are not public. Should the investigating judge deny the motion he shall issue a ruling. The State Attorney may file an appeal

against the ruling within eight hours. The panel shall decided on the appeal within twelve hours.
(6) The application of measures referred to in Article 332 paragraph 1 of this Act shall cease as soon as the reasons lapse on the basis of which they were ordered. The State Attorney and the court shall by virtue of the office pay attention to the presence of the reasons on the basis of which the measures were ordered.
(7) The minister responsible for internal affairs, with a prior consent of the minister responsible for justice, shall bring regulations governing the method for conducting actions referred to in Article 332 of this Act.

Article 338

(1) Recordings, documents and objects obtained by carrying out the measures from Article 332 paragraph 1 of this Act may be used as evidence only in proceedings against the person referred to in Article 332 paragraph 1, or Article 337 paragraph 5 of this Act.
(2) A complete recording, record and documentation shall be kept sealed in the State Attorney's office. When this is possible under circumstances, upon the motion of the State Attorney the investigating judge shall order that only those parts of the recording, record and documentation are excluded for the case file which refer to that criminal proceeding.
(3) For this purpose the State Attorney shall hand over to the investigating judge a motion with a statement of reasons and a complete recording that the investigating judge shall return after the exclusion of the part of the recording referring to that criminal procedure. The exclusion shall be conducted by an expert assistant under supervision of the investigating judge.
(4) Upon the motion of the defence counsel the complete recording, record and documentation shall be either reproduced or read out loud.

Article 339

(1) The investigating judge may, upon the motion of the State Attorney, order that postal and other communication agencies retain and deliver to, with the receipt of delivery, letters, telegrams and other shipments addressed to the defendant or sent by the defendant if circumstances exist which indicate that it is likely that these shipments can be used as evidence in the proceedings. The order shall contain information referred to in Article 335 paragraph 1 of his Act.
(2) Temporary seizure may last four months at longest and upon a motion with a statement of reasons of the State Attorney the investigating judge may prolong the term for further two months.
(3) The measure referred to in paragraph 1 of this Article may be ordered for the following criminal offences referred to in the Penal Code:
1) offences against values protected by international law (Chapter Thirteen) punishable by imprisonment for a term of five years or more, manslaughter (Article 90), aggravated murder (Article 91), kidnapping (Article 125 paragraphs 2 and 3), treason (article 135), acceding to occupation or capitulation (Article 136), endangering state independence (Article 137), assassination of the highest state officials (Article 138), kidnapping of the highest state officials (Article 139), anti-state terrorism (Article 141), disclosure of state secrets (Article 144 paragraphs 1 and 3), association for the purpose of committing criminal offences against the Republic of Croatia (Article 152), preparation of criminal offences against the Republic of Croatia (Article 153), money laundering (Article 279).
2) abuse of children or minors in pornography (Article 196), introducing pornography to children (Article 196), violation of copyright and of the rights of performing artists

(Article 229), illicit use of an author's work or an artistic performance (Article 230), violation of the rights of producers of audio or video recordings and the rights related to radio broadcasting (Article 231), violation of patent rights (Article 232), infringement of industrial property rights and unauthorized use of another's company name (Article 285), if these criminal offences are committed through use of computer systems, temporary seizure may last up to one year at longest,
3) association for the purpose of committing criminal offences (333), as well as for offences committed by that group or criminal organization in concurrence.
(4) The State Attorney may order only the retaining of shipments, however, the organisations referred to in paragraph 1 of this Article are bound to cease the retaining should they not receive a ruling of the investigating judge within three days from the receipt of the order.
(5) The retained shipments shall be opened by the State Attorney in the presence of two witnesses. When opening, care shall be taken not to damage the seals, while the covers and the addresses shall be preserved. A record shall be drawn up on the opening.
(6) If the interests of the proceedings so allow, the defendant or the addressee may be fully or partially informed of the contents of the shipment, which may be delivered to him as well. If the defendant is absent and if the justified interest exists, the contents of the shipments shall be communicated or the shipment shall be delivered to one of his relatives, and if there are none, the shipment shall be returned to the sender unless this would prejudice the interests of the proceedings,
(7) The provisions of Articles 1 to 5 of this Article shall not apply to letters, telegrams and other shipments between the defendant and his defence counsel.
(8) If it has been proceeded contrary to paragraphs 1 to 5 of this Article, evidence that were brought to attention through data so collected may not be used in the criminal proceedings.

Article 340

(1) The police authorities may compare personal data of citizens kept in a database and other registers with police data records, registers and automatic data processing bases, provided that there are grounds for suspicion that a criminal offence subject to public prosecution has been committed. Information thus collected shall, along with a report on this to the State Attorney, be erased from the above mentioned records as soon as it ceases to be necessary for successfully conducting proceedings, but not later than twelve months from the day when they are stored. Upon the motion of the State Attorney the investigating judge may exceptionally prolong this term for three months if it is likely that in such a manner a search for a certain person or object may be successfully completed.
(2) Should the investigating judge deny the motion from paragraph 1 of this Article, he shall issue a ruling. The State Attorney may file an appeal against the ruling.

Chapter XIX
INDICTMENT

1. Preferring, Content and Serving of Indictment

Article 341

(1) The indictment shall be preferred by the State Attorney after the investigation is completed.

(2) The State Attorney shall prefer the indictment without investigation when the collected information regarding the offence and the perpetrator for which obligatory investigation is not prescribed by law provide sufficient grounds for preferring the indictment.
(3) Before preferring the indictment the suspect must be interrogated, unless the indictment includes a motion to be tried in absence (Article 402). The provisions on summoning and interrogation of the defendant shall apply with regard to summoning and interrogation of the suspect.

Article 342

(1) The indictment shall contain:
1) the first name and surname of the defendant with his personal data (Article 272 paragraph 1), as well as data about whether and since when he has been in detention or whether he is at large, and if he was released before the indictment was preferred how long he has been detained,
2) a description of the factual aspects of the act which constitute the elements of the legal definition of the offence, the time and the place of the commission of the offence, the object upon which and the instrument by means of which the offence was committed, along with other circumstances necessary for the most accurate description possible of the offence to be determined,
3) the statutory name of the offence together with the provisions of the Penal Code which according to the motion of the prosecutor are to be applied,
4) evidence on which the indictment is based,
5) a statement of reasons describing the state of the matter.
(2) In addition to the indictment, other than evidence referred to in paragraph 1, item 4 of this Article the State Attorney shall also deliver the list of evidence which are at his disposal but which he has no intention of presenting to the court, if they may indicate the defendant is innocent or may indicate a lesser degree of guilt or may present mitigating circumstances.
(3) The State Attorney shall not be bound to provide the defendant with the information of:
1) the identity of a protected witness;
2) evidence the disclosure of which would harm the obligation to keep documents confidential.
(4) If the defendant is at large, the indictment may contain a motion to order detention, and if the defendant is in detention, a motion to release him.
(5) Several offences or several defendants may be joined in one indictment only if according to the provisions of Article 25 of this Act, a joinder is possible and if a single judgment may be rendered.

Article 343

The indictment shall be submitted to the investigating judge of the court having jurisdiction in as many copies as there are defendants and defence counsels and one copy for the court. In addition to the indictment, the State Attorney shall deliver the investigation file, if the investigation was conducted (Article 228 paragraph 2), and the records of evidence collecting actions undertaken if the investigation was not conducted, or if evidence collecting actions were undertaken before the investigation was initiated.

2. Prior Interrogation and Objection to Indictment

Article 344

(1) The investigating judge shall examine without delay, or within forty-eight hours if the defendant is deprived of freedom:
1) if the indictment was preferred by an authorized prosecutor;
2) if the indictment has been preferred after legal conditions were met (Article 341 and 365 paragraph 3);
3) if the indictment has been property drawn up (Article 342);
4) if the file contains evidence which, according to Article 86 of this Act, shall be exempt from the file;
5) if the indictment was preferred within a deadline referred to in Article 229 paragraph 2 and Article 356 paragraph 2 of this Act.

(2) The investigating judge shall render a ruling to dismiss the indictment which was not preferred by an authorized prosecutor and which was preferred without meeting all legal conditions or was preferred after the expiry of a deadline referred to in Article 229 paragraph 2 of this Act. A higher court shall decided on the appeal against the ruling of the investigating judge.

(3) If the investigating judge establishes that the indictment is faulty in regards to the content referred to in Article 342 paragraph 1 items 1 to 5 of this Act, he shall return it to the prosecutor to correct it within three days. For justified reasons and upon the request of the prosecutor, the investigating judge may prolong the deadline for another three days, except when the defendant has been deprived of freedom. If the State Attorney fails to respect the set deadline, the investigating judge shall notify the higher State Attorney thereof. An appeal against the ruling on the return of the indictment and the ruling on the prolongation of the deadline shall not be allowed. If the subsidiary prosecutor fails to respect the deadline, it shall be deemed that he withdrew from prosecution and the proceeding shall be discontinued.

(4) If the investigating judge establishes that the file includes evidence which pursuant to Article 86 of this Act are to be excluded from the file, he shall render a ruling on their exclusion. A higher court shall decided on the appeal against the ruling of the investigating judge.

(5) Excluded evidence may not be reviewed nor used when deciding on the indictment or in the criminal proceedings.

Article 345

(1) The investigating judge shall serve a properly drawn up indictment without delay to a defendant who is at large, and if the defendant is deprived of freedom such indictment shall be served within twenty-four hours from the time when examination of the indictment is completed according to Article 344 of this Act. In addition to the indictment, the investigating judge shall enclose the instruction on the right to object to the indictment to the defendant. If the defendant has a defence counsel, the indictment shall also be served to the defence counsel.

(2) When the indictment regards the offence from Article 66 paragraph 2 item 5 of this Act, the indictment shall also be served to the defence counsel.

(3) If detention is ordered against the defendant by the court, the indictment shall be served on the defendant at the moment of his arrest, together with the ruling ordering detention.

(4) If a defendant for whom detention is ordered is not kept in the prison of the court before which the trial will be held, the investigating judge shall order the immediate transfer of the defendant to that prison, where the indictment and instruction of his right to an objection shall be served on him.

Article 346

(1) The defendant is entitled to submit an objection to the indictment within a term of eight days from the day it is served.
(2) An objection to the indictment may be submitted by a defence counsel without a special authorization from the defendant, but not against his will.
(3) The defendant may waive he right to submit an objection to the indictment.

Article 347

The investigating judge shall deliver the indictment with the investigation file and objection to the indictment, when objection is submitted, without delay to the panel.

3. Proceedings before Indictment Panel

Article 348

(1) Upon the receipt of the indictment the president of the indictment panel shall issue an order determining the date, hour and place of the indictment panel session. The session shall be held within fifteen days if the defendant is in investigative detention, and within two months if he at large.
(2) The State Attorney, the injured person, the defendant and the defence counsel, if he has one shall be summoned to attend the session. The president of the indictment panel shall warn the summoned persons that the session will be held even if they are absent.
(3) The defendant shall be instructed in the summons that the indictment panel session will be held even in the case of mandatory defence if the defence counsel fails to appear.
(4) The defendant may deny his right to the session of the indictment panel and demand a trial by a written statement. The written statement must be submitted to the panel not later than three days before the session is to be held. In that case, the panel shall confirm the indictment and deliver it to the court clerk’s office together with the file.

Article 349

(1) Before the commencement of the session, the president of the indictment panel shall check if all the summoned persons are present.
(2) If the State Attorney, the defendant or his defence counsel fail to appear at the session, and the delivery of the summons was not properly recorded, the session shall be postponed. If the subsidiary prosecutor, although properly summoned, or his legal representative fails to appear at the session, the panel shall recess the procedure by a decision.
(3) If it was not possible to serve the summons on the defendant, because he failed to report the change of his address to the court, the session shall be held in his absence.
(4) Only the summoned persons may attend the session of the indictment panel.

Article 350

(1) The president of the panel shall open the session by quoting the indictment that is to be discussed, and shall check the personal data of the defendant except the data on previous sentencing, and shall check in particular whether the defendant received and understood the instruction on the rights, and if not, he shall instruct the State Attorney to deliver the instruction on the rights to the defendant.
(2) The State Attorney, if present, shall briefly state the results of the preliminary investigations and the evidence on which the indictment is based and that justify its

preferring. The injured person or his legal representative may elaborate a claim for indemnification, warn of evidence on the guilt of the defendant, and propose temporary security measures for the claim for indemnification (Article 160).
(3) The defendant and the defence counsel, if present, may warn of evidence in favour of the defendant, of possible omissions in the investigation and of illegal evidence. In their response, the defendant and the defence counsel may state the parts of the indictment which they dispute.
(4) The defendant may make a statement that he pleads guilty on all or some of the counts of the charge.
(5) The State Attorney, the defendant and the Defence counsel can answer the statements of the opposing party only once. The State Attorney, the defendant and the defence counsel present and explain their conclusions using the data contained in the file.
(6) If the parties propose ordering or abolishment of investigative detention, it will be acted at the indictment panel session pursuant to Article 129 paragraph 2 to 5 of this Act.
(7) If the panel deems it can make a decision, it shall declare the discussion at the session closed.

Article 351
(1) If the panel establishes that evidence exists in the file that, according to Article 86 of this Act, have to be excluded from the file, and that was not done by the investigating judge (Article 344 paragraph 4), it shall render a ruling on their exclusion from the file. An appeal against the ruling shall not be permitted.
(2) If the panel has doubts about legality of particular evidence, and cannot make a decision without a presentation of additional evidence, the hearing shall be recessed and schedule a new one immediately at which evidence important to establish the facts on legality of the evidence shall be presented (preliminary trial on legality of evidence), and thereupon first decide on the legality of evidence, and then decide on the indictment.
(3) Excluded evidence may not be examined or used in making decisions in criminal proceedings.

Article 352
The defendant shall inform the prosecutor at the session on evidence to be presented regarding an alibi or mental incompetence.

Article 353
(1) The opposite party shall be informed on new evidence that were delivered at a later stage of the preliminary proceedings within eight days at the latest from the time when their existence came to knowledge.
(2) If notification on particular evidence important for the defence could be harmful to the investigation in another proceedings that is being conducted against the same or other defendants, the panel shall, upon the motion of the State Attorney, approve by a ruling a postponement of notification.
(3) The panel shall bring the ruling referred to in paragraph 2 of this Article also if circumstances exists from Article 294 of this Act.
(4) The postponement of notification on evidence from the paragraph 2 of this Article must cease to be valid before the completion of the evidentiary proceedings, while the postponement from paragraph 3 of this Article may last until the decision on the position of the witness is brought.

4. Deciding on Confirmation of Indictment

Article 354

(1) If the panel establishes that the indictment is founded, it shall render a ruling by which it confirms the indictment.
(2) The ruling on confirmation of the indictment shall be delivered to the parties, the defence counsel and the injured person, and the indictment with the ruling and the files shall be delivered to the court clerk's office.
(3) The court shall notify the ministry responsible for justice on the confirmation of the indictment, which shall keep records thereon. If another indictment has been confirmed against the defendant, the ministry shall notify the competent courts on those indictments.
(4) The minister responsible for justice shall bring regulations on keeping the records referred to in paragraph 3 of this Article.

Article 355

(1) The panel shall discontinue the proceedings by a ruling with respect of all or particular counts of the charge if it finds that:
1) the act the defendant is charged with is not a criminal offence;
2) circumstances excluding the defendant's culpability exist;
3) the request or the motion of the authorized prosecutor or the approval of the authorized person which is required by law is tacking, or that other circumstances barring prosecution exist;
4) insufficient evidence exists for reasonable doubt to arise that the defendant committed the offence he is charged with, or that the contradictions in the obtained evidence are such that the rendering of a judgement of conviction at the trial would be clearly impossible.
(2) If in cases referred to in paragraph 1 of this Article, the investigation was not conducted, the panel shall dismiss charges by a ruling.
(3) The parties and the injured person may file an appeal against the ruling from paragraph 1 and 2 of this Article. A higher court shall decide on the appeal.

Article 356

(1) If the panel determines that there are discrepancies in the preliminary proceedings with regard to the entire indictment or that the factual description of the offence does not correspond to the previously gathered evidence, or that a better clarification of the facts of the case is necessary, it shall return the indictment by a ruling to the prosecutor, stating the grounds due to which the indictment has not been confirmed.
(2) If the panel determines that there are discrepancies in the preliminary proceedings only with regard to certain parts of the indictment or that the factual description of the offence does not correspond to the previously gathered evidence, or that a better clarification of the facts of the case is necessary, it shall separate the proceedings by a ruling and confirm the indictment in the part for which it deems founded.
(3) If the panel has not confirmed the indictment in whole or in part, the State Attorney shall be bound, within eight days from the delivery of the ruling, to issue an order for supplementing the investigation or undertaking an evidence collecting action or desist from the criminal prosecution. Upon the request of the State Attorney, the indictment panel may prolong the term for further eight days if the defendant is in investigative detention, and for fifteen days if he is at large.
(4) The State Attorney is bound to inform a higher State Attorney on the grounds of not respecting the term from paragraph 3 of this Article. If during the further term of eight days it was not proceeded pursuant to paragraph 3 of this Article, it shall be deemed that

the State Attorney desisted from the criminal prosecution.
(5) After supplemented the investigation, the State Attorney shall submit a new indictment for re-examination (Article 343 to 355).
(6) While examining the indictment, the panel shall decide on the motions for merging or separating the proceedings.

Article 357
(1) The rulings of the panel from Article 356 of this Act must be substantiated, but in such a manner as not to predetermine the decision on issues which shall be decided before the trial court.
(2) When rendering the rulings from Article 356 of this Act, the panel shall not be bound to legal evaluation of the offence stated by the prosecutor in the indictment.

Article 358
If only the injured person files an appeal against the ruling of the panel, and the appeal is accepted, it shall be deemed that he assumes the criminal prosecution by taking the appeal.

5. Declaration of Defendant on Culpability and Negotiation on Sanctions

Article 359
If a defendant pleads guilty guilt before the panel (Article 350 paragraph 4), and no agreement on a sanction is reached, the panel shall confirm the indictment and deliver it with the file immediately to the court clerk's office for scheduling the hearing, unless there are grounds for discontinuing the proceedings as referred to in Article 355 of this Act.

Article 360
(1) The parties may negotiate on the conditions of pleading guilty and agreeing on a sanction. During negotiations on the conditions of pleading guilty and agreeing on a sanction, the defendant must have a defence counsel.
(2) The panel may postpone a session for fifteen days at the most in order for the parties to complete negotiations.
(3) If prior to the commencement of the session or during the session of the indictment panel, the State Attorney and the defendant and the defence counsel have signed a statement for rendering a judgement on the basis of the parties' agreement, they shall submit their statement to the panel immediately upon opening of the session.
(4) The statement from paragraph 3 of this Article shall contain:
1) a description of the criminal offence that is the subject of the charge,
2) the defendant's statement on pleading guilty for that criminal offence,
3) the agreement on the type and measure of the punishment or other sanction or measure,
4) the agreement on the costs of criminal proceedings,
5) the defendant's statement on the submitted claim for indemnification,
6) a list of the parties and defence counsels.
(5) After signing the statement referred to in paragraph 3 of this Article, the State Attorney shall notify the victim or the injured person thereof.

6. Adjudication based on Agreement of the Parties

Article 361

(1) After receiving a written statement on the agreement of the parties from Article 360 paragraph 3 of this Act, the panel shall establish that the parties concur with the contents of the motion and enter this into the record.
(2) The panel shall then decide on the acceptance of the agreement. If the agreement is accepted, a judgement and other sanction or measure from Article 360 paragraph 4 item 3 of this Act shall be pronounced to the defendant.
(3) The panel shall deny the agreement of the parties from Article 360 paragraph 3 of this Act if, due to the circumstances, its acceptance is not in accordance with deliberation of a sentence prescribed by law or if the agreement is otherwise illegal. The panel shall deny the agreement by a ruling against which an appeal may not be filed and continue the examination of the indictment.
(4) After rendering the ruling from paragraph 3 of this Article, the panel shall deliver the indictment and the case file to the court clerk's office for scheduling the hearing, unless there are grounds for discontinuing the proceedings as referred to in Article 355 of this Act.

Article 362

(1) The parties may desist from the agreement proposal before the judgement is passed.
(2) In case from paragraph 1 of this Article, the agreement proposal and any other data relating thereto shall be exempted from the file by a ruling and delivered to the court secretary. They may neither be viewed nor used as evidence in the criminal proceedings.

Article 363

(1) A judgement based on the agreement of the parties shall have the contents from Article 455 of this Act.
(2) A judgement from paragraph 1 of this Article shall be pronounced immediately and put into writing and delivered to the parties within eight days from the pronouncement. A statement of reasons shall include a reference to the agreement on the basis of which the judgement was pronounced.
(3) A judgement from paragraph 1 of this Article may, apart from the sentence of imprisonment and a precautionary measure, also impose a security measure from Articles 75, 76, 77, 79 and 80 of the Penal Code, as well as safety measures from the Act on Criminal Accountability of Legal Persons and a measure of confiscating pecuniary benefits.
(4) The panel may in the decision on the costs of the proceedings (Article 145) order that the defendant be fully exempt from paying the costs of the criminal proceedings.

Article 364

(1) The judgment from Article 361 paragraph 2 of this Act may not be challenged by an appeal against the decision on the criminal sanction, confiscation of pecuniary benefits, costs of the criminal proceedings and claims on indemnification.
(2) The judgment from Article 361 paragraph 2 of this Act may not be challenged by an appeal for erroneous or incomplete determination of the factual situation (Article 470), except if the evidence on the exclusion of illegality and guilt came to the defendant's attention after adjudication.

7. Withdrawal and Changes to Indictment

Article 365

(1) The State Attorney may withdraw the indictment prior to its confirmation.

(2) If the State Attorney withdraws the indictment, he may prefer a new amended indictment under the conditions from Article 341 of this Act. The new indictment must be preferred not later than twelve months from the first withdrawal of the indictment if the indictment is preferred for a criminal offence for which regular proceedings is conducted, and not later than six months if the indictment is preferred for a criminal offence for which summary proceedings is conducted.
(3) The State Attorney shall be bound to notify the higher State Attorney on the reasons for the withdrawal of the indictment.

8. Referral to Trial

Article 366

(1) Immediately following the full or partial confirmation of the indictment, the indictment panel shall, with the participation of the parties if present, draft a case file.
(2) In addition to the indictment, the case file shall contain:
1) criminal charges;
2) Claim for indemnification of the injured person;
3) records, recordings and other documents relating to conducted evidence collecting actions prior to preferring the indictment relevant for the hearing;
4) records on actions taken at the preliminary hearing relevant for the hearing;
5) documents and records on evidence collecting actions obtained by way of international legal assistance;
6) excerpt from the police record and the record on other punishable offences;
7) objects by which the criminal offence was perpetrated or which result from the perpetration of the criminal offence or any indication of their whereabouts;
8) minutes from the indictment confirmation hearing;
9) decisions and information on measure for ensuring attendance and other measures ensuring the normal course of the proceedings;
10) notes on the investigation of a defence counsel.
(3) The parties shall have the right to lodge complaints against entry of certain documents, records and objects into the case file. The complaints shall be decided by the panel at the hearing by a ruling. An appeal against the ruling shall not be allowed.
(4) The parties shall have the right, with the consent of the panel, to reach an agreement on the entry of other contents into the case file.
(5) If not otherwise regulated by this Act, the parties and the defence counsel shall have the right to inspect and copy the case file in the court clerk’s office.

Article 367

(1) The panel decision on the confirmation of the indictment along with the indictment and the case file shall be remitted to the clerk’s office of the court having jurisdiction without delay.
(2) Documents obtained at the session of the indictment panel, as well as parts of the documents from the investigation which are not entered into the case file shall be returned to the State Attorney together with the minutes of the panel session.
(3) The defendant and the defence counsel shall have the right to inspect and copy the documents from paragraph 2 of this Article in the registry office of the State Attorney.

B. The Trial and Judgement

Chapter XX
PREPARATIONS FOR THE TRIAL AND COMPLETION OF THE CRIMINAL PROCEEDINGS BEFORE OPENING THE TRIAL

1. Preliminary Provisions

Article 368

(1) Immediately upon the indictment and the case file are received, the president of the panel shall commence with the preparations for the trial.
(2) The preparations for the trial involve holding of the preliminary hearing for the trial, scheduling the trial and rendering other decisions related to direction of the trial.
(3) An appeal against decisions rendered by the president of the panel in the course of the preparations for the trial shall not be permitted, unless otherwise stipulated by this Act.

Article 369

(1) The president of the panel shall decide on the examination of witnesses or expert witnesses proposed by the parties to testify and who are not able to be present at the trial due to illness or other reasonable reasons. The witness and expert witness shall be examined by the president of the panel or the investigating judge at whose territory the witness or expert witness resides. The parties, the defence counsel and the injured person shall be notified on the time and place of the examination.
(2) If the accused is deprived of freedom, the president of the panel shall decide whether his presence to the examination of witnesses or expert witnesses is necessary.
(3) When the parties and the injured person are present to the examination they shall have equal rights as in the respective action before preferring the indictment.

2. Preliminary Hearing

Article 370

(1) The provisions related to the hearing shall apply to the preliminary hearing respectively, unless otherwise stipulated by this Act.
(2) The preliminary hearing shall not be public, and only the summoned person may be present at the preliminary hearing.

Article 371

(1) The preliminary hearing shall be conducted before the president of the panel. The president of the panel shall schedule the preliminary hearing within one month at the latest if the accused is in detention, and within two months if he is not in detention counting from the day of receipt of the confirmed indictment at the court clerk's office. If the president of the panel does not schedule the preliminary hearing within this term, he shall notify the president of the court thereof who shall take measures to schedule the preliminary hearing immediately.
(2) If in the proceedings related to an offence punishable by imprisonment for up to fifteen years, the president of the panel, considering the content of the indictment and the nature of the proposed evidence, considers that it is not necessary to hold the preliminary hearing, he shall order the trial by an order. The president of the panel shall not hold the preliminary hearing if the parties reach an agreement in terms of Article 360 paragraph 3 of this Act.

(3) If the president of the panel determines that the files contain evidence which according to Article 86 of this Act are to be excluded from the files, and it has not been done by the investigating judge (Article 344 paragraph 4) or the indictment panel (Article 351), he shall render a ruling on their exclusion from the files and deliver them to the court secretary. The excluded evidence may neither be inspected nor used in the criminal proceedings. An interlocutory appeal shall be allowed against the ruling of the president of the panel on the exclusion of evidence from the files. A higher court shall decide on the appeal.

Article 372

(1) The accused, his defence counsel, the prosecutor and the injured persons or their legal guardians and legal representatives, and the interpreter if necessary shall be summoned to appear at the preliminary hearing.
(2) In the summons for the preliminary hearing the parties shall be warned that they may propose new evidence at the preliminary hearing that may serve for establishing facts, if they have come to their knowledge after the confirmation of the indictment.
(3) If any files, documents or objects kept by the court or any other state authority are necessary for the preliminary hearing, the president of the panel shall, upon the motion of the parties, order such objects or documents to be provided on time.

Article 373

(1) After the president of the panel determined that all summoned persons appeared at the preliminary hearing, he shall verify the identity of the accused from the indictment, in addition to information on his previous convictions.
(2) The president of the panel shall instruct the present injured person, who has not yet lodged a claim for indemnification, pursuant to Article 47 of this Article.

Article 374

(1) Before presentation of the charges, the parties shall inform the president of the panel on the content of agreement from Article 360 of this Act related to all or particular counts of the charge.
(2) The president of the panel shall enter into the record the agreement of the parties from paragraph 1 of this Article and shall proceed pursuant to Articles 361 to 364 of this Act.
(3) If the parties reach an agreement on a part of the charge, the proceedings related to these acts shall be separated pursuant to Article 26 of this Act. The preliminary hearing shall be held for the remaining part of the charge.

Article 375

(1) The president of the panel shall open the preliminary hearing pursuant to Article 350 paragraph 1 of this Article.
(2) The State Attorney shall present the part of the charge related to legal characterisation of the offence, legal name of the offence and shall state evidence supporting the charge, and he may also propose rendering a particular type and measure of criminal sanction. If it is the charge of the subsidiary prosecutor, the president of the panel may shortly present its content.
(3) If the injured person is present, he may submit the claim for indemnification and if he is absent, the submitted claim shall be read by the president of the panel.

Article 376

(1) The president of the panel shall verify whether the accused has understood the indictment and call on him to give his statement on the indictment. The accused may hold to his former statement or give a new statement, especially if he learned subsequently on evidence related to the offence and culpability (Article 372 paragraph 2).
(2) The president of the panel shall call on the accused denying the indictment or his defence counsel to define precisely what part of the indictment they deny and reasons for it.

Article 377

(1) The president of the panel shall call on the parties and the injured person to explain the evidential proposals they intend to present at the trial. In doing so, the president of the panel shall warn the parties and the injured person that the evidence they have known of but which they did not propose at the preliminary hearing without a justified reason shall not be presented at the trial.
(2) Each party shall give the statement on the proposal of the adverse party and the injured person.
(3) The president of the panel shall act pursuant to Article 431 paragraph 1 item 1 of this Act with regard to the facts not being challenged by the adverse party and for reasons from Article 351 of this Act.

Article 378

(1) If the president of the panel received the confirmed indictment under which the accused pleaded guilty, proposal of evidence for the trial shall be limited only to the evidence related to a decision on criminal sanctions.
(2) If the accused pleaded guilty only under some of counts of the indictment and the president of the panel considers that it can be proceeded based on it pursuant to paragraph 1 of this Article, the president of the panel may separate the proceedings related to these counts of the indictment.
(3) If a co-accused pleaded guilty under some counts of the indictment relating to more than one co-accused and the other co-accused pleaded not guilty, the trial shall be conducted for all co-accused and one judgement shall be rendered.

Article 379

The president of the panel may, at the preliminary hearing, with the consent of the parties, abolish investigative detention or replace it by a lenient measure. No appeal shall be permitted against this ruling.

3. Discontinuance of Criminal Proceedings

Article 380

(1) The president of the panel shall discontinue the criminal proceedings by a ruling and serve it to the parties and the injured person:
(1) if the prosecutor desists from the indictment;
(2) the existence of obstacles to the continuation of the proceedings referred to in Article 452 items 2,4,5 and 6 of this Act has been indisputably established.
(2) In case of discontinuation of proceedings referred to in paragraph 1 item 1 of this Article the president of the panel shall instruct the injured person pursuant to Article 55 of this Act.

4. Scheduling the Trial

Article 381

(1) Before the completion of the preliminary hearing, the president of the panel shall schedule the time and place of the trial by an order as well as which witnesses and expert witnesses shall be summoned to the trial, and provision of other evidence. By way of an exception, if there are special hindrances, the president of the panel may postpone scheduling the trial up to one month and he shall notify the president of the court thereof.
(2) If the preliminary hearing has not been held (Article 371 paragraph), the president of the panel shall schedule the trial within two months at the latest from the day of receipt of the confirmed indictment as well as the time and place of the trial, which witnesses and expert witnesses shall be summoned to the trial, and provision of other evidence. If the president of the panel does not schedule the trial within the above term, he shall notify the president of the court on the reasons for which the trial has not been scheduled. Ws necessary, the president of the court shall take measures to schedule the trial.

Article 382

(1) The trial shall be held in the seat of the court and in the courthouse.
(2) If in certain cases the premises of the courthouse are considered inappropriate for the trial, the president of the court may order the trial to be held in other building.
(3) The trial may also be held in another location within the jurisdictional territory of the court having jurisdiction, provided that the president of the higher court gives his approval following a substantiated request from the president of the court.

Article 383

(1) The prosecutor and injured person and their legal guardians and representatives, the accused and his defence counsel and the interpreter if necessary shall be summoned to appear at the trial.
(2) The witnesses and expert witnesses proposed by the parties shall be summoned by the parties. The provisions of Article 175 to 177 of this Act shall apply to the summoning of witnesses and expert witnesses.
(3) The accused shall be summoned in accordance with Article 372 paragraphs 1 and 2 of this Act. The summons shall be served on the accused in such a manner that between it being served and the day of the trial there is sufficient time to prepare a defence, and this term shall be at least eight days. Upon the request of the accused or if proposed by the prosecutor, and with the consent of the accused, this the term may be shortened.
(4) The defence counsel shall be summoned pursuant to Article 174 paragraph 1 of this Act.
(5) The injured person who is not summoned to appear as a witness shall be instructed in the summons that the trial shall be held in his absence and that his statement on a claim for indemnification shall be read. The injured person shall be instructed that his failure to appear shall be considered as unwillingness to assume prosecution in the case where the charge is withdrawn by the State Attorney.
(6) The subsidiary prosecutor and the private prosecutor shall be instructed in a summons that if they fail to appear at the trial without sending their legal representative they shall be deemed to have desisted from prosecution.
(7) The accused, the witness and expert witness shall be instructed in the summons about the consequences of failure to appear at the trial (Articles 402 and 404).

Article 384

If the trial is expected to last for a longer period of time, the president of the panel may

request the president of the court to assign one or two judges or lay judges (alternate judge or alternate lay judge) to attend the trial in order to replace members of the panel in case of their inability to perform their duties.

Article 385

The president of the panel may, for important reasons upon the motion of the parties or by virtue of the office, re-schedule the day of the trial to a later date.

Article 386

The president of the panel shall discontinue the proceedings by a ruling if conditions set forth in Article 380 of this Act exist, and shall serve it to the parties and the injured person and shall notify thereof the persons who were summoned to the trial.

Chapter XXI
THE TRIAL

1. Public Nature of the Trial

Article 387

(1) The trial shall be held in open court.
(2) Any person of age may be present at the trial.
(3) Person attending the trial must not carry arms or dangerous instruments, except the defendant's guard.

Article 388

(1) The panel shall exclude the public from the whole or part of the trial:

1) for the protection of a child or a minor,

2) upon the request of the victim as referred to in Article 45 of this Act, during his questioning as a witness.

(2) From the opening of the session to the conclusion of the trial the panel may at any time, by virtue of the office or on the motion of the parties but always after hearing their statements, exclude the public from the whole or part of the trial if this is necessary for:
1) the protection of the security and defence of the Republic of Croatia;
2) keeping the confidentiality of information which could be jeopardised by a public hearing;
3) keeping public order and peace;
4) the protection of the personal and family life of the accused, the injured person or of another procedural participant.

Article 389

(1) Exclusion of the public does not relate to the parties, the injured person, their representatives or the defence counsel.
(2) The panel may grant permission that certain officials, scholars or public figures and, upon the defendant's request, his spouse or common-law spouse or close relatives, be present at a trial closed to the public.

(3) The president of the panel shall instruct the persons attending to a closed trial that they are bound to keep information learned at the trial confidential, and that failure to do so is an offence.

Article 390

(1) The panel shall decide on the exclusion of the public by a ruling, which shall be substantiated and publicly pronounced.
(2) An appeal from the ruling referred to in paragraph 1 of this Article does not stay its execution.

2. Direction of the Trial

Article 391

(1) When the judges enter the courtroom and when they leave the courtroom, all present shall rise when called by the authorised person.
(2) The parties and other participants in the trial shall rise when they address the court unless justified hindrances exist.
(3) The provision of paragraph 2 of this Article shall not apply to a child.

Article 392

(1) The president, members of the panel and the court reporter as well as alternate judges and lay judges shall sit continuously at the trial.
(2) The president of the panel is bound to determine whether the panel is composed pursuant to law and whether reasons exist for the disqualification of members of the panel and the court reporter (Article 32 paragraph 1).

Article 393

(1) The president of the panel shall direct the trial.
(2) It shall be the duty of the president of the panel to take care of the versatile hearing on the matter and of a removal of any matter which delays the proceedings without contributing to the clarification of the case and establishing whether the facts important for regularity of the proceedings are removed.
(3) The president of the panel shall decide on the motions of the parties if the panel does not decide on them.
(4) The panel shall decide on a motion about which the parties disagree and about concordant motions of the parties which are not accepted by the president of the panel. The panel shall also decide on an objection to measures undertaken by the president of the panel in directing the trial.
(5) The panel's rulings shall always be pronounced and entered in the record.

Article 394

The president of the panel may order that the regular course of the trial is altered due to special circumstances arid, particularly due to the number of defendants, the number of offences or the scope of evidence. The reasons for alternation of the trial related to the sequence set by this Act shall be entered in the record of the trial.

Article 395

(1) The maintenance of order and the protection of the court's dignity shall be the duty of the president of the panel. Immediately after the opening of the session, he may remind those attending the trial to behave properly and not to disturb proceedings. The president of the panel may order a search of persons attending the trial.

(2) The panel may order that all those attending the trial as an audience are removed from the courtroom if the measures for maintaining order prescribed in this Act cannot provide for the trial to be held unimpeded.
(3) Photographic, film, television and other recordings by technical devices may not be made in the courtroom, except for the court's needs. In exceptional cases, the president of the higher court may permit a television or other recording and the president of the court may permit a photographic recording.
(4) The parties and the defence counsel may make an audio recording of a trial which is held in open court. Personal data about the accused, injured person or witness which are recorded are confidential and may be used only in the course of the criminal proceedings.

Article 396

(1) If the accused, defence counsel, injured person, legal guardian, legal representative, witness, interpreter or other person attending the session disturbs order or fails to comply with direction of the president of the panel concerning the maintenance of order, the president of the panel shall warn him or punish him by a fine not exceeding HRK 50,000.00. If any such person continues to disturb and not to obey direction of the president of the panel, the president of the panel may order him to be removed from the courtroom.
(2) The accused may be removed from the courtroom for a limited period of time and for the whole duration of the presentation of evidence if he disturbs order repeatedly. Before the presentation of evidence is completed, the president of the panel shall call in the accused and inform him about the course of the trial. If the accused continues to disturb order and offend the dignity of the court, the president of the panel may remove him again from the courtroom. In such a case, the trial shall be concluded in the absence of the accused and the judgment shall be communicated to him by the president of the panel or by a judge who sits as a member of the panel in the presence of the court reporter.
(3) The president of the panel may deny further defence or representation at the trial to a defence counsel or legal representative who, after being punished, continues to disturb order, and in such a case the party shall be called on to retain another defence counsel or legal representative. If it is impossible for the accused or the injured person to do so immediately without prejudicing their interests or if in the case of mandatory defence another defence counsel or legal representative may not be immediately assigned, the trial shall be recessed or the court shall order a continuance of the trial and the defence counsel or legal representative shall be ordered to bear the expenses incurred by the recess or the continuance.
(4) If the court removes the subsidiary prosecutor or the private prosecutor or their legal guardian from the courtroom, the trial shall continue in their absence, but the court shall inform them that they may retain a legal representative.
(5) If the State Attorney or a person who is his deputy disturbs order, the president of the panel shall notify thereof the higher State Attorney and he may recess the trial and request the higher State Attorney to appoint another person to represent the prosecution.
(6) After punishing an attorney or attorney apprentice who disturbs order, the court shall notify the Croatian Bar Association thereof.

Article 397

(1) In the course of the trial the panel may punish the defence counsel, legal guardian, legal representative, subsidiary prosecutor or the private prosecutor by a fine not exceeding HRK 50,000.00 if his actions are obviously intended to stalling the proceedings. The ruling on the punishment may be contested by an interlocutory appeal

which stays its execution.
(2) After punishing an attorney or attorney apprentice the court shall notify the Croatian Bar Association thereof.
(3) If the State Attorney does not put forward motions in time or if he takes other action in the proceedings with considerable delay causing the stalling of the proceedings, the court shall notify the higher State Attorney thereof.

Article 398
(1) A ruling imposing punishment under Article 396 of this Act is subject to appellate review. The panel may revoke such a ruling.
(2) Other decisions concerning the maintenance of order and the direction of the trial are not subject to appellate review.

Article 399
(1) If the accused commits an offence at the trial, the court shall proceed according to the provisions of Article 442 paragraph 1 of this Act.
(2) If someone else commits an offence while the trial court is in session, the panel may recess the trial and upon the prosecutor's oral charge proceed to try this offence at once, or it may try this offence after the conclusion of the pending trial.
(3) If grounds for suspicion exist that a witness or expert witness has given a false testimony at the trial, he shall not be immediately tried for that offence. In such a case, the president of the panel may order a separate record to be drawn on the statement of the witness or expert witness which shall be delivered to the State Attorney. This record shall be signed by the witness or expert witness examined.
(4) If the perpetrator of an offence subject to public prosecution may not be tried immediately, or if a higher court has jurisdiction over the case, the State Attorney having jurisdiction shall be notified for further action.

3. Prerequisites for Holding a Trial

Article 400
The president of the panel shall open the session and announce the composition of the panel and the case which is the subject of the trial. Thereafter, he shall determine whether all summoned persons have appeared, and if not, shall check whether the summonses were duly served and whether those absent have justified their absence.

Article 401
(1) If the State Attorney or his deputy does not appear at a trial scheduled upon an indictment from the State Attorney, the trial shall be discontinued. The higher State Attorney shall be notified on the reasons of discontinuance.
(2) If a subsidiary prosecutor or a private prosecutor does not appear at a trial although duly summoned, and their legal representative also fails to appear, the panel shall discontinue the proceedings by a ruling.

Article 402
(1) If the dully summoned accused fails to appear at a trial without justifying his absence, the president of the panel shall order him to be brought to the court by force. If bringing him cannot be effected immediately, the president of the panel shall order a discontinuance of the trial and that the accused be brought to court by force for the next session. If the accused justifies his absence before being brought to court, the president of the panel shall revoke the warrant for compulsory appearance. The panel may order the

accused to bear the expenses incurred by the discontinuance of the trial.
(2) When because of the accused or his defence counsel not having appeared at the trial there exist no preconditions for the trial to take place, the president of the panel may order the present witness or expert witness to be examined without the trial taking place if the prosecution or the defence do not raise an objection against that.
(3) The accused may be tried in his absence only provided that particularly important reasons exist to try him and if:
1) the trial is not possible in a foreign country
2) the extradition is not possible;
3) the accused is on the run;
(4) Upon the prosecutor's motion, the panel shall render a ruling on a trial in the absence of the accused. An appeal shall stay the execution of the ruling if the ruling has been rendered contrary to the motion of the prosecutor.

Article 403

If a duly summoned defence counsel does not appear at the trial without informing the court of the reason of his absence as soon as he learns about this reason, or if the defence counsel leaves the session without authorisation, the court may fine him in an amount of up to HRK 50,000.00 and order the expenses incurred by the continuance of the trial to be borne by the defence counsel. The court shall notify the Croatian Bar Association of the fine.

Article 404

(1) If conditions for a continuance of the trial exist due to the absence of the accused or due to his not being fit to stand the trial, our due to the absence of the defence counsel, the panel before which the trial is held may nevertheless decide to hold the trial if, according to the evidence in the file, it is obvious that a judgment rejecting the charge shall be rendered.
(2) If the accused has put himself in a position or a condition due to which he could not stand the trial, the trial shall be held in his absence. The court shall render a ruling on the trial taking place in the absence of the accused after questioning the physician expert witness. The ruling may be rendered before the beginning of the trial. An appeal against the ruling shall not stay the execution of the ruling. As soon as the grounds due to which the accused could not stand the trial cease to exist, and the trial has not been concluded, it shall be continued in his presence, and the judge shall inform the accused on the prior course and content of the trial.
(3) If the proceedings are conducted for an offence punishable by imprisonment up to twelve years, and the accused who was duly summoned did not appear, or the summons cannot be served to him because he changed the address and did not notify the court thereof, or if it is obvious that he avoids to receive the summons, the court may decide to conduct the trial in the absence of the accused if the accused was warned previously that he may be trailed in absence and if he has already given his statement regarding the charge in the presence of the defence counsel.

(4) The accused must have a defence counsel at the trail pursuant to paragraph 2 and 3 of this Article. The defence counsel may give statements and receive notifications on behalf of the accused on all issues regarding the proceedings and deciding on the main issue.

Article 405

(1) If a witness or expert witness although duly summoned by a party proposing him, fails to appear without justified reason, the party may require the court to summon him. If a witness or expert witness is summoned by the court and if he fails to appear without justified reason although duly summoned, the president of the panel shall order that he is brought in by force for the following session and punish him by a fine not exceeding HRK 50,000.00.The panel may revoke its decision on punishment for a justifiable reason.
(2) The trial may commence even in the absence of a summoned witness or expert witness. In such a case, the panel shall decide in the course of the trial whether the trial should be recessed or postponed due to the absence of the witness or expert witness.

4. Continuance and Recess of the Trial

Article 406

(1) Except for cases specified in this Act, the panel shall render a ruling ordering a continuance of a trial if the court determines in the course of the trial that the accused is unfit to stand trial or if other obstacles exist to the successful completion of the trial.
(2) Whenever possible, a ruling on the continuance of a trial shall state the date and hour of the resumption of the trial.
(3) The ruling from paragraph 2 of this Article is not subject to appellate review.

Article 407

(1) When a continuance is ordered for a trial, the trial must recommence if the members of the panel have changed.
(2) If the trial for which a continuance has been ordered is held before the same panel, it shall resume and the president of the panel shall summarize the course of the previous trial, but in such a case the panel may order that the trial recommences.
(3) If the trial is held before another president of the panel, it shall recommence and all evidence shall be examined again. The same applies in the case where the continuance is set for more than three months later.
(4) The trial must reopen and all evidence shall be presented again if it is held before the other president of the panel. The same applies if continuance was longer than three months.

Article 408

(1) Except for cases specified in this Act, the president of the panel may order a recess of the trial for purposes of rest or at the end of the working day or to obtain certain evidence within a short period of time or for preparation for the prosecution or defence.
(2) A recessed trial shall always continue before the same panel.
(3) If the trial may not be resumed before the same panel, or if a recess lasts for more than fifteen days, the provisions of Article 407 paragraph 3 of this Act shall apply.

5. Record of the Trial

Article 409

(1) A record shall be made of actions in the trial which shall contain an essential summary of the entire course of the trial unless otherwise stipulated by this Act.
(2) The president of the panel may, upon a motion of the parties, order the course of the trial

to be recorded. In such a case the record of the trial is comprised of the transcript of the audio or audio-video recording of the trial as well as of the record of the course of the trial unless this Act stipulates otherwise. The trial audio tape transcript shall be made within the term of three working days, and the transcript shall be reviewed and authenticated by the president of the panel and added to the file as a constituent part of the record of the trial.
(3) Regarding audio or audio-video recording of the course of the trial, the provisions of Article 87 paragraph 3 and Article 395 paragraph 4 of this Act shall apply.
(4) The president of the panel may, upon a motion of a party or by virtue of the office, order that statement he considers particularly important be entered in the record verbatim.
(5) If necessary, and especially if a statement by a person is entered in the record verbatim, the president of the panel may order that this part of the record be read aloud immediately, and it shall always be read if the party, defence counsel or the person whose statement is entered in the record so requires.

Article 410

(1) The record must be completed with the closing of the session. The record shall be signed by the president of the panel and the court reporter.
(2) The parties are entitled to review the completed record and its supplements, to make remarks regarding the contents and to request a correction of the record.
(3) Corrections of incorrectly written names, numbers or other obvious errors in writing may be ordered by the president of the panel upon a motion of the parties or the person interrogated or by the virtue of the office. Other corrections and supplements of the record may be ordered only by the panel.
(4) Remarks and motions of the parties regarding the record, as well as corrections and supplements made to the record, shall be noted in the supplement to the completed record. The reasons for not sustaining certain motions and remarks shall also be noted in the supplement to the record. The president of the panel and the court reporter shall sign the supplement to the record.

Article 411

(1) The introduction of the record shall state the name of the court before which the trial is held, the time and place of the session, the first name and surname of the president of the panel, members of the panel, court reporter, the present prosecutor, accused and defence counsel, injured person and his legal guardian or legal representative, interpreter, the offence under consideration, and whether the trial is open or closed to the public.
(2) The record shall in particular contain data on the indictment which was read and orally presented at the trial, the statement of the accused from the preliminary hearing, i.e. whether it has been changed and whether the prosecutor amended or extended the charge, what motions were filed by the parties, and what decisions were rendered by the president of the panel or the panel, which evidence was examined, whether records or other briefs were read, or the audio recordings or other recordings were reproduced and what remarks the parties made regarding the evidence presented. If the trial was closed to the public, the record must state that the president of the panel reminded those present of the consequences of unauthorised disclosure of the confidential information they learned at the trial.
(3) The statements of the accused, witness and expert witness shall be entered in the record in such a manner as to present their essential content. These statements shall be entered in the record only if they contain changes or supplements to their previous statements. Upon a motion of a party, the president of the panel shall order the record of a previous statement to be read in part or in whole.
(4) Upon a motion of a party, the court shall enter in the record a question and answer

which the panel rejected as impermissible.
(5) In the record of the trial which is kept simultaneously with the audio or other recordings, important statements of the parties, and if necessary, essential parts of statements of the accused, witnesses or expert witnesses shall be entered, if deemed necessary by the president of the panel.

Article 412
(1) The record of the trial shall state the entire ordering part of the judgement (Article 459 paragraph 3), along with a note whether the judgement was pronounced in open court. The ordering part entered in the record of the trial is considered to the original document.
(2) If the court renders a ruling on detention, the ordering part of such ruling must also be entered in the record.

6. Commencement of the Trial and Introductory Speeches of the Parties

Article 413
(1) When the president of the panel determines that all summoned persons have appeared, or when the panel decides to hold the trial in the absence of some of the summoned persons, the president of the panel shall call on the accused to give his personal data (Article 272 paragraph 1), except data about prior convictions in order to determine his identity.
(2) The president of the panel shall determine whether the accused received and understood the written instruction on the rights (Article 239 paragraph 1). If the accused did not receive the instruction on the rights, the president of the panel shall act pursuant to Article 350 paragraph 1 of this Act, and if the accused received the instruction but did not understand it, he shall instruct him on his rights in an appropriate way.

Article 414
(1) After the identity of the accused is established, the president of the panel shall direct the witnesses and expert witnesses to designated places where they shall wait until called upon to testify. If necessary, the president of the panel may allow the expert witnesses to remain in the courtroom after the examination to follow the course of the trial.
(2) The president of the panel shall take necessary measures to protect the victim from being influenced by other persons (spatial separation before the examination, etc.).
(3) All accused persons shall remain in the courtroom during the whole course of the trial.
(4) If the subsidiary prosecutor or private prosecutor has to testify as a witness, they shall not be removed from the session.
(5) The president of the panel may take necessary measures to prevent collusion between the witnesses, expert witnesses and the parties.

Article 415
(1) The trial begins with the reading of the indictment. If the injured person is present, and he has not yet claimed for indemnification, the president of the panel shall warn him that he may make a motion for achieving that right in the criminal proceedings and instruct him on the rights from Article 47 of this Act. If he is absent, and he claimed for indemnification, his motion shall be read by the president of the panel.
(2) Thereafter, the president of the panel shall ask the accused if he understands the charge. If the president of the panel is convinced that the accused has not understood the charge, he shall again present its contents to him in such a manner that it is made understandable for

the accused.
(3) Thereafter, the president of the panel shall pronounce the statement on the charge and the claim for indemnification made by the accused earlier .

Article 416

(1) If the accused pleads guilty to all counts of the charge, the president of the panel shall instruct him that he may immediately give statements on all circumstances tending to incriminate him and present all facts favourable to him. Thereafter the accused may be interrogated.
(2) The accused shall give his statement in a free presentation, after which he may be interrogated. First the defence counsel shall interrogate him and then the prosecutor. Then the president of the panel and the members of the panel may interrogate the accused in order to fill in gaps, remove contradictions and ambiguities in his statements. The injured person, legal guardian or legal representative, co-accused and witnesses may interrogate the accused directly following the authorisation of the president of the panel.
(3) The president of the panel shall forbid a question or an answer to a question already asked if it is considered impermissible (Article 277 paragraph 1) or if it is not related to the case. If the president of the panel forbids a certain question or an answer to be given, the parties may request the panel for a disposition.
(4) The statement of the accused according to the provision of paragraph 1 of this Article does not exempt the court from its duty to examine further evidences. If the confession of the accused is complete and in accordance with the evidence already gathered, the court shall, in the course of the presentation of evidence, examine only those pieces of evidence which are related to the decision on the sentence or other sanction.
(5) If the accused pleads not guilty to all or certain counts of the charge, he shall be interrogated at the end of the presentation of the evidence, unless otherwise requested by the accused.

Article 417

(1) After the accused made the statement on the charge and the claim for indemnification, the president of the panel shall invite the parties to give their introductory statements. The prosecutor shall speak first, followed by the defence counsel and the accused. After the prosecutor's speech the injured person may present and explain the claim for indemnification. The defence counsel may declare that he will give the speech after the presentation of evidence proposed by the prosecutor.

(2) In their speeches the parties may state what decisive facts they intend to prove, present evidence they will present, define legal questions to be discussed, or disputable facts that require clarification to establish factual situation important for the decision. In the opening speech the prosecutor must not present the facts on previous convictions of the accused. A party in the opening speech may not comment citations and offered evidence of the adverse party.
(3) The president of the panel may limit the opening speeches of the parties to specified time, and in relation to the speeches he shave have the rights and duties from Article 447 of this Act.

7. Presentation of Evidence

Article 418

(1) Presentation of evidence extends to all facts deemed by the court to be important for a correct adjudication.

(2) The co-accused persons who plead guilty to all counts of the charge shall be interrogated at the beginning of evidence presentation, those who request to be interrogated before the close of all evidence shall be interrogated as soon as requested, whereas those who plead not guilty to all or individual counts oft he charge shall be interrogated at the close of all evidence, unless otherwise requested.
(3) The accused who is to be interrogated at the close of all evidence pursuant to the provision of Article 416 paragraph 5 of this Act may participate in the examination of individual pieces of evidence at the trial before being interrogated.
(4) If the injured person who is present testifies as a witness, his examination shall be carried out before other witnesses give their testimonies.
(5) The data from the criminal register as well as other data about convictions for offences may be read only as the last evidence before interrogation of the accused at the close of all evidence, unless the panel shall make decisions on the measures for ensuring presence of the accused and other precautionary measures.

Article 419

(1) The parties shall be entitled to call on witnesses and expert witnesses and present evidence. The panel may decide to present evidence which were not proposed or from which the proposing party has withdrawn only if it considers that the evidence indicate the existence of reasons for the exclusion of illegality or guilt or related to the facts crucial for the selection of the type and measure of penal sanction.
(2) The evidence shall be presented at the trial in the following order:
1) evidence of the prosecution,
2) evidence of the defence,
3) evidence of the prosecution challenging the statements of the defence,
4) evidence of the defence as reply to challenging,
5) evidence of the court,
6) evidence on the facts being crucial for the pronouncement of penal sanction.
(3) The president of the panel may, for justified reasons, determine a different order of the presentation of evidence.

Article 420

(1) Before the examination, the president of the court shall warn the witness pursuant to Article 288 paragraph 3 of this Act, and expert witness pursuant to Article 312 paragraph 1 of this Act.
(2) The witness and expert witness shall first be examined by the proposing party (main examination) and then by the adverse party (cross examination). Thereafter, the witness and expert witness may be re-examined by the party who proposed him (additional examination).
(3) The proposing party shall ask the witness and expert witness on circumstances on which he was summoned to testify. Questions of the adverse party to the witness and expert witness shall be limited and shall relate only to those circumstances on which the witness testified in the course of direct examination. Questions in additional examination may refer only to the questions made during cross examination.
(4) Questions leading to a desired answer (suggestive questions) may not be put in direct examination, except when it is necessary to clarify the statements of the witness or expert witness. Suggestive questions shall be permitted in cross examination. When a party calls the witness or expert witness of the adverse party or when the witness or expert witness avoids the answer, the court may allow putting suggestive questions.
(5) In the course of direct, cross and additional examination the court may put questions to

the witness and expert witness for clarification.
(6) The injured person, legal guardian or legal representative shall be entitled to put questions to the witness or expert witness after the prosecutor.
(7) The president of the panel shall take care that examination and presentation of evidence stay within the scope of the subject, that it is efficient and effective, and that expert witnesses and witnesses are protected against attacks on their personal integrity.
(8) When evidence is presented on the basis of the court's decision, in case referred to in Article 419 paragraph 1, the examination of a witness or an expert witness shall be conducted first by the court, then by the prosecutor, the victim or the injured person if present, and by the defendant.

Article 421
(1) The president of the panel shall forbid a question or reject the answer to an already asked question if the question is impermissible or if it does not relate to the case. If the president of the panel forbids a certain question or answer, the parties may request a decision of the panel thereon.
(2) The president of the panel may reject the presentation of evidence:
1) which the parties knew of until the confirmation of the indictment or the conclusion of the preliminary hearing , but they did not propose it without justified reason (Article 377 paragraph 1);
2) if an evidence is illegal or if it relates to a fact which may not be proven under law (impermissible motion);
3) if the fact which should be determined by the presentation of evidence is irrelevant for a decision or if no connection exists between the fact which the party wishes to determine and the relevant facts, or if this connection cannot be established for legal reasons (irrelevant motion);
4) if reasons for suspicion exist that some important fact may not be determined with the proposed evidence or that this may be done only with great difficulty (inappropriate motion);
5) if the proposed examination of evidence is obviously intended to significantly delay the proceeding (motion that delays proceedings).
(3) A ruling rejecting a motion for presentation of evidence must be reasoned. The panel may alter or revoke it in the further course of the proceedings.

Article 422
(1) No facts related to the former sexual behaviour of the victim or his sexual preference may be used as evidence in the proceedings.
(2) Exceptionally, it shall be allowed to evidence that sperm, other material traces or injuries described in medical documentation originate from other person and not from the accused.

Article 423
(1) With regard to the examination of witnesses and expert witnesses at the trial, the provisions regulating their examination shall apply respectively, unless the provisions of this Chapter provide otherwise.
(2) If not otherwise regulated by this Act, the witness who has not been examined shall not be present when evidence is examined.
(3) A child or a minor shall be examined as a witness pursuant to Article 292 paragraphs 1 and 2 of this Act.
(4) A witness from Article 294 paragraph 1 of this Act shall be examined pursuant to

Article 297 of this Act. The motion for examination shall be submitted by the State Attorney in the indictment or at the trial.
(5) The accused may file an interlocutory appeal against the ruling of the panel to accept the motion of the State Attorney to examine the witness from Article 294 of this Act being proposed for the first time at the trial. A higher court shall decide on the appeal.

Article 424

Before a witness testifies, the president of the panel shall remind him in the sense of Article 288 paragraph 3 of this Act, especially of his obligation to answer the questions.

Article 425

(1) Before an expert witness testifies, the president of the panel shall remind him in the sense of Article 312 of this Act, especially of his obligation to answer the questions.
(2) The panel may decide that the witness shall swear to tell the truth. The oath shall be given pursuant to Article 312 paragraph 2 of this Act. The permanent court expert witness shall only be reminded of the oath given.
(3) The expert witness shall be allowed to use his notes and necessary documentation during testimony.

Article 426

If at a previous hearing the witness or expert witness stated facts which he no longer recalls, or if he changes his statement, the previous statement shall be presented to him or he shall be warned of the variance and asked to explain why he is not giving the same statement as previously and if necessary, his previous statement or part of it shall be read.

Article 427

(1) Witnesses and expert witnesses who have testified shall remain in the courtroom unless the president of the panel upon hearing the opinion of the parties releases or removes them temporarily from the courtroom.
(2) Upon a motion of the parties or by virtue of the office, the president of the panel may order that the witnesses and expert witnesses who have testified be removed from the courtroom and be called on later to testify again in the presence or absence of other witnesses or expert witnesses.

Article 428

If it becomes known at the trial that a witness or expert witness is unable to appear before the court or that his appearance involves considerable difficulties, the panel may, if it deems his statement to be important, order that he gives his testimony to the president of the panel or the judge who is a member of the panel outside the trial, or that the testimony be given to an investigating judge in whose jurisdictional territory the witness or expert witness resides.

Article 429

(1) If necessary to carry out a judicial view or reconstruction outside the trial, the panel may decide that it shall be performed by the president of the panel or a judge who is a member of the panel, or the investigating judge.
(2) The parties and the injured person shall always be informed when and where the witness shall testify, or the judicial view or reconstruction be performed. If the accused is deprived of freedom, the panel shall decide on the need for his presence at these actions.

Article 430

If not otherwise stipulated by this Act, the presentation of evidence by examination of documents, reproduction of recordings and electronic evidence shall be performed in the manner set forth in Article 329 to 331 of this Act.

Article 431

(1) Records containing the statements of witnesses, co-accused or already convicted participants in the offence as well as other records or other documents regarding expert witness findings and opinion gathered during the presentation of evidence or previous sessions may be read according to a decision of the panel only in the following cases:
1) if they refer to the fact which the party did not dispute;
2) if the persons who gave statements have died, become afflicted with mental disorder or cannot be found, or if their appearance before the court is impossible or involves considerable difficulties due to old age, illness or other important reasons;
3) if the witnesses or expert witnesses refuse to testify at the trial without legal cause;
4) if the witness or expert witness is examined pursuant to Article 402 paragraph 2 of this Act;
5) if the parties agree that the direct examination of a witness or expert witness who has failed to appear, irrespective of whether summoned or not, be replaced by reading the records of his previous testimony;
6) if the witness or expert witness has been examined before the same president of the panel.
(2) Records of the previous testimony given by persons exempt from the duty to testify (Article 285) may not be read if those persons have not been summoned to the trial at all or if they have availed themselves of their right to refuse to testify at the trial. The panel shall decide that such records be excluded from the files and be kept separately. The panel shall act in such manner also in relation to other evidence on which a court decision may not be based, unless excluded prior to that. An interlocutory appeal may be filed against the ruling on exclusion, unless the court decides to continue the trial immediately when the excluded parts of the file shall be sealed in a separate cover and enclosed to the file and may be examined only by the higher court if so required to make a decision on the appeal against the judgement which will be noted on the cover.
(3) After the ruling becomes final, the excluded records and information shall be sealed in a separate cover and handed over to the secretary of the court to keep them apart from other files and may not be examined or used in the proceedings. The exclusion of the records from paragraph 2 of this Article must be performed before the close of all evidence.
(4) The reasons for reading of the record shall be stated in the record of the trial, and when reading the former record it shall be stated whether the witness or expert witness swore to tell the truth or whether he had taken an oath previously.

Article 432

(1) When this Act stipulates that besides the recording the record is made with certain data only, the recording shall be reproduced and the record shall be read.
(2) The panel may always decide that besides reading the record at the trial, a mechanically recording of the interrogation be reproduced.

Article 433

After having heard the testimony of each of the witnesses or expert witnesses and after having read each document or presented other evidence, the president of the panel shall ask the parties and the injured persons if they have any comments to make related to the

presented evidence.

Article 434

(1) Before interrogation of the accused, who, according to the provision of Article 416 paragraph 5 of this Act, is interrogated at the close of the evidence, the president of the panel shall ask the parties and the injured person whether they have any motions to supplement the presentation of evidence of which they learned later.
(2) If nobody makes a motion to supplement the examination of evidence or if the motions are rejected (Article 421) the interrogation of the accused shall begin.
(3) The accused shall be interrogated by the defence counsel first, and then by the prosecutor and the injured person. The president of the panel may at any time put a question to the accused to clarify matters being unclear.

Article 435

(1) When the accused who is interrogated at the trial deviates from his previous statement given in the course of presentation of evidence or previous sessions, the president of the panel shall warn him of discrepancy and seek an explanation therefore, and when necessary, he shall read the previous statement of the accused or a part of this statement.
(2) If the accused being interrogated at the trial does not want to give his statement or answer to an individual question, his previous statement or a part thereof shall be read.

Article 436

When interrogating the accused, the president of the panel shall forbid a question or reject the answer to an already asked question if the question is impermissible (Article 276 paragraphs 5 and Article 277 paragraph 1.) or if it does not relate to the case. If the president of the panel forbids a certain question or answer, the parties may request a decision of the panel thereon.

Article 437

(1) When the interrogation of the first accused is completed, the court shall begin to interrogate the other accused, if any. Each accused is entitled to ask questions to the other co-accused and to give objections to their statements.
(2) If the statements of certain co-accused differ regarding the same circumstance, the president of the panel may confront the co-accused.

Article 438

The panel may exceptionally decide that the accused be temporarily removed from the courtroom if the co-accused or witness refuses to give a statement in his presence or if the circumstances indicate that they would not tell the truth in the presence of the accused. Upon the return of the accused to the session, the statement of the co-accused or witness shall be read to him. The accused has the right to ask questions of the co-accused or witness and the president of the panel shall ask him whether he has any remarks regarding these statements. If necessary, the court may order a confrontation.

Article 439

The accused may in the course of the trial confer with his defence counsel, by he may not confer with his defence counsel or anybody else how he will respond to the question asked.

Article 440

(1) After interrogating the accused pursuant to the provisions of Article 434 paragraph 1 of this Act, the parties may propose evidence for extending the presentation of evidence, if they did not know for the existence of those evidence prior to the interrogation of the accused.

(2) If it is not proposed to examine evidence, or the panel refuses evidentiary proposal referred to in paragraph 1 of this Article, and the court has not decided to act in accordance with Article 419 paragraph 1 of this Act, the president of the panel shall announce that the presentation of evidence is completed.

8. Amendments and Extension of the Charge

Article 441

(1) If in the course of the trial the prosecutor establishes that the evidence examined alters the factual situation as described in the confirmed indictment, he may until the close of the evidence orally amend the indictment or submit a new one.
(2) The parties may request a recess of the trial for the purpose of amendment of a new indictment or preparation of a new defence.
(3) If the panel allows a recess of the trial fort the purpose of amendment of the indictment, it shall order the term within which the prosecutor is to prepare an amended indictment. A copy of the amended indictment shall be served on the accused. If the prosecutor fails to submit the amended indictment within the term ordered, the panel shall continue the trial on the ground of the previous indictment.
(4) The amended indictment shall not to be served on the court competent for confirmation of the indictment unless the panel decides otherwise. If the panel decides to serve the amended indictment on the court competent for confirmation of the indictment and it is confirmed, a new session shall be hold, as a rule, before the same panel.
(5) If the State Attorney amends the indictment in such a way that it relates to an offence for which the panel with a broader composition is competent, the panel shall be supplemented and the trial shall recommence.
(6) After the amendment or submission of the new indictment, the accused shall give his statement regarding the soundness of the indictment pursuant to Article 415 paragraph 3 of this Act.

Article 442

(1) If the accused commits an offence while the trial is in progress or if in the course of the trial a previously committed offence by the accused is discovered, the panel shall, as a rule, pursuant to the charge of the authorised prosecutor which may be orally presented, extend the trial to that offence as well.
(2) To enable sufficient preparation for a defence, the court may in such a case order a continuance of the trial and may after hearing the statements from the parties decide that the accused shall be tried separately for the offence referred to in paragraph 1 of this Article and in such a case, the indictment for a new offence shall be submitted to the judge competent for its confirmation.

9. Closing Arguments of the Parties

Article 443

After the presentation of evidence is completed, the president of the panel shall call on the parties. The prosecutor presents his argument first, and then the injured person, defence counsel and the accused. The president of the panel may, after them being examined, determine the duration of the closing arguments.

Article 444

In the closing arguments, the prosecutor shall present his assessment of the evidence examined at the trial and thereafter shall present his conclusions about the facts relevant for the decision and his substantiated motion regarding the culpability of the accused, the provisions of the Penal Code which shall apply as well as the aggravating and mitigating circumstances which should be taken into account in sentencing. The prosecutor may propose the type and level of punishment, as well as a judicial admonition, suspended sentence or other penal sanctions.

Article 445

The injured person or his legal representative may in their closing argument make a statement of reasons to support a claim for indemnification and point out the evidence regarding the culpability of the accused.

Article 446

(1) The defence counsel or the accused personally shall in their closing argument present the defence and they may comment on the statements made by the prosecutor or the injured person.
(2) Following his defence counsel, the accuses is entitled to present his closing argument, to state whether he approves of the defence presented by his defence counsel and to supplement it.
(3) The prosecutor and the injured person are entitled to respond to the defence, and the defence counsel and the accused are entitled to comment on these responses.
(4) The accused shall always have the last word.

Article 447

(1) The president of the panel may, subject to a previous warning, interrupt a person who in his closing argument exceeds the time approved for his argument or offends public order and morality or offends other person or repeats himself or expatiates on obviously irrelevant matters. The record of the trial must give information on the interruption of the closing argument and the reasons for it.
(2) When more than one person represents the prosecution or more than one defence counsel represents the defence, closing arguments may not be repeated. The representative of the prosecution or defence shall by mutual agreement select the issues about which each shall speak.
(3) After all the closing arguments are completed, the president of the panel is bound to ask whether anyone wishes to make a further statement, and thereafter he shall announce that the trial is closed.

Chapter XXII
THE JUDGMENT

1. Rendering a Judgment

Article 448

(1) If the court, after deliberation and voting, decides that legal conditions are fulfilled, the court shall render a judgement.
(2) The judgement shall be rendered and pronounced in open court in the name of the Republic of Croatia.

Article 449

(1) The judgement may relate only to the person who is charged and to the act which is the subject of the charge as specified in the indictment submitted, or amended or extended at the trial.
(2) The court is not bound by the prosecutor's legal qualification of the offence, however the accused may not be found guilty of an offence being more serious than he has been charged with by the indictment.
(3) The provisions of Article 448 to 462 of this Act refer to all judgements unless otherwise provided by law for certain judgments.

Article 450

(1) The court shall found its judgement only on the facts and evidence presented at the trial.
(2) The court is bound to conscientiously assess each piece of evidence individually and in relation to other evidence and on the basis of such assessment to reach a conclusion in whether or not a particular fact has been proved.

2. Types of Judgments

Article 451

(1) By its judgement the court may either reject the charge, acquit the accused of the charge, or pronounce the accused guilty.
(2) If the charge contains more than one offence, the judgement shall specify whether and for which offence the charge is rejected or whether and for which offence the accused is acquitted or whether for which offence the accused is pronounced guilty.

Article 452

The court shall render a judgement rejecting the charge:
1) if the court lacks subject matter jurisdiction;
2) if the proceedings were conducted without the request of the authorised prosecutor;
3) if the prosecutor withdrew the charge in the course of the trial;
4) if the required motion or approval for prosecution is lacking, or if the authorised person or the state authority withdrew the motion or approval;
5) if the accused has already been convicted or acquitted of the same offence by a final judgement, or if the proceedings against him were discontinued by a final ruling, except in the case of ruling discontinuing the proceedings referred to in Article 500 of this Act;
6) if the accused has been exempted from prosecution by amnesty or pardon, or if the period of limitation for institution of prosecution has expired, or if other circumstances barring prosecution exist.

Article 453

The court shall render a judgement of acquittal:
1) if the act he is charged which is not a criminal offence according to law;
2) if circumstances excluding the culpability exist;
3) if it has not been proven that the accused committed the offence he is charged with.

Article 454

The ordering part of the judgement rejecting the charge and of the judgement acquitting the accused of the charge shall state the facts and legal description and the name of the criminal offence which the accused was charged with, for which the charge is rejected or the accused is acquitted, a decision on costs of the criminal proceedings and on a claim for indemnification, if any.

Article 455

(1) The court shall pronounce the judgement by which the accused is found guilty if it has been undoubtedly established that the accused committed the offence he has been charged with.

(2) In a judgement of conviction the court shall state:

1) the act for which the accused is found guilty, stating the facts and circumstance which constitute the elements of the definition of the offence as well as those on which the application of certain provisions of the Penal Code depends;

2) the legal name and description of the offence as well as the provisions of the Penal which were applied;

3) the punishment the accused is sentenced to or whether the punishment is remitted according to the provisions of the Penal Code, or whether the punishment of imprisonment is replaced with community service work;

3) the decision on a suspended sentence;

4) the decision on security measures and the confiscation of pecuniary benefit;

5) the decision on including the time spent in detention or served under an earlier sentence;

6) the decision on the costs of the proceedings, on the claim for indemnification and on the publication of the final judgement in the media.

(3) If the accused is sentenced to a fine, the judgement shall state the term within which the fine is to be paid as well as the amount of the daily income and the total number of daily incomes and the fine amount determined to a legal person.

(4) In case of concurrence of offences the court shall include, in the ordering part of the judgement, the punishments determined for each offence and thereafter the cumulative sentence rendered for all concurrent offences.

3. Pronouncement of Judgment

Article 456

(1) After the court renders a judgement, the president of the panel shall pronounce it immediately. If the court is unable to render a judgment on the same day the trial has concluded, it shall postpone the pronouncement of the judgement for not more than three working days and determine the time and place of the pronouncement.

(2) The president of the panel shall, in the presence of the parties, their legal guardians, legal representatives and defence counsel, read out the ordering part of the judgement in open court.

(3) The judgement shall be pronounced even if the party, legal guardian, legal representative or defence counsel is absent. If the accused is absent, the panel may order that he be orally informed of the judgement by the president of the panel or that the judgement only be served on him.

(4) If the trial was closed to the public, the ordering part of the judgement shall always be read out in open court. The panel shall decide on whether and to what extent the

pronouncement of the reasons for the judgement shall be closed to the public.
(5) All those present shall rise to listen to the pronouncement of the judgement.

Article 457
(1) After the judgement is pronounced, the president of the panel shall present briefly the reasons for the judgement. If a suspended sentence is imposed on the accused, the president of the panel shall inform him of the meaning of a suspended sentence and on the conditions he has to comply with.
(2) After the judgement is pronounced, the president of the panel shall inform the parties of their right to appeal, answer to appeal and shall instruct the parties that they have to report to the court any change of address until the proceedings are concluded.

4. Drawing up and Serving a Judgment

Article 458
(1) The pronounced judgement shall be issued in writing within a term of one month after its pronouncement. These terms shall be prolonged for fifteen days if the trial lasted longer than three consecutive days or for further fifteen days if the trial has lasted longer than eight days and did not have to be reopened.
(2) If the accused is in detention, the judgement in writing shall be sent to him within the terms which are half the time of the terms referred to in paragraph 1 of this Article.
(3) The terms for drawing up the judgement in writing under paragraph 1 and 2 of this Article may exceptionally be prolonged if the president of the panel which rendered the judgement cannot observe them for unforeseen reasons or for reasons beyond his control, and if he notifies the president of the court thereof.
(4) The judgement shall be signed by the president of the panel and the court reporter.
(5) The judgement in writing along with an instruction on the right to appeal shall be sent to the prosecutor, the accused and his defence counsel, the injured person if he is entitled to appeal, the person whose object was seized by this judgement and to the legal entity against which the court ordered the confiscation of pecuniary benefit.
(6) The judgement shall be sent to the injured person who is not entitled to appeal in the case referred to in Article 56 paragraph 2 of this Act with an instruction on his right to petition for reinstatement to the prior state of affairs. The final judgement shall be sent to the injured person if he so requests.
(7) If, by the application of the provisions for imposing an aggregate sentence for offences committed in concurrence, the court imposes a sentence taking into account the judgements rendered by other courts, it shall deliver the final judgement in writing also to these courts.

Article 459
(1) The written judgement shall correspond fully to the judgement which is pronounced. The judgement shall be composed of the introduction, the ordering part and the statement of reasons.
(2) The introduction of the judgement shall contain: the statement that the judgement is pronounced in the name of the Republic of Croatia, the name of the court, the first name and surname of the president and the members of the panel as well as of the court reporter, the first name and surname of the accused, the offence he is charged with, the indication of the prosecutor and the indictment file, the date of the trial, whether the trial was open to the public, whether the accused was present at the trial, the first name and surname of the prosecutor, defence counsel, legal guardian and legal representative present at the trial, the date on which the judgement was rendered and the date on which the judgement was pronounced.

(3) The ordering part of the judgement shall contain the personal data of the accused (Article 272 paragraph 1) and the decision declaring the accused guilty of the offence he is charged with or acquitting him of the charge, or rejecting the charge against him.
(4) The statement of reasons for judgement shall contain the reasons for each count of the judgment.
(5) The court shall only indicate the facts which the parties did not dispute, and indicate which disputable facts are considered proven or unproven and for what reasons, with special emphasis on the credibility of contradictory evidence and the reasons for its decision on questions of law, particularly regarding the existence of the offence and the culpability of the accused and regarding the application of certain provisions of the Penal Code to the accused and his offence.
(6) If the accused is sentenced to a punishment, the statement of reasons shall indicate the circumstances the court took into account in fixing the punishment. Particular emphasis shall be given to reasons for the decision that the punishment be reduced or remitted, or a suspended sentence pronounced, that the imprisonment be replaced with community service work, or that a security measure or confiscation of pecuniary benefit be imposed. If the court imposes a fine in daily incomes, the statement of reasons shall indicate the evidence and circumstances relevant for the decision on the amount and number of daily incomes, and its assessment of the personal and financial circumstance of the accused.
(7) If the accused pleaded guilty to all counts of the charge, the statement of reasons shall contain only information stated in the above paragraph.
(8) If the accused is acquitted, the statement of reasons shall indicate the reasons for such a decision referred to in Article 453 of this Act.
(9) In the statement of reasons for a judgment rejecting the charge, the court shall not discuss the subject matter of the case but shall limit itself only to the reasons for rejecting the charge.

Article 460

When imposing only a fine, suspended sentence or admonition on the accused, the written judgement shall not include a statement of reasons if the parties and the injured person who have the right to appeal against the judgement have waived their right to appeal against the judgement.

Article 461

(1) When the court pronounces the sentence of imprisonment, the accused who is in detention may, by a ruling of the president of the panel, be sent to serving the sentence before the judgement become final, if he so requires.
(2) The accused may submit the request from paragraph 1 of this Article to the record at which occasion he will be warned that, in a penitentiary or a prison he will have the same rights and obligations as the prisoners. The prison shall submit the record to the president of the panel.
(3) When deciding on the request from paragraph 1 of this Article, the court shall take into account regulations on serving the sentence of imprisonment.

Article 462

(1) The president of the panel shall correct errors in names and figures and other obvious mistakes in writing and counting, defects in form and discrepancies between the written copy and the original of the judgement by a separate ruling upon the request of the parties or by virtue of the office.
(2) If there is a discrepancy between the written copy and the original of a judgement

regarding the data referred to Article 455 paragraph 2 of this Act, the ruling on the correction shall be served on the persons referred to in Article 458 of this Act.
(3) In cases referred to in the above paragraph, the term for appeal against the judgement begins from the day of delivery of the ruling on the correction against which no appeal is allowed.

C. Judicial Remedies

CHAPTER XXIII

ORDINARY JUDICIAL REMEDIES

1. Appeal from a Judgment of the Court at First Instance

a) Right to Appeal

Article 463

(1) Authorised persons may take an appeal from a judgement rendered at first instance within a term of fifteen days from the day the copy of the judgment is served.
(2) In complex cases for the offences for which the imprisonment of fifteen years or long term imprisonment is set forth, the parties and the defence counsel may, immediately after the judgement is pronounced, request prolongation of the term to appeal and the president of the panel shall render a ruling in this respect. The president of the panel shall decide on the party's request immediately, and he may, depending on the complexity of the case, prolong the term to appeal for fifteen days at most. An appeal against the ruling of the president of the panel is not allowed.
(3) If the judgment is served on the accused and his defence counsel, but on different days, the term for appeal shall commence on the later date.
(4) An appeal filed in due time by an authorised person shall stay the execution of the judgement.

Article 464

(1) An appeal may be filed by the parties, the defence counsel and the injured person.
(2) The spouse or common-law spouse of the accused, his linear relative, legal guardian, adoptive parent, adopted child, brother, sister and foster parent may file an appeal to the benefit of the accused. In such a case the term for the appeal shall commence on the day the copy of the judgement is served on the accused or his defence counsel.
(3) The State Attorney may file an appeal to the prejudice or to the benefit of the accused.
(4) The injured person may challenge a judgement regarding the court's decision on the costs of the proceedings and decision on the claim for indemnification, but if the State Attorney assumes the prosecution from the subsidiary prosecutor, the injured person may file an appeal for all the reasons for which the judgement may be appealed.
(5) An appeal may be filed by a person whose object was seized or from whom pecuniary benefit acquired by the commission of an offence was confiscated.
(6) The defence counsel and persons referred to in paragraph 2 of this Article may file an appeal without special authorisation of the accused, but not against his will, unless the accused was sentenced to the long-term imprisonment.
(7) The appeal for the reasons of incorrectly or incompletely established factual situation (Article 470) cannot be filed by the accused who pleaded guilty to all counts of the

charge, unless the accused became aware of the evidence on the exclusion of illegality or guilt after the judgement was passed or related to the facts crucial for the selection of the type and measure of penal sanction.
(8) The appeal for the reasons of incompletely established factual situation with regard to a certain fact cannot be filed neither by the party who did not dispute that fact.
(9) The judgement passed on the basis of agreement by the parties may be challenged only due to fundamental violations of provisions of the criminal proceedings referred to in Article 468 of this Act and due to violation of the Penal Code referred to in Article 469 of this Act.

Article 465

(1) The accused may waive the right to appeal only after the judgement is served on him. The accused may waive his right to appeal before this if the prosecutor and the injured person who is entitled to appeal for all the reasons for which the judgement may be appealed waive their right to appeal, except if the accused, according to the judgement, shall serve a sentence of imprisonment. The accused may withdraw an appeal already filed until the decision of the appellate court is rendered. The accused may also withdraw an appeal filed by his defence counsel or the persons referred to in Article 464 paragraph 2 of this Act.
(2) The prosecutor and the injured person may waive the right to appeal from the moment the judgement is pronounced until the expiry of the term for taking an appeal and they may withdraw an already filed appeal until the decision of the appellate court is rendered.
(3) A waiver and withdrawal of an appeal may not be revoked.

b) Contents of an Appeal

Article 466

(1) An appeal shall contain:
1) the designation of the judgement appealed from;
2) the grounds for challenging the judgement (Article 467);
3) the reasons for the appeal;
4) the motion to vacate or revise the challenged judgement in whole or in part;
5) the signature of the person who files the appeal.
(2) If the accused or other person referred to in Article 464 paragraph 2 of this Act files an appeal, and the accused does not have a defence counsel or if the appeal is filed by the injured person, subsidiary prosecutor or private prosecutor without a legal representative, and if the appeal is not composed in accordance with the provisions of paragraph 1 of this Article, the court at first instance shall call on the appellant to supplement the appeal within a specified term with a written brief or on the record at that court. If the appellant fails to comply with such a summons, the court shall dismiss his appeal if it does not contain the data referred to in paragraph 1 items 2, 3 and 5 of this Article, and if the appeal does not contain the data referred to in paragraph 1 item 1 of this Article it shall be dismissed if it cannot be established to which judgement it relates. If the appeal is filed to the benefit of the accused, the court shall forward it to an appellate court provided that it can be established to which judgement it relates, and if this cannot be established, the court shall dismiss the appeal.
(3) If the appeal is filed by the injured person, subsidiary prosecutor or private prosecutor who has a legal representative or by the State Attorney, and if the appeal does not contain the data referred to in paragraph 1 items 2, 3 and 5 of this Article, or if the appeal does not contain the data referred to in paragraph 1 item 1 of this Article and if it cannot be established to which judgement it relates, the court shall dismiss the appeal. The court shall

refer an appeal with such shortcomings filed to the benefit of the accused that has a defence counsel to an appellate court if it can be established to which judgement it relates, and if this cannot be established, the court shall dismiss the appeal.
(4) New facts and new evidence may not be presented in the appeal, unless the appellant learned about them after the completion of the trial. When pointing to new facts, the appellant shall present evidence supporting these facts, and when proposing new evidence, he shall state the facts to be proven with this evidence.

c) Grounds for Challenging a Judgment

Article 467

A Judgement may be challenged:
1) for substantive violation of the criminal procedure provisions;
2) for violation of the Penal Code;
3) for erroneous or incomplete determination of the factual situation;
4) in regard to the decision on criminal sanctions, confiscation of pecuniary benefit, costs of criminal proceedings, claims for indemnification as well as the decision to publish the judgement in the media.

Article 468

(1) A substantive violation of criminal procedure provisions exists:
1) if the court was not composed in accordance with the law or if a judge or lay judge who did not participate at the trial or who was disqualified by a final decision participated in the rendering of a judgement,
2) if a judge or lay judge who participated in the trial (Article 32 paragraph 1) should have been disqualified,
3) if the trial was held in absence of a person whose presence at the trial was mandatory under law or if the accused, defence counsel, subsidiary prosecutor or private prosecutor was, contrary to their request, denied the right to use their language at the trial and to follow the course of the trial in their language (Article 8),
4) if the public was excluded from the trial in violation of the law,
5) if the court violated the provisions of criminal proceedings related to whether a charge of an authorises prosecutor, a motion of an injured person, or the approval of the authority having jurisdiction exists;
6) if the judgement was rendered by a court which, due to a lack of subject matter jurisdiction, could not render the judgement in this case or if the court incorrectly rejected the charge on the ground of lack of subject matter jurisdiction,
7) if the court by its judgement did not completely decide on allegations set forth in the charge,
8) if the accused who, when asked to enter his plea pleaded not guilty regarding all or certain counts of the charge without the request in terms of Article 416 paragraph 5 of this Act was interrogated before the presentation of evidence was completed,
9) if the judgement exceeds the charge (Article 449 paragraph 1),
10) if the judgement violates the provisions of Article 13 of this Article,
11) if the judgement may not be examined because the ordering part of the judgement is incomprehensible, self-contradictory or contrary to the statement of reasons for judgement, if the judgement fails to contain any reasons or fails to contain reasons relating to the relevant facts or if these reasons are entirely unintelligible or contradictory to a significant degree or if a significant contradiction exists in the relevant facts between what is stated in the statement of reasons for judgement on the contents of certain documents or records on

statement given in the proceedings and the documents or records themselves.
(2) A substantive violation of criminal procedure provisions exists if the judgement is founded on illegal evidence (Article 10).
(3) A substantive violation of the provisions of criminal procedure also exists if the court, in the course of the preparation for the trial, or in the course of the trial, or when rendering the judgement, fails to apply or incorrectly applies any of the provisions of this Act or violates a right of the defence at the trial, provided that this influences or could have influenced the rendering of the judgement.

Article 469

A violation of the Penal Code exists if the Penal Code is violated regarding the issue of:
1) whether the act for which the accused is being prosecuted constitutes a criminal offence;
2) whether circumstances excluding the culpability of the accused exist;
3) whether circumstances excluding prosecution exist and in particular whether the period of limitation for the institution of prosecution has expired or prosecution is barred due to amnesty or pardon or whether the final judgement has been already made;
4) whether law which cannot be applied is applied in respect of the offence charged;
5) whether the court exceeds its statutory power in a decision on punishment, suspended sentence, judicial admonition or in a decision on a security measure or confiscation of pecuniary benefit;
6) whether provisions on including the time spent in detention or for a previously served sentence are violated.

Article 470

(1) The judgement may be challenged on the ground of erroneous or incomplete determination of the factual situation.
(2) An erroneous determination of the factual situation exists if the court determines a relevant fact wrongly or when the contents of documents, records on evidence examined or technical recordings seriously question the correctness or credibility of the determination of the relevant fact.
(3) An incomplete determination of the factual situation exists if the court fails to determine a relevant fact.

Article 471

(1) The judgement may be challenged in regard to a decision on a punishment, suspended sentence and judicial admonition when the court, in rendering this decision, does not exceed its statutory powers (Article 469 item 5), but improperly fixes the punishment in the light of aggravating and mitigating circumstances, or when the court applies or fails to apply provisions relating to the reduction of punishment or remission of punishment, or to a suspended sentence or judicial admonition, although legal conditions therefore exist.
(2) A decision on a security measure or confiscation of pecuniary benefit may be challenged, even though there is no violation of law referred to in Article 469 item 5 of this Act, if the court renders this decision incorrectly or does not order a security measure or the confiscation of pecuniary benefit although legal conditions therefore exist. A decision on the costs of criminal proceeding may be challenged for the same reasons.
(3) A decision on the claim for indemnification or on the publication of the judgement in the media may be challenged when the court renders a decision on these issues in violation of the legal provisions.

d) Appellate Proceedings

Article 472

(1) An appeal shall be filed with the court which rendered the judgement at first instance in a sufficient number of copies for the court, the adverse party and the defence counsel to reply thereto.
(2) A belated (Article 463) and impermissible (Article 464) appeal shall be dismissed by a ruling of the president of the panel at first instance.

Article 473

The first instance court shall deliver a copy of the appeal to the adverse party, who may submit a reply. The appeal together with all the files shall be delivered by the first instance court to the appellate court, which shall also consider the reply to the appeal received until the session of the panel.

Article 474

(1) When upon an appeal, the file arrives at the appellate court, the court secretary shall deliver the file to the State Attorney having jurisdiction, if an offence subject to public prosecution is involved. The State Attorney shall be bound to review it and return the file to the court without delay. He may express opinion on the groundedness of the appeal. The file shall be submitted to a reporting judge. The president of the panel cannot be the reporting judge
(2) When the State Attorney returns the file, the president of the panel shall schedule the session of the panel. The State Attorney shall be notified of the session of the panel.
(3) The reporting judge may, as appropriate, obtain a report on the violations of the criminal procedure provisions from the court at first instance, and may also, through the same court or through the investigating judge from the court in whose jurisdictional territory the action shall be carried out, or in any other way, check the allegations in the appeal regarding new evidence and new facts or obtain the necessary reports or files from other authorised authorities or legal entities.
(4) If the reporting judge determines that the files contain records and information referred to in Article 86 of this Act, he shall deliver the files to the court at first instance before the session of the appellate panel is held in order for the president of the panel at first instance to render a ruling on their exclusion from the file, and when the ruling becomes final to act pursuant to Article 86 paragraph 2 of this Act.

Article 475

(1) The appellate court shall bring a decision at the session of the panel.
(2) The accused and his defence counsel, subsidiary prosecutor or private person who, within the term for appeal or for a reply to an appeal, requested that they be notified of the session shall be notified accordingly. The president of the panel or the panel may decide that the parties be notified of the panel session, even if they have not so requested, if their presence would be of benefit for the clarification of the case.
(3) If the accused is in detention or serving a sentence and has a defence counsel, his presence shall be provided only if the president of the panel or the panel consider it expedient.
(4) The session of the panel shall begin with the report of the reporting judge on the facts of the case. The party present at the session shall present the most important part of the appeal or reply to an appeal within the time determined by the president of the panel. The panel may request from the parties present at the session necessary explanations on

positions stated in the appeal, and the parties may propose that certain files be read in order to supplement the report.
(5) The session may be held in the absence of the parties who were duly summoned, and if the accused did not report to the court the change of residence or domicile, the panel session may be held although he was not informed of the session.
(6) The court may close the session to the public only subject to the conditions prescribed in this Act (Article 388 to 390).
(7) The record of the panel session shall be enclosed with the files from the court at first instance and the appellate court.
(8) The rulings referred to in Article 472 paragraph 2 of this Act may be rendered even without the notification of the parties of the panel session.

e) Scope of First Instance Judgement Review

Article 476
(1) A court at second instance shall confine its review of the judgement of the part which is challenged by the appeal and to the grounds for which it is challenged (Article 467). The court shall always by virtue of the office review:
1) whether there is a violation of the criminal procedure provisions referred to in Article 468 paragraph 1 items, 5, 6, 9 to 11, paragraph 2 of this Article and whether the trial was, contrary to the provisions of this Act, held in the absence of the accused and his defence counsel;
2) whether the Penal Code was violated to the prejudice of the accused.
(2) If the appeal filed to the benefit of the accused does not contain data referred to in Article 466 paragraph 1 item 3 of this Act, the court at second instance shall confine itself to the review of the violations stated in paragraph 1 items 1 and 2 of this Article and to the review of the decision on punishment.
(3) Upon an appeal of the prosecutor, the judgement at first instance may also be vacated or revised to the benefit of the accused.

Article 477
The violation referred to in Article 468 paragraph 1 item 2 of this Act may be cited in the appeal only if the appellant was unable to present this violation in the course of the trial, or if he presented it but the court at first instance did not take it into account.

Article 478
An appeal on the ground of an erroneous or incomplete determination of the factual situation or a violation of the Penal Code, taken to the defendant's benefit, shall include an appeal from the decision on a criminal sanction and on the confiscation of pecuniary benefit.

Article 479
If the court at second instance, upon anybody's appeal, determines that the reasons for which it rendered a decision to the benefit of the accused are also beneficial to a co-accused who did not appeal or did not appeal in this respect, it shall proceed by virtue of the office as if such an appeal was filed.

f) Decisions of a Court at Second Instance on Appeal

Article 480

(1) A court at second instance may dismiss an appeal as belated or impermissible, or reject an appeal as unfounded and affirm the judgement at first instance, or vacate this judgement and remand the case to the court at first instance for retrial and anew decision, or revise the judgement at first instance.
(2) The court at second instance shall decide in one decision on all the appeals against the same judgement.

Article 481

(1) Upon finding that an appeal was filed after the legal term for an appeal had expired, such an appeal shall be dismissed by a ruling as belated.
(2) Upon finding that an appeal was files by a person unauthorised to file an appeal or by a person who waived his right to appeal or who withdrew his appeal or that the appeal is not permissible under law, such an appeal shall be rejected by a ruling as unfounded.

Article 482

When it establishes that the reasons for an appeal are lacking and that the violations of law referred to in Article 469 of this Act do not exist, the court at second instance shall by a judgement reject the appeal as unfounded and affirm the judgement at first instance.

Article 483

(1) When satisfying an appeal or by virtue of the office, a court at second instance shall vacate the judgement at first instance by a ruling and remand the case for retrial to the court at first instance if it establishes a substantial violation of the criminal procedure provisions, except in cases referred to in Article 486 paragraph 1 of this Act, or if it considers that, for reasons of an erroneously and incompletely determined factual situation, a new trial should be held before the court at first instance.
(2) The judgement at first instance may not be vacated to the prejudice of the accused for reasons referred to in Article 468 paragraph 1 item 8 of this Act.
(3) The court at second instance shall, by virtue of the office, vacate the judgement at first instance finding the accused guilty rendered under Article 402 paragraph 3 of this Act if he is deprived of freedom.

Article 484

(1) A court at second instance may order that a new trial before the court at first instance be held before a completely different panel. If very important reasons exist, a court at second instance may send the case to another court at first instance having the subject matter jurisdiction.
(2) A court at second instance may only partially revise the judgement at first instance if certain parts of the judgement may be separated without causing prejudice to correct adjudication.
(3) If the accused is in detention, a court at second instance shall review whether the reasons for detention still exist and render a ruling on the prolongation or vacation of detention and immediately send it to the court at first instance. This ruling is not subject to appellate review.

Article 485

If, while reviewing an appeal, the court at second instance determines that it has subject matter jurisdiction over the case as a court at first instance, it shall vacate the judgement at first instance, remand the case to its panel having jurisdiction and notify the court at first instance thereof.

Article 486

(1) When satisfying an appeal or by virtue of the office, the court at second instance shall revise the judgement at first instance by a judgement if it establishes that the relevant facts were correctly determined in the judgement at first instance and that, regarding the factual situation determined and by the correct application of law, a different judgement should have been rendered and, taking the state of the matter into consideration, in the case of violations referred to in Article 468 paragraph 1 items 5, 9 and 10 of this Act.

(2) If, due to the reversal of the judgement at first instance, conditions are met for ordering or vacating detention, the court at second instance shall render a separate ruling thereon, which is not subject to appellate review, unless otherwise prescribed by this Act.

Article 487

(1) In the statement of reasons for its judgement or its ruling, the court at second instance shall assess the allegations in the appeal and state the violations of law which it took into account by virtue of the office.

(2) When the judgement at first instance is vacated due to substantial violations of the criminal procedure provisions, the statement of reasons shall indicate which provisions were violated and what these violations were.

(3) When the judgement at first instance is vacated due to an erroneous or incomplete determination of the factual situation, the shortcomings in determining the factual situation shall be stated, and in particular, the shortcomings regarding the decision on the motions of the parties to obtain and examine certain evidence, as well as why new evidence and facts are important for rendering a correct decision.

Article 488

(1) The court at second instance shall return all files to the court at first instance, together with such number of copies of its decision as required for delivery to the parties and other persons concerned.

(2) If the accused is in detention, the court at second instance is bound to deliver its decision together with the files to the court at first instance at the latest within a term of three months from the day of receipt of the files from that court.

Article 489

(1) The court at first instance to which the case was remanded for trial shall proceed on the basis of the previous indictment. If the judgement at first instance was partially vacated, the court at first instance shall proceed on the basis of that part of the indictment to which the vacated part of the judgement relates.

(2) The parties may present new facts and new evidence at the retrial.

(3) The court at first instance shall be bound to perform all procedural actions and discuss all disputed issues which were specified by the court at second instance in its decision.

(4) When rendering a new judgement, the court at first instance shall be bound by the prohibition referred to Article 13 of this Act.

(5) If the accused is in detention, the panel of the court at first instance shall proceed pursuant to the provision of Article 127 paragraph 4 of this Act.

2. Appeal from Judgment of the Court at Second Instance

Article 490

(1) An appeal may be taken from the judgement of a court at second instance with a court at third instance only in the following cases:

1) if the court at second instance has imposed a punishment of long-term imprisonment or if it has affirmed the judgement at first instance which imposed such a punishment;
2) if the court at second instance has revised the judgment of acquittal rendered by the court at first instance and rendered a judgement of conviction.
(2) A court at third instance shall decide on an appeal from the judgement at second instance at a session of the panel according to the provisions regulating appellate proceedings.

(3) The provisions of Article 479 of this Act shall apply to the co-accused who was not entitled to take an appeal from the judgement at second instance.

3. Appeal from a Ruling

Article 491
(1) Parties and persons whose rights have been violated may take an appeal from the ruling of the State Attorney, the investigating judge and from other rulings of the court at first instance, unless the appeal is explicitly barred by this Act.
(2) Unless otherwise prescribed by this Act, rulings rendered by the panel before and in the course of the investigation and in the course of examination of the indictment are not subject to appellate review.
(3) Rulings rendered for the purpose of preparing the trial and the judgement may be challenged only in an appeal from the judgement.
(4) Rulings rendered by the Supreme Court are not subject to appellate review.

Article 492
(1) An appeal shall be taken with the authority which rendered the ruling.
(2) Unless otherwise prescribed by this Act, an appeal shall be taken within three days of the day when the ruling was served.

Article 493
Unless otherwise prescribed by this Act, an appeal taken from the ruling shall stay its execution.

Article 494
(1) The appeal taken from the ruling shall be decided by the court at a session of the panel.
(2) An appeal from the ruling of an investigating judge or a single judge shall be decided by the panel of the same court, unless otherwise prescribed by this Act.
(3) When deciding on an appeal, the court may
1) dismiss the appeal as belated or impermissible
2) reject the appeal as unfounded, or
3) satisfy the appeal and revise or vacate the ruling and, if necessary, remand the case for retrial.
(4) In the appellate proceedings, the court shall by virtue of the office establish whether the ruling was rendered by an authorised body and whether the penal code was violated to the detriment of the defendant.

Article 495
Unless otherwise prescribed, the provisions of Article 463, Article 465 paragraph 3, Article 466 to 472, Article 474 paragraphs 1, 3 and 4, Article 479 of this Act shall apply to the proceedings on an appeal from a ruling.

Article 496

Unless otherwise prescribed by this Act, the provisions of Article 459 and Article 495 of this Act shall apply to all other rulings rendered pursuant to this Act.

Chapter XXIV EXTRAORDINARY JUDICIAL REMEDIES

1. Reopening of Criminal Proceedings

Article 497

(1) Criminal proceedings completed by a final ruling or a final judgement may be reopened upon the request of an authorised person only in cases and under conditions prescribed by this Act.
(2) Criminal proceedings in which a person was sentenced in absence (Article 402 paragraph 3 and 4), and if there is a possibility of re-trial in his presence, shall be reopened also beyond the conditions prescribed in Article 498 and Article 501 of this Act, if the accused or his defence counsel submit a request for reopening of the proceedings within a term of one year from the day when the accused found of the judgement by which he was sentenced in absence.
(3) In the ruling allowing the reopening of criminal proceedings under the provision of paragraph 1 of this Article, the court shall decide that the indictment is served on the accused if it has not been served earlier, and it may also decide to return the case to the investigation phase, or to conduct the investigation if it was not conducted.
(4) Upon the expiry of the term from paragraph 2 of this Article, the reopening of criminal proceedings shall be allowed only under conditions prescribed in Article 498 and Article 501 of this Act.

Article 498

(1) A final judgement may be revised even without the reopening of criminal proceedings:
1) if in two or more judgements relating to the same convicted person several punishments were imposed without the subsequent fixing of an aggregate sentence for offences committed in concurrence;
2) if, when imposing an aggregate sentence by the application of provisions on concurrence, a punishment which was already encompassed within the punishment imposed according to the provisions on concurrence by a previous judgement was taken as established;
3) if a final judgement imposing an aggregate punishment for several offences is partially unenforceable due to an act of amnesty, pardon, or for other reasons.
(2) In the case referred to in paragraph 1 item 1 of this Article, the court shall by a new judgement revise previous judgements regarding the decisions on sentences and impose an aggregate sentence. The court at first instance which imposed the most severe punishment shall have jurisdiction for rendering a new judgement, and if the punishments are of the type, the court which fixed the highest level of punishment, or if the punishments are equal, the court which imposed the punishment last, shall have jurisdiction.
(3) In the case referred to in paragraph 1 item 2 of this Article, a court shall revise its

judgement which, in imposing an aggregate sentence, wrongly took into account a sentence which had already had been included in some previous judgement.
(4) In the case referred to in paragraph 1 item 3 of this Article, a court at first instance shall revise a previous judgement with regard to the sentence, and either pronounce a new sentence or determine what part of the sentence imposed by a previous judgement should be executed.
(5) The new judgement shall be rendered by the court at a session of the panel upon the motion of the State Attorney if the proceedings were conducted upon his request, or upon the request of the convicted person, after the opposing party has been heard.
(6) If in the case referred to in paragraph 1 items 1 and 2 of this Article judgements of other courts were taken into account while imposing the sentence, a certified copy of the new final judgement shall be delivered to those courts as well.

Article 499

If the charge was dismissed because there was no request from the authorised prosecutor, or there was no necessary motion or approval for prosecution or the proceedings were discontinued by a final ruling for the same reasons, the court shall allow the proceedings to be resumed upon the motion of the authorised prosecutor as soon as the causes of the above mentioned decisions cease to exist.

Article 500

(1) If the proceedings were discontinued by a final decision before preferring the indictment, the reopening of criminal proceedings shall be allowed upon the request of the authorised prosecutor if new evidence is presented which is capable of satisfying the court that the conditions for reopening criminal proceedings are met.
(2) The criminal proceedings which were discontinued by a final decision before the opening of a trial may be reopened if the State Attorney desisted from the prosecution while the injured person failed to assume to prosecution if, in desisting from the prosecution, the State Attorney is proven to have committed the offence of abuse of the official authority of the State Attorney or due to the offence of duress against an official engaged in the administration of justice. With regard to proving the State Attorney's offence, the provisions of Article 501 paragraph 2 of this Act shall apply.
(3) If the proceedings were discontinued because the subsidiary prosecutor desisted from prosecution or if it is deemed under law that he desisted, the subsidiary prosecutor shall not be entitled to request the reopening of proceedings.

Article 501

(1) Criminal proceedings terminated by a final judgement may be reopened to the benefit of the defendant, regardless of his presence:
1) if the judgement is proven to have been based on a false document, recording or false testimony of a witness, expert witness or interpreter;
2) if the judgement is proven to have resulted from a criminal offence committed by the State Attorney, judge, lay judge, investigator or a person who carried out evidence collecting actions;
3) if new facts or new evidence are presented which alone or in relation to previous evidence appear likely to lead to the acquittal of the person who was convicted or to his conviction on the basis of a more lenient criminal law provision;
4) if a person was convicted more than once for the same offence or more than one person was convicted for the same offence which could have been committed only by one person or by some of them;

5) if in the case of conviction for an extended criminal offence or any other offence which under law includes several acts of the same kind, new facts or new evidence are presented indicating that the convicted person did not omit an act included in the adjudicated offence, provided that these facts are likely to affect substantially the fixing of punishment.
(3) In the cases referred to in paragraph 1 items 1 and 2 of this Article, it must be proven by a final judgement that the persons mentioned above were convicted of the respective offences. If proceedings against these persons cannot be instituted by reason of their death or the existence of circumstance barring prosecution, the facts under paragraph 1 items 1 and 2 of this Article may be determined by other evidence.

Article 502

The provisions on the reopening of criminal proceedings shall also apply when a motion for the revision of a final judgement based on the ruling of the Constitutional Court of the Republic of Croatia (hereinafter: Constitutional Court) annulling or cancelling the regulation under which the final judgement was rendered, or based on a decision of the European Court of Human Rights related to a reason for the reopening of criminal proceedings.

Article 503

(1) Exceptionally, criminal proceedings may be reopened to the prejudice of the defendant if proceedings were terminated by a final judgement rejecting the charge:
1) if the judgement rejecting the charge was rendered because the court lacked subject matter jurisdiction and the authorised prosecutor institutes proceedings before the court having jurisdiction, requesting at the same time the reopening of proceedings;
2) if the judgement rejecting the charge was rendered because proceedings were conducted without the authorised prosecutor, and the authorise prosecutor requests the reopening of proceedings;
3) if the judgement rejecting the charge was rendered because the prosecutor withdrew the charge in the course of the trial, and it is proven that the withdrawal resulted from the offence of an abuse of the official authority of the State Attorney or due to the offence of duress against an official engaged in the administration of justice;
4) there was no required motion or approval for the proceedings resulting in the judgement rejecting the charge, and such motion or approval are subsequently given.
(2) In the case referred to in paragraph 1 of this Article, the reopening of proceedings is not permitted if more than one moth has elapsed from the moment when the prosecutor learned of the circumstances upon which he may have based the request for the reopening of proceedings.
(3) In the case of the reopening of proceedings for the reason referred to in paragraph 1 item 3 of this Article, the provision of Article 501 paragraph 2 of this Act shall apply.
(4) In the case referred to in paragraph 1 item 1 of this Article, after the ruling on the reopening of criminal proceedings becomes final, the panel of the court deciding on the request for the reopening of proceedings shall deliver it to the court having jurisdiction over the case.

Article 504

(1) A request for the reopening of criminal proceedings may be submitted by the parties and defence counsel and, after the death of the convicted person, by the State Attorney and the persons referred to in Article 464 paragraph 2 of this Act.
(2) A request for the reopening of criminal proceedings may also be submitted by the

parties and defence counsel in the case referred to in Article 501 paragraph 1 item 3 of this Act if the trial was held in absence of the defendant (Article 402 paragraphs 3 and 4), regardless of the presence or absence of the convicted person.
(3) The request may also be submitted after the convicted person has served a sentence, notwithstanding the period of limitation for the institution, amnesty or pardon.
(4) If the court which would have jurisdiction to decide on the reopening of criminal proceeding acquires knowledge that a reason for the reopening of proceedings exists, it shall notify the convicted person or person entitled to submit a request thereon.

Article 505

(1) The panel which rendered the decision at first instance in previous proceedings shall decide on the request for the reopening of criminal proceedings.
(2) The request shall state what the legal grounds are for the reopening and what evidence substantiates the facts on which the request is founded. If the request fails to state this information, the court shall call on the person who submitted the request to supplement his request within a determined term.
(3) No judge who participated in rendering the judgement in the previous proceedings shall sit as a member of the panel which decides on the request, except in case referred to in Article 498 of this Act.

Article 506

(1) The court shall dismiss a request by a ruling if it determines on the basis of the request itself and the file of the previous proceedings that the request was submitted by an unauthorised person, or that the legal grounds for the reopening of proceedings are lacking, or that the facts and evidence on which the request is founded have already been presented in a previous request for the reopening of proceedings which was rejected by a final court's ruling, or that the facts and evidence presented are clearly inadequate to allow for the reopening, or that the person submitting the request did not proceed in accordance with Article 505 paragraph 2 of this Act.
(2) If the court does not dismiss the request, it shall serve a copy of the request on the adverse party who is entitled to reply to the request within eight days. Upon receipt of the reply or when the term for the reply elapses, the president of the panel shill himself or via an investigating judge make inquiries into the facts and gather evidence that are set forth in the request and the reply thereto.
(3) Upon completion of the inquiries, the court shall immediately decide on the request for reopening of the proceedings by a ruling pursuant to Article 500 of this Act. In other cases concerning the offences subject to public prosecution, the president of the panel shall order that the files be delivered to the State Attorney who shall without delay return the files along with his opinion.

Article 507

(1) Having received the files from the State Attorney, the court shall on the basis of the results of the inquiries, unless it orders that they be supplemented, either satisfy the request and allow the reopening of proceedings or reject the request if new evidence does not support the reopening of criminal proceedings.
(2) If the court determines that the reasons for which it allowed the reopening of proceedings also exist for other co-accused who did not submit the request, it shall proceed by virtue of the office as if such a request exists.
(3) In the ruling granting the reopening of criminal proceedings, the court shall decide that a new trial be scheduled immediately, or that the case be referred back for indictment

proceedings.
(4) If the court considers, in the light of the evidence presented, that upon retrial the convicted person could be sentenced to such a punishment that after allowance is given for time served under earlier sentence he should be released, or that he could be acquitted, or that the charge could be rejected, it shall order the execution of the judgement to be postponed or stayed.
(5) When a ruling on the reopening of criminal proceedings becomes final, the execution of punishment shall be stayed and the court shall, upon a motion of the State Attorney, order detention if the conditions referred to in Article 123 of this Act exist.

Article 508

(1) New proceedings based on a ruling granting the reopening of criminal proceedings shall be conducted pursuant to the same substantive legal provisions which were applied in the original proceedings, except the provisions on limitation. In the course of the new proceedings, the court shall not be bound by rulings rendered in previous proceedings.
(2) If the new proceedings are discontinued before the beginning of the trial, the court shall vacate a previous judgement by a ruling discontinuing the proceedings.
(3) When the court renders a judgement in the new proceedings, it shall pronounce that the previous judgement is partially or entirely set aside or that it remains in force. When fixing the punishment pronounced in the new judgement, the court shall make allowance for the time served under the earlier sentence and if the reopening was only for some of the offences for which the convicted person was convicted, the court shall impose a new aggregate sentence pursuant to provisions of the Penal Code.
(4) In the new proceedings, the court shall always be bound by the prohibition referred to in Article 13 of this Act.

2. Request for the Protection of the Legality

Article 509

(1) The Attorney General may submit a request for the protection of legality against the final court's decisions if there was a violation of law.
(2) The Attorney General shall submit a request for the protection of legality against a court's decision rendered in proceedings and in a manner which presents a violation of basic human rights and liberties guaranteed by the Constitution, domestic or international law.
(3) A request for the protection of legality may not be taken from a decision which decided on a request for the protection of legality.

Article 510

(1) The Supreme Court shall decide on a request for the protection of legality.
(2) If the Attorney General withdraws a request for the protection of legality before the decision of the Supreme Court is rendered, the request shall be dismissed by a ruling.
(3) The request shall be decided at a panel session. Before the case is presented for a decision, the reporting judge shall, if necessary, obtain information on the violation of law indicated in the request.
(4) The Attorney General shall always be notified of the session.
(5) The Supreme Court may decide to suspend or postpone the execution of a final judgement until a decision on the request for the protection of legality is rendered.

Article 511

(1) When deciding on a request for the protection of legality, the court shall limit its review only to those violations of law which the Attorney General set forth in his request.
(2) If the court establishes that the ground on which it rendered a decision to the benefit of the convicted person also exists for any co-accused regarding whom a request for the protection of legality was not submitted, it shall proceed by virtue of the office as if such a request was submitted.
(3) If the request for the protection of legality is submitted to the benefit of the convicted person, the court shall, when rendering a decision, be bound by the prohibition referred to in Article 13 of this Act.

Article 512

The court shall by its judgement reject as unfounded a request for the protection of legality if it established that the violation of law which the Attorney General stated in his request does not exist.

Article 513

(1) If the court establishes that a request for the protection of legality is well-founded, it shall render a judgement whereby it shall, according to the nature of the violation of law, either revise the final decision or vacate in whole or in part both the decisions of the first instance court and the higher court or only the decision of the higher court and remand the case for a new decision or retrial to the first instance court or the higher court.
(2) If a request for the protection of legality was submitted to the prejudice of the defendant and the court establishes it is founded, it shall only determine that the violation of law exists, without effecting the final decision.
(3) If, according to the provisions of this Act, the court at second instance was not authorised to remove a violation of law made in the judgement at first instance or in the court proceedings that preceded it, and the court deciding on the request for the protection of legality which was submitted to the benefit of the defendant determines that the request is well-founded and that, in order to remove the violation of law which occurred, the decision at first instance shall be vacated or revised, it shall vacate or revise a decision at second instance as well, although the latter did not violate the law.

Article 514

(1) If the final judgement is vacated and the case is remanded for retrial, the previous indictment or the part of it which relates to the vacated part of the judgement shall be taken as the basis for the trial.
(2) The court shall be bound to perform all procedural actions and discuss all issues pointed out by the Supreme Court of the Republic of Croatia.
(3) The parties may present new facts and new evidence before the court at first instance or second instance.
(4) When rendering a new decision, the court shall be bound by the prohibition referred to in Article 13 of this Act.
(5) If, in addition to the decision of the lower court, the decision of the higher court is also vacated, the case shall be remanded to the lower court through the higher court.

3. Request for the Extraordinary Review of Final Judgment

Article 515

(1) In cases prescribed by this Act, a defendant sentenced by a final judgement to imprisonment or juvenile imprisonment, or to whom a forced confinement pursuant to Article 554 paragraph 1 of this Act was ordered, may submit a request for the extraordinary

review of the final judgement due to a violation of law.
(2) A defendant who does not take an appeal from the judgement is not entitled to submit a request for the extraordinary review of the final judgement unless the judgement at second instance imposed a punishment of imprisonment instead of an acquittal, suspended sentence, judicial admonition or fine, if it imposed a juvenile imprisonment sentence instead of an educational measure.
(3) A request for the extraordinary review of a final judgement may not be submitted against a judgement of the Supreme Court.

Article 516
The Supreme Court shall decide on a request for the extraordinary review of the final judgement.

Article 517
(1) A request for the extraordinary review of the final judgement may be submitted:
1) for the violation of the Penal Code to the prejudice of the convicted person referred to in Article 469 items 1 to 4 of this Act or for the violation from item 5 of this Article if the court exceeded its statutory power in a decision on punishment, security measure or confiscation of pecuniary benefit;
2) for the violation of the criminal procedural provisions referred to in Article 468 paragraph 1 items 1, 5 9 and 10 of this Act or for the participation in the rendering of a decision at the second or third instance of a judge or lay judge who should have been disqualified (Article 32 paragraph 1) or if the defendant was, contrary to his request, denied the right to use his language at the trial or at the trial before the court at second instance (Article 8);
3) for the violation of the defendant's right to defence at the trial or for the violation of the criminal procedural provisions in appellate proceedings if this violation could have influenced the judgement.
(2) Violations referred to in paragraph 1 items 2 and 3 of this Article may be indicated only if they have been indicated in the appeal against the judgement at first instance or made in the proceedings at second instance.

Article 518
(1) The convicted person and his defence counsel may submit a request for the extraordinary review of the final judgement within the term of one month from the date of receipt of the final judgement in accordance with Article 463 paragraph 3 of this Act.
(2) A request for the extraordinary review of the final judgement shall be submitted to the court at first instance.
(3) A request submitted belatedly or by an authorised person or submitted in the case of a conviction to a punishment or measure regarding which the request may not be submitted (Article 515 paragraph 1) or is not permitted under law (Article 515 paragraphs 2 and 3) shall be dismissed by a ruling by the president of the panel of the first instance court or by the Supreme Court.
(4) The court secretary shall submit a copy of the request with the files to the Attorney General who may, within fifteen days from the day of receipt of the request submit a reply to it.
(5) The court at first instance or the Supreme Court may, regarding the contents of the request, decide to postpone or stay the execution of the final judgement. The appeal from such a ruling shall not stay its execution.

Article 519

Regarding a request for the extraordinary review of the final judgement, the provisions of Article 509 paragraphs 2 and 3, Article 511 to 513 paragraphs 1 and 2, and Article 514 of this Act shall apply.

Part three
SUMMARY PROCEEDINGS

Chapter XXV

GENERAL PROVISIONS

Article 520

In proceedings before a municipal court the provisions of the Articles 521 to 548 of this Act (summary proceedings) shall apply. If there are no special provisions, the provisions of ordinary proceedings shall apply.

Article 521

(1) Unless when it is permitted by a special, the State Attorney may by a ruling reject the criminal charge or withdraw from the prosecution although there is a ground for suspicion that an offence was committed to be prosecuted by virtue of the office and for which a fine or imprisonment up to five years is set if:
1) it is likely, taking into account the circumstances, that Article 58 of the Penal Code shall apply in the criminal proceedings against the defendant,
2) the execution of the punishment or safety measure against the defendant in underway, and the institution of criminal proceedings for another offence has no purpose with regard to the severity and nature of the offence, its motive and the effect of penal sanction on the perpetrator not to commit any offence in future;
3) the defendant has been extradited or delivered to a foreign country or to the international criminal court to carry out proceedings for another criminal offence;
4) the accused has been reported for several offences by which he attained two or more offences but it is purposeful to sentence him only for one offence, because instituting criminal proceedings for other offences would not have any significant influence on rendering the punishment or other sanctions to the perpetrator.
(2) The State Attorney shall deliver the ruling from paragraph 1 of this Article beside to the defendant to the injured person and the prosecutor, along with the instruction to the injured person to claim the indemnification in the litigation. The ruling of the State Attorney is not subject to an appeal.

Article 522

(1) The State Attorney may, after obtaining a prior consent of the victim or the injured person, reject the criminal charge or withdraw from the prosecution although there is reasonable suspicion that the offence was committed which is prosecuted by virtue of the office and punishable by a fine or imprisonment up to five years if the defendant assumes the obligation:
1) to carry out any commitments aimed at repairing or compensating damage caused by the offence;
2) to pay certain amount to the favour of a public institution, for humanitarian or charitable purposes or the fund for compensation of damage to victims of criminal offences;

3) to pay the due legal support and regular payment of due liabilities;
4) to carry out community service work at large;
5) to undergo treatment for drug addiction or other addictions pursuant to special regulations;
6) to undergo psychosocial treatment to treat violent behaviour with the consent of the accused to leave the family during the therapy.
(2) The State Attorney shall define in his ruling the term within which the defendant has to satisfy the obligations assumed under paragraph 1 of this Article, which may not be longer than one year.
(3) The State Attorney shall deliver the ruling from paragraph 1 of this Article beside to the defendant also to the injured person and the prosecutor, along with the instruction to the injured person to claim the indemnification in the litigation. The ruling of the State Attorney is not subject to an appeal.

Article 523

(1) The single judge shall discontinue the criminal proceedings by a ruling if, in cases from Article 521 and 522 of this Act, the State Attorney declares that he withdraws conditionally the prosecution.
(2) In cases from Articles 521 and 522 of this Act, the single judge shall, upon withdrawal of the charge by the State Attorney, discontinue the criminal proceedings by a ruling.

Article 524

(1) The summary criminal proceedings shall be instituted upon the indictment of the State Attorney, subsidiary prosecutor or upon a private charge.
(2) If not otherwise stipulated by this Act, the indictment must include the content referred to in Article 342 of this Act with the type and measure of the penal sanction to be passed. The indictment referring to an offence punishable by a fine or imprisonment for up to eight years shall include only a summarised statement of reasons.
(3) The private charge shall include the content referred to in Article 342 paragraph 1 items 1 to 4 of this Act, including the data on the witness and the expert witness and other evidence which are proposed to be presented at the trial.

Article 525

(1) When a single judge or the president of the panel (judge) receives an indictment or a private charge, he shall first verify whether the court has jurisdiction and whether there are grounds for a dismissal of the indictment (Article 344) or the private charge, and if such grounds exist, he shall render a ruling to dismiss the indictment or private charge. The ruling shall be submitted to the State Attorney, subsidiary prosecutor or private prosecutor and to the accused.
(2) If the judge does not render the ruling from paragraph 1 of this Article, he shall proceed in accordance with Article 345 to 347 of this Act.
(3) If the accused is in detention, the term for reply to the indictment shall be three days from the day of receipt of the indictment.

Article 526

(1) If the indictment relates to an offence punishable by imprisonment for more than eight years, Article 348 to 367 of this Act shall apply.
(2) If the charge refers to an offence punishable by a fine or the imprisonment up to eight years, the indictment panel shall examine the indictment at a panel session without the

participation of the parties. If it established that the indictment is grounded, it shall render a ruling by which it confirms the indictment and shall compile the case file.
(3) The panel shall without delay submit the ruling of confirmation of the indictment from paragraph 1 of this Article, together with the case file to the clerk's office of the court having jurisdiction.
(4) The judge shall schedule the trial within one month at the latest, and if detention has been ordered then within fifteen days.

Article 527
(1) In a private charge has been submitted, and the judge does not render a ruling from Article 525 paragraph 1 of this Act, he shall schedule the trial within a month from the receipt of the private charge.
(2) Before scheduling a trial for offences subject to private prosecution which are within the jurisdiction of a single judge, the single judge may summon only the private prosecutor and the defendant to a hearing for the preliminary clarification of the matter if he considers it expedient for the prompt termination of proceedings. Along wit the summons, the defendant shall be served with a copy of the private charge.
(3) If a reconciliation of the parties and the withdrawal of the private charge or rejection of the charge do not occur, the single judge may immediately open the trial, of which the private prosecutor and the defendant shall be specially notified when served the summons.
(4) If the single judge does not open the trial, he shall render a decision with regard to evidence to be examined at the trial and shall schedule the trial.
(5) Within territories where reconciliation panels are established, the court may direct the parties to these panels for the purpose of an attempt at reconciliation, provided that both parties have a domicile within the territory of a reconciliation panel. The court shall determine the term within which reconciliation shall be attempted, and after this term expires or if reconciliation fails, proceedings shall continue.

Article 528
(1) After the trial is scheduled, the court cannot by virtue of the office declare that it lacks territorial jurisdiction.
(2) An objection of territorial incompetence may only be raised by the defendant before the commencement of the trial.

Article 529

(1) If the trial is to be held before the single judge, the preliminary hearing shall not be held.
(2) If the trial is to be held before the panel, the president of the panel may hold the preliminary hearing pursuant to Article 370 to 379 of this Act.

Article 530
(1) In the course of the trial the court may proceed in accordance with Article 374 of this Act.
(2) The summons served on the accused shall state that he may appear at the trial with evidence for his defence, or that he should in time propose such evidence to the court so they can be obtained for the trial.
(3) The accused shall be reminded in the summons that the trial will be held even in his absence if legal conditions (Article 531 paragraph 2) therefore exist. The accused shall also be warned that, in the case where a defence counsel is not mandatory, a continuance

of the trial shall not be granted due to the absence of the defence counsel from the trial or due to the retaining of a defence counsel only at the trial.

Article 531

(1) In the case referred to in Article 404 of this Act, the trial may be held in the absence of the parties.
(2) In the proceedings for an offence punishable by a fine or imprisonment up to eight years, the trial may be held in the absence of the accused who was duly summoned, but he did not appear without justified reasons or if it is obvious that he avoids to receive the summons, provided that his presence is not necessary and that has already been interrogated or has already given his statement regarding the charge.

Article 532

(1) The trial shall be held in the seat of the court. In urgent cases, particularly when a judicial view should be carried out, or when this is necessary to facilitate the presentation of evidence, the trial may, with the approval of the president of the court, also be held at the place of the commission of the offence, or at the place where the judicial view should be carried out if these places are within the jurisdictional territory of the court.
(2) The judge who acted pursuant to Article 525 and Article 526 of this Act shall not be disqualified from participation in the trial as the president of the panel or as a single judge.

Article 533

(1) The court before which the trial is held shall determine whether the trial be recorded by an audio or audio– video technical device.
(2) In case from paragraph 1 of this Article the following shall be entered in the record of the trial:
1) presented evidence;
2) rulings rendered by the court;
3) statements of the parties assessed as particularly important by the court.
(3) The record may be made by the court advisor or court apprentice. If the record is made by the court advisor or court apprentice, Article 82 paragraph 3 of this Act shall apply.
(4) The transcript of the recording of the trial shall be made and enclosed to the file if the trial is postponed. The transcript shall be reviewed and authenticated by the president of the panel or the single judge.
(5) If the court is not able to carry out recording in accordance with paragraphs 1 to 3 of this Article, general rules on making the record shall apply.
(6) The minister responsible for justice shall bring more detailed regulations on technical conditions, the method for recording and the protection of recording from being erased or damaged.

Article 534

(1) The trial shall be postponed if the duly summoned State Attorney fails to appear. In such a case the court shall proceed in accordance with Article 401 paragraph 1 of this Act.
(2) The trial may also be held in the absence of a private prosecutor whose domicile is outside the jurisdictional territory of the court to which the private charge is submitted provided the private prosecutor submitted a motion that the trial be held in his absence.

Article 535

(1) The trial shall commence by announcing the contents of the indictment or of the private

charge. Whenever possible, the commenced trial shall be completed without interruptions.
(2) The accused shall be interrogated at the beginning of the evidence procedure notwithstanding his attitude towards the indictment.
(3) The accused, witness and expert witness shall first be examined by a judge or the president of the panel. Thereafter, the examination shall proceed in the manner that the accused is first interrogated by the defence counsel, if any, and witnesses and expert witnesses by the party who proposed them.
(4) If the accused pleads to all counts of the charge, at the end of his statement he shall state whether he agrees with the proposed type and level of the penal sanction. Until the statement of the accused, the State Attorney may change the type and level of the penal sanction stated in the indictment.
(5) If the accused pleads guilty to all counts of the charge, and the court, after having interrogated the accused, assesses his confession to be in compliance with the evidence examined so far, in further evidence procedure it shall examine only those evidence referring to the ruling on penal sanctions.
(6) If, in the case from paragraph 4 of this Article, the accused gives his consent to the type and scope of the penal sanctions, the court in its judgement must not pronounce any other type of penal sanction or a more severe punishment than proposed.

Article 536

If the trial is held before the panel the provisions of Articles 413 to 447 of this Act shall apply.

Article 537

(1) If the accused is sentenced to imprisonment, a copy of the judgement shall always contain a statement of reasons. The written copy of the judgement by which imprisonment was not pronounced shall be served with a short statement of reasons only at the party's request.
(2) If the parties do not request a written copy of the judgement and if the accused pleaded guilty and agreed with the proposed punishment, the short statement shall be entered into the record of the trial. The copy of the judgement shall not contain the statement of reasons and shall be delivered within three working days.

Article 538

(1) An appeal may be taken from the judgement within a term of eight days from the day on which the copy of the judgement is served. If the judgement imposes imprisonment, the copy of the judgement shall always contain information pursuant to Article 459 of this Act.
(2) The parties and the injured person having the right to appeal from the judgement (Article 464 paragraph 4) may waive the right to appeal immediately upon the pronouncement of the judgement. In such a case, a copy of the judgement without a statement of reasons shall be served on them within three days.
(3) If the course of the trial was recorded in terms of Article 533 of this Act, the parties and the injured person may announce an appeal within three days from the day on which the copy of the judgement from Article 537 of this Act being served on them. In such a case, the term for the appeal from paragraph 1 of this Article shall commence for the appellants from the date of the transcript of the audio recording being delivered to them.
(4) If, contrary to the provision of Article 533 paragraph 4 of this Act, a transcript of the audio recording of the session was not made, or if the transcript was not written and sent within the terms set forth in Article 537 paragraph 2 and Article 538 paragraph 2 of this Act, the judge shall notify the president of the court on the reasons thereof.

Article 539

When a court at second instance decides on an appeal from a judgement at first instance rendered in summary proceedings, both parties shall be notified of the session of the court at second instance if the judgement at first instance imposed a punishment of imprisonment, or if both parties requested to be notified of the session, or if the president of the panel or the panel at second instance consider that the presence of the parties or one of them would be expedient for the clarification of the matter.

Chapter XXVI
ISSUANCE OF A CRIMINAL ORDER AND IMPOSITION OF JUDICIAL ADMONITION

1. Issuance of a Criminal Order

Article 540

(1) For criminal offences for which a fine or punishment of imprisonment up to five years is prescribed, and for which the panel has no jurisdiction, which come to the State Attorney's knowledge on the basis of a credible crime report, the State Attorney may request in the indictment that the court issues a criminal order imposing by it a certain punishment or measure on the defendant without holding a trial.

(2) The State Attorney may request the imposition of one or more of the following punishments or measures:

1) a fine to the amount of ten to one hundred average daily incomes in the Republic of Croatia (Article 51 paragraph 4 of the Penal Code);

2) a suspended sentence for passing a judgement of imprisonment up to one year, or a fine, or a judicial admonition;

3) confiscation of pecuniary benefit obtained in consequence of the commission of an offence and publication of the judgement with the criminal order in the media;

4) prohibition to drive a motor vehicle up to two years, or seizure of objects.

(3) Under the conditions from paragraphs 1 and 2 of this Article, the following sanctions may be imposed by a criminal order to a legal person:

1) a fine not exceeding HRK 2,000,000.00;

2) a suspended sentence with a fine;

3) confiscation of pecuniary benefit obtained in consequence of the commission of an offence and publication of the judgement with the criminal order in the media.

(4) If the injured person submitted a claim for indemnification, the State Attorney shall make a motion to the court to decide on the claim. If the court does not approve the claim for indemnification, it shall pronounce the measure of confiscation of pecuniary benefit obtained in consequence of the commission of an offence.

Article 541

(1) If the single judge agrees with the request, he shall issue a criminal order by a judgement.

(2) The judgement on a criminal order shall state only that the State Attorney's request is satisfied and that a punishment or measure from the request shall be imposed on the defendant whose personal data shall be clearly indicated. The ordering part of the judgement on a criminal order shall contain the necessary information referred to in Article 459 paragraph 1 to 3 of this Act, including the decision on a claim for indemnification if it was submitted. A statement of reasons shall state the evidence which

justifies the issuance of the criminal order.
(3) If the State Attorney proposed confiscation of pecuniary benefit obtained in consequence of the commission of an offence, and the injured person submitted a claim fro indemnification, the court shall sentence the claim for indemnification. If it does not sentence the claim for indemnification, he shall confiscate pecuniary benefit obtained in consequence of the commission of an offence, and instruct the injured person to claim the indemnification in a litigation.
(4) The criminal order shall contain an instruction to the defendant pursuant to the provisions of Article 542 paragraph 2 of this Act, and stating that after the expiry of the term for submitting an objection, if no objection is submitted, the criminal order shall become final and the punishment imposed on the defendant shall be executed.

Article 542
(1) The criminal order shall be delivered to the defendant and his defence counsel if he has one, as well as to the State Attorney and the injured person.
(2) The defendant or his defence counsel may, within a term of eight days of receipt, submit an objection against the criminal order in writing. The objection need not contain a statement of reasons; it may propose evidence to the benefit of the defence. The accused may waive his right to submit an objection, but he may not withdraw the submitted objection after the trial has commenced. Payment of the fine before the lapse of the term for submitting an objection shall not be deemed to be a waiver of the right to an objection.
(3) The president of the panel shall grant reinstatement to the prior state of affairs to the defendant who, for justifiable reasons, fails to submit an objection within the prescribed term. The provisions of Articles 92 to 94 of this Act shall apply when deciding on a petition for reinstatement to the prior state of affairs.
(4) If a single judge does not dismiss the objection as belated or because it is submitted by an unauthorized person, he shall submit the indictment to the indictment panel in terms of Article 526 paragraph 2 of this Act.
(5) In case referred to paragraph 4 of this Article, the indictment panel shall examine the indictment in terms of Article 344 paragraph 1 items 1, 3 and 5 of this Act, and examine whether the indictment is preferred on the basis of a credible crime report.

Article 543
(1) The single judge shall dismiss a request to issue a criminal orders if:
1) there are grounds to dismiss the proceedings as referred to in Article 380 of this Act;
2) it concerns an offence for which such a request may not be submitted;
3) the State Attorney requests the imposition of a punishment or a measure which is not permitted under law.
(2) If the single judge considers that the information in the indictment does not offer sufficient grounds to issue a criminal order or that according to such information the imposition of some other punishment or measure rather than the one requested by the State Attorney can be expected, he shall, upon receipt of the indictment, act in accordance with of Article 542 paragraph 4 of this Act. The indictment shall be served on the defendant together with the instruction on the right to a response, with the notification that the court has not accepted the State Attorney's request that a criminal order be issued. The indictment panel shall examine the indictment pursuant to Article 542 paragraph 5 of this Act.

Article 544

(1) If the indictment panel does not confirm the indictment, the criminal order regarding the defendant who made the objection shall be put out of force. The single judge shall act in this manner also when passing a new judgement.
(2) The single judge is bound neither by the State Attorney's request referred to in Article 540 of this Act nor by the prohibition referred to in Article 13 of this Act.

Article 545
(1) The State Attorney shall have the right to file an appeal against the judgement on issuing a criminal order which shall be decided by a higher court.
(2) If the defendant made an objection against a judgement on issuing a criminal order, the State Attorney's appeal shall be rejected.

2. Imposition of Judicial Admonition

Article 546
(1) When, according to the provisions of the Penal Code, the imposition of judicial admonition comes into consideration, the court shall impose this criminal sanction by a judgement.
(2) Except as otherwise provided in this Chapter, the provisions of this Act concerning the judgement of conviction shall apply respectively to the judgement on judicial admonition.
(3) Beside the personal data of the accused, the ordering part of the judgement imposing judicial admonition shall state that the accused is found guilty of the offence charged and shall give the legal name of the offence. The ordering part shall also state the data referred to in Article 459 paragraphs 1 to 3 of this Act.
(4) In the statement of reasons for the judgement, the court shall state the reasons that guided it in the imposition of judicial admonition.

Article 547
The judgment on judicial admonition, together with essential reasons, shall be pronounced immediately after the completion of the trial. On this occasion the president of the panel shall remind the accused that a punishment is not imposed on him for the offence he has committed, but that according to the rules of behaviour in his social environment and according to the moral considerations he deserves an admonition which shall warn him not to commit offences any more. If the judgment on judicial admonition is pronounced in the defendant's absence, the court shall include such a warning in the statement of reasons. The provision of Article 537 paragraph 2 of this Act shall apply to the waiver of the right to appeal and to the issuance of a written copy of the judgment.

Article 548
(1) The judgement on judicial admonition may be challenged for the reasons referred to in Article 467 of this Act.
(2) If the judgement on judicial admonition contains a decision on security measures, on the costs of criminal proceedings, on the confiscation of pecuniary benefit or on a claim for indemnification, this decision may be challenged because the court did not correctly apply the security measure or the confiscation of pecuniary benefit, or because it rendered a decision on the costs of criminal proceedings or on a claim for indemnification contrary to the legal provisions.

Part four
SPECIAL PROCEEDINGS

Chapter XXVII
PROCEEDINGS REGARDING MENTALLY DISTURBED DEFENDANTS

Article 549

(1) The provisions of this Act, except for the provisions of the Part Three, Chapter XXV and XXVI, shall also apply in the proceedings against persons without mental capacity at the time of committing an offence, unless otherwise specially provided in this Chapter.
(2) The proceedings against the persons without mental capacity at the time of committing an offence shall be initiated and conducted only upon the request of the State Attorney.
(3) The State Attorney shall, if there is a doubt in an excluded or diminished mental capacity of the defendant or his ability of the defendant to stand trial due to mental disturbance (Article 325), during the investigation gather the necessary evidence and facts to establish whether the defendant who committed an offence was without mental capacity at the time of committing the offence and whether the conditions for ordering confinement of the defendant in accordance with the provisions of the Act on the Protection of Mentally Disturbed Persons have been met.
(4) If during the investigation it is established that the defendant was without mental capacity at the time of committing the offence and that he is not able to stand trial due to mental disturbance, the investigation shall not be interrupted.

Article 550

(1) If a defendant committed a criminal offence without mental capacity, the State Attorney shall request in the indictment that the court should establish that the defendant committed an offence without mental capacity and that the confinement of the defendant be ordered according to the provisions of the Act on the Protection of Mentally Disturbed Persons.
(2) After the indictment referred to in paragraph 1 of this Article is preferred, the defendant must have a defence counsel.
(3) In such cases, the court shall proceed with a special expedition.

Article 551

(1) Apart from the cases where investigative detention may be ordered against the defendant under this Act, detention shall also be ordered if it is possible that the defendant for whom the State Attorney made a request referred to in Article 550 paragraph 1 of this Act could commit a severe criminal offence due to a severe mental disturbance. Before ordering investigative detention, the opinion of an expert witness, a psychiatrist on the dangerousness of the defendant shall be obtained. The management of the prison shall be informed on ordering detention on this basis for the purpose of detention of the defendant in a medical institution in terms of the provision of Article 135 paragraph 2 of this Act.
(2) Investigative detention referred to in paragraph 1 of this Article may last while the defendant is dangerous, but should not exceed the terms prescribed in Article 133 of this Act.

Article 552

(1) Upon the completion of the trial, the court shall decide on the State Attorney's indictment referred to in Article 550 paragraph 1 of this Act. The legal representative of the defendant, or, if there is no legal representative, his spouse or common-law spouse, or his close relative shall be notified of the trial.
(2) Before the trial, in the presence of the expert witness, the president of the panel shall try to interrogate the defendant for the purpose of assessing the defendant's ability to stand trial (Article 325 paragraph 5). The State Attorney, the defendant, the defence counsel and the legal representative of the defendant shall be notified of the time and place of the interrogation. The interrogation shall also be performed in the absence of the duly summoned State Attorney and legal representative. If after the examination of the expert witness, the court establishes that the defendant is not able to stand trial due to a mental disturbance, the trial shall be held in the absence of the defendant.
(3) The defence counsel or the defendant shall, when giving their statement regarding the charge, declare whether the defendant committed an offence.
(4) If the defendant is unable to stand trial due to a mental disturbance and the trial is held in his absence, he shall be deemed to deny the soundness of the charge, and at the end of the evidence collecting procedure, the records on his previous interrogation shall be read.
(5) The expert witness who made a psychiatric examination of the defendant shall be examined about the ability of the defendant to stand trial and his mental capacity as well as about the existence of legal conditions for ordering confinement.

Article 553

(1) If in the course of the trial the State Attorney establishes that the examined evidence indicate that the defendant committed the offence with mental capacity or with diminished mental capacity, the State Attorney shall not submit the request for ordering confinement and shall change the indictment.
(2) In case from paragraph 1 of this Article, the trial shall be held anew, and the president of the panel shall notify the defendant of his changed legal position. If necessary for the preparation of the defence, the court may, upon the request of the defence, adjourn the trial.
(3) The records on previous statements of witnesses or expert witnesses examined in absence of the defendant may not be read without the consent of the parties pursuant to the provision of Article 552 paragraph 4 of this Act.

Article 554

(1) If the State Attorney made a request referred to in Article 550 paragraph 1 of this Act, and the court, upon the completion of the trial, establishes that the defendant committed the offence without mental capacity and that the conditions exist for ordering the compulsory placement of the defendant in a mental institution in accordance with the Act on the Protection of Mentally Disturbed Persons, it shall render a judgment whereby it is determined that the defendant committed an offence, that he committed it without mental capacity and shall by a ruling order his confinement in a mental institution for six months.
(2) The court shall, when passing the judgment and the ruling from paragraph 1 of this Article, order or prolong investigative detention due to the reason referred to in Article 551 paragraph 1 of this Act.
(3) If the State Attorney made a request referred to in Article 550 paragraph 1 of this Act in the indictment, and the court, upon the completion of the trial, establishes that the defendant committed the offence without mental capacity, but no conditions exist for

ordering the compulsory placement of the defendant in a mental institution in accordance with the Act on the Protection of Mentally Disturbed Persons, it shall render a judgment of acquittal and by which the request for ordering confinement is denied.
(4) If the State Attorney made a request referred to in Article 550 paragraph 1 of this Act in the indictment, and the court establishes that the reasons referred to in Article 452 of this Act exist, it shall render a judgment rejecting the charge.
(5) If the State Attorney made a request referred to in Article 550 paragraph 1 of this Act in the indictment, and the court establishes that the reasons referred to in Article 453 of this Act exist, apart from the exclusion from guilt due to the mental incapacity, it shall render a judgment of acquittal.
(6) If the court does not establish that at the time of committing a criminal offence the defendant was without mental capacity, it shall render a judgment rejecting the charge. In such case, the State Attorney may immediately upon the judgment having been rendered, give an oral statement by which he waives the right to appeal and may file a new charge for the same criminal offence. The provisions of Chapter XIX of this Act, except for the provision of Article 342 paragraph 1 of this Act, shall not apply to this charge.
(7) The trial shall be held before the same panel on the basis of the new charge. For the purpose of preparation of defence, the trial can be adjourned by the court. Previously examined evidence shall not be examined anew, unless the panel establishes that single pieces of evidence need to be examined anew. The written judgment rejecting the charge shall be served to the parties only on their request. An appeal from the judgment shall not be allowed.

Article 555

(1) The judgement referred to in Article 554 paragraphs 1 and 3 of this Act shall be delivered to the State Attorney, the defendant, his defence counsel and the legal representative of the defendant, and if there is none, to the spouse or a common-law spouse or to the closest relative of the defendant.
(2) All persons who have the right to appeal from the judgment (Article 464) may, within fifteen days from the day of its receipt, make an appeal from the judgment referred to in Article 554 paragraphs 1 and 3 of this Act.
(3) The court at second instance shall hold a session of the panel in the presence of the defendant, if deemed purposeful. Its ruling with all the documents shall be sent to the first instance court at the latest within the term lasting for a half of the term prescribed in Article 488 paragraph 2 of this Act.
(4) The president of the panel shall, upon the request of the defendant, render a ruling ordering the execution of confinement of the defendant before its legal validity.
(5) The president of the panel shall, immediately upon the enforceability of the ruling ordering the confinement, submit all necessary documents to the competent court for the confinement procedure in accordance with the Act on the Protection of Mentally Disturbed Persons.

Chapter XXVIII
PROCEEDINGS FOR SEIZURE OF OBJECTS AND CONFISCATION OF PECUNIARY BENEFIT

Article 556

(1) Objects which must be seized under law, and all other objects, shall also be seized when criminal proceedings do not terminate with a judgement of conviction, provided

that this is required by considerations of public safety or the protection of the honour and dignity of citizens.
(2) The authority before which proceedings were held at the time they were terminated shall render a separate ruling thereon.
(3) The ruling on the seizure of objects from paragraph 1 of this Article shall also be rendered by a court when it has failed to render such a decision in a judgement of conviction.
(4) A certified written copy of the decision on the seizure of objects shall be delivered to the person from whom the object is seized.
(5) The person from whom the object is seized is entitled to file an appeal from the decision referred to in paragraphs 2 and 3 of this Article. If the ruling referred to in paragraph 2 of this Article is not rendered by a court, the panel of the court having jurisdiction to try at first instance shall decide on the appeal.

Article 557

(1) Pecuniary benefit obtained as a result of the commission of an offence shall be determined in the criminal proceedings by virtue of the office.
(2) The court and other authorities before which criminal proceedings are conducted shall in the course of proceedings obtain evidence and investigate circumstances which are relevant for the determination of pecuniary benefit.
(3) If the injured person made a claim for indemnification which, with regard to its ground, excludes the confiscation of pecuniary benefit obtained as a result of the commission of an offence, the pecuniary benefit shall only be determined for the part which exceeds the claim for indemnification.

Article 558

(1) When the confiscation of pecuniary benefit obtained in consequence of the commission of an offence comes into consideration, the person to whom the pecuniary benefit was transferred as well as the representative of the legal entity shall be summoned for interrogation in pre-trial proceedings and at the trial. The summons shall state that the proceedings will be held even in their absence.
(2) The representative of the legal entity shall be heard at the trial after the defendant who pleads guilty and otherwise at the beginning of the presentation of evidence. The court shall proceed in the same manner regarding the person to whom the pecuniary benefit was transferred, unless he is summoned as a witness.
(3) The person to whom the pecuniary benefit was transferred and the representative of the legal entity are entitled to propose evidence concerning the determination of the pecuniary benefit and, upon the authorization of the president of the panel, to ask questions of the defendant, witnesses and expert witnesses.
(4) If the court establishes that the confiscation of pecuniary benefit comes into consideration while the trial is in progress, it shall recess the trial and summon the person to whom the pecuniary benefit was transferred as well as the representative of the legal entity.

Article 559

The amount of pecuniary benefit shall be fixed at the discretion of the court whenever its assessment entails undue difficulties or a significant delay in the proceedings.

Article 560

(1) The court may order the confiscation of pecuniary benefit by a decision in which the

defendant is found guilty of the offence charged.
(2) In the ordering part of the judgement the court shall state which object is to be seized or which sum confiscated.
(3) A certified copy of the decision shall also be delivered to the person to whom the pecuniary benefit was transferred, as well as to the representative of the legal entity, provided that the court orders the confiscation of pecuniary benefit from such an entity.

Article 561

The provisions of Article 465 paragraph 2 and 3 and Article 479 of this Act shall apply respectively in regard to an appeal against the decision on the confiscation of pecuniary benefit.

Article 562

The person referred to in Article 558 paragraph 3 of this Act may submit a request for the re-opening of criminal proceedings regarding the decision on the confiscation of pecuniary benefit.

Article 563

Except as otherwise provided by the provisions of this Chapter regarding the implementation of security measures or the confiscation of pecuniary benefit, other provisions of this Act shall apply respectively.

Chapter XXIX
PROCEEDINGS FOR THE REVOCATION OF A SUSPENDED SENTENCE

Article 564

(1) When a court orders in a suspended sentence that the punishment will be imposed if the defendant does not restore pecuniary benefit, does not make compensation for damages or does not meet other obligations, and if the convicted person fails to meet these obligations within a prescribed term, the court at first instance shall institute proceedings for the revocation of the suspended sentence upon a motion submitted by the authorized prosecutor or injured person.
(2) The judge assigned to the case shall interrogate the defendant, if he is available, and conduct the necessary inquiries for the purpose of determining facts and obtaining evidence important for the decision..
(3) Thereafter, the president of the panel shall schedule a session of the panel and notify the prosecutor, convicted person and injured person thereof. Non-appearance by the duly notified parties and injured person does not prevent the session of the panel from being held.
(4) If the court determines that the convicted person has failed to meet an obligation ordered by the judgment, the court shall render a judgment revoking the suspended sentence and ordering the execution of the imposed punishment, or ordering a new term within which the obligation must be met, or replacing this obligation by another obligation or discharging the convicted person from the obligation. If the court determines that there are no grounds for rendering any of these decisions, it shall by ruling discontinue proceedings for the revocation of the suspended sentence.
(5) If it is subsequently determined that the convicted person, at the time of examination, committed the criminal offence for which he was sentenced due to which it should have been necessary or possible to revoke the suspended sentence pursuant to the provisions of

the Penal Code, and the court that sentenced him failed to decide on it, the court at first instance that pronounced a suspended sentence shall pass a judgement revoking the suspended sentence and order the execution of the pronounced sentence. If the court determines that there are no grounds for the revocation of the suspended sentence, it shall discontinue the proceedings by a ruling.
(6) The decisions from paragraph 5 of this Article shall be rendered by the court after the panel session held in accordance with the provision of paragraph 3 of this Article.
(7) After the judgement from paragraph 5 of this Article become final, it shall be proceeded pursuant to Article 498 of this Act.

Chapter XXX
PROCEEDINGS FOR THE ISSUANCE OF A WANTED NOTICE AND PUBLIC ANNOUNCEMENT

Article 565

If the domicile or residence of the defendant or the witness is unknown when, pursuant to the provisions of this Act, his address is necessary, the authority conducting the proceedings shall request the police authorities to look for the defendant or the witness and inform the authority of his address.

Article 566

(1) The issuance of a wanted notice may be ordered if the defendant is in flight, against whom criminal proceedings are instituted for an offence subject to public prosecution, provided that a ruling on pre-trial detention or investigative detention exists.
(2) The issuance of a wanted notice shall be ordered by the authority conducting the proceedings.
(3) The issuance of a wanted notice shall also be ordered if the defendant escapes from an institution where he is serving a sentence regardless of the duration of the punishment or pre-trial detention, investigative detention or from an institution where he is subject to an institutional measure.
(4) The order of the authority conducting the proceedings or the director of the institution shall be delivered to the police authorities for execution.

Article 567

(1) Where information concerning particular objects in relation to an offence are required or if these objects need to be located, and in particular if this is necessary to determine the identity of an unknown corpse, the issuance of a public announcement shall be ordered, containing a request that the required information be communicated to the authority conducting the proceedings.
(2) The police authorities may publish photographs of corpses and missing persons if grounds for suspicion exist that the death or disappearance of such persons occurred because of an offence.

Article 568

The authority which ordered the issuance of a wanted notice is bound to withdraw it immediately after the wanted person or the object has been found, or after the period of limitation for the institution of the prosecution or for the execution of punishment has expired, or when other reasons appear indicating that the wanted notice or the announcement is no longer necessary.

Article 569

(1) The wanted notice and the announcement shall be issued by the police authorized to act on the territory of the state authority before which criminal proceedings are pending or in the territory where the institution is located from which the detained person has escaped or where the person is serving a sentence or is subject to an institutional measure.
(2) Media may be used in order to inform the public of the wanted notice and public announcement.
(3) The police may also issue an international wanted notice.

Chapter XXXI
TRANSITIONAL AND FINAL PROVISIONS

1. Revision and Extraordinary Judicial Remedy from Decisions of the Courts of the Former SFRY

Article 570

(1) Persons who during the communist rule were convicted by the courts of former Yugoslavia for political criminal offences, politically motivated criminal offences and other criminal offences may, through revision, request the annulment of a decision of conviction or another corresponding legal act, provided that their conviction was the result of an abuse of political power.

(2) An abuse of political power shall exist in cases where a decision of conviction was rendered which, in its ordering part or in proceedings preceding it, violates internationally recognized principles of the rule of law and democratic society or is contrary to the public order of the Republic of Croatia.

(3) If the person referred to in paragraph 1 of this Act died, the revision may be submitted by his heirs in legal order of succession. If the heirs are unknown, the revision may be submitted by associations for the protection of human rights with the seat in the Republic of Croatia.
(4) If the revision is submitted by an association with the seat in the Republic of Croatia, it must contain the excerpt from the register of associations from which it is visible that the scope of its activity includes the protection of human rights.

Article 570a

(1) The revision shall contain: personal data of the convicted person, data on the judgement being challenged, data on facts and evidence upon which it is founded, a statement of reasons and the signature of the person who submits the revision, and if an heir submits it, evidence that the convicted person died and that the submitter is his legal heir.

(2) The revision shall be submitted to the county court in whose jurisdictional territory the court which rendered the first instance decision had its seat.

(3) If the revision is submitted to an incompetent court or if the court at first instance has its seat outside the Republic of Croatia, the provisions of Article 24 of this Act shall apply.

Article 570b

(1) The county court panel of three judges shall decide on the revision at its session.

(2) The president of the panel shall, by a ruling, dismiss an incomplete or impermissible revision. An appeal may be taken from such a ruling within a term of fifteen days.
(3) The person submitting a revision, his legal representative and the State Attorney shall be summoned to the panel session. The session may be held even if duly summoned persons fail to appear at the session.

Article 570c

(1) The panel may request that the competent state authorities collect and deliver data important for deciding on the revision.
(2) The person submitting a revision, his legal representative and the State Attorney may give statements at the session in order to clarify particular issues related to the revision.

Article 570d

(1) The panel shall decide on the revision by a judgement or ruling.

(2) The panel shall, by a ruling, dismiss an incomplete or impermissible revision unless the president of the panel has already done so.

(3) The panel shall, by a judgement, reject the revision as unfounded if it determines that it was submitted against a decision convicting the moving party of a war crime or other criminal offence which the Republic of Croatia is bound to prosecute under the rules of international law, a criminal offence whose perpetration has caused a loss of life or serious bodily injury, or if the convicted person has acquired unlawful pecuniary benefit for himself or someone else, or if the conviction concerns an offence contrary to the public order of the Republic of Croatia. The court shall reject the revision if it determines that the reasons for which it was submitted, do not exist.
(4) If the panel determines that the revision is well-founded, it shall by a judgement fully or partially annul the ordering part of the challenged decision in the disposition on criminal liability.

Article 570e

(1) The person who submits the revision and the State Attorney may take an appeal from the decision of the county court panel within a term of fifteen days.

(2) The Supreme Court in a panel of five judges shall decide on the appeal.
(3) The Supreme Court may by its decision affirm, revise or vacate the decision of the county court on revision.

(4) Unless otherwise prescribed in Articles 570 to 570d of this Act, the provisions of this Act dealing with the rendering of a decision by a panel at its session upon an appeal from judgement shall apply to the proceedings on revision and to appellate proceedings against the county court's decision on revision.
(5) The court shall decide on the costs of the proceedings on revision pursuant to the provision of Article 151 of this Act.

Article 571

In a panel of five judges the Supreme Court of the Republic of Croatia shall decide on a request for the protection of legality taken from a decision of the panel of the Supreme Court of the Republic of Croatia which was until 6 October 1991 within the jurisdiction of the Federal Court of former Yugoslavia.

2. Other transitional and final provisions

Article 572

Pursuant to the provisions of this Act, the competent ministers shall bring, within six months from its entering into force, more detailed regulations on:
1) conditions for submitting electronic documents (Article 79 paragraph 5),
2) technical conditions, the method for recording and the protection of the recording from deletion or damage (Article 87 paragraph 8 and Article 533 paragraph 6),
3) execution of precautionary measures (Article 100 paragraph 5),
4) admission and treatment of a detainee and prisoner in pre-trial detention police station (Article 109 paragraph 5 and Article 113 paragraph 3),
5) the record and the implementation of house arrest (Article 121 paragraph 3),
6) prisons for investigative detention and the conditions to be fulfilled by investigative detention employees (Article 135 paragraph 5),
7) the central register on detainees (Article 136 paragraph 5),
8) house rules in prisons in which investigative detention is executed (Article 143),
9) the investigative detention record (Article 144),
10) costs of criminal proceedings (Article 152),
11) service (Article 169 paragraph 4),
12) the criminal register and the register of educational measures (Article 185 paragraphs 2 and 3),
13) automated collections of personal data (Article 186 paragraph 5),
14) procurement and maintenance of technical devices for audio–video conference (Article 194 paragraph 3),
15) registers from Article 205 paragraph 5 and Article 206 paragraph 10,
16) the structure and manner of keeping a database with automatic data processing (Article 211 paragraphs 3 and 4),
17) keeping of material evidence (Article 269 paragraph 3),
18) the method for taking samples of biological material, storage, processing, keeping and supervision of storage, processing and keeping (Article 327 paragraph 7),
19) the method for conducting special evidence collecting actions referred to in Article 337 paragraph 7 of this Act,
20) records of confirmed indictments (Article 354 paragraph 4).
(2) Within the term referred to in paragraph 1 of this Article, the Croatian Bar Association shall regulate the form and content of the summons referred to in Article 67 paragraph 3 of this Act.

Article 573

By virtue of the entry into force of this Act, the Act on Criminal Proceedings (Official Gazette 110/97, 27/98, 58/99, 112/99, 58/02, 143/02 and 115/06) shall cease to have effect, except:

– the provisions of Article 1 to 206, from 208 to 400 and from 414 to 505 of that Act, which cease to have effect as of 31 August 2011,

– the provisions of Article 1 to 206, from 208 to 400 and from 414 to 505 of that Act which in cases commenced for criminal offences from Article 21 of the Act on Anti-corruption and Organised Crime Prevention Office (Official Gazette 88/01, 12/02, 33/05, 48/05 and 76/07) cease to have effect as of 30 June 2009,

– the provisions of Article 16 to 22 and Chapter XXIX and XXX of that Act, which shall apply until the adoption of a special act.

Article 574

(1) Criminal proceedings commenced before the entry into force of this Act shall be completed pursuant to the provisions of the Act on Criminal Proceedings (Official Gazette 110/97, 27/98, 58/99, 112/99, 58/02, 143/02 and 115/06).

(2) If until the entry into force of this Act any decision was brought against which a judicial remedy is allowed pursuant to the provisions of the act according to which the proceedings were conducted, or a deadline for submitting a judicial remedy has not yet expired, or a judicial remedy has been submitted, but it has not yet been decided thereupon, the provisions of the act pursuant to which the decision was made shall apply, unless otherwise stipulated by this Act.

(3) The provisions of Article 497 to 508 of this Act shall apply respectively also in proceedings regarding a request for re-opening of criminal proceedings submitted pursuant to the provisions of the Act on Criminal Proceedings (Official Gazette 110/97, 27/98, 58/99, 112/99, 58/02, 143/02 and 115/06).

Article 575

This Act shall be published in the Official Gazette and shall enter into force as of 1 January 2009 except for:

– Articles 1 to 230, from 232 to 496 and from 509 to 569 which shall enter into force as of 1 July 2009 in cases for criminal offences referred to in Article 21 of the Act on Anti-corruption and Organised Crime Prevention Office (Official Gazette 82/01, 12/02, 33/05, 48/05 – correction).

– Article 1 to 230, 232 to 496 and 509 to 569 which shall enter into force as of 1 September 2011