THE EPPO/OLAF IV

Compendium of National Procedures

Desktop Codes on the Procedural Law of the
Member States with Annotations by National Experts

Pierre Hauck and Jan-Martin Schneider

Croatia

λογος

The EPPO/OLAF Compendium of National Procedures

Volume IV – Croatia

The EPPO/OLAF Compendium of National Procedures

Desktop Codes on the Procedural Law of the Member States
with Annotations by National Experts,
Volumes I (Austria) – XXVII (Sweden)

Volume IV – Croatia

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This volume has been reviewed and updated for accuracy of content with the kind assistance of Prof. Dr. Lucija Sokanović. Nevertheless, the authors take full responsibility for the content.

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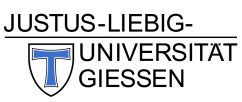

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* The Lithuanian chapter was also revised by a national expert. However, due to his or her prominent professional position, this person does not wish to be named so as not to give the impression that the chapter reflects the official position of the Lithuanian state authorities. Nevertheless, we thank this person very much for this valuable contribution.

Preface and Acknowledgements

Every year, millions of euros of taxpayers' money are lost to fraud against the European Union budget. The fight against fraud has therefore been a key element in protecting the Union's financial interests for decades, and it still is. Since then, many different political and legal approaches have been taken to create a secure situation.

In essence, this financial protection by way of fighting crime is nowadays not only provided by the national judiciary, but also to a significant extent by the EU's own investigative bodies of the European Public Prosecutor's Office (EPPO) and the European Anti-Fraud Office (OLAF).

These two authorities work on the basis of their own EU regulations, each of which has in common to refer to the national legal situation with regard to the conduct of investigations. This concerns the law of the EPPO as a whole, insofar as the EPPO-RG in Art. 30 para 1 and para 4 refers to nationally to be created (para 1) or nationally existing powers (para 4). This also applies to OLAF's right to carry out so-called external investigations, which are so important, in the event that an economic operator refuses to participate in the investigation, so that in this case it is not Union law but national law that forms the basis for the investigation (cf. Art. 3 para 6 OLAF Regulation).

However, these references to national law are not enough; the problems of applying the law are only just beginning: Knowledge of national rules is usually reserved for those familiar with the national legal system, and at the level of the EU authorities these are very few. EU authorities, including the investigative authorities in question here, are rather characterized by the fact that they are made up of many employees from the most diverse member states. It is true that for both authorities, certain mechanisms (namely the EDPs as part of the EPPO and the AFCOS for OLAF) have been put in place to ensure that national legal competence is conveyed. But by and large, the respective national investigative procedure law remains a closed book in terms of criminal procedure or administrative law, not to mention the language barrier that threatens to become insurmountable for most people within the EU when seeking access to the law of other countries.

This publication series aims to remedy these shortcomings. It presents the law of criminal procedure and administrative investigation for all 27 Member States in English and in the language of the Member State. It thus provides easy access to the procedural rules of a foreign legal system, which are so important for EU investigative work. However, this presentation does not stop there, but explains these national rules, which are printed in bilingual form, from a competent source, namely from national experts. In this way, an explanatory work has been created that clearly ensures access to and understanding

of foreign areas of law in the field of criminal procedural and administrative fraud investigations.

The editors would like to thank the European Commission for generously supporting the research underlying this work with funds from the EU's Hercule III programme, and they would like to thank the Justus Liebig University of Giessen for generously supporting the open access publication of this work with funds from its Open Access Publication Fund.

Our sincere thanks go to our team at the University of Giessen, in particular Nur Sena Karakocaoğlu and Alastair Laird, who have borne the main burden. Julian Doerk, Felina Frkic Wegener, Maike Kappes, Aleksandra Joachimiak, Tom Löwer and Sophie Meyer have greatly supported the project with a variety of research and formatting work. Corinna Haas and Vanessa Runge have accompanied the project from the beginning and have always backed us up with their sure eye for work-relevant aspects and processes, thus continuously supporting this ambitious project from start to finish.

The project was also successful because the third-party funding administration of the Justus Liebig University in the shape of Dr Christian Maarten Veldman, Anja Daßler and Jochen Stein took a lot of work off our shoulders.

Last but not least, our thanks go to the wonderful supervision and support of the publisher Volkhard Buchholtz and the production coordinator Katharina Kruse and Hannah Kropla from Logos Verlag in Berlin for everything it takes to bring a book to life.

Fair comments and suggestions for improving the work are always welcome at eppo.olaf@web.de.

Giessen/Germany, in November 2023

Pierre Hauck & Jan-Martin Schneider

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Executive Summary: This country volume focuses on both Union and Croatian law concerning customs, taxation, fiscal investigations, and corruption-related offences, particularly those involving EU fraud. It examines the measures and investigative procedures of the EPPO's regional offices, as well as the roles of those involved. The volume includes examples, current cases, EU fraud typologies and key case law. It also explores financial criminal law in fraud cases and the protection of defence rights in EPPO proceedings.
Part B offers guidance and legal provisions for EDPs, EPs, chamber members with the task to decide of the opening of an investigation, defence lawyers representing clients accused of offences linked to the EPPO.

Additionally, the volume provides a reference compendium for OLAF investigations in Croatia, outlining how national law intersects with EU regulations. The emphasis is on the information controls carried out by OLAF under Regulation 2185/96 and the Sigma Orionis ECJ jurisprudence. This chapter presents relevant national laws alongside Union law requirements and discusses OLAF investigations in cooperation with national partners, providing translations in English with the original texts. Croatian footnotes and additional explanations, steps, tips, and information.

Experts and authors: Dr. *Lucija Sokanović*, Associate Professor at the Chair of Criminal Law Faculty of Law – University of Split, Croatia. Compilation and research of the EPPO and OLAF Parts (B–C) by Prof. Dr. *Pierre Hauck* LL.M. (Sussex), *Jan-Martin Schneider* (Dipl.-Jur. MR; RA, University of Gießen)/*Alastair A. Laird* (RA, University of Gießen)/*Nur Sena Karakocaoğlu* (Dipl.-Jur. FFM; RA, University of Gießen) with the help of the expert. Compilation and research of the OLAF-Part C arranged with the special help of Questionnaire experts/organizations (AFCOS, OAFCN) consulted and submitted research material: Public AFCOS Report, OLAF-Reports.

Table of Contents

Abbreviations

AFCOS	Anti-fraud coordination service
CJEU/ECJ	Court of Justice of the European Union/European Court of Justice
COCOLAF	Advisory Committee for the Coordination of Fraud Prevention
CPC	Criminal Procedure Code of the Czech Republic
EAEC	European Atomic Energy Community
EAFO	European Alternative Fuels Observatory
EAFRD	European agricultural fund for rural development
EAGF	European agricultural guarantee fund
EASA	European Union Aviation Safety Agency
EAW	European Arrest Warrant
EBA	European Banking Authority
EC	European Communities
EC Euratom	European Communities, European Atomic Energy Community
ECA	European Court of Auditors
ECB	European Central Bank
ECHA	European Chemicals Agency
ECHR/ECtHR	European Court of Human Rights
ECJ	European Court of Justice
ECJ	European Court of Justice (now CJEU)
ECJN	European Judicial Network against Cybercrime
ECON	European Parliament's Committee on Economic and Monetary Affairs
ECP	European Chief Prosecutor
ECP	European Chief Prosecutor
EDF	European Development Fund
EDMS	Electronic Document Management System
EDO	European Data Officer
eDP	ePrivacy Directive
EDP	European Delegated Prosecutor
EDPs	European Delegated Prosecutors

EEAS	European External Action Service
EEC	European Economic Community
EIO	European Investigation Order
EJN	European Judicial Network
EP	European Prosecutor
EP	European Prosecutor
EPPO	European Public Prosecutor's Office
EUACR	EU Anti-Corruption Report
EUCFR	Charter of Fundamental Rights of the European Union
EUCLR	European Criminal Law Review
EUROJUST	European Union Agency for Criminal Justice Cooperation
EUROPOL	European Police Office
GC (aka CFI ex-2009)	General Court of the EU/formerly Court of First Instance
OAFCN (-Member)	OLAF Anti-Fraud Communicators' Network
OLAF	European Anti-fraud office
ŽDO	Županijsko državno odvjetništvo/State Attorney Offices

For further abbreviations see the EU Eurovoc and e.g. the Croatian Dictionary Stjepan Babić, Milena Žic-Fuchs – RJEČNIK KRATICA 2007, Nakladni Zavod Globus.

Tables & Figures

Explanation of Symbols & Highlighting

Text passages highlighted in grey show Union law.
Text passages marked with boxes show relevant national law.
Plain Tables display either a synopsis of a foreign law text and the English translation or a summary of institutions and relevant case law.
Tables with symbols in the first row contain case studies (EPPO & OLAF cases) or relevant jurisprudence.
Margin numbers (1, 2, 3…) in the General Margin enable citation.

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Pictures/Figures/Symbols Used:

 = Expert/Introduction to national law

 = Customs legislation/Customs cases

 = Examples

 = Nota bene/General note

 Case Law/Access to files

 = Tax police/tax-related matters

 = Excerpt

 = Arrest, pre-trial detention (e.g. Art. 33)

 = Problems resulting from national law

 = (Important) National Sections

 = (criminal) police); relevant for investigators

 = Funds area (e.g maritime)

 = procurement area

 = judicial authorisation required (e.g. Art. 30)

 = urgent measures (e.g. Art. 27, 28)

Π = Plaintiff (Pi)

Δ = (Delta) Defendant

 = Case Studies (Overviews)

 = Expert comment

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 National transposition measures communicated by the Member States concerning: Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law OJ L 198, 28/07/2017, p. 29–41 (BG, ES, CS, DA, DE, ET, EL, EN, FR, GA, HR, IT, LV, LT, HU, MT, NL, PL, PT, RO, SK, SL, FI, SV). The member states bear sole responsibility for all information on this site provided by them on the transposition of EU law into national law. This does not, however, prejudice the results of the verification by the Commission of the completeness and correctness of the transposition of EU law into national law as formally notified to it by the member states. The collection National transposition measures are updated weekly. https://eur-lex.europa.eu/legal-content/EN/NIM/?uri=CELEX:32017L1371. Art. 15 TFEU and Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents. EPPO Website: Notification under Article 117 EPPO-RG – Croatia 15 November 2021.
Errata: In Volumes III, V, X, XXII, XXV the word 'Trainee' was missing prior to Attorney at Law for Austria.

A. General Collection of Material for Part B and Part C

The first section of this volume enables quick references to Part B on the EPPO and Part C on OLAF useful for any liaison officer of OLAF, seconded national expert, case analyst, EDP, OLAF Units, AFCOS staff or OAFCN members and collects cases, institutions, and sources of Croatian law in relation to the two EU institutions, that are analysed and cited frequently within the Croatian volume. 1

I. Collection of Cases for OLAF and EPPO

Evidence needs to be lawful, but it may by unlawful, e.g. the **fruit of the poisonus tree doctrine** may apply, which needs to be a avoided, there might be no factual elements for a crime, or the detention periods might be calculated wrongly and impact the sentencing – all of these matters are decided by the Croatian courts and are important for any practitioner, e.g. the EPPO chamber or lawyers dealing with an EPPO or OLAF case. 2

1. EPPO-Regulation Examples concerning the Material Scope and Investigation Measures from National Case-Law

Thus, the following two tables contain an enumeration of **non-exhaustive exemplary cases**, which might help to identify thresholds and conditions for investigations.

Table 1 Case Collection for Croatia

Articles referred to	Judgement, ECLI etc.	Content and Keywords
EPPO-RG CJEU and national court decisions[1]		
Art. 24, 25, 26 EPPO-Reg. (material scope)	Supreme Court of the Republic of Croatia, CRIMINAL DEPARTMENT IV Kž 68/2005-3/ECLI:HR:VSRH:2006:1372/.	Supreme Court of the Republic of Croatia rejected the appeal filed by the State Attorney against a decision made by the Bjelovar County Court. The case involved M.B., who was accused of improperly using funds from a government loan, contrary to Art. 292, para 2, lit. 5 of the CP. The lower court dismissed an investigation request, finding no evidence

[1] See for decisions in relation to the national criminal and administrative procedures from the time prior to the operations of the EPPO: Jurisprudence e.g. of the Supreme Court of the Republic of Croatia (Portal: *Sudska Praksa Vrhovni Sud Republike Hrvatske*) https://sudskapraksa.csp.vsrh.hr/search. Accessed 31 May 2024. All links were accessed 30 September 2024.

		of M.B. misuse of a loan for local government projects. The Supreme Court upheld the initial decision, rejecting the State Attorney's appeal and upholding the original decision.
EPPO Case 2024[2]		
Art. 24, 25, 26 EPPO-Reg. (material scope)	Zagreb County Court, 13 Kov-EPPO-1/2022 (subsidy fraud case).	This decision concerns a real EPPO case, which involved subsidy fraud and forgery. These offences are regulated by Art. 258, paras 1, 3 and 5 of the CC, Art. 278, paras 1 and 3 of the CC Art. 48, para. 3 of the CC in connection with Art. 49, para. 1, no 4 of the CC, Art. 278, para. 3 of the CC, Art. 55 CC. Cf. the full text of the decision below → "Case Study", Art. 26 EPPO.
Art. 26, 27 EPPO-Reg.	Zagreb County Court, CRIMINAL DEPARTMENT.Kž 256/2021-6 //	This decision focuses on a case, in which not enough evidence for fraud was gathered.
Art. 26 EPPO-Reg.	Osijek County Court, CRIMINAL DEPARTMENT. Kž 378/2022-4//	This judgement concerns the offence of damaging the financial resources Republic of Croatia.
Art. 24, 25, 26 EPPO-Reg. (material scope)	Zagreb District Court, CRIMINAL DEPARTMENT Kž 1220/2021-8//.	This is in national case. It is possible that similar conduct happens in the EU fraud cases. It deals with the payment of subsidies for sowing sunflowers and maize. The competent agency for Payments in Agriculture, Fisheries and Rural Development in Vukovar applied for eligibility for subsidies for sowing sunflowers and maize. The court deals with Art. 258 CPC in the form of an appeal.
Art. 24, 25, 26 EPPO-Reg.	Supreme Court of the Republic of Croatia, CRIMINAL DEPARTMENT I Kž	The court issues a decision on Art. 258 CPC. A case which indicates how the modus operandi in subsidy fraud cases works: 245 tons of commercial soybeans

[2] See https://www.eppo.europa.eu/en/media/news/croatia-two-indicted-bribery-and-influence-trading.

(material scope)	49/2018-7/ECLI:HR: VSRH:2021:2150/.	with a total value HRK 777,160.00 including VAT were under suspicion of delivery of false invoices for the goods (soy) which were never delivered and which the perpetrator knew would not be delivered to the cooperative.
Art. 29 EPPO-Reg.	EPPO, Press Release, Published on 15 December 2022. Another case can be found here.[3]	The European Chief Prosecutor has requested the lifting of immunity for Members of the European Parliament, Eva Kaili and Maria Spyraki. This is due to suspicions of fraud involving the EU budget and the management of parliamentary allowances. Kaili and Spyraki have the right to the presumption of innocence.
Art. 30 EPPO-Reg.	Supreme Court of the Republic of Croatia, CRIMINAL DEPARTMENT, I Kž 443/2018-4/ECLI:HR: VSRH:2018:1332/	Questionability of obtaining evidence, evidence, unlawfulness, fruit of the poisoned tree, remittal, search warrant (flawed?).
Art. 30 EPPO Regulation	High Criminal Court of the Republic of Croatia, CRIMINAL DEPARTMENT I, Kž-EPPO 2/2023-4/ECLI:HR:VKS:2024:220/.	The Court decided that in view of the incompletely determined factual situation, the case is returned to the first instance court for re-decision, with instructions to examine the legality of the search warrant and obtained evidence and to consider the possibility that the contested evidence was derived from illegal actions more thoroughly. If it is determined that the evidence is derivative, the court will have to consider the legality of the order based on which the evidence was obtained and assess whether the challenged evidence represents illegal "**fruit of the poisonous tree**".

[3] See Zeljko Trkanjec, EUARCTIV, Croatian parliamentary commission strips MP immunity, 6 July 2021, https://www.euractiv.com/section/politics/short_news/croatian-parliamentary-commission-strips-mp-immunity/.

Art. 30 EPPO Regulation	High Criminal Court of the Republic of Croatia, Criminal Department, I Kž-EPPO 1/2023-4/ECLI:HR: VKS:2023:232/.	The Croatian High Criminal Court dismissed an appeal by V.G. against a defense motion to exclude certain evidence as unlawful. The evidence, including witness testimonies and special investigative actions, was gathered in an investigation by USKOK before the European Public Prosecutor's Office took over the case. The court found the actions lawful, ruled that the defence's claims of violations of rights to equality of arms and confrontation were unfounded, and that the judicial orders authorizing special investigative measures were justified and did not violate the accused's fundamental rights.
Art. 33 EPPO-Reg.	Supreme Court of the Republic of Croatia, CRIMINAL DEPARTMENT Kžeu 13/2020-4/ECLI:HR: VSRH:2020:4164 ./	This decision deals with the criminal offense of aiding and abetting in the commission of the criminal offense of evading financial obligations under Art. 254, para. 3 and para. 1, in conjunction with Art. 27, para. 1 of the Criminal Code of the Republic of Croatia, which offense is factually defined in the sentence of the judgment under appeal. It was established that the offense for which SK in the Republic of Slovenia was convicted contains all the essential characteristics of an offense against the economy, aiding and abetting tax or customs evasion from Art. 256, para. 3 in conjunction with para. 1 and Art. 38 of the Criminal Code.
Arzt. 33 EPPO Regulation	Supreme Court of the Republic of Croatia, Judgement of 13 December 2023, Poslovni broj: I Kž-EPPO-3/2023-10.	EDPs and national judges can learn from this case because F. K. challenged the initial sentencing decision, arguing that the time he spent in extradition detention (from February 28, 2022, to May 5, 2022) was not included in the calculation of his prison sentence.

		Ensuring that such periods are recognized is crucial for maintaining fair sentencing practices and it illustrates the complexities involved in cross-border legal matters, especially when dealing with international detention and extradition. It underscores the need for clear legal procedures and coordination between national and EU legal frameworks.
Art. 31-33 EPPO-Reg.	District Court Split, CRIMINAL DEPARTMENT Kv-eun 10/2016-14//.	This decision concerns an EAW procedure and the sections 263, 267 of the German Criminal Code. The EAW was granted and permitted.
Art. 31-33 EPPO-Reg.	Supreme Court of the Republic of Croatia, CRIMINAL DEPARTMENT Kž-eu 3/2021-4/ECLI:HR:VSRH:2021:177/.	The court decided on Art. 91. ZPSKS-EU for the recognition of a foreign judgment and the determination of the execution of the sentence [...].
Art. 31-33 EPPO-Reg.	Supreme Court of the Republic of Croatia, CRIMINAL DEPARTMENT Kžeun 20/2017-4/ECLI:HR:VSRH:2017:919 /.	The court issued a decision concerning an EAW in a fraud. It dealt again with ss. 263 German Criminal Code, its equivalence. Surrender was approved, "surrender was postponed until the wanted person served a two-year prison sentence, to which he was sentenced based on the judgment of the Municipal Court in Karlovac, number K-93/2016 of July 1, 2016 on the criminal elements of fraud under Art. 236, §§ 1 and 2 of the Criminal Code." It dealt with the application of section 35 (1) ZPSKS-EU. It was decided that the wanted person would be handed over to the competent authorities of the Federal Republic of Germany by the SIRe.NE office of the Ministry of the Interior of the Republic of Croatia.

Art. 31-33 EPPO-Reg.	Supreme Court of the Republic of Croatia, CRIMINAL DEPARTMENT Kž eun 16/2016-4/ECLI: HR:VSRH:2016:427/.	Germany, Abgabenordnung, conviction, equivalence, appeal. Art. 91. ZPSKS-EU.
ECtHR		
Art. 31-33 EPPO-Reg.	Grand Chamber, Case of *Dvorski v. Croatia*, (Application no. 25703/11).	The court decided on a violation of Art. 6 §§ 1 (right to a fair trial) and 3 (c) (right to legal assistance of one's own choosing), Police refused to let lawyer meet the suspect.

2. OLAF-Regulation

Table 2 Case Collection for Croatia (OLAF related)

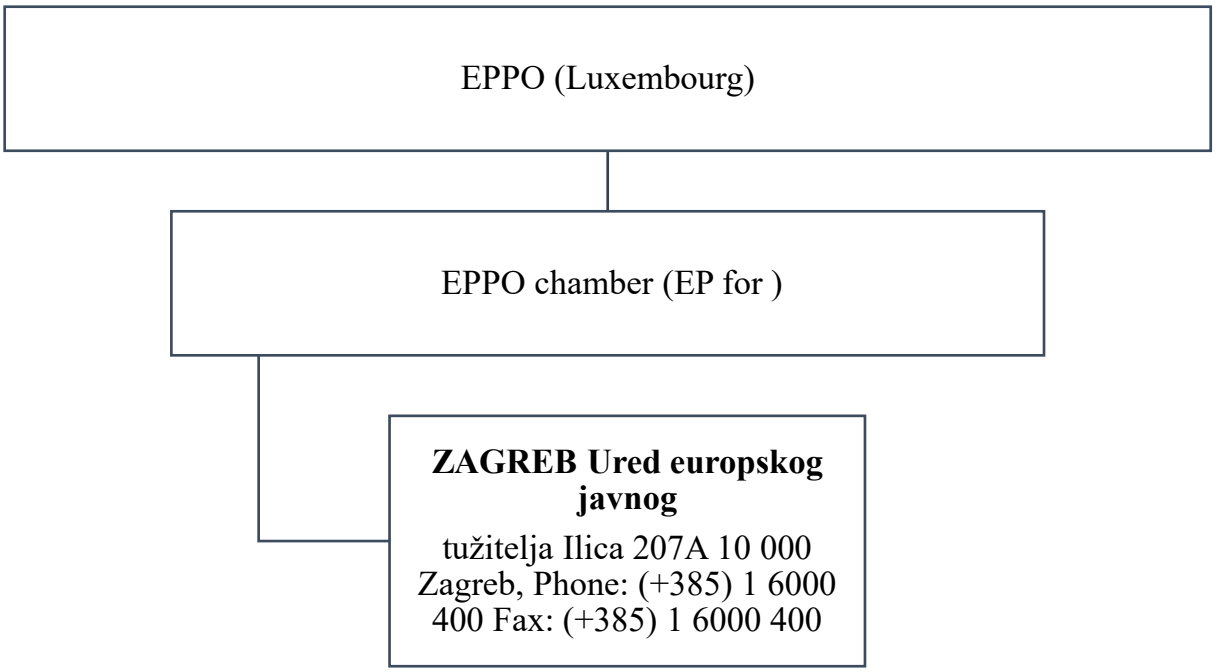
Relates to Articles	Judgement, ECLI, etc.	Content
CJEU and national court decisions		
Art. 1–4	ECJ, C-615/19 P, 25.2.2021, *John Dalli v European Commission*, ECLI:EU:C:2021:133.	This decision concerns an allegedly illegal conduct of the European Commission and OLAF. It deals with the procedural rules governing the OLAF investigation, the opening of an investigation and the right to be heard.
Art. 3 (right to be heard, digital forensic evidence)	Administrative Court in Split, ADMINISTRATIVE COURT UsIcar 19/2019-2//.	This judgement focuses on OLAF and an investigation into evasion of anti-dumping duties/duties on imports of Chinese bicycles by delivery via T.
	Administrative Court in Osijek, ADMINISTRATIVE COURT Us I 982/2021-9//.	The court decided on awarding grants in the sectoral funding area of environmental protection and energy efficiency. The decision deals with an irregularity detected in connection with the change in the payment terms, a proportionality check to determine in the specific case whether a particular measure has caused damage to the European budget.
Art. 4 Internal Investigations	ECJ, Case C-591/19 P, *European Commission v Fernando De Esteban Alonso*, Judgment of the Court (First Chamber) of 10 June 2021. ECLI:EU: C:2021:468.	The judgement decides on an appeal and an action for damages in relation to the civil service. An internal investigation by OLAF lead to the forwarding of information by OLAF to the national judicial authorities. The court dealt with the filing of a complaint by the European Commission. It writes on the concepts of an official who is ‘referred to by name’ and ‘implicated’. The dogmatic decision

		concerns the failure to inform the interested party and the Commission's right to file a complaint with the national judicial authorities before the conclusion of OLAF's investigation.
Art. 7	ECJ, C-650/19 P, *Vialto Consulting Kft. v European Commission*, ECLI:EU: C:2021:879.	The court decided on an Appeal concerning an investigation by OLAF, which involved on-the-spot checks. This decision is a landmark judgement as it concerns the interpretation of the terms and definitions in Art. 7 (Access to computer data) of the Regulation (Euratom, EC) No 2185/96. It deals with thresholds of digital forensic operations, the principle of legitimate expectations, the right to be heard and non-material damage.
Art. 10	GC, Case T-110/15, I*nternational Management Group v European Commission*. Judgment of the General Court (Eighth Chamber) of 26 May 2016. Digital reports (Court Reports - general) ECLI:EU:T:2016:322	It is a decision about accessing documents under Regulation (EC) No 1049/2001 was made, specifically relating to an OLAF investigation. Access was denied due to protection of inspection, investigation, and audit purposes, highlighting the importance of individual examination and document categories.
Art. 11	Administrative Court in Split, Administrative Court UsIcar 19/2019-2//.	OLAF investigated evasion of anti-dumping duties on Chinese bicycle imports delivered through T. *Court confirms OLAF reports are admissible evidence in administrative and criminal proceedings*, allowing OLAF to provide evidence in national courts as per regulations.

II. Institutions

1. The EPPO in Croatia

Table 3 The EPPO regional offices in Croatia **3**



*** Department of Delegated European Prosecutors Address** **4**
Address: Ilica 207A, 10 000 Zagreb**,**

Working hours from 8:00 a.m. to 4:00 p.m**,**

Phone numbers Phone: 01/6000 400, Fax: 01/6000 417,

E-Mail addresses, E-mail: eppo.edp@uskok.dorh.hr.

2. Organization of the criminal justice system in Croatia

5 *Table 4 for Croatia: National authorities involved in PIF investigations*

Criminal investigation and prosecution authorities	Relevant administrative authorities
- State Attorney - Police - Ministry of Finance · Tax Administration, · Customs, · Budgetary Control, · Anti-Money Laundering Office	- Customs - Tax administration

III. Sources of law

6 The following pages present a list of the applicable sources of law:

1. National laws

7 **EPPO & PIF-Investigation related Laws and administrative Documents**

- Criminal Code/Kazneni zakon
- Criminal Procedure Code/Zakon o kaznenom postupku
- General Tax Act (Editorial consolidated text, "Official Gazette" No. 115/16, 106/18, 121/19, 32/20, 42/20)
- General Tax Administration Act (Editorial consolidated text, Official Gazette, 115/16, 98/19)[4]
- Law on police duties and powers/Zakon o policijskim poslovima i ovlastima
- Law on Police/Zakon o policiji
- Law on the procedure for confiscation of property benefits obtained through criminal offenses and misdemeanors/Zakon o postupku oduzimanja imovinske koristi ostvarene kaznenim djelom i
- Law on the Office for Suppression of Corruption and Organized Crime/Zakon o Uredu za suzbijanje korupcije i organiziranog kriminaliteta
- Law on Liability of Legal Persons for Criminal Offenses/Zakon o odgovornosti pravnih osoba za kaznena djela

[4] Tax Area Legislation: https://www.porezna-uprava.hr/en_propisi/_layouts/15/in2.vuk2019.sp.propisi.intra-net/propisi.aspx#id=pro134.

- The Act on the Protection of Natural Persons in Connection with the Processing and Exchange of Personal Data for the Purposes of Prevention, Research, Detection or Prosecution of Criminal Offenses or Execution of Criminal Sanctions/Zakon o zaštiti fizičkih osoba u vezi s obradom i razmjenom osobnih podataka u svrhe sprječavanja, istraživanja, otkrivanja ili progona kaznenih djela ili izvršavanja kaznenih sankcija
- Data Privacy Act/Zakon o tajnosti podataka
- Misdemeanour law/Prekršajni zakon
- Law on the implementation of Council Regulation (EU) 2017/1939 of October 12, 2017 on the implementation of enhanced cooperation in connection with the establishment of the European Public Prosecutor's Office ("EPPO")/Zakon o provedbi Uredbe Vijeća (EU) 2017/1939 od 12. listopada 2017. o provedbi pojačane suradnje u vezi s osnivanjem ureda Europskog javnog tužitelja („EPPO")
- Law on Biometric Data Processing/Zakon o obradi biometrijskih podataka
- Act on the transfer and processing of air passenger data for the purpose of preventing, detecting, investigating and conducting criminal proceedings for criminal offenses of terrorism and other serious criminal offenses/Zakon o prijenosu i obradi podataka o putnicima u zračnom prometu u svrhu sprječavanja, otkrivanja, istraživanja i vođenja kaznenog postupka za kaznena djela terorizma i druga teška kaznena djela
- Law on the right to access information/Zakon o pravu na pristup informacijama
- Personal Data Protection Act/Zakon o zaštiti osobnih podataka

Most relevant national Laws concerning OLAF investigations: **8**

- Law on the Implementation of Customs Legislation of the European Union
- NN 40/16 in force from 01.05.2016./*Zakon o provedbi carinskog zakonodavstva Europske unije NN 40/16na snazi od 01.05.2016.*
- Law on the Financial Inspectorate of the Republic of Croatia the purified text of the law NN 85/08, 55/11, 25/12 in force from 28.02.2012/*Zakon o financijskom inspektoratu Republike Hrvatske pročišćeni tekst zakona NN 85/08, 55/11, 25/12 na snazi od 28.02.2012.*
- Law on the Execution of the State Budget of the Republic of Croatia for 2018
- NN 124/17, 108/18/*Zakon o izvršavanju Državnog proračuna Republike Hrvatske za 2018. Godinu NN 124/17, 108/18*.
- Budget Law NN 144/21 in force from 01.01.2022./*Zakon o proračun NN 144/21 na snazi od 01.01.2022.*
- Law on Public Procurement/*Zakon o javnoj nabavi NN 120/16, 114/22 na snazi od 11.10.2022. do 31.12.2022.*

- Law on Customs Service the purified text of the law NN 68/13, 30/14, 115/16, 39/19, 98/19 in force from 25.04.2019./*Zakon o carinskoj službi pročišćeni tekst zakona NN 68/13, 30/14, 115/16, 39/19, 98/19 na snazi od 25.04.2019.*

2. Special National laws

Synopsis 1 Official Croatian vs. Unofficial English Translation

Zakon o provedbi Uredbe Vijeća (EU) 2017/1939 od 12. listopada 2017. o provedbi pojačane suradnje u vezi s osnivanjem ureda Europskog javnog tužitelja („EPPO“)	**Act implementing Council Regulation (EU) 2017/1939 of 12 October 2017 on the implementation of enhanced cooperation in relation to the establishment of a European Public Prosecutor's Office ("EPPO")**
HRVATSKI SABOR	CROATIAN PARLIAMENT
2824	2824
Na temelju članka 89. Ustava Republike Hrvatske, donosim	Pursuant to Art. 89 of the Constitution of the Republic of Croatia, I enact
ODLUKU	DECISION
O PROGLAŠENJU ZAKONA O PROVEDBI UREDBE VIJEĆA (EU) 2017/1939 OD 12. LISTOPADA 2017. O PROVEDBI POJAČANE SURADNJE U VEZI S OSNIVANJEM UREDA EUROPSKOG JAVNOG TUŽITELJA („EPPO“)	ON THE PROMULGATION OF THE LAW ON THE IMPLEMENTATION OF COUNCIL REGULATION (EU) 2017/1939 OF 12 OCTOBER 2017 ON THE IMPLEMENTATION OF ENHANCED COOPERATION IN CONNECTION WITH THE ESTABLISHMENT OF THE EUROPEAN PUBLIC PROSECUTOR'S OFFICE ("EPPO")
Proglašavam Zakon o provedbi Uredbe Vijeća (EU) 2017/1939 od 12. listopada 2017. o provedbi pojačane suradnje u vezi s osnivanjem Ureda europskog javnog tužitelja („EPPO“), koji je Hrvatski sabor donio na sjednici 18. prosinca 2020.	I hereby promulgate the Act Implementing Council Regulation (EU) 2017/1939 of 12 October 2017 on the implementation of enhanced cooperation in connection with the establishment of the European Public Prosecutor's Office ("EPPO"), adopted by the Croatian Parliament at its session on 18 December 2020.

Klasa: 011-01/20-01/128 Urbroj: 71-10-01/1-20-2 Zagreb, 22. prosinca 2020. Predsjednik Republike Hrvatske Zoran Milanović, v. r. ZAKON O PROVEDBI UREDBE VIJEĆA (EU) 2017/1939 OD 12. LISTOPADA 2017. O PROVEDBI POJAČANE SURADNJE U VEZI S OSNIVANJEM UREDA EUROPSKOG JAVNOG TUŽITELJA („EPPO“)	Class: 011-01/20-01/128 Reg. No.: 71-10-01/1-20-2 Zagreb, 22 December 2020 President Of the Republic of Croatia Zoran Milanović, senior LAW ON THE IMPLEMENTATION OF COUNCIL REGULATION (EU) 2017/1939 OF 12 OCTOBER 2017 ON THE IMPLEMENTATION OF ENHANCED COOPERATION IN CONNECTION WITH THE ESTABLISHMENT OF THE EUROPEAN PUBLIC PROSECUTOR'S OFFICE ("EPPO")
Članak 1 Ovim Zakonom osigurava se provedba Uredbe Vijeća (EU) 2017/1939 od 12. listopada 2017. o provedbi pojačane suradnje u vezi s osnivanjem Ureda europskog javnog tužitelja („EPPO“) (SL L 283, 31. 10. 2017.) (u daljnjem tekstu: Uredba Vijeća (EU) 2017/1939).	**Article 1** This Act ensures the implementation of Council Regulation (EU) 2017/1939 of 12 October 2017 on the implementation of enhanced cooperation in connection with the establishment of the European Public Prosecutor's Office ("EPPO") (OJ L 283, 31.10.2017). hereinafter: Council Regulation (EU) 2017/1939).
Rodni pojmovi **Članak 2** Riječi i pojmovni sklopovi koji imaju rodno značenje, odnose se na jednak način na muški i ženski rod. Ustrojstvo Odjela delegiranih europskih tužitelja	Gender terms **Article 2** Words and concepts that have a gender meaning refer equally to the masculine and feminine genders. Organization of the Department of Delegated European Prosecutors
Članak 3 (1) Odjel delegiranih europskih tužitelja djeluje u sastavu Ureda za suzbijanje korupcije i organiziranog kriminaliteta (u daljnjem tekstu: USKOK).	**Article 3** (1) The Department of Delegated European Prosecutors operates within the Office for the Suppression of Corruption Organized Crime (hereinafter: USKOK).

(2) Poslove u Odjelu delegiranih europskih tužitelja obavljaju delegirani europski tužitelji i službenici pod nadzorom delegiranih europskih tužitelja. (3) Zakon o državnom odvjetništvu („Narodne novine“, br. 67/18.) i Zakon o državnoodvjetničkom vijeću („Narodne novine“, br. 67/18. i 126/19.) primjenjivat će se na prava i dužnosti delegiranih europskih tužitelja ako nisu u suprotnosti s Uredbom Vijeća (EU) 2017/1939.	(2) The tasks in the Department of Delegated European Prosecutors shall be performed by delegated European prosecutors and officials under the supervision of delegated European prosecutors. (3) The State Attorney's Office Act (Official Gazette 67/18) and the State Attorney's Council Act (Official Gazette 67/18 and 126/19) shall apply to rights and duties of delegated European prosecutors if they are not in conflict with Council Regulation (EU) 2017/1939.
Nadležnost i sastav suda **Članak 4** (1) U predmetima za kaznena djela iz nadležnosti Ureda europskog javnog tužitelja stvarno i mjesno je nadležan Županijski sud u Zagrebu, osim ako ovim Zakonom nije drugačije određeno. (2) U predmetima za kaznena djela iz nadležnosti Ureda europskog javnog tužitelja sude vijeća sastavljena od tri suca, a koji suci su godišnjim rasporedom poslova raspoređeni na rad u Odjel za USKOK. (3) Iznimno od ovoga članka, u kaznenim predmetima maloljetnika i mlađih punoljetnika za kaznena djela iz nadležnosti Ureda europskog javnog tužitelja na nadležnost i sastav suda primjenjuju se odredbe Zakona o sudovima za mladež („Narodne novine“, br. 84/11., 143/12., 148/13., 56/15. i 126/19.).	Jurisdiction and composition of the court **Article 4** (1) In cases for criminal offenses within the jurisdiction of the European Public Prosecutor's Office, the Zagreb County Court shall have real and territorial jurisdiction, unless otherwise provided by this Act. (2) In cases for criminal offenses within the jurisdiction of the European Public Prosecutor's Office, the chambers shall be composed of three judges, and which judges shall be assigned to work in the USKOK Department according to the annual work schedule. (3) As an exception to this Article, in criminal cases of juveniles and juveniles for criminal offenses within the jurisdiction of the European Public Prosecutor's Office, the provisions of the Juvenile Courts Act (Official Gazette 84/11) shall apply to the jurisdiction and composition of the court. 143/12, 148/13, 56/15 and 126/19).

Ovlasti delegiranog europskog tužitelja	Powers of the Delegated European Prosecutor
Članak 5	**Article 5**
(1) Za kaznena djela iz nadležnosti Ureda europskog javnog tužitelja ovlašteni tužitelj je delegirani europski tužitelj.	(1) For criminal offenses within the competence of the European Public Prosecutor's Office, the authorized prosecutor is a delegated European prosecutor.
(2) Delegirani europski tužitelj ima ovlasti državnog odvjetnika propisane Zakonom o kaznenom postupku („Narodne novine", br. 152/08., 76/09., 80/11., 121/11., 91/12., 143/12., 56/13., 145/13., 152/14., 70/17. i 126/19.) i drugim propisima, osim ako ovim Zakonom nije drugačije određeno.	(2) The delegated European Prosecutor has the powers of the State Attorney prescribed by the Criminal Procedure Act (Official Gazette 152/08, 76/09, 80/11, 121/11, 91/12, 143/12, 56/13, 145/13, 152/14, 70/17 and 126/19) and other regulations, unless otherwise provided by this Act.
(3) U postupku za kaznena djela iz članka 21. Zakona o Uredu za suzbijanje korupcije i organiziranog kriminaliteta („Narodne novine", br. 76/09., 116/10., 145/10., 57/11., 136/12., 148/13. i 70/17.) delegirani europski tužitelj ima ovlasti državnog odvjetnika po Zakonu o Uredu za suzbijanje korupcije i organiziranog kriminaliteta, osim ako ovim Zakonom nije drugačije određeno.	(3) In proceedings for criminal offenses referred to in Article 21 of the Act on the Office for the Suppression of Corruption and Organized Crime (Official Gazette 76/09, 116/10, 145/10, 57/11, 136)/12, 148/13 and 70/17) the delegated European Prosecutor has the powers of the State Attorney under the Law on the Office for the Suppression of Corruption and Organized Crime, unless otherwise provided by this Law.
(4) U predmetima za kaznena djela iz nadležnosti Ureda europskog javnog tužitelja delegirani europski tužitelj ovlašten je, u svrhu ostvarenja pravosudne suradnje s državama članicama Europske unije odnosno međunarodne pravne pomoći s trećim državama, poduzimati sve radnje koje nadležna državna odvjetništva poduzimaju na temelju Zakona o pravosudnoj suradnji u	(4) In cases for criminal offenses within the competence of the European Public Prosecutor's Office, the delegated European Prosecutor is authorized, for the purpose of judicial cooperation with EU Member States or international legal assistance with third countries, to take all actions taken by competent state attorney's offices. judicial cooperation in criminal matters with the Member States

kaznenim stvarima s državama članicama Europske unije („Narodne novine“, br. 91/10., 81/13., 124/13., 26/15., 102/17., 68/18. i 70/19.) te Zakona o međunarodnoj pravnoj pomoći u kaznenim stvarima („Narodne novine“, br. 178/04.).	of the European Union (Official Gazette 91/10, 81/13, 124/13, 26/15, 102/17, 68/18 and 70/19) and the Law on International Legal Assistance in Criminal Matters (Official Gazette 178/04).
(5) Odredbe ovoga članka primjenjuju se i na europskog tužitelja kada postupa sukladno Uredbi (EU) 2017/1939.	(5) The provisions of this Article shall also apply to the European Prosecutor when acting in accordance with Regulation (EU) 2017/1939.
Ovlasti Ureda europskog javnog tužitelja	Powers of the European Public Prosecutor’s Office
Članak 6 (1) Kad Zakon o kaznenom postupku propisuje ovlast ili dužnost višeg državnog odvjetnika, u predmetima za kaznena djela iz nadležnosti Ureda europskog javnog tužitelja tu ovlast ili dužnost izvršava Ured europskog javnog tužitelja.	**Article 6** (1) When the Criminal Procedure Code prescribes the authority or duty of the senior state attorney, in cases for criminal offenses within the competence of the European Public Prosecutor’s Office, that authority or duty shall be exercised by the European Public Prosecutor’s Office.
(2) Ured europskog javnog tužitelja izvršava u predmetima za kaznena djela iz nadležnosti Ureda europskog javnog tužitelja ovlasti i dužnosti Glavnog državnog odvjetnika Republike Hrvatske u slučaju primjene članka 38. stavka 4., članka 206.e, članka 229. stavka 3. i članka 518. stavka 4. Zakona o kaznenom postupku („Narodne novine“, br. 152/08., 76/09., 80/11., 121/11., 91/12. – Odluka Ustavnog suda Republike Hrvatske, 143/12., 56/13., 145/13., 152/14., 70/17. i 126/19.) i u slučaju primjene članaka 36. do 47. Zakona o	(2) In cases for criminal offenses within the competence of the European Public Prosecutor’s Office, the European Public Prosecutor’s Office shall exercise the powers and duties of the Chief State Attorney of the Republic of Croatia in case of application of Article 38, Para. 4, Article 206e, Article 229, Para. 3 and Article 518 Para. 4 of the Criminal Procedure Act (Official Gazette 152/08, 76/09, 80/11, 121/11, 91/12 - Decision of the Constitutional Court of the Republic of Croatia, 143/12, 56/13, 145/13, 152/14, 70/17 and 126/19) and in the case of application of Articles 36 to 47 of the Law

Uredu za suzbijanje korupcije i organiziranog kriminaliteta („Narodne novine“, br. 76/09., 116/10., 145/10., 57/11., 136/12., 148/13. i 70/17.). (3) U predmetima za kaznena djela iz svoje nadležnosti zahtjev za zaštitu zakonitosti može podnijeti i Ured europskog javnog tužitelja.	on the Office for the Suppression of Corruption and Organized Crime (Official Gazette „„ no. 76/09, 116/10, 145/10, 57/11, 136/12, 148/13. and 70/17.). (3) In cases for criminal offenses within its competence, a request for protection of legality may also be submitted by the Office of the European Public Prosecutor.
Obavljanje poslova nacionalnog tužitelja **Članak 7** U slučajevima u kojima je delegirani europski tužitelj ovlašten obavljati i poslove nacionalnog tužitelja u mjeri u kojoj ga to ne sprječava u ispunjavanju njegovih obveza na temelju Uredbe Vijeća (EU) 2017/1939, Ured europskog javnog tužitelja plaća naknadu za rad delegiranih europskih tužitelja kako je to uređeno pravilima iz članka 114. točke c) Uredbe Vijeća (EU) 2017/1939, a Republika Hrvatska Uredu europskog javnog tužitelja nadoknađuje iznos za posao koji je obavljen u okviru poslova nacionalnog tužitelja.	Performing the duties of a national prosecutor **Article 7** In cases where the delegated European Prosecutor is also authorized to act as National Prosecutor to the extent that this does not prevent him from fulfilling his obligations under Council Regulation (EU) 2017/1939, the European Public Prosecutor’s Office shall pay remuneration to delegated European prosecutors as regulated by the rules referred to in Article 114, point c) of Council Regulation (EU) 2017/1939, and the Republic of Croatia shall reimburse the Office of the European Public Prosecutor for the amount of work performed within the work of the national prosecutor.
Sukob nadležnosti **Članak 8** Sukladno članku 25. stavku 6. Uredbe Vijeća (EU) 2017/1939, o sukobu nadležnosti između državnog odvjetništva i Ureda europskog javnog tužitelja odlučuje Glavni državni odvjetnik Republike Hrvatske.	Conflict of jurisdiction **Article 8** Pursuant to Article 25 (6) of Council Regulation (EU) 2017/1939, the conflict of jurisdiction between the State Attorney’s Office and the European Public Prosecutor’s Office is decided by the Chief State Attorney of the Republic of Croatia.

Stegovni postupci **Članak 9** Glavni europski tužitelj može pred Državnoodvjetničkim vijećem pokrenuti postupak zbog počinjenja stegovnog djela delegiranog europskog tužitelja, a vezano uz njegov rad na predmetima iz nadležnosti Ureda europskog javnog tužitelja. Obavješćivanje **Članak 10** Obavijesti iz članka 117. Uredbe Vijeća (EU) 2017/1939 priopćava i dostavlja ministarstvo nadležno za poslove pravosuđa.	Disciplinary proceedings **Article 9** The Chief European Prosecutor may initiate proceedings before the State Attorney's Council for committing the disciplinary act of a delegated European Prosecutor, in connection with his work on cases within the competence of the European Public Prosecutor's Office. Notification **Article 10** The notifications referred to in Article 117 of Council Regulation (EU) 2017/1939 shall be communicated and submitted by the ministry responsible for justice.
Obvezno osiguranje **Članak 11** (1) Delegirani europski tužitelj plaća obveze za obvezna osiguranja sukladno članku 15. Zakona o mirovinskom osiguranju („Narodne novine“, br. 157/13., 151/14., 33/15., 93/15., 120/16., 18/18., 62/18., 115/18. i 102/19.). (2) Ministarstvo nadležno za poslove pravosuđa će delegiranom europskom tužitelju mjesečno naknaditi plaćene obveze iz stavka 1. ovoga članka u visini osnovice koju odlukom odredi ministar nadležan za poslove pravosuđa sukladno naredbi o iznosima osnovica za obračun doprinosa za obvezna osiguranja koju za tekuću godinu donosi ministar nadležan za financije. (3) Visina osnovice iz stavka 2. ovoga članka ne smije prelaziti visinu osnovice koju je delegirani europski tužitelj imao	Compulsory insurance **Article 11** (1) The delegated European Prosecutor shall pay the obligations for compulsory insurance in accordance with Article 15 of the Pension Insurance Act (Official Gazette 157/13, 151/14, 33/15, 93/15, 120/16, 18/18, 62/18, 115/18 and 102/19). (2) The Ministry in charge of justice shall reimburse the delegated European Prosecutor on a monthly basis the paid obligations referred to in para 1 of this Article in the amount of the base determined by the Minister of Justice in accordance with the order on the amounts of bases for calculating compulsory insurance contributions in charge of finance. (3) The amount of the base referred to in para 2 of this Article may not exceed the

kao pravosudni dužnosnik prije imenovanja na dužnost delegiranog europskog tužitelja.	amount of the base that the delegated European Prosecutor had as a judicial official before his appointment to the position of Delegated European Prosecutor.
Prijelazna i završna odredba **Članak 12** Odluku iz članka 11. stavka 2. ovoga Zakona ministar nadležan za poslove pravosuđa donijet će u roku od 30 dana od dana stupanja na snagu ovoga Zakona.	Transitional and final provision **Article 12** The decision referred to in Article 11, para 2 of this Act shall be made by the Minister competent for judicial affairs within 30 days from the day this Act enters into force.
Članak 13 Ovaj Zakon objavit će se u „Narodnim novinama“, a stupa na snagu danom stupanja na snagu Odluke Europske komisije iz članka 120. stavka 2. Uredbe Vijeća (EU) 2017/1939 koja će biti objavljena u Službenom listu Europske unije. Klasa: 022-03/20-01/157 Zagreb, 18. prosinca 2020. HRVATSKI SABOR Predsjednik Hrvatskoga sabora Gordan Jandroković, v. r.	**Article 13** This Act shall be published in the Official Gazette and shall enter into force on the date of entry into force of the European Commission Decision referred to in Article 120 (2) of Council Regulation (EU) 2017/1939, which shall be published in the Official Journal of the European Union. Class: 022-03/20-01/157 Zagreb, 18 December 2020 CROATIAN PARLIAMENT President Of the Croatian Parliament Gordan Jandroković, v. R.

B. EPPO-Regulation

I. Special Introduction

Author: Dr. *Lucija Sokanović*, Associate Professor at the Chair of Criminal Law
Faculty of Law – University of Split, Croatia

1. The Croatian judicial system related to the European Public Prosecutor's Office (EPPO) and to the protection of the EU's financial interests by means of criminal law

The idea of creating a strong Europe as an area of prosperity and peace included the integration of the financial resources of the Member States from its beginning. Motives and goals of unification are highlighted in the Preamble of the Treaty on the Functioning of the European Union as the **realization of economic and social progress**, the removal of obstacles that divide Europe, the constant improvement of the living and working conditions of the people, pooling of resources to preserve and strengthen peace and freedom.[5] Today, the European Commission points out that the EU budget is: "an instrument that ensures that Europe continues to be a democratic, peaceful, prosperous and competitive power. It provides the means by which Europe can play a leading role in the world in facing current and future challenges."[6] **1**

In these circumstances the protection of the **EU's financial interests by means of criminal law** is of the crucial importance. In order to comply with new EU institution and legislation, Croatia adopted the Act on the Implementation of Council Regulation and made an analysis of the compliance of national criminal offences with the offences prescribed by the Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law.[7] **2**

2. European and Croatian Legal Framework

In December 2020 Croatian Government submitted to the Parliament the Draft Act on the Implementation of Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO'). The Act on the Implementation of Council Regulation[8] was **3**

[5] Treaty on the Functioning of the European Union, Consolidated version, OJ EU C 202, 7.6.2016.
[6] European Commission, Directorate-General for Budget, *The EU budget at a glance*, Publications Office, 2019, https://data.europa.eu/doi/10.2761/963945, p. 5.
[7] Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law, OJ L 198, 28.7.2017, p. 29–41.
[8] The Act on the Implementation of Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO'), Official Gazette

adopted in the urgent procedure already on 18 December whereby the fact that series of activities have been undertaken at the level of the European Union for the operational establishment of the work of the EPPO as soon as possible has been pointed out as justification of the need for **urgent adoption of the Act** in order to facilitate the legal prerequisites for the work of delegated European prosecutors in the Republic of Croatia.[9]

4 The Act prescribes: Organization of the Department of Delegated European Prosecutors (Article 3), the Jurisdiction and Composition of the court (Article 4), the powers of the European Delegated Prosecutor (Article 5), the powers of the Office of the European Public Prosecutor (Article 6), the Performance of the Duties of the National Prosecutor (Article 7), the Conflict of Jurisdiction (Article 8), the Disciplinary procedures (Article 9), Notification (Article 10), the Compulsory Insurance (Article 11).

5 The **Department of Delegated European Prosecutors** operates within the Office for Suppression of Corruption and Organized Crime (USKOK)[10]. Tasks in the Department of Delegated European Prosecutors are performed by delegated European prosecutors and officers under their supervision. For the cases of the EPPO's jurisdiction, the County Court in Zagreb has a material and territorial jurisdiction. These cases are tried by panels composed of three judges who are assigned to work in the USKOK Department according to the annual work schedule.

6 An exception is provided for the criminal cases involving minors and younger adults where the provisions of the Juvenile Courts Act apply to the jurisdiction and composition of the court. The delegated European prosecutor is the authorized prosecutor for criminal offences under the jurisdiction of EPPO.

7 The delegated European prosecutor has the powers of the state attorney prescribed by the Criminal Procedure Act, but in the procedure for criminal offences from Article 21 of the Act on the Office for the Suppression of Corruption and Organized Crime,[11] the delegated European prosecutor has the powers of a state attorney under the Act on the Office for Suppression of Corruption and Organized Crime.

146/20. https://www.zakon.hr/z/2734/Zakon-o-provedbi-Uredbe-Vije%C4%87a-%28EU%29-2017-1939-od-12.-listopada-2017.-o-provedbi-poja%C4%8Dane-suradnje-u-vezi-s-osnivanjem-ureda-Europskog-javnog-tu%C5%BEitelja-%28%C2%BBEPPO%C2%AB%29.

[9] Government of the Republic of Croatia, Prijedlog zakona o provedbi Uredbe Vijeća (EU) 2017/1939 od 12. listopada 2017. o provedbi pojačane suradnje u vezi s osnivanjem Ureda europskog javnog tužitelja ("EPPO"), s Konačnim prijedlogom zakona, p. 4. Available at: https://www.iusinfo.hr/AppendixExtCro/RDOCSBHR/entid_2019861.PDF (26.09.2024).

[10] The latest dispute concerns the rule of law mechanism https://www.eppo.europa.eu/en/media/news/eppo-raises-concerns-over-rule-law-violations-croatia-following-conflict-competence. EPPO raises concerns over rule of law violations in Croatia following conflict of competence decision. This is an example of a competence conflict case.

[11] Official Gazette 76/09, 116/10, 145/10, 57/11, 136/12, 148/13 and 70/17.

Finally, in criminal cases under the jurisdiction of EPPO, the delegated European prosecutor is authorized, for the purpose of achieving judicial cooperation with the member states of the European Union, i.e. international legal assistance with third countries, to undertake all the actions that the competent state attorneys' offices undertake on the basis of the Act on Judicial Cooperation in criminal matters with the member states of the European Union[12] and the Act on International Legal Assistance in Criminal Matters.[13] **8**

When it comes to **material competences of the EPPO**, the issue is more complex. Namely, Article 22. of the EPPO-RG applies directly and the material competence is not mentioned in the Act on the Implementation of Council Regulation. But, in the Final Proposal of the Act on Amendments to the Criminal Code in 2018, when considering the criminal offences envisaged by the PIF Directive, the **Croatian Government** has ascertained as followed: "The analysis of the Directive in question showed that national criminal legislation is already harmonized with the requirements that the Directive sets before the member states. In this regard, the criminal offences from Article 3 of the PIF Directive, which protect the financial interests of the European Union, according to their legal description, correspond to **following criminal offences**: Tax or Customs Evasion (Article 256 of the Criminal Code), Subsidy Fraud (Article 258) and Fraud in Business Operations (Article 247). In addition to the offences from Article 3 of the PIF Directive, the commission of offences from Article 4 adversely affects the financial interests of the European Union. Through the analysis of the prescribed offences, it was observed that they correspond to following criminal offences: Money Laundering (Article 265 of the Criminal Code), Accepting Bribes (Article 293), Bribery (Article 294), Evasion (Article 232) and Embezzlement (Article 233). Also, the analysis of the criminal sanctions of the above-mentioned criminal offences showed their compliance with Article 7 of the PIF Directive. **9**

The PIF Directive, as a **novelty in relation to the PIF Convention**, introduces in Article 12 the statute of limitations for criminal prosecution and statute of limitations for execution of prison sentences for criminal offences from Article 3 and 4. The analysis of the **statute of limitations** in question showed their compliance with Article 81 of the Criminal Code (statute of limitations for criminal prosecution) and Article 83 of the **10**

[12] Official Gazette 91/10., 81/13., 124/13., 26/15., 102/17., 68/18. and 70/19.
[13] Official Gazette 178/04.

Criminal Code (statute of limitations for execution of sentence)." [14] Despite such sovereign attitude, implementation failures have been identified in number of national scientific papers.[15]

11 When it comes to fraud affecting the Union's financial interests in respect of non-procurement-related expenditure from Article 3 para 2 (a) (i), and (ii), national incrimination from Article 258:[16] Subsidy Fraud covers wider legal protection because it lacks objective feature of the offence from Directive which is the effect of misappropriation or wrongful retention of funds or assets.[17] Fraud in respect of procurement-related expenditure from Article 3 para 2 (b) (i), and (ii) may be subsumed under **subsidy Fraud** from Article 258 para 1.

12 But the third modality of the offence from Article 3 para 2 (iii) presents a narrower criminal liability in comparison to the third **modality of subsidy Fraud**. Namely, it encompasses the misapplication of such funds or assets for purposes other than those for which they were originally granted, which damages the Union's financial interests.

13 Croatian offence: Abuse of Public Procurement Procedure from Article 254 can't be applied in the context of fraud in respect of procurement-related expenditure because it relates to a limited sphere of punishable behavior: the perpetrator is a person who, in the public procurement procedure submits an offer based on a prohibited agreement between economic entities with the aim of having the contracting authority accept a certain offer. Fraud in respect of revenue other than revenue arising from VAT own resource can be subsumed under Croatian Tac or Customs Evasion from Article 256.[18]

14 Fraud in respect of revenue arising from VAT own resources from Article 3 para 2 (d) could be covered by national Article 256 which lacks the special feature of act or omission committed in cross-border fraudulent schemes except for the third modality (iii) in relation to which the Directive was not implemented.[19]

15 The most important provisions from the Criminal Procedure Code for Fraud and Corruption Investigations in Croatia before indictment include provisions on evidentiary

[14] Government of the Republic of Croatia, Final Proposal of the Act on Amendments to the Criminal Code, November, 2018. Available at: https://vlada.gov.hr/UserDocsImages/2016/Sjednice/2018/12%20prosinac/129%20sjednica%20VRH/129%20-%204.pdf.

[15] Sokanović, L., Materijalna nadležnost Ureda europskog javnog tužitelja – hrvatska perspektiva, Hrvatski ljetopis za kaznene znanosti i praksu, Zagreb, vol. 26, 2/2019, pp. 669–692., Đurđević, Z., Materijalnopravne i procesnopravne pretpostavke rada europskog javnog tužitelja u Hrvatskoj: Neispunjenje obveze implementacije Direktive i rizik sniženja standarda učinkovitog postupka Uredbom, Hrvatski ljetopis za kaznene znanosti i praksu, Zagreb, vol. 27, 1/2020, pp. 253–282., Damjanović Barić, J., Prijevare s PDV-om na razini Europske unije u hrvatskom kaznenom pravu i praksi, Hrvatski ljetopis za kaznene znanosti i praksu, Zagreb, vol. 29, 1/2022, pp. 29–56.

[16] Criminal Code, Official Gazette 125/11, 144/12, 56/15, 61/15, 101/17, 118/18, 126/19, 84/21, 114/22, 114/23. Further: CC.

[17] Sokanović, p. 676.

[18] Sokanović, p. 678.

[19] *Ibid*., p. 680-681. For other offences see *ibid*., pp. 681–688.

measures: search of a person, a dwelling and other premises, a movable property and a bank safe (Articles 240–260), temporary seizure of objects (Articles 261–270), interrogation of the defendant (Articles 272–282), examination of witnesses (Articles 283–300), identification (Articles 301–202), inspection (Articles 304–306), taking fingerprints or prints of other body parts (Article 307), expert witness testimony (Articles 308–328), documentary evidence (Article 329), recording evidence (Article 330), electronic (digital) evidence (Article 331).[20]

16 Special evidentiary measures can be ordered only if the investigation could not be carried out in another way or it would be possible only with disproportionate difficulties: surveillance and interception of telephone conversations and other means of remote technical communication, interception, gathering and recording of electronic data, entry on the premises for the purpose of conducting surveillance and technical recording at the premises, covert following and technical recording of individuals and objects, use of undercover investigators and informants, simulated sales and purchase of certain objects, simulated bribe-offering and bribe-receiving, offering simulated business services or closing simulated legal businesses, controlled transport and delivery of objects from criminal offences (Articles 332–338).

17 In addition, other possible measures can be ordered as: retaining and opening shipments, checking the establishment of a telecommunication contact and comparing personal data of citizens kept in a database and other registers with police data records, registers, and automatic data processing base (Articles 339–340).

18 One particular limitation in the application of special evidentiary measures is that they cannot be ordered in the investigation of Tax and Customs Evasion (Article 256 CC) and Fraud in Business Operations (Article 47).[21] If a Croatian EDP wants to search a premises of a suspect, who is suspected of having committed Subsidy Fraud, he or she acts completely on the **basis of national law** because all the measures from Article 30 of the EPPO-RG are provided in CPC.

19 **Office for Suppression of Corruption and Organized Crime or USKOK** is a special state attorney's office within the state attorney's organization in the Republic of Croatia, responsible for the prosecution of criminal offences of corruption and organized crime, so it was logical to have the Office and Department of EDPs within USKOK as it was competent for most criminal offences that belong to the EPPO's jurisdiction, such as Receiving and Giving Bribes, Receiving and Giving Bribes in Business Operations,

[20] Criminal Procedure Code, Official Gazette 152/08, 76/09, 80/11, 121/11, 91/12, 143/12, 56/13, 145/13, 152/14, 70/17, 126/19, 126/19, 130/20, 80/22. Further: CPC.

[21] See Article 334. Criminal Procedure Code. The same in Sicurella, R. *et al*. (eds.), D3.1 HANDBOOK: A practical guide on the EPPO for defence lawyers who deal with cases investigated and prosecuted by the EPPO in their day-to-day practice, p. 35. Available at: https://www.fondazionebasso.it/2015/wp-content/uploads/2023/09/EULAW-HB-ISBN-9788894323382.pdf (13.11.2023).

Abuse of Position and Authority as well as for all criminal offences committed as part of a Criminal Association.[22] Croatia developed the option of double jurisdiction of the prosecutor (*double hat*), so the delegated European prosecutors are deputy directors of USKOK.[23]

20 National Police Office for the Suppression of Corruption and Organized Crime or PNUSKOK is an organizational unit of the Directorate of the Police.[24] Its scope of work includes emerging forms of economic crime and corruption, organized crime, drug crime and terrorism, their trends and methods of execution. PNUSKOK directly conducts more complex criminal investigations of economic crime and corruption, organized crime, drug crime and terrorism at the national level in close cooperation with USKOK, other state attorneys' offices and other competent state bodies; criminal investigations in the area of two or more police administrations, criminal investigations in which a joint international police investigation is required and which are carried out on the territory of several countries, criminal investigations of prominent perpetrators of the most serious forms of crime and criminal investigations of the most complex forms of criminal offenses in the field of complex and organized crime.[25]

21 To perform tasks within the scope of work of PNUSKOK, the following services are established: Service of organized crime, Drug crime service, Economic Crime and Corruption Service, Terrorism Service, Office for Suppression of Corruption and Organized Crime Zagreb, Rijeka, Split and Osijek. Its work is regulated with Police Act,[26] Act on Police Duties and Powers,[27] as well as Rulebook on the manner of behaviour of police officers.[28]

22 The European Chief Prosecutor Kövesi and the Deputy Prime Minister and Minister of Interior of Croatia *Božinović* have signed on October 13, 2022 a **Working Agreement** on Cooperation and Access to Data Related to the Detection and Prosecution of Criminal Offenses between the European Public Prosecutor's Office (EPPO) and the Ministry of the Interior of the Republic of Croatia.[29]

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[22] Laptoš, T., Uloga i položaj europskog javnog tužitelja u hrvatskom prethodnom postupku, Policija i sigurnost, Zagreb, 28/4, 2019, p.499. Available at: https://hrcak.srce.hr/file/334879. Jurisdiction of USKOK is provided in Article 21 of the Act on the Office for the Suppression of Corruption and Organized Crime.
[23] *Ibid*.
[24] Namely, the Directorate of the Police is an administrative organization within the Ministry of Interior divided into six organizational units: Office of the Chief Director of Police, Directorate for Public Order and Security, Directorate of Criminal Police, National Police Office for the Suppression of Corruption and Organized Crime, Directorate for the Border, Intervention Command, Directorate for Special Security Affairs and Police Academy.
[25] See https://mup.gov.hr/UserDocsImages/2022/USTROJ/Ravnateljstvo%20policije/UKP/Policijski%20nacionalni%20ured%20za%20suzbijanje%20korupcije%20i%20organiziranog%20kriminaliteta.pdf
[26] Official Gazette 34/11, 130/12, 89/14, 151/14, 33/15, 121/16, 66/19.
[27] Official Gazette 76/09, 92/14, 70/19.
[28] Official Gazette 20/22.
[29] See https://www.eppo.europa.eu/de/node/358. Accessed 30 September 2024.

Minister *Božinović* explained at the 165. session of the Government of the Republic of Croatia that it is an agreement which determined the method of obtaining authorization for access to records of the Ministry of the Interior, access to data and their use, a list of records of the Ministry of the Interior to which access will be provided based on the Working Agreement, provisions on confidentiality and data protection, details of technical implementation and implementation provisions Working agreement.[30] **23**

The Minister further noted: "The application of the Working Agreement in question will contribute to faster and more effective detection, suppression and prosecution of perpetrators of criminal offences against the financial interests of the European Union and criminal offenses that are inextricably linked to them. The Working Agreement in question serves as proof of intentions and will of the participants to strengthen mutual cooperation and does not represent any new legal obligations within the framework of national or international law".[31] **24**

The work of the **State Attorney's Office** is regulated with the State Attorney Office Act.[32] "In accordance with legislative changes, and in order to effectively prosecute criminal offences against the financial interests of the European Union, under the annual schedule of the State Attorney's Office of the Republic of Croatia, a Deputy Chief State Attorney of the Republic of Croatia has been appointed, who monitors and analyses the issues of criminal offences committed to the detriment of the financial interests of the EU and coordinates the cooperation of the authorities of the Republic of Croatia that have jurisdiction for these criminal offences, as well as cooperation between EPPO and DORH. At the same time, the active participation of the State Attorney's Office in the work of the AFCOS network continues, with the Deputy Chief State Attorney of the Republic of Croatia being appointed for that."[33] **25**

In the Annual Report of the Chief State Attorney for 2022 it is stated that it was a year of intensive communication between the EPPO and the State Attorney's Office of the Republic of Croatia as the central national body in charge of communication in accordance with the provisions of the Act on the Implementation of Council Regulation.[34] During 2022, the regular state attorney's offices and the Office for the Suppression of Corruption and Organized Crime submitted to the State Attorney's Office notifications about the formation of a total of 63 cases, of which 26 cases were submitted to the EPPO according to the prescribed procedure for verification.[35] **26**

[30] See https://mup.gov.hr/vijesti/vlada-prihvatila-dogovor-izmedju-mup-a-rh-i-ureda-europskog-javnog-tuzitelja-o-suradnji-i-pristupu-podacima/289010. Accessed 30 September 2024.
[31] *Ibid.*
[32] Official Gazette 67/18, 21/22.
[33] https://commission.europa.eu/system/files/2022-07/hr_contribution_en_version.pdf, p. 18.
[34] Report of the Chief State Attorney of the Republic of Croatia on the work of State Attorney Offices in 2022, p. 240–241.
[35] *Ibid*., p. 242.

27 Out of the 26 submitted notifications on established cases, the EPPO made a decision to take over 9 cases. In 17 remain cases, the proceedings by the competent state attorneys' offices continued, with the obligation to report to the EPPO if evidence and new facts collected during the investigation provide reasons to reconsider its decision not to take over the case. During the reporting year, the State Attorney's Office of the Republic of Croatia, at the request of the EPPO, submitted the requested information in 31 cases, while the EPPO submitted to the State Attorney's Office of the Republic of Croatia information on the applications received which led to the creation of 39 cases that were submitted to the competent State Attorney's offices for processing. "Communication between the State Attorney's Office of the Republic of Croatia and the EPPO is professional and takes place almost on a daily basis by exchanging information and holding consultative meetings so that the legal framework determined by the Regulation and the Law is fully respected. In conclusion, it can be concluded that the cooperation between the State Attorney's Office of the Republic of Croatia and the EPPO is extremely good and efficient."[36]

3. A First Look at Statistics: The Effect of EPPO operational activities in Croatia – Critical Comment to the EPPO's Annual Report 2022 and 2023

28 In 2022 the total of 23 investigations were opened in Croatia with estimated damages of € 313.6 million.[37] When analysing judicial activity in criminal cases, there were two ongoing cases in the trial phase, six first court decisions, viz six convictions as well as six final court decisions.[38] In typology identified in active EPPO cases, four group of offences stand out: Corruption (13 cases), Procurement expenditure fraud (12), Inextricably linked offences (12) and Non-procurement expenditure fraud (11).[39] Two cases of PIF-focused Criminal organizations are detected, two cases of Misappropriation and one case of Non-VAT revenue fraud. Not a single case of VAT revenue fraud and Money Laundering might be explained by the fact that investigations in such cases take certain time and visible results could not be achieved in a short period. In the active expenditure fraud cases misuse of regional and urban development programmes dominate with seven cases as well as agricultural and rural development programmes with six cases.[40] It should be noted that freezing orders granted in 2022 involved € 400 000.

[36] *Ibid.*
[37] The EPPO's Annual Report 2022, https://www.eppo.europa.eu/sites/default/files/2023-03/8%20EPPO%202022%20Annual%20Report%20EN_HR.pdf.
[38] Zero number of appeals against first court decisions, ongoing cases in the appeal phase, extraordinary legal remedies against court decisions and acquittals.
[39] *Ibid*.
[40] *Ibid*., significantly less represented are the cases of employment, social cohesion, inclusion and values programmes (2), other programmes or doubt cases (2) and recovery and resilience programmes (1). Not a single case was reported in maritime and fisheries programmes, international cooperation programmes, education and culture-

In 2023 the total of 36 investigations were opened with estimated damages of € 69 million.[41] There were seven ongoing cases in the trial phase, four first court decisions (convictions) and four final court decisions. The typology of active EPPO cases was predominated by Non-procurement expenditure fraud (23) and Procurement expenditure fraud (19). Other major cases concern Corruption (13), Inextricably linked offences (10) and Misappropriation (8). Active funding fraud investigations are mostly carried out in regional and urban development programmes (25) and agricultural and rural development programmes (13). Freezing orders granted in 2023 included € 1.6 million.[42] **29**

In 2022 the European Public Prosecutor's Office (EPPO) in Zagreb has launched an investigation against two Croatian nationals for **unlawful favouritism** and incitement to unlawful favouritism. Both suspects were arrested at the EPPO's request. It was considered that the first suspect, an employee of the Croatian Agency for SMEs, Innovations and Investments (hereinafter: HAMAG-BICRO), arranged for the second suspect to be awarded a public procurement contract entitled 'Graphic design and production of promotional materials for the project BOND' in 2020 and 2021. The second suspect was the owner of a graphic design business and the cousin of the first suspect. Apparently, the second suspect requested the first suspect to award her this project estimated at € 113 000 and financed by the EU. **30**

Although an expert panel had been formally established to prepare and implement the public procurement procedure, the first suspect prepared and implemented the public procurement procedure herself from September to December 2020. In doing so, she specifically adjusted the tender conditions to the capacities and references of the business of the second suspect. **31**

Then, in January 2021, the first suspect initiated the launch of the **public procurement procedure**, and by the time of the deadline, four other bids, alongside the bid by the second suspect, had been received. Three were more favourable, in terms of price. The first suspect took minutes of the review and evaluation of the bids. Those minutes were contrary to the recommendations from the expert panel, and it emerged that the first suspect had rejected all the other bids – except for the one by the business belonging to the second suspect – as non-compliant. Consequently, the first suspect rated the bid by the graphic design business belonging to the second suspect as the most favourable regarding the price, and she proposed to the management of HAMAG-BICRO to award **32**

related programmes, research and onnovation programmes, climate and environmental programmes, asylum, migration and integration programmes, industry, entrepreneurship, and SMEs programmes and finally, security and defence programmes.

[41] The EPPO's Annual Report 2023, available at: https://www.eppo.europa.eu/sites/default/files/2024-02/EPPO%20Annual%20Report%202023%20WEB%20EN%20300p_HR.pdf. Accessed 31 October 2024.

[42] *Ibid.*

the contract to this specific bidder. The public procurement decision was issued on 30 March 2021.

33 After the State Commission for the Supervision of Public Procurement Procedures annulled the above-mentioned decision, it instructed HAMAG-BICRO to repeat the procedure. This time, the first suspect created a different version of the minutes of the review and evaluation of the bids, in which she repeatedly eliminated bids by all other candidates. She then shared her evaluation with the management of HAMAG-BICRO and they adopted a new decision on 30 July 2021: the bid by the business owned by the second suspect was selected again. Following an appeal, the Croatian State Commission for the Supervision of Public Procurement Procedures annulled the decision just as it had done before. It instructed HAMAG-BICRO to repeat the procedure, and the first suspect attempted to overturn this decision by filing a complaint with the High Administrative Court of the Republic of Croatia. Once the court dismissed this complaint, the procedure of review and evaluation of bids was repeated, and another bidder was selected for the respective services. In March 2023, the European Public Prosecutor's Office (EPPO) in Zagreb filed another indictment for unlawful favouritism and incitement to unlawful favouritism.

34 On 21 April 2023, the **County Court in Zagreb** passed a verdict in which the first accused was found guilty and sentenced to 11 months of imprisonment – which was exchanged for community service and a fine of € 5 000. The verdict was the result of a **plea bargain**, as the accused pleaded guilty to her charges. The prescribed penalty for the unlawful favouritism is imprisonment from six months to five years. In Croatia the most represented penalty is suspended imprisonment. In 2022 it amounted to 80,8%, in 2021 to 80,5%, in 2020 to 80,5%. The achievement of special and general prevention can be reasonably questioned in regard of such mild punishments as well as humble awareness of the danger and harmfulness of these criminal offences.

4. A Short Case Study: The "Croatian Public Procurement Case"

35 The case can be summarized as follows: "There were reasonable grounds to believe that a mayor requested from the second accused, the manager of a construction company, a bribe in return for the **manipulation of a procurement procedure** in order to obtain the assignment of a project, co-financed by the EU Cohesion Fund, for the amount of HRK 4,219,433.22 (around € 562,000.00)."[43] One of the accused was managing the company *Solara technological d.o.o*. and was charged for manipulating, together with other accused persons, including the mayor of *Nova Gradiška*, of public procurement

[43] See https://www.eppo.europa.eu/en/news/three-convictions-croatia-illegal-favouritism-and-attempt-abuse-function. Accessed 31 October 2024. For further information on cohesion see European Court of Auditors 2019.

documentation within public procurement procedure with the aim of selecting a contractor for the construction of a solar plant (BIOSOL), in order to gain an illegal advantage ahead of his competitors.[44]

In Croatia, a public procurement contract is a payment contract concluded in writing between one or more economic entities and one or more contracting authorities, the subject of which is the performance of works, delivery of goods or provision of services.[45] The criminal offence in Croatian CC directly related to public procurement is Abuse of Public Procurement Procedure under Article 254. However, this offence covers a very narrow sphere of criminal conduct; the perpetrator is a person who submits in the public procurement procedure an offer based on a prohibited agreement between economic entities whose goal is for the contracting authority to accept a certain offer.[46] While the first two forms of the offence from Article 3 (2)(b)(i)(ii) of PIF Directive essentially coincide with the Subsidy fraud referred to in Article 258 para 1 of the CC, it is clear that the third modality of the offence under the PIF Directive presents a narrowing of the criminal liability compared to the third modality of the Subsidy fraud. Namely, the misapplication of the funds or assets for purposes other than those for which they were originally granted must be of that kind that damages the Union's financial interests. Does this mean, given that the Directive establishes minimum rules, that national legislation needs to be changed in direction of reducing criminal liability? **36**

Such a solution in the PIF Directive abandoned the previous Convention solution, which did not contain the feature of causing damage to the Union's budget, while finding the protective good of this form of fraud in the Union's freedom to dispose of its own resources. Furthermore, although the offence from Article 258 of the CC contains a special subjective feature – "the aim that he or she or another person receives a state subsidy", the PIF Directive now introduces a special subjective feature when it comes to fraud in respect of procurement-related expenditure: "at least when committed in order to make an unlawful gain for the perpetrator or another by causing a loss to the Union's financial interests". **37**

[44] *Ibid*. See EU Comission 2017 for ref flags in this area.
[45] Public Procurement Act, Official Gazette 120/16. Article 3 Para. 32.
[46] Criminal offence of Unlawful Favoritism from Article 292 is of great significance as well. Offence is committed by a public official or responsible person who on the basis of an agreement demonstrates favoritism towards an economic entity by adapting public procurement terms and conditions or who awards a contract to a tenderer whose tender is contrary to the terms and conditions set out in the bid documentation. The same offence exists when a public official or responsible person who abuses his or her position or authority by demonstrating favoritism in the award of contracts or in taking on or negotiating deals toward his or her activity or the activity of persons with whom he or she is linked in terms of vested interests.

38 All the above points to the conclusion that in order to transpose the PIF Directive, it is necessary to introduce into Croatian criminal legislation a new offence of Fraud in public procurement which would criminalize the conduct referred to in (3)(b). The use of the term "at least" refers to the freedom of the Republic of Croatia as a Member State to independently decide whether to incorporate the special subjective feature into the essence of the offence.[47]

39 Specific feature of the case was that accused was a mayor of the city and member of the Parliament at the same time, so according to Article 29 of the EPPO-RG: Where the investigations of the EPPO involve persons protected by a privilege or immunity under national law, and such privilege or immunity presents an obstacle to a specific investigation being conducted, the European Chief Prosecutor shall make a reasoned written request for its lifting in accordance with the procedures laid down by that national law. In Croatia, it is not necessary to lift the immunity of the representative in order to conduct the investigation. Namely, such a request would be considered premature. But the State Attorney's Office should request the lifting of immunity when filing the indictment, because according to Article 17, para 1, item 1 of the Criminal Procedure Act, the criminal procedure begins with the confirmation of the indictment in court. This is in accordance with Article 75, para 3 of the Constitution of the Republic of Croatia, as well as Article 23, para 2 of the Rules of Procedure of the Croatian Parliament, which tie the lifting of immunity exclusively to the **initiation and conduct** of criminal proceedings. Likewise, the Croatian Parliament, i.e. the Mandatory Immunity Committee, gives exclusive approval for the initiation and conduct of criminal proceedings, which results from the provisions on parliamentary immunity of the Rules of Procedure of the Croatian Parliament (Articles 23 to 28).

5. The Verdict

40 "The first accused was sentenced to 11 months' imprisonment, exchanged for community service, as well as a fine of € 13 400. The second accused was convicted to a suspended sentence of 1 (one) year imprisonment, provided that he does not commit any criminal offence within a 3-year period."

[47] Sokanović, L., Protection of the Financial Interests of European Union in Croatia: Recent Developments and Old Questions, EU and Comparative Law Issues and Challenges Series (ECLIC) – ISSUE 4, pp. 1047–1048.

6. Conclusion

Just in the time of writing final remarks to this chapter Croatian newspapers and portals were loaded with news and comments on the "conflict" of Croatian Prime Minister *Andrej Plenković* and Head of EPPO Laura Codruţa Kövesi concerning the competence in investigation of potential abuses at the Faculty of Geodesy of the University in Zagreb. While Kövesi stated that EPPO is competent for this investigation, as well as Tamara Laptoš, European Delegated Prosecutor,[48] the Prime Minister held that national State Attorney's Office is competent because all the money potentially involved was paid from the state budget.[49] The "conflict" was highlighted by the fact of the "super election year". Namely, parliamentary elections will be held in April, elections for the European Parliament in May and presidentially elections at the end of 2024. **41**

Factual substance of the case involved the arrest of the former dean of the Faculty of Geodesy in Zagreb and one professor by order of the EPPO in November 2023.[50] **42**

European prosecutors suspected that they have manipulated as many as 28 procurement procedures through which the persons in question (about 30) made a profit themselves. It was also suspected that they have falsified travel orders in 317 occasions for trips that did not exist. The affair reached its peak by the alleged decision of the Minister of Culture and Media, *Nina Obuljen Koržinek*, to allocate HRK 19.1 million to the Faculty of Geodesy for the job of in-depth recording of buildings after the 2020 earthquake. **43**

There was no tender due to the urgency of the work, the recording prices were apparently much higher than the prices that private companies would charge, and the entire documentation of the project was disputed and lacking. In addition to the above, the Minister of Culture allocated the Faculty eight times higher sum than it normally costs to record the building owned by HAZU. The police recently raided the Ministry of Culture when the EPPO was once again carrying out urgent investigations regarding the "Geodetski case". Prime Minister *Andrej Plenković* commented on the police intrusion into the Ministry of Culture and Media and pointed out that it remains to be seen whether this is the competence of the EPPO or national State Attorney's Office. Chief European Prosecutor Kövesi reacted to *Plenković's* comments and emphasized the importance of not interfering in EPPO investigations, as this could damage the funding of the investigations **44**

[48] See https://www.vecernji.hr/vijesti/glavna-europska-tuziteljica-o-nadleznosti-eppo-a-ne-odlucuju-politicari-nego-pravosude-1752698.

[49] See https://www.jutarnji.hr/vijesti/hrvatska/prema-plenkovicu-europski-tuzitelji-ne-mogu-istrazivati-kriminal-na-geodetskom-jer-je-u-pitanju-hrvatski-novac-15431071.

[50] The substance of the case was taken from Debeljak, H., O EPPO-u se ovih dana puno govori: Što je Ured europskog javnog tužitelja i gdje se uopće nalazi?, available at: https://www.srednja.hr/izborni-predmet/o-eppo-u-se-ovih-dana-puno-govori-sto-je-ured-europskog-javnog-tuzitelja-i-gdje-se-uopce-nalazi/.

and jeopardize their outcome. She emphasized that such interference would be a violation of European Union law and would lead to a conflict of competences between different institutions.

45 Conflict of jurisdiction is not unconventional in national and particularly international disputes and cases. Respect towards European institutions and compliance with EU legislation are not contrary to obligation of state officials to protect state integrity. The main concern this "conflict" raised is lack of legal facts and reasoning presented. Namely, in the provoked public debate the contents or purport of Article 22. of the EPPO-RG prescribing material competence of EPPO, nor Article 2. of the Directive (EU) 2017/1371 setting out the definition of Union's financial interests was nor discussed at all.

II. The Start of Criminal investigations according to the EPPO-RG based on national law (measures)

Hauck, Schneider, Karakocaoğlu, Laird Justus Liebig University, Gießen

In 2021 several Croatian EDPs[51] started their work in the regional office of the EPPO in Croatia. They had close connections to the Croatian Office for the Suppression of Corruption and Organized Crime (hereinafter: USKOK) the Unit fighting corruption in Croatia from the very beginning. Article 3 of the EPPO Adoption Law stipulated that the Department of Delegated European Prosecutors operates **within USKOK**. The criminal investigation scenery and the authorities in Croatia can be researched via a Database.[52] **46**

The first Annual Report of the EPPO clearly indicated that the start was well achieved. Major investigations against majors and beneficiaries of European funds were initiated or evocated from the national authorities.[53] 16 times the EDPs decided not to exercise their competence. The damages in 2021 caused to the EU budget by fraudulent or suspicious activities was as high as 30.6 million €.[54] In **2022 convictions** were achieved and the EPPO subsequently released the news on its Webpage. One of these cases is discussed as a case study below.[55] The courts are well prepared for the next cases. **47**

The relations of the Regulation to **national law** are partly notified to the EPPO[56] but have not been presented in a coherent structure including more specific provisions as well as relevant case law, which is done below via tables, figures and sources & national sections, which explain the relevant parts of the EPPO Adoption Law and present the investigative powers that are used to gather evidence. Many institutions from the Croatia State Structure are involved in the fight against fraud (see → below Article 28 EPPO-RG). **48**

The State Budget Act clearly says that the EU budget is equally protected as the Croatian budget itself: **49**

> **Article 155 Protection of the financial interests of the European Union** (1) The Republic of Croatia, as a beneficiary of European Union funds, ensures the protection of the European Union's financial interests by establishing a system for the suppression of irregularities and fraud (AFCOS).

[51] Krešimir Bačić, Tomislav Kamber, Sani Ljubicic, Saša Manojlović directed by the EP Tamara Laptoš.
[52] See https://sredisnjikatalogrh.gov.hr/Adresari-i-imenici/(active)/tab264. Accessed 31 July 2024.
[53] See EPPO Annual Report, 2021, 20 et seq., online: https://www.eppo.europa.eu/sites/default/files/2022-03/CH2.4_EPPO-Annual-Report-2021-HR.pdf. Six cases were intitiated and 3 evocated.
[54] See Iibid, p. 20.
[55] See *Zagreb County Court*, 13 Kov-EPPO-1/2022 (susbidy fraud case). "An appeal against this verdict is not allowed because the parties have waived their right to appeal"
[56] See already the Notificiation of the Government, https://www.eppo.europa.eu/sites/default/files/2021-11/15-HR.pdf. Accessed 31 July 2024.

(2) The Government shall by decree prescribe the institutional framework of the system for combating irregularities and fraud from paragraph 1 of this Article.

50 In this context we want to point out two things: Firstly, it is welcomed, that the establishment of **working arrangements** between the EPPO and national authorities, such as the recent agreement signed with Croatia's Ministry of the Interior, is functioning.[57] By **granting EDPs direct access** to the Ministry's records, such agreements ensure: faster data sharing and evidence collection, enhanced coordination during investigations and prosecutions.

51 However, cooperation is often complicated by the **reluctance of national authorities**, such as prosecutors, to relinquish jurisdiction in cases where offenses are **inextricably linked offences**[58] or where competence conflicts arise.

52 Thus, we want to emphasize secondly, that these urgent problems need solutions. A recent case shows the challenges posed by **competence conflicts**, which we saw in Spain, too (see → vol. XXVI). EDPs had been investigating a criminal association involving corruption related to EU funds.[59] Despite the EPPO's formal investigation, USKOK initiated a parallel investigation and obtained court orders for searches. **USKOK** then referred the conflict to the State Attorney General (AG), who decided in USKOK's favor, forcing the **EPPO to relinquish jurisdiction**. The EPPO's objections focused on the fact that the AG relied solely on USKOK's interpretation, without granting the EPPO an opportunity to present its case (procedural fairness).[60] It is therefore debatable if these failures in the Croatian EPPO Adoption Act are systemic i.e. Croatia's designation of the AG rather than an independent court, to resolve competence conflicts could possibly **contradict EU law** i.e. Art. 2, 19 TFEU.

53 According to Article 25 para 6 of the EPPO Regulation, impartial mechanisms are required to ensure fair conflict resolution The Croatian EPPO Adoption Law (see above → A. III.) is problematic as the AG is part of the national prosecution hierarchy, raising concerns about **potential bias** in favor of national authorities.

54 Hereafter, the Ministry of the Interior's cooperation agreement marks a step forward, but without **structural reforms** such as transferring competence conflict resolution to independent courts the EPPO's effectiveness in Croatia remains partially limited.

[57] See https://www.eppo.europa.eu/sites/default/files/2022-10/WA%20MoI%20CroatiaEN.pdf.
[58] On this matter see Neumann 2022, 235 et seq. And see the Croatian view and position to this problem and its arguments, that it acted like 14 other states: https://mpudt.gov.hr/print.aspx?id=29502&url=print.
[59] EPPO, Press Release, 19 November 2024, https://www.eppo.europa.eu/en/media/news/eppo-raises-concerns-over-rule-law-violations-croatia-following-conflict-competence. Accessed 30 November 2024.
[60] Ibid.

SECTION 1

Rules on investigations

1. Article 26 and Material Competence

1. Where, **in accordance with the applicable national law,** there are **reasonable grounds to believe that** an offence within the competence of the EPPO is being or has been committed, a European Delegated Prosecutor in a Member State which **according to its national law** has jurisdiction over the offence shall, without prejudice to the rules set out in Article 25(2) and (3), initiate an investigation and note this in the case management system.
2. Where upon verification in accordance with Article 24(6), the EPPO decides to initiate an investigation, it shall without undue delay inform the authority that reported the criminal conduct in accordance with Article 24(1) or (2).

3. Where no investigation has been initiated by a European Delegated Prosecutor, the Permanent Chamber to which the case has been allocated shall, under the conditions set out in paragraph 1, instruct a European Delegated Prosecutor to initiate an investigation.
4. A case shall as a rule be initiated and handled by a European Delegated Prosecutor from the Member State where the focus of the criminal activity is or, if several connected offences within the competences of the EPPO have been committed, the Member State where the bulk of the offences has been committed. A European Delegated Prosecutor of a different Member State that has jurisdiction for the case may only initiate or be instructed by the competent Permanent Chamber to initiate an investigation where a deviation from the rule set out in the previous sentence is duly justified, taking into account the following criteria, in order of priority:
(a) the place of the suspect's or accused person's habitual residence;
(b) the nationality of the suspect or accused person;
(c) the place where the main financial damage has occurred.
5. Until a decision to prosecute under Article 36 is taken, the competent Permanent Chamber may, in a case concerning the jurisdiction of more than one Member State and after consultation with the European Prosecutors and/or European Delegated Prosecutors concerned, decide to:
(a) reallocate the case to a European Delegated Prosecutor in another Member State;
(b) merge or split cases and, for each case choose the European Delegated Prosecutor handling it,
if such decisions are in the general interest of justice and in accordance with the criteria for the choice of the handling European Delegated Prosecutor in accordance with paragraph 4 of this Article.
6. Whenever the Permanent Chamber is taking a decision to reallocate, merge or split a case, it shall take due account of the current state of the investigations.
7. The EPPO shall inform the competent national authorities without undue delay of any decision to initiate an investigation.

Table 5 Overview Box: Article 26 EPPO-RG (PIF offences etc.)

Overview	
Relevant national law	Sources: Criminal Code/Kazneni zakon; Criminal Procedure Code/Zakon o kaznenom postupku; General Tax Act (Editorial consolidated text, "Official Gazette" No. 115/16, 106/18, 121/19, 32/20, 42/20); Law on the Office for Suppression of Corruption and Organized Crime/Zakon o Uredu za suzbijanje korupcije i organiziranog kriminaliteta; Law on the implementation of Council Regulation (EU) 2017/1939 of October 12, 2017 on the implementation of enhanced cooperation in connection with the

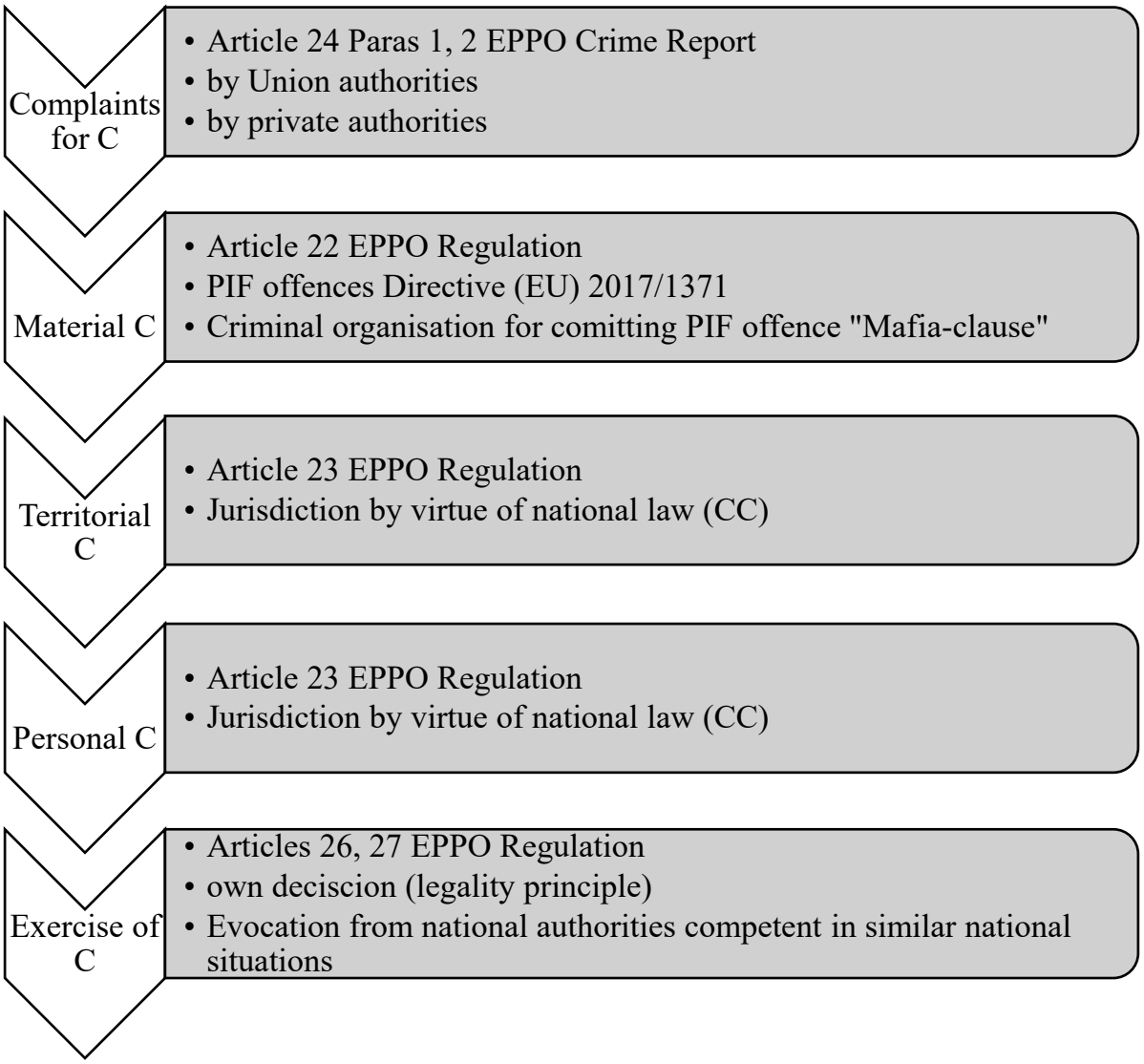
	establishment of the European Public Prosecutor's Office ("EPPO")/Zakon o provedbi Uredbe Vijeća (EU) 2017/1939 od 12. listopada 2017. o provedbi pojačane suradnje u vezi s osnivanjem ureda Europskog javnog tužitelja („EPPO"); Law on the Financial Inspectorate of the Republic of Croatia the purified text of the law NN 85/08, 55/11, 25/12 in force from 28.02.2012/Zakon o financijskom inspektoratu Republike Hrvatske pročišćeni tekst zakona NN 85/08, 55/11, 25/12 na snazi od 28.02.2012; Law on Customs Service the purified text of the law NN 68/13, 30/14, 115/16, 39/19, 98/19 in force from 25.04.2019./Zakon o carinskoj službi.
"an offence within the competence of the EPPO"	For the text of the offences that are mentioned by Article 26 EPPO-RG "an offence within…" **Fraud-realted offences:** - Article 224b (Fraud), 292a Criminal Code - Article 254 Abuse in the public procurement procedure - Article 256 Tax or Customs Duty Evasion Criminal Code - Article 258 Subsidy fraud - Article 271 computer fraud might be inextricably linked to the other offences - Article 278 forgery of documents **Corruption-related offences:** Article 251 Receiving and giving bribes in bankruptcy proceedings - Article 252 Acceptance of bribes in business operations - Article 253 Bribery in business operations - Article 291 Abuse of position and authority - Article 292 Illegal favoritism - Article 293 Accepting a bribe - Article 294 Giving a bribe - Article 295 Trading in influence - Article 296 Giving a bribe for trading in influence **AML(-related) offences:** - Article 232 Evasion - Article 233 Embezzlement - Article 265 Money laundering **Tax and Customs (Decree/Code) offences:** - Article 256 Tax or Customs Evasion Criminal Code - Article 264 Illegal Trade Criminal Code

	- Article 278 Criminal Code - Article 118 Law on Customs Service *Nota bene:* For the full text see → below Article 26 "The PIF offences in Croatia".
Sanctions for legal persons	**General Tax Act** **Accountability of Representatives** **Article 28** If legal representatives of natural and legal persons and representatives and managers of associations of persons and joint assets without legal personality committed, in the course of their conduct, the criminal offense of tax fraud or were engaged in tax fraud or they illegally exercised a tax relief or other tax benefits for the represented persons, then the representative or the manager shall be considered the tax guarantor for underpaid taxes and interests. **Accountability of Tax Guarantors** **Article 36** (1) The tax guarantor shall be accountable for the tax debt if it was not paid within the deadline by a taxpayer. The tax authority shall invite the tax guarantor to pay the tax debt. (2) The provision from paragraph 1 of this Article does not apply if the tax guarantor is responsible as a guarantor and if they themselves committed tax fraud or participated in tax fraud. **Accountability of Persons Committing Tax Fraud and their Associates** **Article 37** A person, who for the purposes of tax fraud, aiding or concealing fraud, reduces or does not comply with his tax liability, shall be accountable for the underpaid paid or evaded tax and accrued interest. And see → Law on Liability of Legal Persons for Criminal Offenses/Zakon o odgovornosti pravnih osoba za kaznena djela.
"[competence of] a European Delegated Prosecutor in a Member State [Croatia]"	See primarily → Article 4 EPPO Adoption Act (above Sources of Law).
"jurisdiction"	Cf. ss. from the Croatian Criminal Code and cf. Article 11 of the PIF Directive (EU Fraud Commentary).

a) Initiation of Investigations by virtue of Article 26 Para. 1 EPPO-RG

Article 26 needs to be seen independent from Article 27. Article 26 stands on its own and describes a **principle of legality at Union level**, which has the effect of protecting the Unions's (own) financial interests. **55**

Figure 1 EPPO Exercise of competence in general



56

But what is the effect of the reference to Croatian law? How have the cases been exercised in practice and what is the situation after one year of operational work? The EPPO Annual Reports provide information on the exercise of jurisdiction under Articles 26 and 27 EPPO Reg. in Croatia.[61]

[61] Please consult the EPPO's Website.

b) Powers of a Croatian EDP (Article 13 EPPO-RG)

57 The powers of the Croatian EDPs are determined by the EPPO-RG and the national EPPO Adoption Law:

58

> **Article 5 Powers of the Delegated European Prosecutor**
> (1) For criminal offenses within the competence of the European Public Prosecutor's Office, the authorized prosecutor is a delegated European prosecutor.
> (2) The delegated European Prosecutor *has the powers of the State Attorney prescribed by the Criminal Procedure Act* (Official Gazette 152/08, 76/09, 80/11, 121/11, 91/12, 143/12, 56/13, 145/13, 152/14, 70/17 and 126/19) and other regulations, unless otherwise provided by this Act.
> (3) In proceedings for criminal offenses referred to in Article 21 of the Act on the Office for the Suppression of Corruption and Organized Crime (Official Gazette 76/09, 116/10, 145/10, 57/11, 136)/12, 148/13 and 70/17) *the delegated European Prosecutor has the powers of the State Attorney under the Law on the Office for the Suppression of Corruption and Organized Crime*, unless otherwise provided by this Law.
> (4) In cases for criminal offenses within the competence of the European Public Prosecutor's Office, the delegated European Prosecutor is authorized, for the purpose of judicial cooperation with EU Member States or international legal assistance with third countries, to take all actions taken by competent state attorney's offices. Judicial cooperation in criminal matters with the Member States of the European Union (Official Gazette 91/10, 81/13, 124/13, 26/15, 102/17, 68/18 and 70/19) and the Law on International Legal Assistance in Criminal Matters (Official Gazette 178/04).

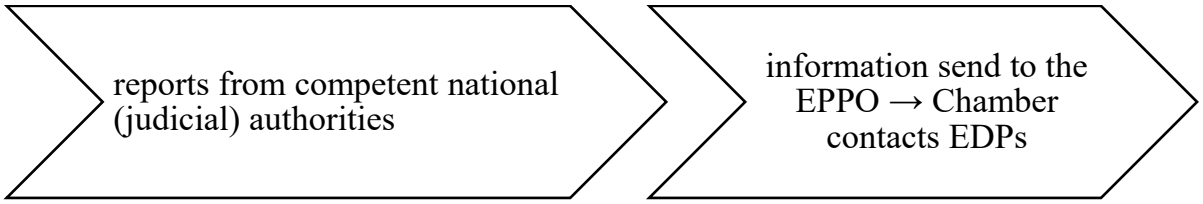
c) Relevant sources of the indications for a criminal offense falling within the competence of the EPPO

The following citation enables the understanding for the EPPO crime report process and its importance: "In order to achieve its goals, the EPPO will need to establish smart information flows between the central office in Luxembourg, delegated prosecutors, and national authorities and, at the same time, avoid causing delays in the information exchange. […] In this regard, some of the existing EU mechanisms concerning de facto reporting of PIF crimes seem to be obsolete, as well as national law duties to report such information to a national prosecution office in advance or in parallel to the EPPO."[62]

59 A distinction can be made between the direct and the indirect path for the transfer of infromation related to the competence:

[62] Petr Klement, Reporting of Crime Mechanisms and the Interaction Between the EPPO and OLAF as Key Future Challenges, eucrim 2021, 51–52.

Figure 2 National (indirect way of) Obtaining information for the EPPO competence and the exercise of jurisdiction



In relation to figure 2 it can be referred to Article 24 para. 8: "The competent national authority which will inform EPPO, without undue delay, if it learns of the possible commission of a criminal offense outside its jurisdiction, and forward all relevant evidence to is the State Attorney's Office of the Republic of Croatia." [63]

In the area of tax frauds, the tax administration bodies in Croatia are obliged to report suspicious conduct: **60**

General Tax Ace Procedure in Cases of Suspected Criminal Offence and Misdemeanour **61**
Article 123[64]
If suspicion arises during the tax supervision procedure that the taxpayer committed a criminal offence or misdemeanour, the tax authority is obliged to submit a report to the competent body.

[Excerpt] Budget Act
Article 151[65] **Filing a criminal report**
If the inspector of budget supervision in the supervision procedure determines actions for which there is a well-founded suspicion that a criminal offense has been committed, he submits a criminal report to the competent state attorney's office.

Nota bene: The Notification to the EPPO states the following:

"Pursuant to Article 204, paragraph 1 of the Criminal Procedure Act[66] (Criminal Report), ***everyone is obliged to report a criminal offense for which proceedings are initiated ex officio***, which has been reported to him/her or which he/she has learned about.

[63] See https://www.eppo.europa.eu/sites/default/files/2021-11/15-HR.pdf, p. 6.
[64] Opći porezni as
Postupanje u slučaju sumnje na kazneno djelo i prekršaj
Članak 123
Ako se u postupku poreznog nadzora pojavi sumnja da je porezni obveznik počinio kazneno djelo ili prekršaj, porezno tijelo dužno je podnijeti prijavu nadležnom tijelu.
[65] **Podnošenje kaznene prijave**
Članak 151
Ako inspektor proračunskog nadzora u postupku nadzora utvrdi radnje za koje postoji osnovana sumnja o učinjenom kaznenom djelu, podnosi kaznenu prijavu nadležnom državnom odvjetništvu.
[66] **Article 204 (Official Gazette 145/13)**

This obligation applies to all national authorities and other legal entities (e.g. citizens, companies). Article 205, paragraph 1 of the Criminal Procedure Act prescribes that the report shall be submitted to the competent state attorney in writing, orally or by other means. In the event of criminal proceedings in respect of which EPPO could exercise its jurisdiction, this provision of the Criminal Procedure Act will mean the ***obligation to file a criminal complaint to the delegated European prosecutor***.

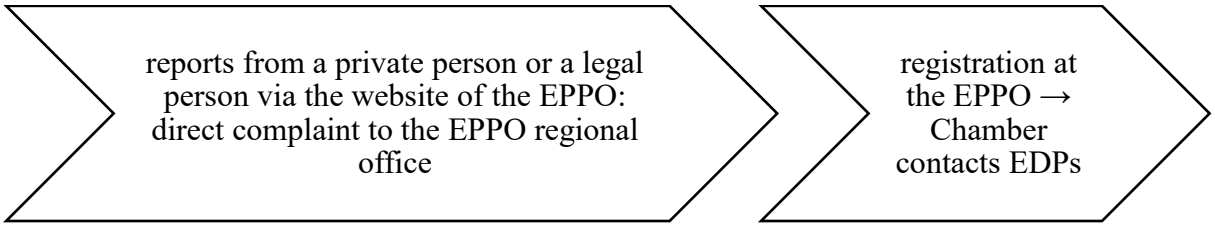
Article 205, paragraph 4 of the Criminal Procedure Act[67] stipulates that if a report is filed with a court, the police or an incompetent state attorney, they will receive the report and immediately submit it to the competent state attorney. In the event of criminal proceedings in respect of which EPPO could exercise its jurisdiction, this provision of the Criminal Procedure Act will mean the obligation of the court, the police or the incompetent public prosecutor to submit a report to the delegated European prosecutor."[68]

(1) Everyone is obliged to report a criminal offense for which the proceedings are initiated ex officio, which was reported to him or which he learned about.
(2) When submitting a report, state authorities and legal entities shall state the evidence known to them and take all measures to preserve the traces of the criminal offense, the objects on which or with which the offense was committed, and other evidence.
(3) The law prescribes cases in which failure to report a criminal offense is a criminal offense.
(4) Information about the identity of the person against whom a criminal complaint has been filed and information on the basis of which it can be concluded about the identity of that person are official secrets.
(9) The minister responsible for justice prescribes the manner of keeping the register of criminal reports and various criminal cases.

[67] **Article 205 (Official Gazette 145/13, 70/17)**
(1) The application shall be submitted to the competent state attorney in writing, orally or by other means.
(2) If the application is submitted orally, the applicant will be warned of the consequences of false reporting. A record will be made of the oral report, and if the report was communicated by telephone or other telecommunications device, an electronic record of it is ensured, when possible, and an official note is drawn up.
(3) If the criminal complaint was filed by the victim, it will be confirmed to him in writing that he filed the criminal complaint with the indication of basic information about the reported criminal act. If the victim does not speak or understand the language of the competent authority, he will be allowed to file a criminal report in the language he understands with the help of an interpreter or another person who speaks and understands the language of the competent authority and the language used by the victim. At the request of a victim who does not speak or understand the language used by the competent authority, the written confirmation of the submitted criminal report will be translated at the expense of budget funds into a language the victim understands.
(4) If the report is submitted to the court, the police or the non-competent state attorney, they will receive the report and immediately deliver it to the competent state attorney.
(5) The state attorney enters the criminal complaint in the register of criminal complaints as soon as it is filed, except in the case referred to in paragraphs 6 and 7 of this article.
(6) If the state attorney only hears that a criminal offense has been committed or receives a report from the victim, the state attorney will draw up an official note about it, which will be entered in the register of various criminal cases and proceed in the manner prescribed in Article 206, paragraph 4. of this Law.
(7) If the criminal report does not contain information about the criminal offense, that is, if the state attorney cannot conclude from the criminal report itself which criminal offense the report is filed for, he will enter it in the register of various criminal cases and will invite the applicant to submit within fifteen days correct and complete the criminal report.
(8) If the applicant does not comply with the invitation for correction or amendment, the state attorney shall draw up a note on this. Within eight days from the expiration of the deadline for the correction or amendment of the criminal report, the senior state attorney is notified, who can order the entry of the criminal report into the register of criminal reports.

[68] See https://www.eppo.europa.eu/sites/default/files/2021-11/15-HR.pdf, p. 6.

Figure 3 Supranational (direct way of) Obtaining information for the EPPO competence and the exercise of jurisdiction **62**



Another, third source of information are the Union bodies, which are obliged to report either to OLAF or to the EPPO (e.g. by obliged by Working Agreements) – depending on the seriousness of the suspected conduct: irregularities only or clear foundations for potential criminal offences. National authorities, who report to OLAF need to obey the Croatian "Guidelines on how to report irregularities and fraud to the European Commission". These are either implemented in national administrative law (see below Part C.) or in Union Regulations e.g. for the ERDF Fund, which obliges the Payment and Management Authorities to report fraudulent conduct to the investigation authorities. **63**

OLAF will either way report conduct that falls in the EPPO's competence by virtue of Article 12c OLAF Regulation (see below Part. C), **64**

aa. Determination of the competence and verification of Crime Reports

The first task of the EDPS in a Croatian regional office is to determine whether the EPPO has competence and jurisdiction or can obtain competence and exercise jurisdiction. **65**

These are formal but essential questions. They are determined by means of Union secondary legislation and special delegated guidelines required by secondary legislation, the so-called **Internal Rules on Procedure [of the EPPO]**. This depends on the criteria of the Regulation (see Articles 22, 23). **66**

Nota bene: There are rules issued by the EPPO Chamber but they apply for Article 27 Right of evocation. Article 26 para 5 and 6 refer to special rules on splitting or merging cases on Croatian territory if different regional offices have initiated an investigation in similar cases.

(1) The Union standards., Article 24 Para. 6 et seq. EPPO-RG

For the EPPO to be competent, the requirements of the Regulation must be met. Either an examination according to Article 24 para 6 must show that the EPPO is competent or the delegated prosecutor carries out an examination and assessment by virtue of Article 26 para 1 EPPO Regulation himself/herself without informing the Permanent Chamber and initiates an investigation about which he/she subsequently informs the Permanent Chamber. **67**

68 The IRP rules state the following:

Article 40: Verification of information [Internal Rules of Procedure, 2020-12-/2020.003 IRP – EPPO]

1. The verification for the purpose of initiating an investigation shall assess whether:

a) the reported conduct constitutes a criminal offence falling under the material, territorial, personal and temporal competence of the EPPO;

b) ***there are reasonable grounds*** **under** ***the applicable national law*** to believe that an offence is being or has been committed;

c) there are obvious legal grounds that bar prosecution;

d) where applicable, the conditions prescribed by Article 25(2), (3) and (4) of the Regulation are met.

2. The verification for the purpose of evocation shall additionally assess:

a) the maturity of the investigation;

b) the relevance of the investigation with regard to ensuring the coherence of the EPPO's investigation and prosecution policy;

c) the cross-border aspects of the investigation;

d) the existence of any other specific reason, which suggests that the EPPO is better placed to continue the investigation.

3. The ***verification shall be carried out using all sources of information available*** to the EPPO as well as any sources ***available to the European Delegated Prosecutor***, ***in accordance with applicable national law***, including ***those otherwise available to him/her if acting in a national capacity***. The European Delegated Prosecutor may make use of the staff of the EPPO for the purpose of the verification. Where appropriate, the EPPO may consult and exchange information with Union institutions, bodies, offices or agencies, as well as national authorities, subject to the protection of the integrity of a possible future criminal investigation.

4. The European Delegated Prosecutor shall finalise the verification related to the evocation of an investigation at least 2 days before the expiration of the deadline prescribed by Article 27(1) of the Regulation. The verification related to initiating an investigation shall be finalised no later than 20 days following the assignment.

5. If the European Delegated Prosecutor does not finalise the verification on whether or not to initiate an investigation within the prescribed time limit, or he/she informs their inability to do so within the foreseen time limit, the European Prosecutor shall be informed and were deemed appropriate extend the time available or issue an appropriate instruction to the European Delegated Prosecutor.

6. Where it concerns a decision on evocation, the European Delegated Prosecutor may ask the European Chief Prosecutor to extend the time limit needed to adopt a decision on evocation by up to 5 days.

7. Where the European Delegated Prosecutor does not issue a decision within the time limit, it shall be treated as a consideration not to evoke a case, and Article 42 applied accordingly.

The requirements of Article 25 para 2 and 3 must be observed but he/she can still initiate an investigation "without prejudice to the rules set out in Article 25(2) and (3)". The provisions, jurisdiction (e.g. territory), thresholds i.e. "€-provisions" of the Regulation and orders of the Luxembourg Chamber must exist for the exercise of competence. **69**

Article 22 Material competence of the EPPO

- PIF Implementation (see below → p. 76).
- National databases and information according to Article 40 para 3 IRP.

Article 23 Territorial and personal competences of the EPPO

The EPPO is competent if:

- the criminal offenses were committed, in whole or in part, on the territory of one or more participating EU Member States ;
- the criminal offenses were committed by a national of a participating EU Member State,
- the criminal offenses were committed by a person subject to the Staff Regulations or rules applicable to EU officials.

SECTION 2 Exercise of the competence of the EPPO

Article 24 Communication, registration and verification of information

- The transfer of information to the relevant EDPs or the chamber of the EPPO is mainly regulated by Article 24 EPPO-RG. This provision has been made public to all authorities in Italy by virtue of the EPPO Adoption Act, which indicates how the transfer of information should take place in order to comply with the supranational law. The transfer of information that could establish an initial suspicion for a PIF offence depends on the suspected concrete offence.
- To **understand the transfer of information** please consult the Croatian Notification of the Government from 2021 by virtue of Article 117 EPPO-RG.[69]

[69] From the point-of-view of Brodowski and Herrnfeld 2022, Article 117 EPPO is only an indication for PIF implementation laws and has no legal validity character. See https://www.eppo.europa.eu/sites/default/files/2021-11/15-HR.pdf.

(2) Competence of the EPPO, Article 26 Para 4

70 If several Member states are involved in the detection and initiation of investigations into EU frauds (cross-border VAT frauds[70], MTIC frauds, customs frauds scenarios etc.), the primary regulatory mechanism of the Regulation (EU) 2017/1939 applies.

(3) Jurisdiction of the European Delegated Prosecutor

71 The Jurisdiction of Croatian EDPs depends on the Croatian CPC and the EPPO Adoption Act (see above → Special national laws).

(4) Internal Agreement on Jurisdiction of the regional office of the EPPO in the present country as stipulated by the EPPO Adoption Act

72 The EPPO Adoption law already stipulated the seat of the regional office in Croatia (see above → *Lex specialis*). Above that there seems to be no special internal agreement on the jurisdiction like e.g. in Germany. Thus, the EDPs in Croatia operate from one single regional office.

bb. How to assess and verify the suspicion level according to Article 26 Para. 1 and the CPC for a criminal offense falling within the competence of the EPPO

73 The initial suspicion is only to determine the impetus, so to speak, the ball that gets the criminal proceedings rolling if saying it by using a metaphor. The way in which the public prosecutor's office learns, for example, of the suspicion of subsidy fraud or an offence detrimental to the Union's financial interests according to the *EPPO Adoption Act*, is addressed by Union law and the communication with the national authorities and Article 40 para 3 IRP [2020.003 EPPO].

[70] See in-depth Sokanović and Pribisalić 2024, 339 et seq. explaining in the central part of the work via an analysis basic concepts related to VAT fraud, the consideration of whether the national criminal offence of tax or customs evasion covers the entire material substrate of circular fraud, and a presentation of the phenomenology of circular fraud from the cases of the EPPO. Thus, the authors mention that as it is stated in the financial literature, "the first idea of sales taxation through the application of value added tax arose in Germany in 1918 or 1919, here its development in this country is presented. and potential opportunities to use it as an extremely elastic and effective instrument of economic policy. The roots of the sales tax lie in the payment obligations of the so-called excise tax on luxury goods and food in the Middle Ages in various German regions. After the Thirty Years' War, it was the main source of income for cities and was collected mainly in the form of customs duties. Even today, special taxes on consumption are called "excise taxes" in English-speaking countries. From the 18th century, German regions and cities increasingly relied on the harvest of the so-called excise tax on general consumption (general consumption excise) on all types of commercial goods." Both explain it citing Podlipnik, J., Missing Trader Intra-Community and Carousel VAT Frauds – ECJ and ECtHR case law, Croatian Yearbook of European Law & Policies, Bd. 8, 2012, pp. 457–472 and I Karas, E., The EPPO and its Coordination with National Prosecuting Authorities: The Croatian Perspective, Croatian Yearbook for Criminal Sciences and Practice, Zagreb, vol. 27, Nr. 1, 2020, pp. 287–301.

(1) The PIF offences in Croatia

The PIF offences and the fraud law landscape has been extensively researched in the past.[71] **74**

Sources and national sections 1: PIF offences in Croatia

CC fraud offences	CC corruption + AML offences	Tax and Customs (Decree/Code) offences
• Article 224 • Article 236 General fraud offence • Article 254 Abuse in the public procurement procedure • Article 258 Subsidy fraud • Article 271 computer fraud might be inextricably linked to the other offences • Article 278 forgery of documents • Article 292a	• Corruption: • Article 251 Receiving and giving bribes in bankruptcy proceedings • Article 252 Acceptance of bribes in business operations • Article 253 Bribery in business operations • Article 291 Abuse of position and authority • Article 292 Illegal favoritism • Article 293 Accepting a bribe • Article 294 Giving a bribe • Article 295 Trading in influence • Article 296 Giving a bribe for trading in influence • AML(-related) offences: • Article 232 Evasion • Article 233 Embezzlement • Article 265 Money laundering	• Article 256 Tax or Customs Evasion Criminal Code • Article 264 Illegal Trade Criminal Code • Article 278 Criminal Code • Article 118 Law on Customs Service

[71] See Sokanović, Lucija, Fraud in Criminal Law: A Normative and Criminological Analysis of Fraudulent Crime in Croatia and the Regional Context. Berlin: Duncker & Humblot, 2020.

Provisions that apply to all offences are those requested by Article 5 PIF Directive 2017/1371.

- Article 34 Attempt
- Article 35 Voluntary withdrawal
- Article 36 Perpetration
- Article 37 Incitement
- Article 38 Assistance
- Article 39 Punishment of accomplices and participants

For a **full list of the wording of the offences** → see in the annex of Article 26 EPPO-RG.

(2) Methods of investigation, Collecting information and documenting the initiation of an investigation for an indictment (Article 34 et seq. EPPO-RG, Article 40 Para. 3 IRP)

(a) Impetus of fraud knowledge patterns

75 Recent studies have analysed and frequently analyse the peculiarities and typologies of (EU-) frauds quite extensively and they are therefore highly important for EDPs and their knowledge about the structures of this crime area (criminological insights):

- National level: Croatian Bureau of Statistics, Criminal Records Database (*Kaznena evidencija*); Judicial Case Management System (eSpis).
- EU-level: PIF Reports, EU-Rule of law Report, "Impact of Organized Crime on the EU's Financial Interests"[72]

Nota bene: The Anti-Fraud Knowledge Centre hosted by the EU Commission/OLAF provides information on fraud patterns, prevention tools and case studies.

The EDPs might consult financial experts for their Cases (see → Article 30 para 4 EPPO-RG). In similar national Cases the courts have based their decisions on explanations of financial experts in fraud Cases:

"12.2. Court expert for finance, accounting and taxes PB, B.Sc. oec. stated in its statement and statement on the aid funds spent that the analysis of the accounting documents related to the payments to the companies listed in the statement of facts in the indictment (now the first instance judgment), that the agreement on the allocation of funds within the framework of the operational support program for the textile and clothing industry

[72] See the "Impact of Organised Crime on the EU's Financial Interests", 2022, https://www.europarl.europa.eu/RegData/etudes/STUD/2021/697019/IPOL_STU(2021)697019_EN.pdf. Accessed 31 July 2024.

as well as the leather and leather goods industry for 2008, which was closed with the ministry, can combine the purchase of machines from the suppliers KBG & CK."[73]

(b) Special national databases for PIF offences/Digital investigations, Article 40 Para. 3 IRP 2020.003

The Croatian Police has access to Schengen Information, electronic identity cards (eIO), drivers and vehicle registration. However, it is not clear whether an exclusive database is kept for PIF offences, i.e. a police database which indicates in Croatia's criminal proceedings register whether a crime is relevant to the EU budget.[74] Most likely, the inclusion in police criminal proceedings registers works like any other crime. Own information that reaches the EDPs (newspaper, Internet, announcements in state newspapers) and national information can contribute to raising suspicions, which is why an investigation could be initiated. Croatia has an electronic land register (*informacijskog sustava zemljišnih knjiga i katastra*).[75] All in all, registers kept by state authorities are huge databases, which might contain information on natural and legal persons involved in a suspicion: **76**

- "Register of Insolvency **77**
- Register of foreign foundations in the Republic of Croatia
- Records of legal entities of the Catholic Church in the Republic of Croatia
- Register of councils, coordination of councils and representatives of national minorities
- Register of voters
- Register of political parties
- Register of associations
- Register of foundations of the Republic of Croatia
- Register of foreign associations
- Other registers: expropriated real estate, primary legal aid providers, and conciliators."[76]

[73]Supreme Court of the Republic of Croatia, CRIMINAL DEPARTMENT I Kž 570/2020-6 /ECLI:HR:VSRH:2022:134 /.
[74] See https://mup.gov.hr/gradjani-281562/moji-dokumenti-281563/281563.
[75] See https://mpu.gov.hr/istaknute-teme/podnosenje-e-prijedloga-za-upis-u-zemljisnu-knjigu/14341.
[76] See https://mpu.gov.hr/uvid-u-registre/22109.

cc. Examples and precedents

(1) In national case-law

78 There are different types of fraud against the EU budget. A basic distinction must be made between fraud on the revenue side and fraud on the expenditure side. This separation applies not only to investigations by the delegated public prosecutors, but also to OLAF investigators and national authorities in administrative procedures (especially on the expenditure side, for example in the case of subsidies). The first EPPO crime report therefore correctly distinguishes between:
All information, which is not taken from a judgement, is taken from the EPPO's first crime report (published March 2022) and serves as a basis for explaining the initial suspicion scenarios in this area. References can be made to national case law.

- Non-procurement expenditure fraud (see → below Case Studies).
- Procurement expenditure fraud[77]
- VAT revenue fraud
- Non-VAT revenue fraud
- Corruption cases[78] (4% in 2021).

(a) Fraud

(aa) Revenue frauds

79 Revenue frauds are manifold. First, the scheme should be identified. For this, it is worthwhile to compare the suspected behaviour with known behaviour patterns. From a legal as well as a police point of view, the overview of crime patterns is useful. Especially in Covid-times there has been an increase in characteristics. Assessment can also be based on known cases and the professional groups suspected in these cases.

[77] See Wahl. Eucrim, 17.1.2022, https://eucrim.eu/news/eppo-and-olaf-lead-successful-investigation-into-procurement-fraud-in-croatia/: "The investigations concerned procurement fraud in the purchase of an information system for the Croatian Ministry of Regional Development and EU Funds (MRRFEU). The investigations resulted in the arrest of four suspects on 10 November 2021; they involved the minister of the MRRFEU, the Director of Croatia's Central Finance and Contracting Agency (SAFU), and two businessmen"

[78] See eg Wahl, Eucrim 2.8.2021, https://eucrim.eu/news/eppo-first-major-corruption-case-investigated/: (relating to the Press Release 16.7.2021, https://www.eppo.europa.eu/en/news/eppo-starts-investigation-against-mayor-croatian-city: "There are reasonable grounds to believe that the first defendant, who is the mayor of Nova Gradiška, requested from the second defendant, the manager of a construction company, a bribe in return for the manipulation of a procurement procedure in order to secure the assignment of a project, co-financed by the EU Cohesion Fund, for the amount of HRK 4,219,433.22 (around EUR 562,000.00).").

Case Study 1 Agricultural Area – Non-refundable subsidy of €560 080 (HRK 4,217,476.90) – suspicion for falsified tax administration documents **80**

	**Case Studies: Suspicion for falsified tax administration documents**

"The European Public Prosecutor's Office (EPPO) in Zagreb has started an investigation against an individual entrepreneur, in a case of suspected fraud for obtaining up to €487 000 in agricultural funds.

From March 2019 to November 2021, the suspect submitted three applications to the Croatian Paying Agency for Agriculture, Fisheries and Rural Development for a non-refundable subsidy of €560 080 (HRK 4,217,476.90), with 85% of the total (€ 487 000 or HRK 3,584,855.36) being financed by the European Agricultural Fund for Rural Development (EAFRD). The remainder 15% (€84 000 or HRK 632,621.54) was financed by the State Budget of the Republic of Croatia.
According to the preliminary investigation, the suspect submitted falsified tax administration documents certifying that he had no debt to the State of Croatia, thus falsely representing that he met one of the mandatory application requirements.
The entrepreneur received the payment of the requested subsidy on one occasion, for a total amount of €221 835 (HRK 1,671,708.46), of which around €190 000 (HRK 1,420,952.19) were financed by European funds.
The other two applications were rejected and the amounts were not paid, as the national agency discovered that the suspect did not meet the eligibility requirements.

At the EPPO's request, the investigative judge of the County Court in Zagreb granted a temporary measure to secure asset recovery, thus ensuring compensation for part of the damage caused to the financial interests of the EU and to the State Budget of the Republic of Croatia."[79]

[79] "Hrvatska: EPPO istražuje moguću subvencijsku prijevaru u iznosu do 487.000 eura na štetu financijskih interesa EU
Ured europskog javnog tužitelja (EPPO) u Zagrebu pokrenuo je istragu protiv vlasnika obrta zbog sumnje na subvencijsku prijevaru u iznosu do 487.000 eura na štetu Europskog poljoprivrednog fonda za ruralni razvoj.
U vremenu od ožujka 2019. do studenoga 2021. godine, osumnjičenik je podnio tri zahtjeva hrvatskoj Agenciji za plaćanja u poljoprivredi, ribarstvu i ruralnom razvoju za bespovratnom potporom u iznosu od 560.080 eura (4.217.476,90 kuna), od čega je 85% od ukupnog iznosa (487.000 eura ili 3.584.855,36 kuna) financirano iz Europskog poljoprivrednog fonda za ruralni razvoj (EPFRR). Preostalih 15% (84.000 eura ili 632.621,54 kuna) financirano je iz Državnog proračuna Republike Hrvatske.
Osumnjičenik je, kako je utvrđeno tijekom izvida, priložio krivotvorenu ispravu Porezne uprave kojom se potvrđuje da nema duga prema državi Hrvatskoj, čime je lažno prikazao da ispunjava jedan od obveznih uvjeta prijave.
Vlasniku obrta je u jednom navratu isplaćena tražena subvencija u ukupnom iznosu od 221.835 eura (1.671.708,46 kuna), od čega je oko 190.000 eura (1.420.952,19 kuna) financirano iz europskih fondova.

(bb) Expenditure frauds

81 The following example stems from national law and a successful investigation and conviction:

Case Study 2 Zagreb County Court, 13 Kov-EPPO-1/2022 (subsidy fraud case)

***Zagreb County Court*, 13 Kov-EPPO-1/2022 (subsidy fraud case)**

"REPUBLIC OF CROATIA
County Court in Zagreb, in a panel composed of judge's Že[…] as president of the panel and […] and D[…]"
The court published a judgement on a case concerning the obtainment of funds in the agricultural sector.

The County court issued in the

"JUDGMENT
[That] he is guilty [.]
...,
As members of the panel, with the participation of recorder I […], in the criminal case against the defendant DV, due to criminal offenses from Art. 258, paragraphs 1, 3. and 5 of the Criminal Code (Official Gazette No. 125/11, 144/12, 56/15, 61/15, 101/17, 118/18 and 126/19 - hereinafter: Criminal Code) regarding the indictment of the European Public Prosecutor's Office (hereinafter: EPPO) number I.134/2022 of May 6, 2022 after the session of the indictment panel in the presence of the prosecution representative SL, the defendant and the defence attorney Ž. VD, on July 11, 2022, published.

[The] defendant DV OIB: N. Š. Z. ...., citizen of ..., agricultural technician by profession, graduated from secondary agricultural school, employed with a salary in the amount of ... Kuna, lives in a cohabitation with AM, father of two minor children aged from, owner of several agricultural plots with an area of about 2 hectares and the owner of construction land in the business zone in B. area ..., he did not serve in the army, no other criminal proceedings are being conducted. It is declared that

he is guilty

Druga dva zahtjeva su odbijena i iznosi nisu isplaćeni jer je Agencija za plaćanja u poljoprivredi, ribarstvu i ruralnom razvoju otkrila da osumnjičenik ne ispunjava uvjete prihvatljivosti.

Istražni sudac Županijskog suda u Zagrebu donio je na zahtjev EPPO-a privremenu mjeru radi osiguranja oduzimanja imovinske koristi, čime se osigurava naknada dijela štete nanesene financijskim interesima Europske unije i Državnom proračunu Republike Hrvatske." Obtained from EPPO Homepage, https://www.eppo.europa.eu/en/news/croatia-eppo-investigates-possible-fraud-obtaining-eu487-000-agricultural-funds.

[of having obtained] from November 24, 2020 to December 7, 2020 in […], as the owner of a family farm, with the intention of receiving a grant in the amount of HRK 7,439,500.00, 85% co-financed from the European Agricultural Fund for Rural Development (EPFRR) and 15% from the State Budget of the Republic of Croatia, within the framework of the Tender PRR - 04.01.01.01.0-07 of July 20, 2020, with amendments of October 21, 2020 and November 27, 2020, for Sub measure 4.1."

In the next part the facts from the case are described and they concern the fraud typology that is known in many areas. The convicted perpetrator used documents and falsified them and the inserted wrong information in the tendering process into documents that he was obliged to present to state authorities, which decide on the fulfilment of all tendering obligations. The excerpt from the Judgement clearly shows the details of this particular case, which was successfully investigated by the Croatia EDPs and might therefore be used as an example for future investigations – even if one day the current EDPs change and new EDPs come into office they might turn to cases judged in the previous office term. Defence lawyers might be interested in the facts as well as they show how to guide a suspect carefully trough these proceedings.

"Facts Support for investments in agricultural holdings" - implementation of operation type 4.1.1.
"Restructuring, modernization and increasing the competitiveness of agricultural holdings" - investment in storage capacity for potatoes, from the Rural Development Program of the Republic of Croatia for the period 2014-2020" (hereinafter referred to as the Tender), the Agency for Payments in Agriculture, Fisheries and Rural Development (hereinafter text: Agency) through the online application AGRONET submitted a Request for non-reimbursable support in the amount of HRK 7,439,500.00, of which HRK 6,323,575.00 refers to funds from the EU budget, and HRK 1,115,925 to the State Budget of the Republic of Croatia, HRK 00, and in order to falsely represent that he was registered in the Register of Taxpayers based on agriculture at least one year before the publication of the Tender draft on e-consultation, which was a mandatory condition for the acceptance of the user, he attached to his request a Certificate from the Ministry of Finance, the Tax Administration, the Regional Office […] Branches, CLASS: 034-04/20-13/282, UR NO: 513-07- 20-01-20-2 of November 24, 2020, in which he previously deleted the actual date of entry in the Register "01. 10. 2020" and using the computer entered "07. 05. 2018", as the date and year of registration in the Register of Income Tax Payers, aware that it falsely represents the fulfilment of the mandatory eligibility condition of the beneficiary from point 2.1. and Annex 1, item 5 of the Tender, after which on December

2, 2020, he submitted to the Agency by registered mail a signed application for grant allocation via AGRONET, which was received by the Agency on December 7, 2020 under the number “ID 1427649”.

The register of income tax payers at least one year before the publication of the draft Tender on e-consultation, therefore, with the aim of obtaining state aid for himself, he gave incorrect information to the state aid provider about the facts on which the decision on state aid depends, and he acted with the aim of obtaining large-scale state aid from the funds of the European Union and changed a real document with the aim of using such a document as a real one and used such a document as a real one, and the act was committed in relation to a public document, by which he committed a criminal offense against the economy – [i.e.] subsidy fraud - described in Art. 258, paragraphs 1, 3 and 5 of the CC, and punishable under Art. 258, paragraph 3 of the CC and the criminal offense of forgery - by forging a document - described in Art. 278, paragraphs 1 and 3 of the CC, and punishable under Art. 278, paragraph 3 of the CC, all related to Art. 51 CC and on the basis of Art. 258, paragraph 3 of the CC, and with the application of Art. 48, paragraph 3 of the CC in connection with Art. 49, paragraph 1, item 4 of the CC

[The court] 2
establishes
imprisonment for 8 (eight) months

Based on Art. 278, paragraph 3 of the CC

imprisonment for 6 (six) months

Condemns to a uniform prison sentence of 10 (ten) months which based on Art. 55 CC replaces working for the common good in such a way that 1 (one) day of imprisonment is replaced by 2 (two) hours of work, and if the defendant does not report to the competent probation authority within 8 (eight) days from the day for which he was summoned or
the summons cannot be served to him deliver to the address he gave to the court or not to give his consent, the competent probation authority will inform the competent enforcement judge about it, and if the defendant does not perform community service due to his own fault, the court will immediately make a decision ordering the execution of the sentence in the unexecuted part or in full.
Based on Art. 79, paragraph 1 of the Criminal Code, the document is confiscated from the defendant – Certificate of the Ministry of Finance, Tax Administration,

Regional Office, […] Branch, CLASS: 034-04/20-3 12/282, REGISTER NUMBER: 513-07-20-01-20-2 dated November 24, 2020 with the entry "07. 05. 2018" as the date and year of entry in the Register of Income Tax Payers, and will be destroyed upon the finality of the judgment.

Based on Art. 148, paragraph 1 of the CPC in relation to Art. 145, paragraph 2, item 6 of the Criminal Procedure Act (Official Gazette No. 152/08, 76/09, 80/11, 91/12 – decision of the Constitutional Court, 143/12, 56/13, 145/13

Based on Art. 460 CPC judgment does not contain an explanation.

Zagreb, July 11, 2022.[80]

An appeal against this verdict is not allowed because the parties have waived their right to appeal.

[80] Source: We obtained the judgement via a request to the court for the academic project. The contact details and the presidents of the courts are available on the Wesbites of the Courts.

It is discussed whether the theory of misappropriation applies in subsidy fraud cases.[81]

82

(b) Subsidy fraud in the Wine sector?

83 Another potential source of criminal suspicion may arise in the wine sector, which is heavily financed in the EU Common market. The different policies and programs aim at the support of farmers in the whole EU. Croatia has sunny and remote places that can be used to grow crops and fruits. The following case shows that it might be useful to focus more on the wine sector in general – even in other EU countries e.g. France and Germany:

84 *Case Study 3 Subsidy fraud in the wine Sector - False letter of intent/grant/false statements/loan by bank/family farm/requirements of eligibility/Vineyard Rasing*

Case Studies: Subsidy fraud in the Croatian wine Sector

"The EPPO has launched an investigation against two Croatian nationals for subsidy fraud and abuse of office and authority. Both suspects were arrested yesterday, 7 July 2022, at the EPPO's request, following investigative activities conducted in cooperation with the Croatian National Police Office for the Suppression of Corruption and Organized Crime, and the Tax Administration's Independent Financial Investigation Sector of Croatia's Ministry of Finance.

The first suspect, the owner of a family farm, applied in early May 2020 to Croatia's Paying Agency for Agriculture, Fisheries and Rural Development (hereinafter: the Agency) for an investment in the wine sector, namely the project 'Construction and Equipping of a Winery', valued at HRK 4 659 766.79 (approx. €620 000.00), with an EU co-financing rate of 85%.

It is alleged that in that application, the suspect – in order to demonstrate that he met the mandatory conditions of the tender for the grant – falsely stated, several times, that the financing of the project would be secured by a loan from a financial institution, and to that end, he submitted a letter of intent issued by a bank. However, the suspect did not apply for a loan, nor did he intend to apply for one; in fact, he financed the project with money for which, in part he could not prove lawful origin. Moreover, he

[81] See e.g. Supreme Court of the Republic of Croatia, CRIMINAL DEPARTMENT IV Kž 68/2005-3 /ECLI:HR:VSRH:2006:1372 /: "However, from what has already been said, it follows that the purpose determined by the loan agreement was the financing of the local administration and self-government, and by settling the disputed obligations, the suspect actually settled the existing obligations of the Municipality of Nova Rača, which by their nature are obligations arising from the actions of the local administration and self-government and as such enter the concept of financing of local administration and self-government, it cannot be concluded that in this particular case, the purpose for which the subsidy was given was not achieved."

did not notify the Agency of that change, and was granted and received a subsidy of HRK 2 927 328.51 (€396 500.00).

The same suspect also applied for another tender, published by the Agency on 2 June 2021, for raising new and/or restructuring vineyards. It is believed that in that second application, he used a certificate of economic size that had been issued to him based on false data regarding the resources used in production at his family farm, thus falsely demonstrating that his family farm met the eligibility requirements of the tender.

In order to obtain another certificate for this second tender, the Technological Project for Vineyard Raising, the first suspect personally handed over to the second suspect, an official at Croatia's Ministry of Agriculture, a document that the applicants seeking subsidies from this tender had to submit, along with the tender applications. The first suspect stated in that document that the study was intended for raising and equipping a permanent vineyard – despite the fact that he had already planted vines on those plots and was aware that, for that reason, he did not meet the eligibility requirements of the tender.

At the request of the first suspect, and despite the fact that the vines were already planted, the second suspect issued the desired certificate to enable the first suspect to apply for the tender, contrary to the eligibility requirements. However, Croatia's Ministry of Agriculture and the Croatian Agency for Agriculture and Food refused to issue a positive opinion on the submitted technological project, because they gained knowledge about the already existing vines and had observed other irregularities and ambiguities.

The first suspect, after this refusal, removed the previously planted vines, obtained a new technological project and attached it to the application of the said tender.

By doing this, he expected to receive a total subsidy of HRK 1 536 850.28 (€200 000) with an EU co-financing rate of 85%, which would amount to HRK 1 306 322.74 (€173 482.43).

However, due to the fact that the Agency conducted the process of administrative control of the respective applications and found that the first suspect did not meet the eligibility criteria, the subsidies were not awarded.

> The EPPO will propose to the investigative judge to order pre-trail detention against both suspects."[82]

(c) Corruption offences

85 The EPPO Adoption law clearly describes the powers to investigate in the area of corruption[83] on the regional office of the EDPs in Croatia (see Articles 4, 5 EPPO Adoption Law).

[82] Dvije osobe uhićene u Hrvatskoj zbog sumnje na subvencijske prijevare i zlouporabu položaja i ovlasti
Ured europskog javnog tužitelja (EPPO) pokrenuo je istragu protiv dvojice hrvatskih državljana zbog kaznenih djela subvencijske prijevare i zlouporabe položaja i ovlasti. Obje osumnjičene osobe uhićene su jučer, 7. srpnja 2022, na zahtjev EPPO-a, nakon provedenih istražnih radnji provedenih u suradnji s hrvatskim Policijskim nacionalnim uredom za suzbijanje korupcije i organiziranog kriminaliteta i Samostalnim sektorom za financijske istrage Porezne uprave Ministarstva financija.
Prvoosumnjičenik je, kao vlasnik obiteljskog poljoprivrednog gospodarstva, početkom svibnja 2020. godine, Agenciji za plaćanje u poljoprivredi, ribarstvu i ruralnom razvoju (dalje u tekstu: Agencija) podnio prijavu za ulaganje u sektor vina za projekt "Izgradnja i opremanje vinarije", ukupne vrijednosti 4.659.766,79 kuna (oko 620.000,00 EUR-a), pri čemu je razina sufinanciranja sredstvima EU bila 70%.
Osumnjičenik je u toj prijavi, kako bi prikazao da ispunjava obvezne uvjete natječaja za dobivanje bespovratnih sredstava, na više mjesta lažno naveo da će financiranje projekta osigurati kreditom financijske institucije, te je u tu svrhu priložio pismo namjere jedne banke. Međutim, prvoosumnjičenik kredit nije tražio niti ga je imao namjeru tražiti, već je navedeni projekt financirao novcem čije zakonito porijeklo dijelom ne može dokazati. Štoviše, on nije obavijestio Agenciju o promjeni načina financiranja, te mu je od strane Agencije odobrena i isplaćena potpora u iznosu od 2.927.328,51 kuna (396.500,00 EUR-a).
Isti se osumnjičenik prijavio na drugi natječaj, koji je raspisala Agencija 2. lipnja 2021. godine, za podizanje novih i/ili restrukturiranje vinograda. U toj drugoj prijavi koristio je potvrdu o ekonomskoj veličini koja mu je bila izdana na temelju neistinitih podataka o resursima korištenim u proizvodnji na njegovom poljoprivrednom gospodarstvu, čime je lažno prikazao da njegovo obiteljsko poljoprivredno gospodarstvo ispunjava uvjete prihvatljivosti natječaja.
Kako bi pribavio potvrdu Tehnološkog projekta podizanja vinograda, potrebnu za taj drugi natječaj, prvoosumnjičenik je osobno predao drugoosumnjičeniku, službenoj osobi Ministarstva poljoprivrede, Tehnološki projekt podizanja vinograda, koji su korisnici koji traže potporu u sklopu predmetnog natječaja bili obvezni dostaviti uz natječajne prijave. Prvoosumnjičenik je u tom dokumentu naveo da se isti odnosi na podizanje i opremanje trajnih nasada vinograda, iako je na tim česticama prethodno već bio zasadio vinovu lozu i bio je svjestan da stoga ne ispunjava uvjete prihvatljivosti objavljenog natječaja.
Na zahtjev prvoosumnjičenika, te unatoč činjenici da je vinova loza već bila zasađena, drugoosumnjičenik je izdao traženu potvrdu, kako bi prvoosumnjičeniku omogućio da podnese prijavu na navedeni natječaj, protivno uvjetima prihvatljivosti. Međutim, Ministarstvo poljoprivrede i Hrvatska agencija za poljoprivredu i hranu odbili su izdati pozitivno mišljenje na dostavljeni tehnološki projekt zbog saznanja o postojanju već zasađenih nasada vinove loze te drugih uočenih nepravilnosti i nejasnoća.
Prvoosumnjičenik je nakon odbijanja izvadio ranije posađenu vinovu lozu, pribavio novi tehnološki projekt, te ga priložio prijavi na predmetni natječaj.
Predmetni natječajem prvoosumnjičenik je očekivao dobiti potporu u iznosu od 1.536.850,28 kuna (200.000 EUR-a), s razinom sufinanciranja sredstvima EU od 85%, što je iznos od 1.306.322,74 kuna (173.482,43 EUR-a).
Međutim, kako je Agencija provela postupak administrativne kontrole dostavljenih prijava te je utvrdila da prvoosumnjičenik ne ispunjava uvjete prihvatljivosti, izdavanje potpore nije odobreno.
EPPO će sucu istrage predložiti određivanje istražnog zatvora protiv oba osumnjičenika. Obtained from EPPO homepage, https://www.eppo.europa.eu/en/news/two-arrested-croatia-suspicion-subsidy-fraud-and-abuse-office-and-authority-0 [Published on 8 July 2022].

[83] See https://mpu.gov.hr/koruptivna-kaznena-djela/21520.

(d) Money laundering with PIF crimes

At the moment no investigation that primarily dealt with Money laundering with money obtained through PIF offences was made public by the EPPO. Theoretically this offence is a possible annex-offence to a subsidy fraud or a revenue fraud. A fraudster might "try to invest" the money obtained in other (mostly legal) projects and here through wash the "dirty money". **86**

(e) Criminal organization (PIF "Mafia clause")

A criminal organization requires several people acting together to commit one of the offences to the detriment of the EU budget together. **87**

(2) Specific legislation & judgements for sufficient factual indications for the PIF offences in the criminal (procedure) law – overview

Case Study 4 Collection of judgements for sufficient factual indications for PIF offences

	**Case Studies**
In the following excerpts and information from the **judgements are presented**: - Supreme Court of the Republic of Croatia, CRIMINAL DEPARTMENT, I Kž 462/2020-6/ECLI:HR:VSRH:2020:6752/. - Supreme Court of the Republic of Croatia, CRIMINAL DEPARTMENT I Kž 287/2018-4/ECLI:HR:VSRH:2018:928/. - High Criminal Court of the Republic of Croatia, Zagreb, Trg Nikole Šubić Zrinski 5, II K ž-Us-6 5/2021-5 (ECLI number ECLI:HR:VKS:2021:954, Preliminary ruling, Kov Us 9/2021-28 Osijek County Court (27.09.2021)): This case deals with the criminal proceedings against the defendant J. J. and others, charged with multiple offenses under Article 328(1) and other sections of the Croatian Criminal Code. The High Criminal Court of the Republic of Croatia, presided over by Judge Željko Horvatović, addressed an appeal by the defendant J. J. The appeal contested a ruling by the County Court in Osijek that extended precautionary measures after a formal accusation was filed.	

d) Actions if "Decision to open a case" (Regulation + Rules in IRP, 2020.003 EPPO)

88 If he/she decides to initiate an investigation he/she **must note this in the case management system (Article 45 Para. 1 EPPO-RG, 38 IRP**[84]**)**. In addition, the numerous obligations to provide information from Article 24 Paras 3 to 8.

89 If an investigation is opened by virtue of Article 26 Para. 1 EPPO-RG, he/she must insert the following information in the Case Management System according to **Article 38 Para. 3 IRP**:

90

> "a) the possible legal qualification of the reported criminal conduct, including if it was committed by an organised group;
> b) a short description of the reported criminal conduct, including the date when it was committed;
> c) the amount and nature of the estimated damage;
> d) the Member State(s) where the focus of the criminal activity is, respectively where the
> bulk of the offenses, if several, was committed;
> e) other Member States that may be involved;
> f) the names of the potential suspects and any other involved persons in line with Article 24(4) of the Regulation, their date and place of birth, identification numbers, habitual residence and/or nationality, their occupation, suspected membership of a criminal organisation;
> g) whether privileges or immunities may apply;
> h) the potential victims (other than the European Union);
> i) the place where the main financial damage has occurred;
> j) inextricably linked offences; […]"
> k) any other additional information, if deemed appropriate by the inserter

91 Specific information is presented by the IRP, Article 41 IRP relates to the initiation according to Article 26 EPPO-RG:

> **Article 41: Decision to initiate an investigation or to evoke a case**
> 1. Where, following the verification, the European Delegated Prosecutor decides to exercise EPPO's competence by initiating an investigation or evoking a case, a case file shall be opened and it shall be assigned an identification number in the index of the case files (hereinafter the Index). A permanent link to the related registration under Article 38(1) above shall be automatically created by the Case Management System.
> If an investigation procedure is to be started, the competent national authorities must be informed:

[84] See https://www.eppo.europa.eu/sites/default/files/2020-12/2020.003%20IRP%20-%20final.pdf.

2. The corresponding reference in the Index shall contain, to the extent available:
a) As regards suspected or accused persons in the criminal proceedings of the EPPO or persons convicted following the criminal proceedings of the EPPO,
i. surname, maiden name, given names and any alias or assumed names;
ii. date and place of birth;
iii. nationality;
iv. sex;
v. place of residence, profession and whereabouts of the person concerned,
vi. social security numbers, ID-codes, driving licences, identification documents, passport data, customs and tax identification numbers;
vii. description of the alleged offences, including the date on which they were committed;
viii. category of the offences, including the existence of inextricably linked offences;
ix. the amount of the estimated damages;
x. suspected membership of a criminal organisation;
xi. details of accounts held with banks and other financial institutions;
xii. telephone numbers, SIM-card numbers, email addresses, IP addresses, and account and user names used on online platforms;
xiii. vehicle registration data;
xiv. identifiable assets owned or utilised by the person, such as crypto-assets and real estate.
xv. information whether potential privileges or immunities may apply.
b) as regards natural persons who reported or are victims of offences that fall within the competence of the EPPO,
i. surname, maiden name, given names and any alias or assumed names;
ii. date and place of birth;
iii. nationality;
iv. sex;
v. place of residence, profession and whereabouts of the person concerned;
vi. ID-codes, identification documents, and passport data;
vii. description and nature of the offences involving or reported by the person concerned, the date on which the offences were committed and the criminal category of the offences.
c) as regards contacts or associates of one of the persons referred to in point (a) above,
i. surname, maiden name, given names and any alias or assumed names;
ii. date and place of birth;
iii. nationality;
iv. sex;
v. place of residence, profession and whereabouts of the person concerned;

vi. ID-codes, identification documents, and passport data. The categories of personal data referred to above under points (a) (x) - (xv) shall be entered in the Index only to the extent practicable, taking into account the operational interest and available resources. The reference in the Index shall be maintained up to date during the investigation of a case file. The Case Management System shall periodically notify the European Delegated Prosecutor if certain categories of information are not entered in the Index.
3. The Case Management System shall notify the supervising European Prosecutor and the European Chief Prosecutor and shall randomly assign the monitoring of the investigation to a Permanent Chamber, in accordance with Article 19.
4. Where the handling European Delegated Prosecutor considers that in order to preserve the integrity of the investigation it is necessary to temporarily defer the obligation to inform the authorities referred to in Articles 25(5), 26(2) and 26(7) of the Regulation, he/she shall inform the monitoring Permanent Chamber without delay. The latter may object to this decision and instruct the European Delegated Prosecutor to proceed with the relevant notification immediately.

e) Consequences to the "Decision to open a case"

92 If this decision has been achieved the EDPs will, after having contacted the chamber, which needs to decide or opt-in into investigating, need to **plan on how to conduct the investigation** and gather the relevant evidence in order to collect all information that is necessary to prove a criminal offence in court or a dispense from prosecution i.e. a criminal liability and the elements that constitute the whole **concept of crime** in general. A PIF offence will need to be assessed by the relevant national conditions for a crime i.e. the elements of a particular PIF offence of the present country.

93 The EDPs will need to focus on the *actus reus a*nd the *mens rea* conditions of the relevant offence.[85] In other words: What German criminal justice calls "*Tatbestand*"[86], in relation to the German substantive criminal law enshrined in the Criminal Code or partly in ancillary (not: secondary) criminal law (*Nebenstrafrecht* e.g. *Abgabenordnung*) needs to be assessed according to the requirements that the legislator set up, which includes the concretization of the objective elements (*actus reus*, see above) of the crime[87], the subjective elements (*mens rea*, see above)[88] as well as the unlawfulness of the conduct

[85] See for the common terms in comparing criminal law and criminal procedure Child and Spencer 2022, Chapter 4 et seq.; Chapter 5, Chapter 15 on Fraud (relevant for Ireland, Malta, Cyprus).
[86] Bohlander 2009, 29 et seq.
[87] These include in the most criminal law systems questions of causual links, Authorship, causality, "scientific causation" (emphasis added to the cited book) adequacy, limitation of an endless *sine qua non formula*, etc., see recently Walen and Weiser 2022, 57–94.
[88] See only out of many Safferling 2008, who points at the fact that the traditional german terms are "intention" and culpability. But even if the terminology is not congruent and differs in detail, it can be said that these are elements of the subjective offense that occur in continental European criminal codes and are also required separately by the PIF Directive for PIF offenses.

(i.e. no written or unwritten justifications/justificatory defences[89] must intervene) and last but not least the guilt of the offender, which is given if the potential perpetrator is not excused for his/her conduct in relation to a PIF offence.[90]

94 A Croatian court, which had to deal with a fraud case, summarized e.g. what Article 236 the general fraud offence requires from its material scope:

"6.5. First of all, it is necessary to say at the outset that in the case of the criminal offense of fraud [Article 236 CC], the act of committing it consists of misleading other persons or keeping them in error by falsely presenting or concealing facts. A delusion is a wrong idea about a circumstance. Article 236 Paragraph 1. CC/11 refers to a mistake about the facts. Misleading means creating a wrong idea about certain facts in another person, while keeping them in error means that the other person already has a wrong idea about certain facts, and the perpetrator keeps them in error with some of his activities. Misleading and persuasion may be done by act or omission. A fact is something that is objectively given, and what can be proved accordingly. It includes all the bringing of the external and internal world (will, goal, motive, intention) the fact cannot be untrue because it would be a contradiction in objecto. A factual statement alone can be untrue. Fraudulent behaviour (deception) must be objectively acceptable, mislead, and maintain a person in delusion, and a causal connection between the fraudulent behaviour of the perpetrator and the direct or supported delusion is required. Misleading or maintaining a delusion aimed at encouraging a person to act or not to act.

6.6. What is essential for the act is that the second condition stipulated in Article 236, paragraph 1 of the CC/11, is the existence of a special intention to mislead another or to obtain an illegal property benefit for oneself or another with the simultaneous occurrence of property damage to the injured party or another person. For a criminal offense to exist, it is necessary that the perpetrator, when establishing a business relationship with another person, intends not to fulfil the assumed obligation."[91]

95 Similar or the same conditions exist in relation to the general part of the offense (i.e. a PIF offence, Article 22 EPPO-RG, Article 1–5 PIF Directive) in almost every country in the EU, with a divide running where common law differs and civil law countries encounter.

96 In addition, it is important to determine how the indictment should look like: Are several people involved and is there not an isolated act, but possibly a complicity (*Mittäterschaft*) or an indirect perpetrator (*mittelbare Täterschaft*)? In addition, the questions of

[89] This is a worldwide recognized condition as a basic element of the concept of crime, see Stasi 2021, 31–47.
[90] See Eser 1987, 17–65 on the historical implications and the differences between the common law and civil law approach; Bohlander 2009, 29 et seq., 77 et seq. (Rechtswidrigkeit), 115 et seq. ("Guilt and Excusatory Defences").
[91] Zagreb District Court, CRIMINAL DEPARTMENT, Kž 1006/2022-2 //.

the criminal liability of a participant must be clarified to be able to determine whether an incitement (*Anstiftung*) to a PIF offense or an abetting (*Beihilfe*) to such an act exists.[92]

97 If there is no success to a crime, the question arises as to whether a criminal offense can be determined because of the attempt of a PIF offence.[93]

98 A criminal offense under Croatian substantive criminal law can be committed by doing or not doing according to Art. 20 para 1 CC and according to para 2 whoever fails to prevent the occurrence of the consequences of the criminal act described by law shall be liable for failure to act if he is legally obliged to prevent the occurrence of such a consequence and for failure in effect and meaning is equal to the commission of that act by doing it. Para 3 rules that an offender who committed a criminal offense by inaction may be punished more lightly, unless it is about a criminal offense that can only be committed by inaction. Art. 20 CC is *de facto* equal to section 13 of the German CC.

99 For all these questions and purposes, the EDPs can additionally to the present presentations, analysis and references rely on the existing Croatian legal commentaries and on the penal codes of the EU Member States and the code of criminal procedures of the Member States, which participate in the EPPO, as far as national law is concerned, e.g. in the concept of a criminal offence or the start of an investigation.

[92] See EU Fraud Commentary, Commentary on PIF Directive, Article 5. For the various translations of these terms see the EUR-Lex database translations of the PIF Directive 2017/1371.
[93] See EU Fraud Commentary, Commentary on PIF Directive, Article 5.

f) Annex to Article 26 EPPO-RG: The PIF-Acquis Offences in Croatia

The PIF Acquis Offences have been dealt with extensively in the academic community.[94] **100**

aa. Croatian Criminal Code: Overview on PIF offences

101

Article 232 Evasion

(1) Whoever unlawfully appropriates someone else's movable property or property rights entrusted to him shall be punished by imprisonment for up to three years.

(2) Whoever unlawfully appropriates someone else's movable property or property right that he found or came across by accident, shall be punished by imprisonment for up to two years. If the value of the hidden thing or property right is high, the perpetrator will be punished with imprisonment from six months to five years.

(4) If the value of the concealed thing or property right is small, and the perpetrator acted with the aim of appropriating things of such value, he will be punished by imprisonment for up to one year.

Article 233 Embezzlement

(1) Whoever unlawfully appropriates someone else's movable property or property rights entrusted to him at work shall be punished by a prison sentence of six months to five years. If the value of the embezzled thing or property right is high, the perpetrator will be punished with imprisonment from one to eight years.

(3) If the value of the embezzled thing or property right is small, and the perpetrator acted with the aim of appropriating things of such value, he will be punished by imprisonment for up to two years.

[94] See Sokanović, Lucija, Protection of the Financial Interests of European Union in Croatia: Recent Developments and old Questions. UDK 339.7(4-67EU:497.5)]:343.53 focusing on What are Financial Interests of the European Union, and the Criminal Offences with Regard to Fraud Affecting the Union's Financial Interests.

Article 236 Fraud
(1) Whoever, with the aim of obtaining an illegal property benefit for himself or another, misleads someone by falsely presenting or concealing facts or keeps him in a delusion and thereby induces him to do or not do something to the detriment of his own property or someone else's property, shall be punished by imprisonment from six months to five years. If the criminal offense referred to in paragraph 1 of this article has resulted in the acquisition of substantial property benefit or the infliction of substantial damage, the perpetrator shall be sentenced to imprisonment for a term of one to eight years. If the criminal offense referred to in paragraph 1 of this article resulted in the acquisition of a small material benefit, and the perpetrator sought to obtain such benefit, he shall be sentenced to imprisonment for up to one year.

Article 254 Abuse in the public procurement procedure
(1) Whoever, in the public procurement procedure, submits an offer based on a prohibited agreement between economic entities whose goal is for the contracting authority to accept a certain offer, shall be punished by a prison sentence of six months to five years. If the criminal offense referred to in paragraph 1 of this article has resulted in the acquisition of substantial property benefit or the infliction of substantial damage, the perpetrator shall be sentenced to imprisonment for one to ten years. The perpetrator who voluntarily prevents the client from accepting the offer from paragraph 1 of this article may be exempted from punishment.

102

Article 258 Subsidy fraud
(1) Whoever, with the aim of obtaining state support for himself or another, provides the provider of state support with incorrect or incomplete information about the facts on which the decision on state support depends, or fails to inform the provider of state support about changes important for the decision on state support, shall be punished with a prison sentence of six months to five years. Whoever uses funds from the approved state aid contrary to their purpose shall be punished with the penalty from paragraph 1 of this article.
(3) If, in the case referred to in paragraph 1 of this article, the perpetrator acted with the aim of obtaining large-scale state support or in the case referred to in paragraph 2 of this article, he used large-scale state support, he shall be punished by imprisonment for a term of one to ten years.
(4) Whoever, in the cases referred to in paragraph 1 of this article, voluntarily prevents the adoption of a decision on state aid, may be exempted from punishment.
(5) Subsidies and aid granted from the funds of the European Union are equated with state aid in the sense of this article.

Art. 270 Money laundering
(1) Whoever invests, takes over, converts, transfers or replaces the property benefit obtained from a criminal offense with the aim of concealing or falsely presenting its illegal origin or helping the perpetrator or participant in the criminal offense by which the property benefit was obtained to avoid prosecution or confiscation of the property benefit obtained from the criminal offense, will be punished with imprisonment from six months to five years.
(2) Anyone who conceals or falsely represents the true nature, origin, location, disposition, transfer and existence of rights
or ownership of property benefit realized by a criminal offense
shall be punished with the penalty referred to in paragraph 1 of this article. (3) The penalty from paragraph 1 of this article shall be imposed on whoever acquires, possesses or uses the property benefit obtained by another through a criminal offense. (4) The penalty from paragraph 1 of this article shall be imposed on whoever intentionally gives instructions or advice or removes obstacles or otherwise facilitates the commission of the criminal offense referred to in paragraph 1, 2 or 3 of this Article. (5) Whoever commits the offense referred to in paragraph 1 or 2 of this Article in financial or other business, or the perpetrator engages in money laundering or is pecuniary benefit referred to in paragraph 1, 2 or 3 of this articles of great value, shall be punished by a prison sentence of one to eight years. in relation to the circumstances that it is a pecuniary benefit realized by a criminal offense; he shall be punished by imprisonment for up to three years. if it is a criminal act and according to the law of the state in (8) The court may acquit the offender from paragraphs 1 to 6 of this article who voluntarily significantly contributes to the discovery of a criminal offense by which material gain was realized. paragraphs 1 to 5 of this article or were intended or used to commit a criminal offense from paragraphs 1 to 5 of this article, will be confiscated and the rights determined to be void.

Article 271 Computer fraud
(1) Whoever, with the aim of obtaining an illegal property benefit for himself or another, enters, modifies, deletes, damages, renders computer data unusable or inaccessible, or interferes with the operation of a computer system and thereby causes damage to another, shall be punished by imprisonment from six months to five years.
(2) If the criminal offense referred to in paragraph 1 of this article has resulted in the acquisition of substantial property benefit or the infliction of substantial damage, the perpetrator shall be sentenced to imprisonment for a term of one to eight years. Data that was created by the commission of the criminal offense referred to in paragraphs 1 and 2 of this article shall be destroyed.

Article 278 Document forgery
(1) Whoever creates a false document or alters a document with the aim of using such a document as a document, or who acquires such a document for the purpose of using it or uses it as a document, shall be punished by imprisonment for up to three years.
(2) The penalty from paragraph 1 of this article shall be imposed on anyone who misleads another about the content of a document and the latter puts his signature on that document, claiming that he is signing under some other document or under some other content. Whoever commits the criminal offense referred to in paragraphs 1 and 2 of this article in relation to a public document, will, promissory note, cheque, payment card or public or official book that must be kept on the basis of the law, shall be sentenced to imprisonment from six months to five years. For the attempted criminal offense referred to in paragraphs 1 and 2 of this article, the perpetrator shall be punished.

Article 292a[95] **Abuse of power in relation to European Union funds**
(1) Whoever, in the procedure of awarding European Union funds, makes an offer based on false documents, false balances, estimates or other false facts and thereby puts himself or another natural or legal person in a more favourable position when receiving funds or other benefits, shall be punished by imprisonment for a term between six months and three years.
(2) The penalty referred to in paragraph 1 of this Article shall be imposed on whoever uses the European Union funds corresponding to the subsidy or duly approved aid at his disposal contrary to their purpose.
(3) Whoever commits the criminal offense referred to in paragraphs 1 and 2 of this Article with the aim of obtaining illegal property gain for himself, or his or another legal person, shall be punished by imprisonment for a term between six months and five years.
(4) If the criminal offense referred to in paragraph 3 of this Article has resulted in significant material gain, and the perpetrator acted with the aim of obtaining such benefit, he shall be punished by imprisonment for a term between one and eight years.

[95] Zlouporaba ovlasti u svezi sredstava Europske unije
Članak 292.a
(1) Tko u postupku dodjele sredstava Europske unije da ponudu koja se temelji na ispravama neistinitog sadržaja, lažnim bilancama, procjenama ili drugim lažnim činjenicama i time sebe ili drugu fizičku ili pravnu osobu stavi u povoljniji položaj prigodom dobivanja sredstava ili drugih pogodnosti,kaznit će se kaznom zatvora od šest mjeseci do tri godine.
(2) Kaznom iz stavka 1. ovoga članka kaznit će se tko sredstva Europske unije koja odgovaraju subvenciji ili uredno odobrenoj pomoći kojima raspolaže koristi protivno njihovoj namjeni.
(3) Tko počini kazneno djelo iz stavka 1. i 2. ovoga članka s ciljem pribavljanja protupravne imovinske koristi za sebe, ili svoju ili drugu pravnu osobu,kaznit će se kaznom zatvora od šest mjeseci do pet godina.
(4) Ako je kaznenim djelom iz stavka 3. ovoga članka pribavljena znatna imovinska korist, a počinitelj je postupao s ciljem pribavljanja takve koristi,kaznit će se kaznom zatvora od jedne do osam godina.
(5) Neće se kazniti za djelo iz stavka 1. i 2. ovog članka tko dragovoljno spriječi štetu za financijske interese Europske unije tako da ispravi ili dopuni prijavu ili da obavijesti o činjenicama koje je propustio prijaviti.

(5) Whoever voluntarily prevents damage to the financial interests of the European Union by correcting or supplementing the application or by informing about the facts which he failed to report shall not be punished for the act referred to in paragraphs 1 and 2 of this Article.

Article 293 Accepting a bribe
(1) An official or responsible person who demands or receives a bribe, or who accepts an offer or promise of a bribe for himself or another to perform an official or other act that should not be performed, or to not perform an official or other act within or beyond the limits of his authority an action that would have to be performed, will be punished by a prison sentence of one to ten years.
(2) An official or responsible person who demands or receives a bribe, or who accepts an offer or promise of a bribe for himself or for another to perform an official or other action that should be performed within or beyond the limits of his authority, or to not perform an official or other action an act that should not be performed, will be punished by a prison sentence of one to eight years.
(3) An official or responsible person who, after performing or failing to perform an official or other action specified in paragraphs 1 and 2 of this articles, and in connection with it, demands or receives a bribe, shall be punished by imprisonment for up to one year.

Article 294 Giving a bribe
(1) Whoever offers, gives or promises a bribe to an official or responsible person intended for that or another person to perform an official or other action within or beyond the limits of their authority that they should not perform or to not perform an official or other action that they should perform, or whoever mediates such bribery of an official or responsible person, will be punished by a prison sentence of one to eight years.
(2) Whoever offers, gives or promises to an official or responsible person a bribe intended for that or another person to perform an official or other action that they should perform within or beyond the limits of their authority, or to not perform an official or other action that they should not perform, or whoever mediates such bribery of an official or responsible person, shall be punished by imprisonment from six months to five years.

Article 295 Trading influence
(1) Whoever, by taking advantage of his official or social position or influence, mediates the performance of an official or other action that should not be performed or the failure to perform an official or other action that should be performed, shall be punished by a prison sentence of six months to five years.

(2) Whoever demands or accepts a bribe, or accepts an offer or promise of a bribe for himself or another, to mediate by taking advantage of his official or social position or influence to perform an official or other action that should not be performed, or to not perform an official or the second act that would have to be done, will be punished by a prison sentence of one to ten years.
(3) Who demands or receives a bribe, or who receives an offer or promise of a bribe for himself or another to mediate by taking advantage of his official or social position or influence to perform an official or other action that should be performed, or to not perform an official or the second act that should not be performed, will be punished by a prison sentence of one to eight years.

Article 296 Paying bribes to trade influence
(1) Whoever offers, promises or gives a bribe to another person, intended for that or another person, to use their official or social position or influence to
mediate that an official or other action is performed that should not be performed or that an official or other action is not performed which would have to be done, will be punished by a prison sentence of one to eight years. Whoever offers, promises or gives a bribe to another, intended for that or another person, to take advantage of his official or social position or influence to mediate that an official or other action that should be performed be performed, or that an official or other action not be performed which should not be carried out, will be punished by imprisonment from six months to five years. Perpetrator of the criminal offense referred to in paragraphs 1 and 2 of this Article who paid a bribe at the request of a person referred to in Article 295 of this Act and reported the offense before its discovery or before learning that the offense had been discovered, may be released from punishment.

Article 300 Disclosing an official secret
1) Anyone who unauthorizedly communicates, hands over or otherwise make accessible information that is an official secret, shall be punished by a prison sentence of up to three years. There is no criminal offense if the offense referred to in paragraph 1 of this article was committed in the predominantly public interest.

bb. Customs offences relating to the PIF Acquis Area

Customs offences are enshrined in the Criminal Code and the Law on the Customs Service: **103**

Criminal Code

Article 256 Tax or customs evasion

(1) Whoever, with the aim of having him or another person completely or partially avoid paying taxes or customs duties, provides incorrect or incomplete information about income, items or other facts that have an impact on the determination of the amount of tax or customs liability, or whoever with the same aim in the case of mandatory does not report the income, object or other facts that influence the determination of the tax or customs liability, and as a result of which the tax or customs liability is reduced or not determined in an amount exceeding twenty thousand kuna, shall be punished by a prison sentence of six months to five year.

(2) The penalty from paragraph 1 of this article shall be imposed on anyone who uses a tax relief or customs privilege in the amount of more than twenty thousand kuna contrary to the conditions under which he received it the criminal offense referred to in paragraphs 1 and 2 of this articles led to the reduction or non-determination of tax or customs liability on a large scale, the perpetrator shall be punished with imprisonment of one to ten years. The provisions from paragraphs 1 to 3 of this article shall also be applied to the perpetrator who reduces the funds of the European Union in the actions described in them.

Article 257 Avoiding customs control

(1) Whoever, avoiding customs control measures, transfers goods whose production or circulation is limited or prohibited across the border, if no other criminal offense has been committed, for which a more severe penalty is prescribed, shall be punished by a prison sentence of six months to five years. Goods from paragraph 1 of this article will be confiscated.

Customs Code **104**

PART IX. OFFENSIVE PROVISIONS

Article 118

(1) A legal person will be fined from HRK 10,000.00 to HRK 500,000.00 for a misdemeanour, and a responsible person in a legal entity as well as a natural person will be fined from HRK 3,000.00 to HRK 100,000.00 if:

1. at the request of an authorized customs officer within a certain period and/or at a certain place, does not submit an accounting document, contract, business correspondence, records or any other document necessary for the implementation of supervision, i.e. provides incorrect or incomplete data (Article 32, paragraphs 2 and 3),

2. prevent access to business books and prescribed records that are kept on electronic media, as well as access to the database of the computer system (Article 32, paragraph 4),
3. does not create, or submit a document or declaration that confirms some information recorded on an electronic medium within the given time limit (Article 32, paragraph 4),
4. upon request within a specified period, does not provide data or provides inaccurate and incomplete data and information required for Intrastat records (Article 32, paragraph 2),
5. does not act according to the order of the authorized customs officer from Article 39 of this Act,
6. if he does not act according to the order of the authorized customs officer from Article 40, 40.ai/or 40.b of this Act,
7. does not enable unhindered inspection of the goods that are the subject of supervision (Article 45),
8. does not enable the unhindered taking of samples of goods for the purpose of conducting analysis or other appropriate testing (Article 46, paragraph 1),
9. does not enable an unhindered inspection or search of means of transport (Article 48, paragraphs 3 and 4),
10. does not allow unhindered entry, inspection or search of business premises, premises, land or facilities (Article 49, paragraph 1),
11. does not enable the unhindered temporary confiscation of goods, domestic or foreign means of payment, documents and data carriers (Articles 50 and 51 and Article 52, paragraphs 1 and 2).
(2) A fine of HRK 10,000.00 to HRK 200,000.00 shall be imposed on both a natural person who is a craftsman and a person who performs another independent activity if he committed the offense referred to in paragraph 1 of this article in connection with the performance of his trade or other independent activity.

Article 119
(1) A legal person will be fined from HRK 5,000.00 to HRK 300,000.00 for a misdemeanour, and a responsible person in a legal entity as well as a natural person will be fined from HRK 2,000.00 to HRK 70,000.00 if:
1. refuses to hand over an identity card, travel document or other public document with a photograph on the basis of which the person's identity can be verified (Article 33),
2. speaks rudely or offensively to an authorized customs official during his official work,
3. does not act on the warning of the authorized customs officer (Article 38),
4. leaves the place of inspection without the approval of an authorized customs officer or fails to stop the means of transport at the place of inspection (Article 48, paragraph 2),

5. does not provide free transportation by public transportation to authorized customs officials when performing supervision and customs security measures in foreign traffic (Article 85).
(2) A fine of HRK 3,000.00 to 100,000.00 shall be imposed on both a natural person who is a craftsman and a person who performs other self-employed activities if he committed the offense referred to in paragraph 1 of this article in connection with the performance of his trade or other self-employed activities.

Article 120
(1) A legal person will be fined from HRK 2,000.00 to HRK 200,000.00 for a misdemeanour, and a responsible person in a legal entity, as well as a natural person, will be fined from HRK 1,000.00 to HRK 30,000.00 for a misdemeanour if he reproduces or uses it as a uniform or as their uniform insignia or insignia that are the same or similar in colour, appearance and markings to the official uniform and insignia of the Customs Administration.
(2) Items that were made or used contrary to the provisions of paragraph 1 of this article shall be confiscated and destroyed.
(3) A fine of HRK 2,000.00 to HRK 50,000.00 shall be imposed on a natural person who is a craftsman and a person who performs other self-employed activities if he committed the offense referred to in paragraph 1 of this article in connection with the performance of his trade or other self-employed activities.

cc. (VA-)Tax-related offences/Budget offences

General Tax Act **105**
Accountability of Representatives
Article 28
If legal representatives of natural and legal persons and representatives and managers of associations of persons and joint assets without legal personality committed, in the course of their conduct, the criminal offense of tax fraud or were engaged in tax fraud or they illegally exercised a tax relief or other tax benefits for the represented persons, then the representative or the manager shall be considered the tax guarantor for underpaid taxes and interests.

Accountability of Tax Guarantors
Article 36
(1) The tax guarantor shall be accountable for the tax debt if it was not paid within the deadline by a taxpayer. The tax authority shall invite the tax guarantor to pay the tax debt.

(2) The provision from paragraph 1 of this Article does not apply if the tax guarantor is responsible as a guarantor and if they themselves committed tax fraud or participated in tax fraud.

Accountability of Persons Committing Tax Fraud and their Associates
Article 37
A person, who for the purposes of tax fraud, aiding or concealing fraud, reduces or does not comply with his tax liability, shall be accountable for the underpaid paid or evaded tax and accrued interest.

Budget Act
XIII. OFFENSIVE PROVISIONS
Article 156[96]
A fine in the amount of HRK 10,000.00 to HRK 50,000.00 will be imposed on the person responsible for the offense:
[…]
25. if the budget user in the period of temporary financing assumes new obligations at the expense of the period after the temporary financing, except for the obligations for financing projects that are co-financed from the funds of the European Union (Article 44, paragraph 8)
[…]
43. if expenditures and expenditures are made above the amount of planned resources, except for expenditures and expenditures financed from revenues and receipts defined in Articles 52 and 54 of this Act, and except for principal and interest repayments of the debt of the central budget and state guarantees, as well as the contribution of the Republic of Croatia to the budget of the European Union on the basis of the European Union's own funds (Article 61, paragraphs 4 and 6)
[…]

[96] XIII. PREKRŠAJNE ODREDBE
Članak 156
Novčanom kaznom u iznosu od 10.000,00 do 50.000,00 kuna kaznit će se za prekršaj odgovorna osoba:
25. ako proračunski korisnik u razdoblju privremenog financiranja preuzme nove obveze na teret razdoblja nakon privremenog financiranja osim obveza za financiranje projekata koji se sufinanciraju iz sredstava Europske unije (članak 44. stavak 8.)
43. ako se rashodi i izdaci izvrše iznad visine planiranih sredstava osim rashoda i izdataka financiranih iz prihoda i primitaka definiranih u člancima 52. i 54. ovoga Zakona te osim otplata glavnica i kamata duga središnjeg proračuna i državnih jamstava te doprinosa Republike Hrvatske proračunu Europske unije na temelju vlastitih sredstava Europske unije (članak 61. stavci 4. i 6.)
49. ako proračunski korisnik državnog proračuna koji je nadležan za dodjelu sredstava iz pojedinih programa Europske unije ugovori dodjelu sredstava Europske unije u iznosu koji je veći za više od deset posto od visine sredstava predviđenih za pojedini specifični cilj bez prethodno dobivene suglasnosti Vlade (članak 72. stavak 2.)
63. ako se jedinica lokalne i područne (regionalne) samouprave dugoročno zaduži bez prethodno dobivene suglasnosti Vlade odnosno ministra financija za realizaciju projekta koji se sufinancira iz fondova Europske unije (članak 122. stavci 1. i 2.)

49. if the budget user of the state budget who is responsible for allocating funds from individual programs of the European Union contracts the allocation of funds from the European Union in an amount that is greater by more than ten percent of the amount of funds provided for an individual specific goal without the prior consent of the Government (Article 72. paragraph 2.)
63. if a unit of local and regional (regional) self-government incurs long-term debt without the prior approval of the Government or the Minister of Finance for the implementation of a project co-financed from European Union funds (Article 122, paragraphs 1 and 2)
[…]

2. Article 27 Evocation from national authorities

1. Upon receiving all relevant information in accordance with Article 24(2), the EPPO shall take its decision on whether to exercise its right of evocation as soon as possible, but no later than 5 days after receiving the information from the national authorities and shall inform the national authorities of that decision. The European Chief Prosecutor may in a specific case take a reasoned decision to prolong the time limit by a maximum period of 5 days, and shall inform the national authorities accordingly.
2. During the periods referred to in paragraph 1, the national authorities shall refrain from taking **any decision under national law** that may have the effect of precluding the EPPO from exercising its right of evocation.
The national authorities shall take any urgent measures necessary, **under national law**, to ensure effective investigation and prosecution.
3. If the EPPO becomes aware, by means other than the information referred to in Article 24(2), of the fact that an investigation in respect of a criminal offence for which it could be competent is already undertaken by the competent authorities of a Member State, it shall inform these authorities without delay. After being duly informed in accordance with Article 24(2), the EPPO shall take a decision on whether to exercise its right of evocation. The decision shall be taken within the time limits set out in paragraph 1 of this Article.
4. The EPPO shall, where appropriate, consult the competent authorities of the Member State concerned before deciding whether to exercise its right of evocation.
5. Where the EPPO exercises its right of evocation, the competent authorities of the Member States shall transfer the file to the EPPO and refrain from carrying out further acts of investigation in respect of the same offence.
6. The right of evocation set out in this Article may be exercised by a European Delegated Prosecutor from any Member State whose competent authorities have initiated an investigation in respect of an offence that falls within the scope of Articles 22 and 23.

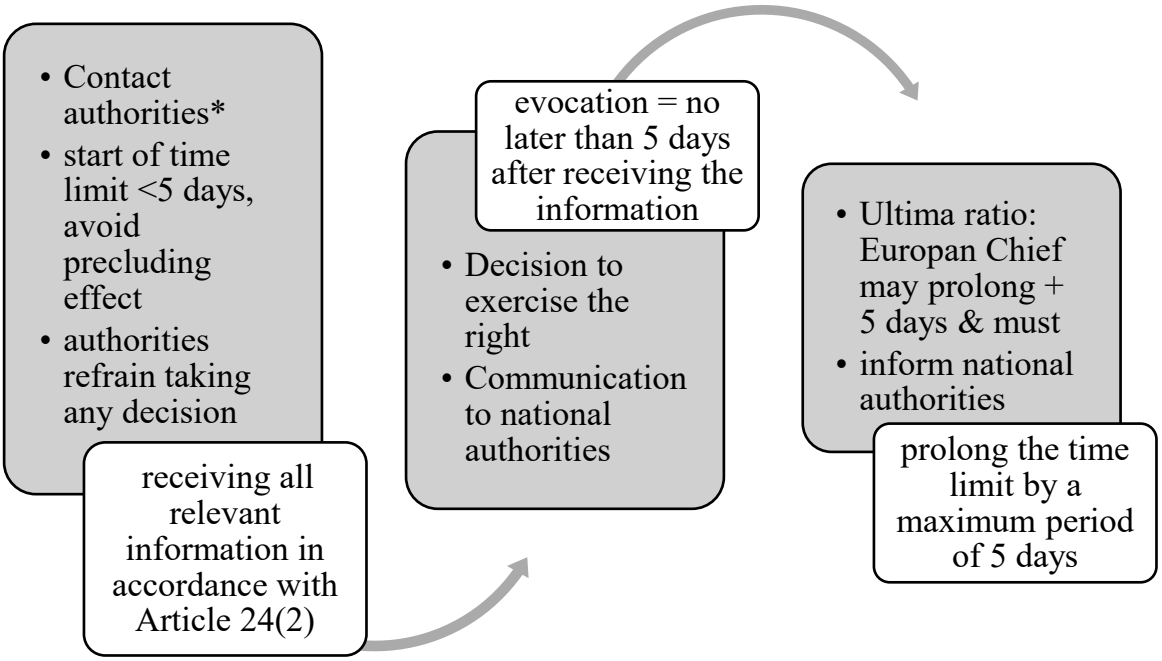
Where a European Delegated Prosecutor, who has received the information in accordance with Article 24(2), considers not to exercise the right of evocation, he/she shall inform the competent Permanent Chamber through the European Prosecutor of his/her Member State with a view to enabling the Permanent Chamber to take a decision in accordance with Article 10(4).
7. Where the EPPO has refrained from exercising its competence, it shall inform the competent national authorities without undue delay. At any time in the course of the proceedings, the competent national authorities shall inform the EPPO of any new facts which could give the EPPO reasons to reconsider its decision not to exercise competence.
The EPPO may exercise its right of evocation after receiving such information, provided that the national investigation has not already been finalised and that an indictment has not been submitted to a court. The decision shall be taken within the time limit set out in paragraph 1.
8. Where, with regard to offences which caused or are likely to cause damage to the Union's financial interests of less than EUR 100 000, the College considers that, with reference to the degree of seriousness of the offence or the complexity of the proceedings in the individual case, there is no need to investigate or to prosecute at Union level, it shall in accordance with Article 9(2), issue general guidelines allowing the European Delegated Prosecutors to decide, independently and without undue delay, not to evoke the case.
The guidelines shall specify, with all necessary details, the circumstances to which they apply, by establishing clear criteria, taking specifically into account the nature of the offence, the urgency of the situation and the commitment of the competent national authorities to take all necessary measures in order to fully recover the damage to the Union's financial interests.
9. To ensure coherent application of the guidelines, a European Delegated Prosecutor shall inform the competent Permanent Chamber of each decision taken in accordance with paragraph 8 and each Permanent Chamber shall report annually to the College on the application of the guidelines.

If the EDPs do not exercise the EPPO's competence by virtue of the Union's legality principle in due time on their own and hereby on behalf (*proprio motu*) of the Union and the Union's interests by analysing the *notitiae crimini europea*, i.e. the obligatory European PIF offences notices, which are sent to the European Prosecution Office in order to inform that a PIF offence is alleged or has been committed, the EDPs and the Chambers must decide on the evocation of cases from the national authorities on to the level of the Union competence. If the national prosecutor or a national office vested with investigative powers have already started investigating or the relevant person has taken **1**

any steps applying national law afterwards, these actions may have a precluding effect on the Right of evocation of the EPPO (cf. para 2 of Article 27 EPPO-RG).

Nota bene: In addition to that, if reading the following provisions one can take into account that some of them will apply as well to the EDPs if they want to file an indictment by virtue of the EPPO-RG, i.e. the area, which is not in the focus of this Manual as the country chapters have the focal point on the start of investigations, the phase, in which, most likely a huge number of operations will cease already. But the same provisions that apply to the national authorities while standing still until the EPPO has decided to exercise its right of evocation or not (Article 27) will apply in cases of EPPO indictments (Article 34 et seq.) And preclude the filing of formal accusation by virtue of national law before a national court.

Figure 4 Right of evocation/time limits/refrain taking decisions that have a precluding effect



* Caption: Croatian Authorities[97]:

National Prosecution Offices

County State Attorney's Office in Bjelovar
County State Attorney's Office in Dubrovnik
County State Attorney's Office in Karlovac
County State Attorney's Office in Osijek
County State Attorney's Office in Pula - Pola

[97] See https://dorh.hr/hr/zupanijska-drzavna-odvjetnistva.

County State Attorney's Office in Rijeka
County State Attorney's Office in Šibenik
County State Attorney's Office in Sisak
County State Attorney's Office in Slavonski Brod
County State Attorney's Office in Split
County State Attorney's Office in VaraždinAttorney's Office in Velika Gorica
County State Attorney's Office in Vukovar
County State Attorney's Office in Zadar
County State Attorney's Office in Zagreb

a) Provisions with a precluding effect for the Right of evocation of the EPPO, Para. 2

aa. Statute of limitations (*nastupila zastara*)

Two sources of law should be read. First of all, art. 80 to 91 of the CC, which stipulates the statues of limitation for criminal prosecution. Art. 81 specifies the time limits after which criminal prosecution can no longer be initiated for different categories of crimes. The periods vary according to the maximum penalty for the crime, typically ranging from 6 years for minor offenses to 25 years for the most serious offenses like war crimes or crimes punishable by long-term imprisonment. Next, art. 88 to 90 regulate the statues of limitation for penalties. Finally, the Croatian Criminal Procedure Code regulates the dismissal of charges, which follow the substantive rules in art. 81 to 90 of the CC. **2**

[Excerpt Criminal Procedure Code] **3**
Article 206[2] [98] **Dismiss the criminal charges (OG 76/09, 145/13, 70/17)**
(1) After examining the application and checking it in the Information System of the State Attorney's Office, the State Attorney shall reject the application with a reasoned decision if the application itself results in: [...]
2) That the statute of limitations has expired or the act has been covered by amnesty, pardon, or has already been adjudicated or there are other circumstances that exclude criminal prosecution, [...].

bb. Amnesty and Pardon

Cf. the *Zakon o općem oprostu* (General Amnesty Act) and Articles 224, 206d (even though there is a reasonable suspicion). **4**

[98] **Članak 206 (NN 76/09, 145/13, 70/17)**
(1) Nakon ispitivanja prijave i provjere u Informacijskom sustavu Državnog odvjetništva državni odvjetnik odbacit će prijavu obrazloženim rješenjem ako iz same prijave proistječe:
2) da je nastupila zastara ili je djelo obuhvaćeno amnestijom, pomilovanjem, ili je već pravomoćno presuđeno ili postoje druge okolnosti koje isključuju kazneni progon, [...]

5 **Article 224**[99] **(OG 145/13)**

(1) The State Attorney suspends the investigation by decision:

1) if the offense charged against the defendant is not a criminal offense for which he is prosecuted ex officio,

2) if there are circumstances that exclude the guilt of the defendant, unless he committed an illegal act while incapacitated,

3) if the statute of limitations for criminal prosecution has expired or the offense is covered by amnesty or pardon or if there are other circumstances that exclude criminal prosecution,

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

(2) The decision on the suspension of the investigation is delivered to the injured party and the defendant, who will be immediately released if he is in custody or pre-trial detention. Along with the decision, the injured party will be instructed in the sense of Article 55 of this Act.

Article 236[100] **(Official Gazette 143/12, 145/13)**

(1) An evidentiary hearing will be held if:

[99] **Članak 224 (NN 145/13)**
(1) Državni odvjetnik obustavlja rješenjem istragu:
1) ako djelo koje se stavlja na teret okrivljeniku nije kazneno djelo za koje se progoni po službenoj dužnosti,
2) ako postoje okolnosti koje isključuju krivnju okrivljenika, osim ako je počinio protupravno djelo u stanju neubrojivosti,
3) ako je nastupila zastara kaznenog progona ili je djelo obuhvaćeno amnestijom ili pomilovanjem ili ako postoje druge okolnosti koje isključuju kazneni progon,
4) ako nema dokaza da je okrivljenik počinio kazneno djelo.
(2) Rješenje o obustavi istrage dostavlja se oštećeniku i okrivljeniku, koji će se odmah pustiti na slobodu ako je u pritvoru ili istražnom zatvoru. Oštećeniku će se uz rješenje dati pouka u smislu članka 55. ovog Zakona.

[100] **Članak 236 (NN 143/12, 145/13)**
(1) Dokazno ročište će se provesti ako:
1) je potrebno ispitati svjedoka iz članka 292. i 293. ovog Zakona,
2) je potrebno ispitati svjedoka iz članka 285. stavka 1. točke 1. do 3. ovog Zakona, ako postoji bojazan da na raspravi neće iskazivati,
3) svjedok neće moći biti ispitan na raspravi,
4) je svjedok izložen utjecaju koji dovodi u pitanje istinitost iskaza,
5) se drugi dokaz neće moći kasnije izvesti. primio obavijest da je istraga završena (članak 228. stavak 2.).
(2) Ako državni odvjetnik ne prihvati prijedlog okrivljenika dostavlja ga u roku od osam dana sucu istrage i o tome pisano obavještava okrivljenika. Ako sudac istrage prihvati prijedlog za provođenje dokazne radnje, naložit će njezino provođenje državnom odvjetniku, a ako prijedlog ne prihvati, obavijestit će o tome okrivljenika.
(3) O mjestu i vremenu provođenja dokazne radnje iz stavka 1. i 2. ovog članka, prije njezina provođenja, obavještava se okrivljenik i branitelj koji je predložio provođenje radnje. Ako je okrivljenik lišen slobode, a želi prisustvovati ročištu, na ročište će biti doveden, osim ako je raspravno nesposoban ili zbog teško narušenog zdravstvenog stanja nije u mogućnosti sudjelovati na ročištu. Ako okrivljenik na to pristane, a za to postoje tehnički uvjeti, omogućit će mu se sudjelovanje na ročištu putem zatvorenog tehničkog uređaja za vezu na daljinu (audio-video uređaj).
(4) Obavijest o provođenju dokazne radnje iz stavka 1. i 2. ovog članka okrivljeniku i branitelju se u primjerenom roku može priopćiti putem uređaja za telekomunikacije, o čemu se sastavlja službena zabilješka.
(5) Ako se provodi dokazna radnja ispitivanja svjedoka ili vještaka sukladno stavcima 1. i 2. ovog članka, nakon nesmetanog iskazivanja, pitanja prvi postavlja državni odvjetnik, a zatim okrivljenik i branitelj. Državni odvjetnik će zabraniti postavljanje pitanja iz članka 420. stavka 3. ovog Zakona i unijeti u zapisnik pitanje i svoju odluku.

(.) the statute of limitations for criminal prosecution has expired or the offense is covered by amnesty or pardon or if there are other circumstances that exclude criminal prosecution.

cc. Opposing legal validity

Article 12 (ne bis in idem), Article 89 et seq. (Time limits), Article 206 2) CPC, s. 407 et seq. (mediation) CPC, Article 467 et seq. (after an appeal). **6**

Article 206

(2) No appeal is allowed against the state attorney's decision to reject the criminal report.

Article 476[101]

The judgment may be challenged due to:
1) Significant violations of the provisions of the criminal procedure,
2) Violations of the criminal law,
3) Wrongly or incompletely established factual situation,
4) decisions on punishment, court admonition, suspended sentence, partial suspended sentence, community service, special obligations, protective supervision, security measure, confiscation of property benefit, confiscation of objects, costs of criminal proceedings, property law request and public announcement of the verdict.

dd. Abatement of action (dispense with prosecution)

See → Articles 206, 206c, 206d, 228 para 2, 229, 230 CPC **7**

Chapter XVI.
2. Dismissal of the criminal report
Article 206[102] **(Official Gazette 76/09, 145/13, 70/17)**

(1) After Assessement of the application and verifying it in the Information System of the State Attorney's Office, the state attorney will reject the application with a reasoned decision if the following results from the application itself:
1) that the reported offense is not a criminal offense for which he is prosecuted ex officio,
2) that the statute of limitations has expired or the offense is covered by amnesty, pardon, or has already been finally adjudicated or there are other circumstances that exclude criminal prosecution,

[101] **Članak 467 (NN 143/12)** Presuda se može pobijati zbog:
1) bitne povrede odredaba kaznenog postupka,
2) povrede kaznenog zakona,
3) pogrešno ili nepotpuno utvrđenog činjeničnog stanja,
4) odluke o kazni, sudskoj opomeni, uvjetnoj osudi, djelomičnoj uvjetnoj osudi, zamjeni radom za opće dobro na slobodi, posebnim obvezama, zaštitnom nadzoru, sigurnosnoj mjeri, oduzimanju imovinske koristi, oduzimanju predmeta, troškovima kaznenog postupka, imovinskopravnom zahtjevu te javnom objavljivanju presude.
[102]

3) if there are circumstances that exclude guilt,
4) if there is no reasonable doubt that the suspect committed the reported criminal offense,
5) if the information in the application points to the conclusion that the application is not credible.
(2) No appeal is allowed against the state attorney's decision to reject the criminal report.
(3) Unless otherwise prescribed by this Act (Articles 206.c, 206.d and 206.e), the State Attorney shall inform the victim of the rejection of the application and the reasons for it, along with the instruction from Article 55 of this Act, within eight days. The rejection of the application will be reported without delay to the applicant and the person against whom the application was filed, if they request it.
(4) If the state attorney cannot judge from the report itself whether the allegations in the report are credible or if the information in the report does not provide sufficient grounds to decide whether to conduct an investigation or take evidentiary actions, the state attorney will conduct investigations himself or order them to be carried out by the police.
(5) If, even after the actions referred to in paragraph 4 of this article, there are some of the circumstances referred to in paragraph 1 of this article, the state attorney will reject the application.

Article 206a[103] **(Official Gazette 145/13)**
(1) The victim and the aggrieved party have the right, after the expiration of two months from the filing of the criminal report or report on the committed crime, to request from the state attorney a notification of the actions taken in connection with the criminal report or report on the crime committed. The state attorney will inform them about the actions taken within an appropriate period, and no later than thirty days from the receipt of the request, except when doing so would jeopardize the effectiveness of the procedure. He is obliged to inform the victim and the injured party who requested the notification about the denial of the notification.

[103] **Članak 206.a (NN 145/13)**
(1) Žrtva i oštećenik imaju pravo po isteku dva mjeseca od podnošenja kaznene prijave ili dojave o počinjenom djelu zatražiti od državnog odvjetnika obavijest o poduzetim radnjama povodom kaznene prijave ili dojave o počinjenom djelu. Državni odvjetnik će ih obavijestiti o poduzetim radnjama u primjerenom roku, a najkasnije trideset dana od zaprimljenog zahtjeva, osim kada bi time ugrozio učinkovitost postupka. O uskrati davanja obavijesti dužan je izvijestiti žrtvu i oštećenika koja je tu obavijest zahtijevala.
(2) Ako državni odvjetnik nije obavijestio žrtvu ili oštećenika ili oni nisu zadovoljni danom obaviješću ili poduzetim radnjama, imaju pravo pritužbe višem državnom odvjetniku.
(3) Viši državni odvjetnik provjerit će navode pritužbe te ako utvrdi da je pritužba osnovana, naložit će nižem državnom odvjetniku da podnositelju pritužbe dostavi zatraženu obavijest o poduzetim radnjama odnosno da u primjerenom roku poduzme radnje koje je trebalo poduzeti. Ako viši državni odvjetnik utvrdi da je postupanjem nižeg državnog odvjetnika došlo do povrede prava podnositelja pritužbe, o tome će ga obavijestiti uz točno navođenje prava koje je povrijeđeno.
(4) Obavijest o poduzetim radnjama iz stavka 1. ovog članka žrtva i oštećenik mogu ponovo zatražiti po proteku šest mjeseci od prethodno zatražene obavijesti o poduzetim radnjama, osim ako su se višem državnom odvjetniku obratili pritužbom iz članka 206.b stavka 2. ovog Zakona.

(2) If the state attorney did not notify the victim or the injured party or they are not satisfied with the information given or the actions taken, they have the right to complain to the senior state attorney.
(3) The senior state attorney will check the allegations of the complaint and, if he determines that the complaint is well-founded, he will order the lower state attorney to provide the complainant with the requested notification of the actions taken, i.e. to take the actions that should have been taken within a reasonable period of time. If the senior state attorney determines that the actions of the lower state attorney have resulted in a violation of the complainant's rights, he will be notified of this with an exact indication of the rights that have been violated.
(4) Notification of actions taken from paragraph 1 of this article may be requested again by the victim and the injured party after six months have passed since the previously requested notification of actions taken, unless they have addressed a complaint to the senior state attorney from Article 206b paragraph 2 of this Act.

Article 206.b[104] **(Official Gazette 145/13)**
(1) The state attorney is obliged to make a decision on a criminal report within six months from the date of entry of the report in the register of criminal reports and to inform the applicant of this with brief reasons for the decision.
(2) Upon the expiration of the period referred to in paragraph 1 of this article or upon the expiration of six months after the state attorney has acted in accordance with Article 205, paragraph 6 of this Act, the applicant, the injured party and the victim may submit a complaint to the senior state attorney for not taking the actions of the state attorney that lead to a delay in the procedure.
(3) After receiving the complaint referred to in paragraph 2 of this article, the Senior State Attorney shall, without delay, request a statement on the allegations of the complaint.
(4) If the senior state attorney judges that the complaint is well-founded, he will determine an appropriate deadline in which a decision on the application must be made.

[104] **Članak 206.b (NN 145/13)**
(1) Državni odvjetnik je dužan donijeti odluku o kaznenoj prijavi u roku od šest mjeseci od dana upisa prijave u upisnik kaznenih prijava i o tome obavijestiti podnositelja prijave uz navođenje kratkih razloga te odluke.
(2) Po isteku roka iz stavka 1. ovog članka ili po isteku šest mjeseci nakon što je državni odvjetnik postupio po članku 205. stavku 6. ovog Zakona podnositelj prijave, oštećenik i žrtva mogu podnijeti pritužbu višem državnom odvjetniku zbog nepoduzimanja radnji državnog odvjetnika koje dovode do odugovlačenja postupka. (3) Viši državni odvjetnik će, nakon što primi pritužbu iz stavka 2. ovog članka, bez odgode zatražiti očitovanje o navodima pritužbe.
(4) Viši državni odvjetnik će, ako ocijeni da je pritužba osnovana, odrediti primjereni rok u kojem se mora donijeti odluka o prijavi.
(5) Viši državni odvjetnik dužan je o poduzetom obavijestiti podnositelja pritužbe u roku od petnaest dana od dana primitka pritužbe.
(6) Podnositelj pritužbe može ponoviti pritužbu ako prijava nije riješena u roku određenom u stavku 4. ovog članka.

(5) The senior state attorney is obliged to inform the complainant about the action taken within fifteen days from the day of receipt of the complaint.
(6) The complainant may repeat the complaint if the complaint is not resolved within the time limit specified in paragraph 4 of this article.

b) Urgent measures of national authorities for securing an investigation and prosecution

8 The urgent measures of national authorities in Croatia depend on the question if police, customs, or tax authorities are concerned. This question is answered by the different PIF offences (see above→ Article 26 EPPO-RG) and the area of competences to investigate them (see → Article 28 below).

9 The authorities acting under the Croatian CPC have the following possibilities to ensure the evidence in quick actions.

See → Articles 206h, 207, 210, 211, 212, 213, 213a, 213b CPC.

10
Chapter XVI. 5. Urgent evidentiary actions
Article 212[105] **(Official Gazette 143/12…)**
(1) The police may, if there is a risk of delay, even before starting the criminal proceedings for criminal offenses for which a prison sentence of up to five years is prescribed, conduct a search (Article 246), temporary confiscation of objects (Article 261), recognition (Article 301), physical examination (Article 304), taking fingerprints and other parts of the body (Articles 211 and 307).
(2) For criminal offenses for which a prison sentence of more than five years is prescribed, the police shall immediately notify the state attorney of the existence of a risk of delay and the need to conduct evidentiary actions, except for the implementation of

[105] **5. Hitne dokazne radnje**
Članak 212 (NN 143/12, 145/13, 152/14, 70/17, __/)
(1) Policija može, ako postoji opasnost od odgode, i prije započinjanja kaznenog postupka za kaznena djela za koja je propisana kazna zatvora do pet godina obaviti pretragu (članak 246.), privremeno oduzimanje predmeta (članak 261.), prepoznavanje (članak 301.), očevid (članak 304.), uzimanje otisaka prstiju i drugih dijelova tijela (članci 211. i 307.).
(2) Za kaznena djela za koja je propisana kazna zatvora teža od pet godina o postojanju opasnosti od odgode i potrebi provođenja dokaznih radnji policija odmah obavještava državnog odvjetnika, osim za provođenje dokazne radnje privremenog oduzimanja predmeta (članak 261.) i pretrage (članak 246.). Državni odvjetnik može sam provesti dokazne radnje iz stavka 1. ovoga članka ili njihovo provođenje prepustiti policiji ili naložiti istražitelju. Državni odvjetnik koji stigne na mjesto očevida ili pretrage u tijeku njegova provođenja može preuzeti provođenje radnje.
(3) Ako je potrebno provesti radnje iz stavaka 1. i 2. ovoga članka prema službenoj osobi koja je ovlaštena i dužna otkrivati i prijavljivati kaznena djela za koja se progoni po službenoj dužnosti policija će odmah obavijestiti državnog odvjetnika koji će odlučiti o tome hoće li sam provesti tu radnju ili će dati nalog istražitelju.
(4) Ako postoji opasnost od odgode, državni odvjetnik može odrediti potrebna vještačenja, osim ekshumacije.
(5) O rezultatima radnji koje je policija provela prema stavcima 1. i 2. ovoga članka, bez odgode obavještava državnog odvjetnika.

the evidentiary action of temporary confiscation of objects (Article 261) and searches (Article 246). The state attorney can himself carry out the evidentiary actions referred to in paragraph 1 of this article or leave them to the police or instruct an investigator. The state attorney who arrives at the place of investigation or search in the course of its implementation can take over the implementation of the action.
(3) If it is necessary to carry out the actions referred to in paragraphs 1 and 2 of this article against an official who is authorized and obliged to detect and report criminal offenses for which they are prosecuted ex officio, the police will immediately notify the state attorney, who will decide whether carry out that action himself or will give an order to the investigator.
(4) If there is a risk of delay, the state attorney can order the necessary expert examinations, except for exhumation.
(5) The state attorney shall be informed without delay of the results of actions carried out by the police according to paragraphs 1 and 2 of this article.

The Customs officials may act by virtue of the Law on the Customs Service: **11**

Article 22 **12**

An authorized customs officer who has been appointed as an investigator carries out evidentiary actions entrusted by the competent state attorney in accordance with the provisions of the Criminal Procedure Act and the regulations under the jurisdiction of the Customs Administration.

Article 23
For misdemeanours prescribed by this Act and misdemeanours prescribed by special laws under the jurisdiction of the Customs Administration, the authorized customs officer is authorized, under the conditions prescribed by the law regulating misdemeanour proceedings, as an authorized prosecutor to issue a misdemeanour order before starting misdemeanour proceedings.

c) Competent national authorities in Paras 3 to 7 of Article 27

The Notification to the EPPO outlines in this regard: **13**

"Article 27 (2) to (81 of Council Regulation (EU 2017/1939) The competent national authority in terms of Article 27, paragraphs 2 to 8 of the Regulation is the State Attorney's Office of the Republic of Croatia."[106] **14**

[106] See already the Notificiation of the Government, https://www.eppo.europa.eu/sites/default/files/2021-11/15-HR.pdf.

15 In case of conflicts of jurisdiction, the EPPO Adoption Law foresees the following:

16 **Article 8 Conflict of jurisdiction EPPO Adoption Law** Pursuant to Article 25 (6) of Council Regulation (EU) 2017/1939, the conflict of juris-diction between the State Attorney's Office and the European Public Prosecutor's Office is decided by the Chief State Attorney of the Republic of Croatia.

17 There has been a significant conflict regarding the jurisdiction of the EPPO and national prosecution authorities in Croatia, particularly surrounding the case of suspected subsidy fraud at the University of Zagreb's Faculty of Geodesy. This case sparked a jurisdictional debate when Croatian Prime Minister Andrej Plenković claimed that the matter fell outside the EPPO's remit because it involved Croatian, rather than EU, funds.
In the introduction above, the case and conflict were analysed in more detail (see above → Introduction).

18 It is important to put emphasis on the fact that in Croatia, the **State Attorney General** (head of the State Prosecution Office, see above → Mn. 16) **currently decides on conflicts of jurisdiction** between national authorities and the EPPO. This **setup has been criticised** due to concerns over the political independence of the State Attorney General and the absence of a clear legal pathway to challenge such decisions in court, potentially limiting EPPO's powers in politically sensitive cases.

Nota bene: If Article 27 EPPO-RG is completed or exercised the same rules as presented above under "Actions if decision to open a case", Article 26 EPPO-RG shall apply.

3. Article 28 Conducting the investigation

1. The European Delegated Prosecutor handling a case may, in accordance with this Regulation **and with national law**, either undertake the investigation measures and other measures on his/her own or instruct the competent authorities in his/her Member State. Those authorities shall, **in accordance with national law**, ensure that all instructions are followed and undertake the measures assigned to them. The handling European Delegated Prosecutor shall report through the case management system to the competent European Prosecutor and to the Permanent Chamber any significant developments in the case, in accordance with the rules laid down in the internal rules of procedure of the EPPO.

2. At any time during the investigations conducted by the EPPO, the competent national authorities shall take urgent measures **in accordance with national law** necessary to ensure effective investigations even where not specifically acting under an instruction given by the handling European Delegated Prosecutor. The national authorities shall without undue delay inform the handling European Delegated Prosecutor of the urgent measures they have taken.

3. The competent Permanent Chamber may, on proposal of the supervising European Prosecutor decide to reallocate a case to another European Delegated Prosecutor in the same Member State when the handling European Delegated Prosecutor:

(a) cannot perform the investigation or prosecution; or

(b) fails to follow the instructions of the competent Permanent Chamber or the European Prosecutor.

4. In exceptional cases, after having obtained the approval of the competent Permanent Chamber, the supervising European Prosecutor may take a reasoned decision to conduct the investigation personally, either by undertaking personally the investigation measures and other measures or by instructing the competent authorities in his/her Member State, where this appears to be indispensable in the interest of the efficiency to the investigation or prosecution by reasons of one or more of the following criteria:
(a) the seriousness of the offence, in particular in view of its possible repercussions at Union level;
(b) when the investigation concerns officials or other servants of the Union or members of the institutions of the Union;
(c) in the event of failure of the reallocation mechanism provided for in paragraph 3.
In such exceptional circumstances Member States shall ensure that the European Prosecutor is entitled to order or request investigative measures and other measures and that he/she has all the powers, responsibilities and obligations of a European Delegated Prosecutor in accordance with this Regulation and national law.

The competent national authorities and the European Delegated Prosecutors concerned by the case shall be informed without undue delay of the decision taken under this paragraph.

1 As part of the recurring introduction to Article 28 EPPO-RG in this manual, which is relevant to all EDPs and also affects the academic and political debate about specialized investigative personnel, the following can be said: The conduct of investigations is dependent on instruction relationships, whereby in contrast to the dependency in classically national systems, in the area of EU anti-fraud investigations the EPPO (i.e. the college level) has supervisory powers as it is a supranational, independent body.

2 In her speech for the first anniversary of the EPPO, given at the conference "EPPO one year in action – Towards Resolving Complexity and Bringing Added Value"[107] in the *Hémicylce* in Luxembourg on 1st June 2022, Laura Kövesi outlined that in order to enhance the detection rates of EU fraud specialized customs units and specialized financial experts, groups of specialized EU investigators educated in the typologies of EU frauds are needed to enhance the conduct of investigations. She underlined that these special units could be set up tomorrow and that doing so depended only on political will.[108]

[107] Organized by the University of Luxembourg (Prof. Katalin Ligeti), ECLAN and the EPPO.
[108] EPPO, European Public Prosecutor's Office One Year In Action, https://www.youtube.com/watch?v=v2oUUyTEPFU; Laura Kövesi, So kommt die EU im Kampf gegen Verbrecherbanden in die Offensive, Die Welt (Welt am Sonntag), Stand: 05.06.2022, <https://www.welt.de/debatte/kommentare/aticle239196661/So-kommt-die-EU-im-Kampf-gegen-die-Kriminalitaet-in-die-Offensive.html>: „Ich fordere deshalb alle zuständigen nationalen Behörden auf, diese bewährte Praxis zu übernehmen und zur Unterstützung unserer Ermittlungen spezialisierte Einheiten einzurichten, die Finanz-, Steuer- und Zollfahnder vereinen. Ich schlage vor, dass

If there are no special units in all countries as the first Chief Prosecutor of the EPPO requested, the detection rates depend on the conduct of investigations and the cooperation with established national authorities. **3**

The investigations on national level and at Union-level must be distinguished. Especially at the Union level, the investigation is different than at the national level. In many cases, investigations will be carried out in Union institutions (EU IBOAs). The EPPO has started to set up working arrangements for this type of investigation. For example, the one with the European Investment Bank provides for cooperation with the in-house fraud detection service ("a kind of internal investigation commission"). In the following we shall focus on the national investigations level regarding the Croatian Republic. **4**

For the different PIF offences, the specific country system provides different investigative bodies acting by virtue of different national codes such as the General Tax Code, the police laws and the customs laws including the customs administration laws. It depends, for the analysis of Article 28 EPPO-RG, on whether a centrally governed country of the EU is affected or whether there is a federal system with differentiated competences of the federal units. **5**

In addition, the lawfulness of the action is very important as a generalization of all instructions from the staff, which are made available to the EPPO and the EDPs from the national resource area.

a) The handling EDP carrying out the investigative measures, Para. 1

If the handling Croatian EDP is carrying out the investigative measures he/she is directing the national authorities (see below List and Notification of the Croatian Government to the EPPO). It is worth to take a close look at these authorities and their competences, locations, and support to the EDPs. **6**

b) Instructions and assignment of investigative measures for "those national authorities"

The EDP may base its order or assignment on Articles 206g et seq. of the Croatian Criminal Procedure Act **7**

wir eine Elitetruppe hoch qualifizierter Finanzbetrugsermittler innerhalb der EU bilden, die über die EPPO länderübergreifend arbeitet. Dafür muss man kein Gesetz ändern; es ist eine reine Organisationsentscheidung der zuständigen nationalen Behörden. Es kann schon morgen geschehen". This statement was republished by various newspapers and journals across Europe (see → eg Figaro article in the French volume).

8 | **Instructed and assigned National authorities (list):**

The Croatian Government has reported in its Notification to the EPPO that then following authorities are competent:
"The competent national authorities to which a delegated European prosecutor or European prosecutor may instruct to undertake criminal investigations are the **police**[109] and the competent administrative
bodies of the Ministry of Finance (**Tax Administration**, **Customs**, **Budgetary Control**, **Anti-Money Laundering Office**)."[110]

aa. Criminal and judicial police area

9 *Police Investigation Authorities 1*

 **Criminal Procedure Act**

Article 206g CPC[111]
(1) The state attorney may, for the purpose of collecting the necessary information, summon persons. The reason for the invitation must be indicated in the invitation. If the applicant or the victim who reported on the committed criminal offense does not respond to the summons, they will be dealt with in accordance with Article 205, paragraphs 7 and 8 of this Act.
(2) The police, the ministry in charge of finance, the State Audit Office and other state bodies, organizations, banks and other legal entities shall provide the information requested by the state attorney, except for those that represent a secret protected by law. The state attorney can demand from the aforementioned bodies the control of the business of legal and natural persons and, in accordance with the relevant regulations, the temporary confiscation of money, securities, objects and documentation that can be

[109] The Directorate of Criminal Police has the following structure:
National Police Office for Suppression of Corruption and Organized Crime
Service of organized crime
Economic Crime and Corruption Service
Office for Suppression of Corruption and Organized Crime Zagreb
Service for Suppression of Corruption and Organized Crime Rijeka
Office for Suppression of Corruption and Organized Crime Split
Office for Suppression of Corruption and Organized Crime Osijek
Sector of general crime and international police cooperation
General crime service
Service of criminal techniques
Service for international police cooperation
Criminal intelligence sector
Service of special criminal affairs
Service of Criminal Intelligence Analytics
Cyber security service [see https://policija.gov.hr/uprava-kriminalisticke-policije/415].
[110] See https://www.eppo.europa.eu/sites/default/files/2021-11/15-HR.pdf, p. 4.
[111] Članak 206.g (NN **145/13**, **70/17**)
(1) Državni odvjetnik može, u svrhu prikupljanja potrebnih obavijesti, pozivati osobe. U pozivu se mora naznačiti razlog pozivanja. Ako se podnositelj prijave ili žrtva koja je dojavila o počinjenom kaznenom djelu ne odazove pozivu postupit će se prema članku 205. stavku 7. i 8. ovog Zakona.

used as evidence, the performance of supervision and the delivery of data that can be used as evidence of the committed a criminal offense or property obtained from a criminal offense, and request information on collected, processed and stored data regarding unusual and suspicious financial transactions.
(3)[112] For failure to act according to the state attorney's request, the investigating judge may, on the reasoned proposal of the state attorney, fine the responsible person with a fine of up to HRK 50,000.00, and the legal person with a fine of up to HRK 5,000,000.00, and if even after that he does not act according to the request can be punished with imprisonment until execution, and for a maximum of one month. The court that passed the decision on imprisonment can revoke that decision if, after its adoption, the responsible person acts on the request.
(4) The state attorney draws up a record of the information received from paragraph 1 of this article, which, like the statement given to the state attorney from article 205, paragraph 7 of this Act, according to article 86, paragraph 3 of this Act, shall not be submitted with the indictment, i.e. which according to Article 351, Paragraph 5 of this Act, it is removed from the file.

Article 206.h[113] (1) The state attorney may order the police to collect the necessary information by conducting an investigation and taking other measures to collect the data necessary to decide on a criminal complaint. In the order, the state attorney can

[112] (2) Policija, ministarstvo nadležno za financije, Državni ured za reviziju i druga državna tijela, organizacije, banke i druge pravne osobe dostavit će podatke koje je od njih zatražio državni odvjetnik, osim onih koji predstavljaju zakonom zaštićenu tajnu. Državni odvjetnik može od navedenih tijela zahtijevati kontrolu poslovanja pravne i fizičke osobe i u skladu s odgovarajućim propisima privremeno oduzimanje do donošenja presude, novca, vrijednosnih papira, predmeta i dokumentacije koji mogu poslužiti kao dokaz, obavljanje nadzora i dostavu podataka koji mogu poslužiti kao dokaz o počinjenom kaznenom djelu ili imovini ostvarenoj kaznenim djelom, te zatražiti obavijesti o prikupljenim, obrađenim i pohranjenim podacima u vezi neobičnih i sumnjivih novčanih transakcija. U svom zahtjevu državni odvjetnik može pobliže označiti sadržaj tražene mjere ili radnje te zahtijevati da ga se o njoj izvijesti, kako bi mogao biti prisutan njenom provođenju.
(3) Za nepostupanje po zahtjevu državnog odvjetnika, sudac istrage može na obrazloženi prijedlog državnog odvjetnika odgovornu osobu kazniti novčanom kaznom u iznosu do 50.000,00 kuna, a pravnu osobu do 5.000.000,00 kuna, a ako i nakon toga ne postupi po zahtjevu može se kazniti zatvorom do izvršenja, a najdulje mjesec dana. Sud koji je donio rješenje o određivanju zatvora može opozvati to rješenje ako nakon njegovog donošenja odgovorna osoba postupi po zahtjevu.
(4) O pribavljenoj obavijesti iz stavka 1. ovog članka državni odvjetnik sastavlja zapisnik, koji se kao i izjava dana državnom odvjetniku iz članka 205. stavka 7. ovog Zakona prema članku 86. stavku 3. ovog Zakona neće dostaviti uz optužnicu odnosno koja se prema članku 351. stavku 5. ovog Zakona izdvaja iz spisa.

[113] Članak 206.h (NN **145/13**)
(1) Državni odvjetnik može naložiti policiji da prikupi potrebne obavijesti provođenjem izvida i poduzimanjem drugih mjera radi prikupljanja podataka potrebnih za odlučivanje o kaznenoj prijavi. U nalogu državni odvjetnik može pobliže odrediti sadržaj izvida ili mjere te naložiti da ga policija odmah obavijesti o poduzetom izvidu ili mjeri. Ako državni odvjetnik naloži prisustvovanje izvidu ili mjeri, policija će ih provesti na način kojim mu se to omogućuje. Policija je dužna postupiti prema nalogu državnoga odvjetnika, a ako državni odvjetnik nije naložio drukčije, o poduzetim izvidima ili mjerama dužna je izvijestiti državnog odvjetnika najkasnije u roku od trideset dana od primitka naloga.
(2) Državni odvjetnik ima pravo i dužnost stalnog nadzora nad provođenjem izvida koji su naloženi policiji. Policija je dužna izvršiti nalog ili zahtjev državnog odvjetnika u provođenju nadzora nad izvidima i za taj rad odgovaraju državnom odvjetniku.

specify the content of the investigation or measure in more detail and order that the police inform him immediately about the investigation or measure undertaken. If the state attorney orders attendance at an inspection or measure, the police will carry it out in a way that allows him to do so. The police are obliged to act according to the order of the state attorney, and if the state attorney has not ordered otherwise, they are obliged to inform the state attorney about the investigations or measures taken no later than thirty days after receiving the order.
(2) The state attorney has the right and duty to constantly supervise the conduct of investigations ordered by the police. The police are obliged to carry out the order or request of the state attorney in the supervision of investigations, and they are responsible to the state attorney for this work.

Article 206i CPC[114]
(1) If there are grounds for suspicion that a criminal offence prosecuted ex officio was committed and that a pecuniary advantage was obtained by it, the state attorney shall without delay conduct or order the conduct of inquiries in order to establish the value of such advantage and the location of the property thus obtained. If the pecuniary advantage obtained by means of a criminal offence was concealed by the perpetrator or if there are grounds to suspect money laundering, the state attorney shall do whatever is necessary to locate the said property and ensure its confiscation.

[114] Članak 206.i (NN 145/13) (1) Ako postoje osnove sumnje da je počinjeno kazneno djelo za koje se kazneni postupak pokreće po službenoj dužnosti te da je tim djelom stečena imovinska korist, državni odvjetnik je dužan odmah poduzimati ili nalagati poduzimanje izvida kako bi se utvrdila vrijednost te koristi te kako bi se utvrdilo gdje se tako stečena imovina nalazi. Ako je imovinsku korist stečenu kaznenim djelom počinitelj prikrio ili ako postoji osnov sumnje na pranje novca, državni odvjetnik će poduzeti sve što je potrebno da bi se ta imovina pronašla i osiguralo njezino oduzimanje.
(2) Za kaznena djela iz nadležnosti županijskog suda u kojima postoje osnove sumnje da je stečena znatna imovinska korist, u provođenju izvida i hitne dokazne radnje privremenog oduzimanja predmeta sudjeluju financijski istražitelji, državnoodvjetnički savjetnici i stručni suradnici iz posebnog odjela za istraživanje imovinske koristi stečene kaznenim djelom u sastavu državnog odvjetništva. Odjel provodi izvide u dogovoru i po nalogu državnog odvjetnika s ciljem utvrđivanja vrijednosti imovine i osiguranja oduzimanja, odnosno pronalaženja imovine stečene kaznenim djelom.
(3) Ako postoje osnove sumnje da je stečena imovinska korist velike vrijednosti državni odvjetnik će zatražiti od čelnika policije i nadležnih upravnih tijela Ministarstva financija da mu stave na raspolaganje službenike koji će pod njegovim nadzorom sudjelovati u zajedničkim izvidima iz stavka 2. ovog članka. Za vrijeme dok sudjeluju u zajedničkom radu službenici postupaju po nalogu državnog odvjetnika i njemu su odgovorni za svoj rad. O potrebi upućivanja službenika državni odvjetnik se savjetuje s Ravnateljstvom policije i Ministarstvom financija.
(4) Sva tijela državne vlasti i sve pravne osobe koje u svojem djelokrugu ili u obavljanju svoje djelatnosti saznaju za okolnosti i podatke koji upućuju da je u pravnom prometu imovina stečena kaznenim djelom, posebno ako postupanje s ostvarenim financijskim sredstvima ili imovinom ukazuje na pranje novca ili na prikrivanje te imovine, dužne su bez odgode o tim okolnostima i podacima obavijestiti državnog odvjetnika.
(5) Kada se provedenim izvidima iz stavka 1., 2. i 3. ovog članka prikupe potrebne činjenice i podaci o visini stečene imovinske koristi, odnosno kada se utvrdi gdje se imovina nalazi, državni odvjetnik je dužan bez odgode predložiti određivanje privremene mjere osiguranja kako se ta imovina ne bi sakrila ili uništila, a također je dužan u optužnici ili najkasnije na pripremnom ročištu predložiti da se ta imovina oduzme.

(2) In the case of criminal offences falling within the jurisdiction of the county court, with respect to which there are grounds to suspect that a considerable pecuniary advantage has been obtained, financial investigators, state attorney office advisors and expert associates from a special department within the State Attorney's Office investigating the proceeds of crime shall take part in the conduct of inquiries and the taking of the urgent evidentiary action of temporary seizure of an object. The Department shall conduct inquiries in consultation with and by order of the state attorney with a view to establishing the value of property and ensuring the confiscation and the locating of criminal property.
(3) If there are grounds for suspicion that a considerable pecuniary
advantage was obtained, the state attorney shall request from the head of the police and the competent administrative authorities of the Ministry of Finance to place at his disposal officers who will take part under his supervision in the conduct of joint inquiries referred to in paragraph 2 of this Article. During the period of their taking part in joint activities, the said officers shall act on the orders of the state attorney and shall be accountable to him for their work. On the need for officer secondments the state attorney shall consult with the Police Directorate and the Ministry of Finance.
(4) Any government authority and any legal person that within their sphere of activity or scope of work learn of any circumstance or fact pointing to property having been acquired by a criminal offence within the framework of legal transactions, in particular where the activities involving the acquired financial resources or property point to money laundering or the concealment of such property, shall without delay inform the state attorney of the said circumstances or facts.
(5) Where as a result of the inquiries conducted under paragraphs 1, 2 and 3 of this Article the necessary facts and information on the amount of pecuniary advantage obtained are gathered or where the location of such property is established, the state attorney shall without delay file a motion for the ordering of the temporary security measure against the concealment or destruction of such property. He/she shall also in the indictment or no later than at the preliminary hearing file a motion that the said property be confiscated. "Investigator" and "financial investigator" is a person authorised by virtue of a special regulation adopted on the basis of an act to conduct evidentiary and other actions (Article 202, paragraph 2, item 23 of the Criminal Procedure Act). We emphasize that the investigator is not a national body, but a special category, provided by the Criminal Procedure Act, of civil servants from the ranks of the police, as well as other detection bodies, including the ministry in charge of finance, who carry out evidentiary actions based on the order of the state attorney, and are responsible for their work exclusively to the Attorney General. "Police" is a police official of the ministry responsible for internal affairs or an authorised person of the ministry responsible for defence within the scope of the rights and duties prescribed by special

acts, as well as a foreign police official who under international law, or on the basis of a written approval from the minister responsible for internal affairs, takes actions within the territory of the Republic of Croatia, on board its vessels or aircraft (Article 202, paragraph 2, item 24 of the Criminal Procedure Act).

10 The Police officers are available throughout the Country:
Figure 5 Police in Croatia

11 This detailed map of the Croatian police areas shows all regions and cities, providing a comprehensive overview of the country's administrative divisions. It serves as an essential tool for understanding the geographical layout and the distribution of various police administrations, including the County Police Administration and others across different categories.

12 The map not only highlights the locations of major cities but also emphasizes the role of the General Police Directorate in overseeing the police activities throughout the nation and within each of these regions. It is an invaluable resource for both residents, lawyers, EDPs, liaison officers of OLAF, seconded national experts, Investigation Units and AFCOS or OAFCN staff facilitating navigation and enhancing awareness of local law enforcement structures and their districts.[115]

[115] See Croatian Police, https://mup.gov.hr/footer-111/about-the-police-120/120 and https://mup.gov.hr/footer-111/about-the-police-120/police-administration/146. Accessed 31 August 2024.

bb. Tax area

Tax Investigation authorities 1

	General Tax Law

Procedure in case of suspected tax crime and misdemeanour

Article 123[116] If, during the tax inspection, a suspicion arises that the taxpayer has committed a criminal offense or a misdemeanour, the tax authority is obliged to submit a report to the **competent authority**.

The Tax Administration Director General of the Tax Administration is located in Božidar Kutleša Boškovićeva 5, Zagreb Operator: ++385 1 4809 000 tel: ++385 1 4809 555, fax: ++385 1 4809 530 e-mail contact www.porezna-uprava.hr. The Tax Administration is an administrative organization within the Ministry of Finance the basic task of which is to implement tax regulations and regulations concerning the payment of compulsory insurance contributions. The Tax Administration operates under the name: Ministry of Finance, Tax Administration.

cc. Customs area

The **competent administration** for these tasks of customs officers is the: **13**

Customs Administration has a central office and regional offices performs the tasks of the Customs Service as an administrative organization within the Ministry of Finance of the Republic of Croatia whose basic task is the application of customs, excise, tax and other regulations. The **contact details** are: Ministry of Finance, Customs Administration **14**

Aleksandera von Humboldta 4a, 10 000 Zagreb, Phone: 01 6211 300, 0800 1222, Fax: 01 6211-011, 01 6211-012, E-mail: ured-ravnatelja@carina.hr, javnost@carina.hr. **15**

The Regional Customs Offices are: Regional Customs Office Zagreb Address: AVENIJA DUBROVNIK 11, 1000 Zagreb, E-mail: pcu_zagreb@carina.hr, Phone: + (385) 1 6511 500; Regional Customs Office Rijeka Address: RIVA BODULI 9, 51000 Rijeka, E-mail: pcu_rijeka@carina.hr, Phone: + (385) 51 525 122; Regional Customs Office Osijek Address: CARA HADRIJANA 11, 31000 Osijek, E-mail: pcu_osijek@carina.hr, Phone: + (385) 31 593 130 and Regional Customs Office Split, Address: ZRINSKO-FRANKOPANSKA 60, 21000 Split, E-mail:pcu_split@carina.hr, Phone: + (385) 21 342 120.[117]

[116] Postupak u slučaju sumnje na porezno kazneno djelo i prekršaj
Članak 123 Ako se tijekom poreznog nadzora pojavi sumnja da je porezni obveznik počinio kazneno djelo ili prekršaj, porezno tijelo obvezno je podnijeti prijavu nadležnom tijelu.

[117] See https://carina.gov.hr/about-us-6672/customs-administration/6676. Accessed 31 August 2024.

Customs Investigation Authorities 1

Law on Customs Service/Zakon o carinskoj službi

PART II. WORKS OF THE CUSTOMS SERVICE

Article 4[118] **(Official Gazette 30/14, 115/16, 39/19)**
(1) The customs administration carries out supervision to ensure the correct application of regulations on public benefits and public law compensation and to ensure the protection of health and life of people, animals, nature and the environment as well as other general and public law interests.
(2) The Customs Administration prepares and draws up drafts of proposed laws, other regulations and acts for the purpose of improving the customs, excise and tax system and more efficiently collecting public duties and public law fees within its jurisdiction.
(3) The duties of the customs service are, in particular:
[…]
6. **detection, prevention and suppression of misdemeanours and criminal acts**, their detection and collection of information about these acts and perpetrators, and the implementation of evidentiary actions in misdemeanour and criminal proceedings in accordance with the provisions of the Criminal Procedure Act, the Misdemeanour Act and this Act.

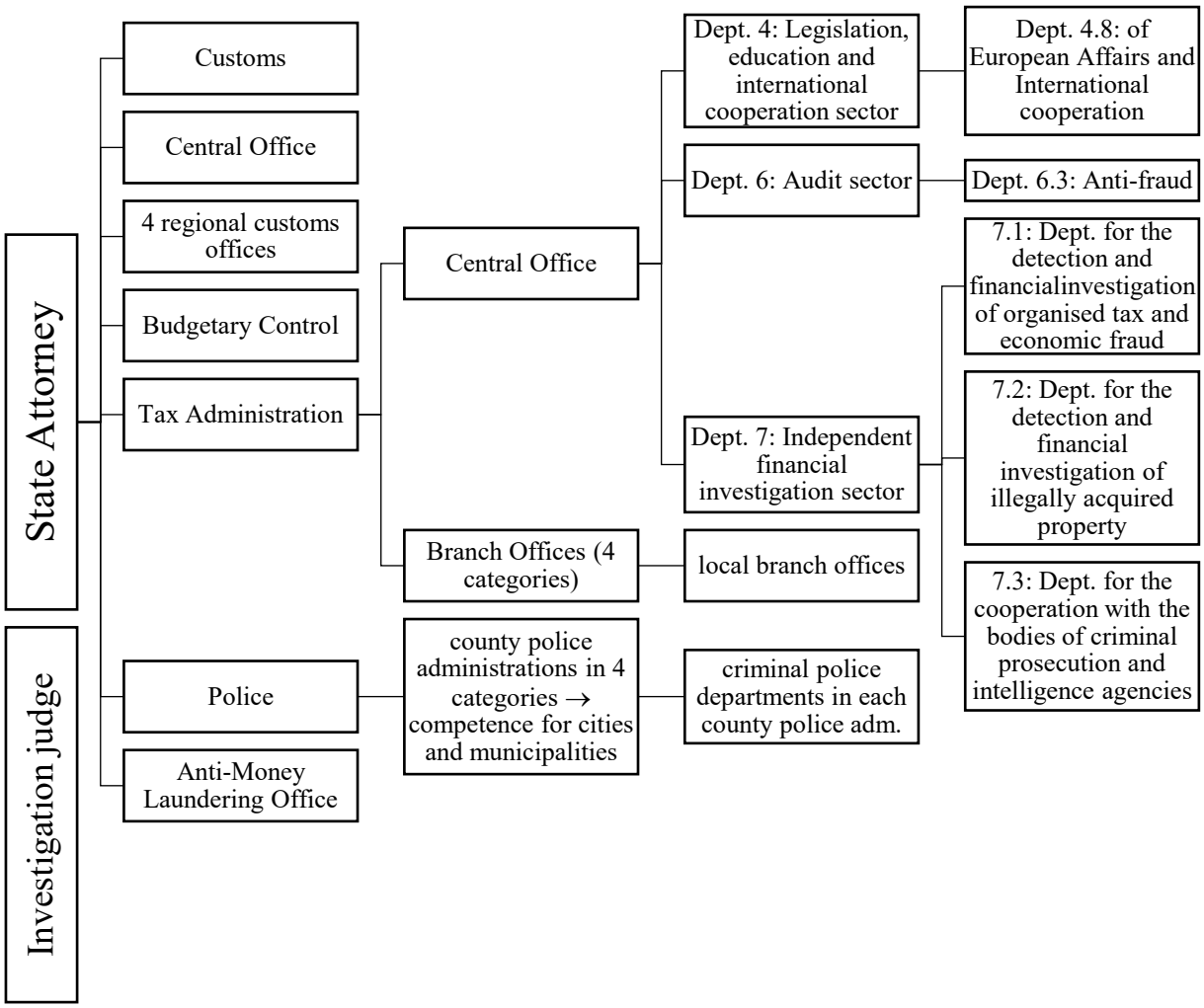
Article 22[119] An **authorized customs officer** who has been **appointed as an investigator carries out evidentiary actions** entrusted by the **competent state attorney** in accordance with the provisions of the Criminal Procedure Act and the regulations under the jurisdiction of the Customs Administration.

The competent state attorney might be an EDP according to the interpretation of the EPPO Adoption Act.

[118] DIO II. POSLOVI CARINSKE SLUŽBE
Članak 4 (NN 30/14, 115/16, 39/19) (1) Carinska uprava obavlja nadzor radi osiguranja pravilne primjene propisa o javnim davanjima i javnopravnim naknadama te osiguranja zaštite zdravlja i života ljudi, životinja, prirode i okoliša kao i drugih općih i javnopravnih interesa.
(2) Carinska uprava priprema i izrađuje nacrte prijedloga zakona, drugih propisa i akata radi unapređenja carinskog, trošarinskog i poreznog sustava te učinkovitijeg ubiranja javnih davanja i javnopravnih naknada iz svoje nadležnosti.
(3) Poslovi carinske službe su osobito: […]
6. otkrivanje, sprječavanje i suzbijanje prekršaja i kaznenih djela, njihovo otkrivanje i prikupljanje podataka o tim djelima i počiniteljima te provedba dokaznih radnji u prekršajnom i kaznenom postupku sukladno odredbama Zakona o kaznenom postupku, Prekršajnog zakona i ovoga Zakona,
[119] Članak 22 Ovlašteni carinski službenik koji je imenovan za istražitelja provodi dokazne radnje povjerene od nadležnog državnog odvjetnika sukladno odredbama Zakona o kaznenom postupku i propisima iz nadležnosti Carinske uprave.

dd. Visualization of Instructions and assignment of investigative measures for "those national authorities"

Figure 6 System of Prosecution in Croatia



Cf. the Ministry of Interior, see https://mup.gov.hr/footer-111/about-the-police-120/120, latest access 31 October 2024; Official website of the Croatian Customs authority, Organisation of the Customs Administration, see https://carina.gov.hr/about-us-6672/customs-administration/organisation-of-the-customs-administration/6701, latest access 31 October 2024; Official website of the Croatian Tax Administration under the Ministry of Finance, Organisational Schemes, see https://www.porezna-uprava.hr/en/Pages/organisational-schemes.aspx, last access 31 October 2024.

c) Ensuring compliance with national law

aa. Via the general investigation provisions

16 **Article 219**[120] **Criminal Procedure Code**

(1) The investigation is conducted by the state attorney.

(2) The state attorney may, by order, entrust the execution of evidentiary actions to an investigator, unless otherwise prescribed by this Act. In the order, the state attorney designates the investigator, taking into account the subject of the investigation and special regulations, the actions to be carried out, and may issue other orders that the investigator must adhere to. The investigator is obliged to act according to the order of the state attorney.

(3) For criminal offenses under the jurisdiction of the county court, the state attorney cannot entrust the investigator with the evidentiary act of questioning the defendant.

Law on Customs Service

Article 22[121]

An authorized customs officer who has been appointed as an investigator carries out evidentiary actions entrusted by the competent state attorney in accordance with the provisions of the Criminal Procedure Act and the regulations under the jurisdiction of the Customs Administration.

Law on police duties and powers/*Zakon o policijskim poslovima i ovlastima*

CHAPTER I. INTRODUCTORY PROVISIONS

Article 1[122] (1) This Act regulates police affairs and police powers.

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[120] Članak 219 (NN **80/11**, **145/13**, **70/17**)
(1) Istragu provodi državni odvjetnik.
(2) Državni odvjetnik može nalogom povjeriti provođenje dokaznih radnji istražitelju, ako drukčije nije propisano ovim Zakonom. U nalogu državni odvjetnik određuje istražitelja, s obzirom na predmet istraživanja i posebne propise, radnje koje se imaju provesti, a može dati i druge naloge kojih se istražitelj mora držati. Istražitelj je dužan postupati po nalogu državnog odvjetnika.
(3) Za kaznena djela iz nadležnosti županijskog suda provođenje dokazne radnje ispitivanja okrivljenika državni odvjetnik ne može povjeriti istražitelju.

[121] Članak 22
Ovlašteni carinski službenik koji je imenovan za istražitelja provodi dokazne radnje povjerene od nadležnog državnog odvjetnika sukladno odredbama Zakona o kaznenom postupku i propisima iz nadležnosti Carinske uprave.

[122] **GLAVA I. UVODNE ODREDBE**
Članak 1
(1) Ovaj Zakon uređuje policijske poslove i policijske ovlasti.
(2) Policijske poslove obavlja i policijske ovlasti primjenjuje policija prema odredbama ovog Zakona:
1. radi sprječavanja i otklanjanja opasnosti i
2. u kriminalističkim istraživanjima.
(3) Pojedini policijski posao i policijska ovlast, mogu se propisati i drugim zakonom.
(4) Kad provodi dokazne radnje policija postupa prema odredbama posebnih zakona, a ako nema posebnih odredaba prema odredbama ovog Zakona.

(2) Police tasks are performed and police powers are exercised by the police according to the provisions of this Law:
1. in order to prevent and eliminate danger i
2. in criminal investigations.
(3) Certain police work and police authority may be prescribed by another law.
(4) When conducting evidentiary actions, the police act according to the provisions of special laws, and if there are no special provisions according to the provisions of this Law.

Article 11[123] **(OG 92/14)**
(1) When there is a basis for suspecting that a criminal offense has been committed, for which official prosecution or a misdemeanour has been committed, the police shall conduct a criminal investigation.
(2) Analytical processing can be carried out in order to determine the reasons for conducting a criminal investigation and during the criminal investigation.

Article 11.a[124] **(OG 92/14)**
(1) Investigations of criminal offenses for which prosecution is ex officio by order of the state attorney are carried out by the police.
(2) Evidentiary actions for criminal offenses for which prosecution is carried out ex officio are carried out by the police and the investigator.

Article 11.b[125] **(Official Gazette 92/14, 70/19)** (1) An investigator can be a police officer who has at least five years of work experience in crime suppression.
(2) The investigator who examines the witness or the accused may be a police officer with at least the personal police rank of police sergeant.
(3) The investigator referred to in paragraphs 1 and 2 of this article must have special knowledge and must be specially trained.

[123] Članak 11 (NN 92/14)
(1) Kada postoji osnova sumnje da je počinjeno kazneno djelo za koje se progoni po službenoj dužnosti ili prekršaj, policija provodi kriminalističko istraživanje.
(2) Analitička obrada može se provesti radi utvrđivanja razloga za provedbu kriminalističkog istraživanja te tijekom kriminalističkog istraživanja.
[124] Članak 11.a (NN 92/14)
(1) Izvide kaznenih djela za koje se progoni po službenoj dužnosti po nalogu državnog odvjetnika provodi policija.
(2) Dokazne radnje za kaznena djela za koja se progoni po službenoj dužnosti provodi policija i istražitelj.
[125] Članak 11.b (NN 92/14, 70/19)
(1) Istražitelj može biti policijski službenik koji ima najmanje pet godina radnog iskustva na poslovima suzbijanja kriminaliteta.
(2) Istražitelj koji ispituje svjedoka ili okrivljenika može biti policijski službenik s najmanje osobnim policijskim zvanjem policijski narednik.
(3) Istražitelj iz stavaka 1. i 2. ovoga članka mora imati posebna znanja te mora biti posebno osposobljen.
(4) Programe dodatnog stručnog usavršavanja za istražitelja iz stavka 1. i 2. ovoga članka, uz prethodno mišljenje glavnog državnog odvjetnika, donosi odlukom ministar.

(4) Programs of additional professional training for investigators referred to in paragraphs 1 and 2 of this article, with the prior opinion of the state attorney general, are adopted by decision of the minister.

Law on the Office for Suppression of Corruption and Organized Crime/
Zakon o Uredu za suzbijanje korupcije i organiziranog kriminaliteta

Article 16[126] **(OG 148/13)**
(1) The prosecutor's department performs the duties of the state attorney in accordance with the Criminal Procedure Act and other regulations, and in particular:
1. directs the work of the police and other bodies in the detection of criminal offenses from Article 21 of this Act and requires the collection of data on these offenses,
2. undertakes investigations in order to determine the value of the acquired property benefit obtained by committing the criminal offense referred to in Article 21 of this Act and where the thus acquired property is located and proposes the application of measures to secure the forcible confiscation of that property provided for in this Act and other regulations,
3. performs other tasks according to the work schedule in the Office.
(2) If it is necessary due to a large number of cases, sections for proceedings before the county courts in Osijek, Rijeka and Split can be established in the Prosecutor's Department.
(3) Jobs in the Prosecutor's Department are performed by deputy directors, advisers and professional associates under the supervision of a deputy who is assigned to manage the department according to the annual work schedule.

[126] Članak 16 (NN 148/13)
(1) Odjel tužitelja obavlja poslove državnoga odvjetnika prema Zakonu o kaznenom postupku i drugim propisima, a posebno:
1. usmjerava rad policije i drugih tijela u otkrivanju kaznenih djela iz članka 21. ovoga Zakona i zahtijeva prikupljanje podataka o tim djelima,
2. poduzima izvide kako bi se utvrdila vrijednost stečene imovinske koristi pribavljene počinjenjem kaznenog djela iz članka 21. ovog Zakona te gdje se tako stečena imovina nalazi i predlaže primjenu mjera osiguranja prisilnog oduzimanja te imovine predviđenih ovim Zakonom i drugim propisima,
3. obavlja druge poslove prema rasporedu poslova u Uredu.
(2) Ako je to potrebno zbog velikog broja predmeta mogu se u Odjelu tužitelja osnovati odsjeci za postupanje pred županijskim sudovima u Osijeku, Rijeci i Splitu.
(3) Poslove u Odjelu tužitelja obavljaju zamjenici ravnatelja, savjetnici i stručni suradnici pod nadzorom zamjenika koji je godišnjim rasporedom poslova raspoređen za upravljanje odjelom.

Article 16.a[127] **(Official Gazette 148/13)**
(1) The Department for Investigation of Property Gains Acquired by Criminal Offenses, in agreement with and by order of the Deputy Director in charge of the case, conducts investigations if there are grounds for suspecting that substantial property gain has been achieved by the criminal offense referred to in Article 21 of this Act.
(2) Inspections are carried out to determine the exact value of property benefits, to find property acquired through a criminal offense and to ensure its confiscation.
(3) Officials of the police and the Ministry of Finance may participate in the work of the Department for Investigating Assets Gained by Criminal Offenses in the manner and under the conditions prescribed by the Criminal Procedure Act.
(4) The work of the Department for Investigating Criminal Assets is performed by financial investigators, advisors and professional associates under the supervision of the Deputy Director, who is in charge of managing the department according to the annual work schedule.
(5) The Department for Investigating Criminal Assets also performs other tasks according to the work schedule in the Office.

[127] Članak 16.a (NN 148/13)
(1) Odjel za istraživanje imovinske koristi stečene kaznenim djelom, u dogovoru i po nalogu zamjenika ravnatelja koji je zadužen za predmet, provodi izvide ako postoje osnove sumnje da je kaznenim djelom iz članka 21. ovog Zakona ostvarena znatna imovinska korist.
(2) Izvidi se provode radi utvrđivanja točne vrijednosti imovinske koristi, pronalaženja imovine stečene kaznenim djelom te osiguranja njezina oduzimanja.
(3) U radu Odjela za istraživanje imovinske koristi stečene kaznenim djelom mogu sudjelovati službenici policije i Ministarstva financija na način i pod uvjetima propisanim Zakonom o kaznenom postupku.
(4) Poslove Odjela za istraživanje imovinske koristi stečene kaznenim djelom obavljaju financijski istražitelji, savjetnici i stručni suradnici pod nadzorom zamjenika ravnatelja koji je godišnjim rasporedom poslova zadužen za rukovođenje odjelom.
(5) Odjel za istraživanje imovinske koristi stečene kaznenim djelom obavlja i druge poslove prema rasporedu poslova u Uredu.

Article 17[128] (1) Department for International Cooperation and Joint Investigations:
1. cooperates with competent authorities of other countries and international organizations in accordance with international agreements,
2. designates members of the joint investigative bodies that are established on the basis of an international agreement or on the basis of an individual case law for the purpose of investigation, criminal prosecution or representation of the prosecution before the court for criminal offenses from Article 21 of this Act, in the Republic of Croatia, or one or more other countries.
(2) In joint investigations on the territory of the Republic of Croatia, the Department for International Cooperation and Joint Investigations supervises the application of domestic regulations and respect for the sovereignty of the Republic of Croatia. He informs the Director without delay about the observed deficiencies or disputed issues that cannot be resolved by consulting the competent authority of another country or its representatives, who will, if necessary, request the opinion of the ministry responsible for judicial affairs and the ministry responsible for foreign affairs.
(3) For the purposes of the joint investigation, the Department for International Cooperation and Joint Investigations:
1. receives requests from other states to undertake special evidentiary actions of criminal offenses in accordance with Article 332 of the Criminal Procedure Act and undertakes the necessary actions before competent courts,
2. in the case of particularly urgent actions, which the competent authorities of other countries are authorized to undertake independently on the territory of the Republic of Croatia according to a special agreement, supervises the undertaking, making sure that the competent authority of the other country does not violate the inviolability of the home or the right to personal freedom and dignity of the person. After carrying out these

[128] Članak 17 (1) Odjel za međunarodnu suradnju i zajedničke istrage:
1. u skladu s međunarodnim ugovorima surađuje s nadležnim tijelima drugih država i međunarodnih organizacija,
2. određuje članove u zajednička istražna tijela koja se na temelju međunarodnog ugovora ili na temelju uglavka za pojedinačni slučaj osnivaju radi istrage, kaznenog progona ili zastupanja optužbe pred sudom za kaznena djela iz članka 21. ovoga Zakona, u Republici Hrvatskoj, ili jednoj ili više drugih država.
(2) U zajedničkim istragama na području Republike Hrvatske Odjel za međunarodnu suradnju i zajedničke istrage nadzire primjenu domaćih propisa te poštivanje suvereniteta Republike Hrvatske. O uočenim nedostacima ili spornim pitanjima koja se ne mogu razriješiti savjetovanjem s nadležnim tijelom druge države ili njegovim predstavnicima, obavješćuje bez odgode Ravnatelja koji će po potrebi zatražiti mišljenje ministarstva nadležnog za poslove pravosuđa i ministarstva nadležnog za vanjske poslove.
(3) Za potrebe zajedničke istrage Odjel za međunarodnu suradnju i zajedničke istrage:
1. prima zahtjeve druge države za poduzimanje posebnih dokaznih radnji kaznenih djela sukladno članku 332. Zakona o kaznenom postupku i poduzima potrebne radnje pred nadležnim sudovima,
2. u slučaju osobito hitnih radnji, koje su nadležna tijela drugih država prema posebnom sporazumu ovlaštena samostalno poduzimati na području Republike Hrvatske, nadzire poduzimanje, pazeći da nadležno tijelo druge države pri tome ne naruši nepovredivost doma ili pravo na osobnu slobodu i dostojanstvo osobe. Nakon provođenja tih radnji podnosi završno izvješće Ravnatelju koji može zatražiti nazočnost ovlaštene strane službene osobe prilikom podnošenja izvješća,
3. prima zahtjeve nadležnih tijela druge države za pružanje pravne pomoći u postupcima za kaznena djela iz članka 21. ovoga Zakona. O primanju i postupanju po zahtjevu, odjel će obavijestiti Državno odvjetništvo Republike Hrvatske.

actions, he submits a final report to the Director, who can request the presence of an authorized foreign official when submitting the report,
3. receives requests from the competent authorities of another country for the provision of legal assistance in proceedings for criminal offenses referred to in Article 21 of this Act. The department will inform the State Attorney's Office of the Republic of Croatia about the receipt and processing of the request.

bb. Via national administrative decrees/regulations under criminal procedural law

The Criminal Procedure Code is supplemented by special rulebooks that give information on the conduction of certain investigation measures. **17**

d) Urgent measures in accordance with national law necessary to ensure effective investigations

The sentences which follow can be summed up in terms of the timely collection of evidence: **18**

Article 207 CPC[129]
(1) If there are grounds for suspicion that a criminal offense has been committed for which criminal proceedings are being initiated ex officio, the police have the right and duty to take the necessary measures:
1) to find the perpetrator of the criminal act, so that the perpetrator or participant does not hide or escape,
2) to discover and secure traces of the criminal act and objects that can be used in establishing the facts and

[129] Članak 207 (NN **145/13**, **70/17**) (1) Ako postoje osnove sumnje da je počinjeno kazneno djelo za koje se kazneni postupak pokreće po službenoj dužnosti, policija ima pravo i dužnost poduzeti potrebne mjere:
1) da se pronađe počinitelj kaznenog djela, da se počinitelj ili sudionik ne sakrije ili ne pobjegne,
2) da se otkriju i osiguraju tragovi kaznenog djela i predmeti koji mogu poslužiti pri utvrđivanju činjenica te
3) da se prikupe sve obavijesti koje bi mogle biti od koristi za uspješno vođenje kaznenog postupka.
(2) O poduzimanju izvida kaznenih djela policija će pravovremeno obavijestiti državnog odvjetnika. Ako državni odvjetnik obavijesti policiju da namjerava prisustvovati pojedinim izvidima ili mjerama, policija će ih provesti na način kojim mu se to omogućuje.
(3) O činjenicama i okolnostima koje su utvrđene prilikom poduzimanja radnji iz stavka 1. i 2. ovog članka, a mogu biti od interesa za kazneni postupak, policija sastavlja službenu zabilješku.
(4) Na temelju provedenih izvida policija, u skladu s posebnim propisom, sastavlja kaznenu prijavu ili izvješće o provedenim izvidima u kojemu navodi dokaze za koje je saznala. U kaznenu prijavu ili izvješće se ne unosi sadržaj izjava koje su pojedini građani dali u prikupljanju obavijesti. Uz kaznenu prijavu ili izvješće dostavljaju se i predmeti, skice, slike, spisi o poduzetim mjerama i radnjama, službene zabilješke, izjave i drugi materijal koji može biti koristan za uspješno vođenje postupka.
(5) Ako policija naknadno sazna za nove činjenice, dokaze ili otkrije tragove kaznenog djela, dužna je prikupiti potrebne obavijesti i izvješće o tome pravovremeno dostaviti državnom odvjetniku.
(6) Kad poduzima izvide kaznenih djela policija postupa i prema odredbama posebnog zakona i pravilima donesenima na temelju tog zakona.

3) to collect all information that could be useful for the successful conduct of criminal proceedings.
(2) The police will promptly inform the state attorney about the investigation of criminal offences. If the state attorney informs the police that he intends to attend certain inspections or measures, the police will carry them out in a way that allows him to do so.
(3) The police shall draw up an official note on the facts and circumstances established when taking the actions referred to in paragraphs 1 and 2 of this article, and which may be of interest for criminal proceedings.
(4) On the basis of the conducted investigations, the police, in accordance with a special regulation, prepares a criminal report or a report on the conducted investigations, in which it states the evidence it has learned about. The content of the statements made by individual citizens in the collection of information is not included in the criminal complaint or report. Along with the criminal report or report, objects, sketches, pictures, files on the measures and actions taken, official notes, statements and other material that can be useful for the successful conduct of the procedure are submitted.
(5) If the police subsequently find out about new facts, evidence or discover traces of a criminal offense, they are obliged to collect the necessary information and submit a report on this to the state attorney in a timely manner.
(6) When investigating criminal offenses, the police also act according to the provisions of a special law and the rules adopted on the basis of that law.

5. Urgent evidentiary actions

Article 212[130] (1) The police may, if there is a risk of delay, even before starting the criminal proceedings for criminal offenses for which a prison sentence of up to five years is prescribed, conduct a search (Article 246), temporary confiscation of objects (Article 261), recognition (Article 301.), physical examination (Article 304), taking fingerprints and other parts of the body (Articles 211 and 307).

[130] **5. Hitne dokazne radnje**
Članak 212 (NN **143/12**, **145/13**, **152/14**, **70/17**, **126/19**)
(1) Policija može, ako postoji opasnost od odgode, i prije započinjanja kaznenog postupka za kaznena djela za koja je propisana kazna zatvora do pet godina obaviti pretragu (članak 246.), privremeno oduzimanje predmeta (članak 261.), prepoznavanje (članak 301.), očevid (članak 304.), uzimanje otisaka prstiju i drugih dijelova tijela (članci 211. i 307.).
(2) Za kaznena djela za koja je propisana kazna zatvora teža od pet godina o postojanju opasnosti od odgode i potrebi provođenja dokaznih radnji policija odmah obavještava državnog odvjetnika, osim za provođenje dokazne radnje privremenog oduzimanja predmeta (članak 261.) i pretrage (članak 246.). Državni odvjetnik može sam provesti dokazne radnje iz stavka 1. ovoga članka ili njihovo provođenje prepustiti policiji ili naložiti istražitelju. Državni odvjetnik koji stigne na mjesto očevida ili pretrage u tijeku njegova provođenja može preuzeti provođenje radnje.
(3) Ako je potrebno provesti radnje iz stavaka 1. i 2. ovoga članka prema službenoj osobi koja je ovlaštena i dužna otkrivati i prijavljivati kaznena djela za koja se progoni po službenoj dužnosti policija će odmah obavijestiti državnog odvjetnika koji će odlučiti o tome hoće li sam provesti tu radnju ili će dati nalog istražitelju.
(4) Ako postoji opasnost od odgode, državni odvjetnik može odrediti potrebna vještačenja, osim ekshumacije.
(5) O rezultatima radnji koje je policija provela prema stavcima 1. i 2. ovoga članka, bez odgode obavještava državnog odvjetnika.

(2) For criminal offenses for which a prison sentence of more than five years is prescribed, the police shall immediately notify the state attorney of the existence of a risk of delay and the need to conduct evidentiary actions, except for the implementation of the evidentiary action of temporary confiscation of objects (Article 261) and searches (Article 246.). The state attorney can himself carry out the evidentiary actions referred to in paragraph 1 of this article or leave them to the police or instruct an investigator. The state attorney who arrives at the place of investigation or search in the course of its implementation can take over the implementation of the action.
(3) If it is necessary to carry out the actions referred to in paragraphs 1 and 2 of this article against an official who is authorized and obliged to detect and report criminal offenses for which they are prosecuted ex officio, the police will immediately notify the state attorney, who will decide whether carry out that action himself or will give an order to the investigator.
(4) If there is a risk of delay, the state attorney can order the necessary expert examinations, except for exhumation.
(5) The state attorney shall be informed without delay of the results of actions carried out by the police according to paragraphs 1 and 2 of this article.

Article 220[131] (1) If there is a risk of delay, the investigator conducting the evidentiary action will, as necessary, also conduct other evidentiary actions that are related to it or stem from it.
(2) Before carrying out the action referred to in paragraph 1 of this article, the investigator is obliged to inform the state attorney about the implementation of the action. If he was unable to do so before the implementation of the action, he is obliged to inform him immediately after its implementation.

[131] Članak 220 (NN **145/13**)
(1) Ako postoji opasnost od odgode, istražitelj koji provodi dokaznu radnju provest će prema potrebi i druge dokazne radnje koje su s njom povezane ili iz nje proistječu.
(2) Prije provođenja radnje iz stavka 1. ovog članka, istražitelj je dužan izvijestiti državnog odvjetnika o provođenju radnji. Ako to nije mogao učiniti prije provođenja radnje, dužan ga je izvijestiti odmah nakon njezina provođenja.

4. Article 29 Lifting privileges or immunities

1. Where the investigations of the EPPO involve persons protected by a privilege or immunity **under national law**, and such privilege or immunity presents an obstacle to a specific investigation being conducted, the Euro-pean Chief Prosecutor shall make a reasoned written request for its lifting **in accordance with the procedures laid down by that national law.**
2. Where the investigations of the EPPO involve persons protected by privileges or immunities under the Union law, in particular the Protocol on the privileges and immunities of the European Union, and such privilege or immunity presents an obstacle to a specific investigation being conducted, the European Chief Prosecutor shall make a reasoned written request for its lifting in accordance with the procedures laid down by Union law.

⚖ In one of the cases the EPPO investigated in Croatia in 2021–2022 the **immunity of a parliamentarian** played an important role. An MP was being investigated as a suspect in a Cohesion Fraud Case.[132] The parliament was therefore addressed by the EPPO and acted on the legislative grounds, which are displayed below in this part of the Manual. This case shows how important Article 29 EPPO is: it enables investigations.[133]

1 The EU-frauds might happen at a **high political level and** the obstacles, like immunities and privileges would hinder the EPPO, if Article 29 EPPO did not exist, from exercising its competence in an effective way.

[132] Zeljko Trkanjec, EUARCTIV, Croatian parliamentary commission strips MP immunity, 6 July 2021, https://www.euractiv.com/section/politics/short_news/croatian-parliamentary-commission-strips-mp-immunity/: "Croatia's parliamentary Credentials and Privileges Commission has voted to strip MP [...] of immunity from prosecution so he can be investigated on suspicion of bribe-taking and abuse of office at the request of the European Public Prosecutor's Office (EPPO)." And see European Court of Auditors 2019 in general.
[133] See as well Bonačić 2022, p. 52.

a) National privilege and immunity provisions, Para. 1

The legal professional privilege might apply in some cases. Parliamentarians as well as other staff might have access to this privilege, too and any defence action in this regard will most likely involve a lawyer or law firm and its partners. **2**

The Law on Advocacy applies (*Zakona o odvjetništvu*). The law was amended in 2021 with the Amendments Law on Advocacy 2021 (*Zakon o izmjenama i dopunama Zakona o odvjetništvu*).[134] The Law on Protection of Confidentiality of Data (*Zakon o zaštiti tajnosti podataka*) might apply. **3**

b) Immunity provisions

aa. Parliamentary privilege or immunity

In general, Ar. 75 of the Croatian Constitution applies and grants immunity to the legislators:

[Excerpt Constitution] **4**
Article 75
Members of the Croatian Parliament shall enjoy immunity.
No representative shall be prosecuted, detained or punished for an opinion expressed or vote cast in the Croatian Parliament.
No representative shall be detained, nor shall criminal proceedings be instituted against him, without the consent of the Croatian Parliament.
A representative may be detained without the consent of the Croatian Parliament only if he has been caught in the act of committing a criminal offence which carries a penalty of imprisonment of more than five years. In such a case, the President of the Croatian Parliament shall be notified thereof.
If the Croatian Parliament is not in session, approval for the detention of a representative, or for the continuation of criminal proceedings against him, shall be given and his right to immunity decided by the credentials-and-immunity committee, such a decision being subject to subsequent confirmation by the Croatian Parliament.

Additionally the following rights might apply regarding officials and staff of the parliament and government: **5**

Article 22[Excerpt Constitution]
Freedom and personality of everyone shall be inviolable.
No one shall be deprived of liberty, nor may his liberty be restricted, except upon a court decision in accordance with law.

[134] See NN 126/2021, https://narodne-novine.nn.hr/clanci/sluzbeni/2021_11_126_2133.html.

Article 24
No one shall be arrested or detained without a court warrant. Such a warrant shall be read and served on the person being arrested. The police may arrest a person without a warrant when the person is reasonably suspected of having committed a serious criminal offence defined by law. The arrested person shall be promptly informed, in understandable terms, of the reasons for the arrest and of his rights determined by law. Any person arrested or detained shall have the right to take proceedings before a court, which shall decide without delay on the legality of the arrest.

Article 27
The Bar, as an autonomous and independent service, shall provide everyone with legal aid, in conformity with law.

bb. Provisions on the lifting of immunities?

6 The lifting of the immunities in the Croatian Parliament depends on Article 75 of the Constitution, which involves the whole legislative body. Someone who is caught red-handed can be detained without consent if the offense involves a certain threshold (criminal offence with a penalty of more than five years), which is de facto too high in cases of corruption from our point of view.
In the other case a special committee needs to be involved, which deals with the question of granting the right to waive the immunity. The Parliament must then confirm this decision itself if it come together after this case happened.

7

[Excerpt Constitution]
Article 75
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No representative shall be prosecuted, detained or punished for an opinion expressed or vote cast in the Croatian Parliament.
No representative shall be detained, nor shall criminal proceedings be instituted against him, without the consent of the Croatian Parliament.
A representative may be detained without the consent of the Croatian Parliament only if he has been caught in the act of committing a criminal offence which carries a penalty of imprisonment of more than five years. In such a case, the President of the Croatian Parliament shall be notified thereof.
If the Croatian Parliament is not in session, approval for the detention of a representative, or for the continuation of criminal proceedings against him, shall be given and his right to immunity decided by the credentials-and-immunity committee, such a decision being subject to subsequent confirmation by the Croatian Parliament.

Article 24 No one shall be arrested or detained without a court warrant. Such a warrant shall be read and served on the person being arrested. The police may arrest a person without a warrant when the person is reasonably suspected of having committed a serious criminal offence defined by law. The arrested person shall be promptly informed, in understandable terms, of the reasons for the arrest and of his rights determined by law. Any person arrested or detained shall have the right to take proceedings before a court, which shall decide without delay on the legality of the arrest. **8**

Article 105a
The President of the Republic shall enjoy immunity.
The President of the Republic may not be detained nor may criminal proceedings be instituted against him without prior consent of the Constitutional Court. The President of the Republic may be detained without prior consent of the Constitutional Court only if he has been caught in the act of committing a criminal offence which carries a penalty of imprisonment of more than five years. In such a case the state body which has detained the President of the Republic shall instantly notify the President of the Constitutional Court thereof.

Article 119
Judges shall enjoy immunity in accordance with the law. Judges and lay assessors who take part in the administration of justice shall not be called to account for an opinion or a vote given in the process of judicial decision-making unless there exists violation of law on the part of a judge which is criminal offence.
A judge may not be remanded in custody or investigative detention in connection with any criminal prosecution initiated for a criminal offence perpetrated in the performance of his/her judicial duty without the prior consent of the National Judicial Council.

Article 123
A judge of the Constitutional Court of the Republic of Croatia shall not perform any other public or professional duties. Judges of the Constitutional Court of the Republic of Croatia shall enjoy same immunity as members of the Croatian Parliament.

c) Immunities and Privileges under union law, Para. 2

Cf. → Art. 29 EPPO-RG and the subsequent analysis. Union law differs from national law and is not researched within this volume. **Union law contains a** protocol, which will apply if the immunity or a privilege of a Union official needs to be lifted. It is enshrined in the consolidated version of the Treaty on the Functioning of the European Union **Protocol (No 7) on the privileges and immunities of the European Union** (OJ C 326, 26.10.2012, p. 266–272).

III. National Law applicable in EPPO Investigation with Special Focus on Investigation Measures

SECTION 2
Rules on investigation measures and other measures

1. Article 30 Investigation measures and other measures

1. At least in cases where the offence subject to the investigation is punishable by a maximum penalty of at least 4 years of imprisonment, Member States shall ensure that the European Delegated Prosecutors are entitled to order or request the following investigation measures:
(a) search any premises, land, means of transport, private home, clothes and any other personal property or computer system, and take any conservatory measures necessary to preserve their integrity or to avoid the loss or contamination of evidence;
(b) obtain the production of any relevant object or document either in its original form or in some other specified form;
(c) obtain the production of stored computer data, encrypted or decrypted, either in their original form or in some other specified form, including banking account data and traffic data with the exception of data specifically retained in accordance with national law

pursuant to the second sentence of Article 15(1) of Directive 2002/58/EC of the European Parliament and of the Council;
(d) freeze instrumentalities or proceeds of crime, including assets, that are expected to be subject to confiscation by the trial court, where there is reason to believe that the owner, possessor or controller of those instrumentalities or proceeds will seek to frustrate the judgement ordering confiscation.
(e) intercept electronic communications to and from the suspect or accused person, over any electronic communication means that the suspect or accused person is using;
(f) track and trace an object by technical means, including controlled deliveries of goods.
2. Without prejudice to Article 29, the investigation measures set out in paragraph 1 of this Article may be subject to conditions in accordance with the applicable national law if the national law contains specific restrictions that apply with regard to certain categories of persons or professionals who are legally bound by an obligation of confidentiality.
3. The investigation measures set out in points(c), (e) and (f) of paragraph 1 of this Article may be subject to further conditions, including limitations, provided for in the applicable national law. In particular, Member States may limit the application of points (e) and (f) of paragraph 1 of this Article to specific serious offences. A Member State intending to make use of such limitation shall notify the EPPO of the relevant list of specific serious offences in accordance with Article 117.
4. The European Delegated Prosecutors shall be entitled to request or to order any other measures in their Member State that are available to prosecutors under national law in similar national cases, in addition to the measures referred to in paragraph 1.
5. The European Delegated Prosecutors may only order the measures referred to in paragraphs 1 and 4 where there are reasonable grounds to believe that the specific measure in question might provide information or evidence useful to the investigation, and where there is no less intrusive measure available which could achieve the same objective. The procedures and the modalities for taking the measures shall be governed by the applicable national law.

1 Article 30 EPPO-RG contains many **possibilities to discover EU frauds** and includes **intrusive and effective means of investigative tools**. Conducting the investigations it is important to closely obey the law and follow the details. The following provisions from the Criminal Procedure Code of Portugal is not “law in the books” but rather the fundamental requisite to combat EU frauds *in praxi*.

2 The High Criminal Court pointed out again and confirmed that any order for a special investigative measure must meet the

- necessary legal standards,
- needs to be properly justified, and

- must be based on documented evidence,

if it shall not violate the accused's fundamental rights under the Croatian Constitution, the CPC and the EU Charter of Fundamental Rights.[135]

Therefore the **knowledge of the conditions, requisites and thresholds** of all these special investigative measures regulated in national law shall be studied and there procedures shall be made visible. **3**

In a recent case the **Hight Criminal Court** made a decision regarding an appeal submitted by the accused, V.G., in connection with the rejection of a defence motion to exclude certain pieces of evidence as unlawful. These pieces of evidence, including witness testimonies and orders for special investigative actions, were initially gathered in an investigation conducted by USKOK (the Croatian Office for the Suppression of Corruption and Organized Crime) before the EPPO took over the case.

The appeal was filed after the Zagreb County Court rejected the defence's request to discard the evidence, **arguing that USKOK did not meet the standards of independence and impartiality** required by Croatian law and international human rights law. The defence **claimed that the evidence was unlawfully obtained** due to procedural violations, including the absence of defence counsel during witness examinations and a failure to notify the defence of the timing of these investigative actions. **4**

However, the High Criminal Court found that the **actions taken by USKOK were lawful** at the time, given its authority under Croatian law to conduct investigations before EPPO's formal involvement. The court also ruled that the defence's claims of violations of rights to equality of arms and confrontation (the ability to question witnesses) were unfounded, as these rights are to be fully exercised during the trial phase, not during the pre-trial investigative process. **5**

The court also **rejected the argument** that the judicial orders authorizing special investigative measures, such as surveillance, were illegal. It confirmed that the orders met the necessary legal standards, were properly justified, and based on documented evidence, and therefore did not violate the accused's fundamental rights. **6**

Ultimately, the **appeal by V.G. was dismissed**, and the court upheld the lower court's decision that the challenged evidence would not be excluded from the case. **7**

[135] High Criminal Court of the Republic of Croatia, Crimi-nal Department, I Kž-EPPO 1/2023-4 /ECLI:HR:VKS:2023:232. For more cases see above → Collection of Cases.

a) Member States shall ensure that the European Delegated Prosecutors are entitled to order or request

⚖ *Nota bene*: The authorisation of an EDP (the "handling" EDP in one of the MS) to order or request could/should or must be enshrined in the **new adaption laws** which the Member States enacted in order to be fully operational for the EPPO and its tasks. As most of the Member States either amended their Criminal Procedure Code or their Code of the Organization of the Judiciary and/or the Prosecutors Act, the relevant provision(s) is (are) presented in the following.

b) Investigation measures

aa. Para. 1(a)

(1) Search measures

8 The general and common search measures are enshrined in Article 251 and Article 252 Croatian CPC. Article 256 explains that special search measures in other laws: "may prescribe special conditions for conducting a search in a certain area". Immovable and movable property are distinguished clearly in the Code. The digital era is governed by Article 257 CPC.[136]

(a) Search any premises or land

9

> **Article 252.**[137] (1) When searching a home, one or more spatially connected rooms that a person uses as their home, as well as spaces that are spatially connected to the home and for the same purpose of use, are searched.
> (2) The search of other premises refers to premises other than the home that are marked in the search warrant, in which a search cannot be carried out without a warrant (Article 246, paragraph 2, point 1 and 2).
> (3) The search of the home and other premises includes the search of movable property and all persons found in the home and other premises, when this is stated in the search warrant or when there are conditions for a search without a warrant in relation to the persons found.

[136] Supreme Court of the Republic of Croatia, CRIMINAL DEPARTMENT, I Kž 462/2020-6 /ECLI:HR: VSRH:2020:6752 /. The public prosecutor's office successfully appeals, since evidence was obtained unlawfully (search).

[137] **Pretraga doma i drugih prostora Članak 252**
(1) Pri pretrazi doma pretražuje se jedna ili više prostorno povezanih prostorija koje osoba koristi kao svoj dom, te prostori koje su s domom povezani prostorno i istom svrhom korištenja.
(2) Pretraga drugih prostora odnosi se na prostore različite od doma koji su označeni u nalogu za pretragu, u kojima se ne može provesti pretraga bez naloga (članak 246. stavak 2. točka 1. i 2.).
(3) Pretraga doma i drugih prostora obuhvaća i pretragu pokretnih stvari i svih osoba zatečenih u domu i drugim prostorima, kad je to navedeno u nalogu o pretrazi ili kad u odnosu na zatečene osobe postoje uvjeti za pretragu bez naloga.

(b) Search any means of transport

Article 252 CPC is restricted to premises and does not include transport means expressis verbis.[138] **10**

(c) Search any private home

See → Article 252 CPC above. **11**

(d) Search any clothes and any other personal property

Article 251[139] **12**

(1) A search of a person includes a search of clothes, shoes, body surface, movable items that the person is wearing or in his possession, the means of transportation used at the time of the search, and the space in which the person was found at the time of the search, except for the home.

(2) The search of a person is carried out by a person of the same sex, unless this is not possible due to the circumstances of the search. The circumstances that led to the search being conducted by a person of a different gender are entered in the search record.

(3) During a search of a person, the body of the person being searched may not be entered, nor should replacements of body parts or aids of body organs attached to the body (prostheses and the like) be separated from the body.

(4) If, during the search, it is necessary to enter the body cavities, to separate the replacements of body organs from the body, or if there is a suspicion that the search directly seriously endangers the health of the person being searched, the body conducting the search will stop the search and, within three hours, act according to Article 326, paragraphs 3 and 4 of this Law. If the search cannot be continued within the specified period, the state attorney will be informed and the search will be suspended.

[138] Supreme Court of the Republic of Croatia, CRIMINAL DEPARTMENT I Kž 287/2018-4/ECLI:HR:VSRH:2018:928 /-.

[139] **Pretraga osobe**
Članak 251 (NN 145/13)
(1) Pretraga osobe obuhvaća pretraživanje odjeće, obuće, površine tijela, pokretnih stvari koje osoba nosi ili su u njezinu posjedu, sredstva prijevoza kojim se koristi u vrijeme pretrage te prostora u kojem je osoba zatečena u vrijeme provođenja pretrage, osim doma.
(2) Pretragu osobe provodi osoba istoga spola, osim ako to s obzirom na okolnosti provođenja pretrage nikako nije moguće. Okolnosti zbog kojih je pretragu provela osoba drugog spola unose se u zapisnik o pretrazi.
(3) Pri pretrazi osobe ne smije se ulaziti u tijelo osobe koja se pretražuje, niti se od tijela smiju odvajati nadomjesci dijelova tijela ili pomagala tjelesnih organa pričvršćena uz tijelo (proteze i slično).
(4) Ako pri pretrazi treba ući u tjelesne šupljine, odvojiti od tijela nadomjeske tjelesnih organa ili ako se pojavi sumnja da pretraga izravno ozbiljno ugrožava zdravlje osobe koja se pretražuje, tijelo koje provodi pretragu zastat će s njezinim provođenjem i u roku od tri sata postupiti prema članku 326. stavku 3. i 4. ovog Zakona. Ako se u navedenom roku ne može nastaviti pretragu, izvijestit će se o tome državnog odvjetnika i obustaviti pretraga.

(f) Search any computer system

13 **Article 257**[140]

(1) The search of movable property also includes the search of computers and devices connected to them, other devices used to collect, store and transmit data, telephone, computer and other communications and data carriers. At the request of the body undertaking the search, the person using the computer or having access to the computer or other device or data carrier, and the provider of telecommunications services, are obliged to provide access to the computer, device or data carrier, and to provide the necessary information for unhindered use and the achievement of the objectives of the search.

(2)[141] Upon the order of the body that undertakes the search, the person who uses the computer or has access to the computer and other devices from paragraph 1 of this article, and the provider of telecommunications services, are obliged to immediately take measures to prevent the destruction or alteration of data. The body that undertakes the search can order the implementation of these measures to a professional assistant.

(3) A person who uses a computer or has access to a computer or other device or data carrier, as well as a provider of telecommunications services, who do not act according to paragraphs 1 and 2 of this article, even though there are no justified reasons for this, may, on the proposal of the investigating judge punish the state attorney according to the provisions of Article 259, paragraph 1 of this Law. The provision on punishment does not apply to the defendant.

[140] **Pretraga pokretne stvari i bankovnog sefa Članak 257 (NN 76/09)**
(3) Osobu koja koristi računalo ili ima pristup računalu ili drugom uređaju ili nositelju podataka, te davatelj telekomunikacijskih usluga, a koji ne postupe prema stavku 1. i 2. ovog članka, premda za to ne postoje opravdani razlozi, sudac istrage može na prijedlog državnog odvjetnika kazniti prema odredbi članka 259. stavka 1. ovog Zakona. Odredba o kažnjavanju ne odnosi se na okrivljenika.

[141] (1) Pretraga pokretnih stvari obuhvaća i pretragu računala i s njim povezanih uređaja, drugih uređaja koji služe prikupljanju, pohranjivanju i prijenosu podataka, telefonskim, računalnim i drugim komunikacijama i nositelja podataka. Na zahtjev tijela koje poduzima pretragu, osoba koja se koristi računalom ili ima pristup računalu ili drugom uređaju ili nositelju podataka, te davatelj telekomunikacijskih usluga, dužni su omogućiti pristup računalu, uređaju ili nositelju podataka, te dati potrebne obavijesti za nesmetanu uporabu i ostvarenje ciljeva pretrage.
(2) Po nalogu tijela koje poduzima pretragu, osoba koja se koristi računalom ili ima pristup računalu i drugim uređajima iz stavka 1. ovog članka, te davatelj telekomunikacijskih usluga, dužni su odmah poduzeti mjere kojima se sprječava uništenje ili mijenjanje podataka. Tijelo koje poduzima pretragu, može provedbu tih mjera naložiti stručnom pomoćniku.

(2) Conservatory measures necessary to preserve their integrity/necessary to avoid the loss/necessary to avoid the contamination of evidence

2. Temporary confiscation of objects **14**

Article 261[142]

(1) Items that should be confiscated according to the criminal law, or that can be used to establish the facts in the proceedings, will be temporarily confiscated and their safe-keeping ensured.

(2) Whoever keeps such objects, is obliged to hand them over at the request of the state attorney, investigator or police. The state attorney, investigator or police will warn the holder of the case of the consequences of refusing to act on the request.

(3) A person who does not comply with the request for surrender, even if there are no justified reasons for this, may be punished by the investigating judge on the reasoned proposal of the state attorney in accordance with Article 259, paragraph 1 of this Act.

(4) The measures referred to in paragraph 2 of this article cannot be applied to the defendant or persons who are exempted from the duty to testify (Article 285).

Article 263[143] **(Official Gazette 143/12, 145/13)** (1) The provisions of Article 261 of this Act also apply to data stored in computers and devices connected to it, and devices

[142] **2. Privremeno oduzimanje predmeta**

Članak 261 (1) Predmeti koji se imaju oduzeti prema kaznenom zakonu, ili koji mogu poslužiti pri utvrđivanju činjenica u postupku, privremeno će se oduzeti i osigurati njihovo čuvanje.

(2) Tko drži takve predmete, dužan ih je predati na zahtjev državnog odvjetnika, istražitelja ili policije. Državni odvjetnik, istražitelj ili policija će držatelja predmeta upozoriti na posljedice koje proizlaze iz odbijanja postupanja po zahtjevu.

(3) Osobu koja ne postupi prema zahtjevu za predaju, premda za to ne postoje opravdani razlozi, sudac istrage može na obrazloženi prijedlog državnog odvjetnika kazniti prema članku 259. stavku 1. ovog Zakona.

(4) Mjere iz stavka 2. ovog članka, ne mogu se primijeniti prema okrivljeniku niti osobama koje su oslobođene dužnosti svjedočenja (članak 285.).

[143] **Članak 263 (NN 143/12, 145/13)** (1) Odredbe članka 261. ovog Zakona odnose se i na podatke pohranjene u računalima i s njim povezanim uređajima, te uređajima koji služe prikupljanju i prijenosu podataka, nositelje podataka i na pretplatničke informacije kojima raspolaže davatelj usluga, osim kad je prema članku 262. ovog Zakona, privremeno oduzimanje predmeta zabranjeno.

(2) Podaci iz stavka 1. ovog članka, na pisani zahtjev državnog odvjetnika se moraju predati državnom odvjetniku u cjelovitom, izvornom, čitljivom i razumljivom obliku. Državni odvjetnik u zahtjevu određuje rok u kojemu se imaju predati podaci. U slučaju odbijanja predaje, može se postupiti prema članku 259. stavku 1. ovog Zakona.

(3) Podatke iz stavka 1. ovog članka, snimit će u realnom vremenu tijelo koje provodi radnju. Pri pribavljanju, snimanju, zaštiti i čuvanju podataka posebno će se voditi računa o propisima koji se odnose na čuvanje tajnosti određenih podataka (članak 186. do 188.). Prema okolnostima, podaci koji se ne odnose na kazneno djelo zbog kojega se postupa, a potrebni su osobi prema kojoj se provodi mjera, mogu se snimiti na odgovarajuće sredstvo i vratiti toj osobi i prije okončanja postupka.

(4) Na prijedlog državnog odvjetnika sudac istrage može rješenjem odrediti zaštitu i čuvanje svih računalnih podataka iz stavka 1. ovog članka, dok je to potrebno, a najdulje šest mjeseci. Nakon toga računalni podaci će se vratiti osim:

1) ako su uključeni u počinjenje kaznenih djela protiv računalnih sustava, programa i podataka (Glava XXV.) iz Kaznenog zakona,

2) ako su uključeni u počinjenje drugog kaznenog djela za koje se progoni po službenoj dužnosti počinjenog pomoću računalnog sustava,

3) ako ne služe kao dokaz za kazneno djelo za koje se vodi postupak.

used for data collection and transmission, data carriers and subscriber information held by the service provider, except when according to Article 262 of this of the Act, temporary confiscation of objects is prohibited.
(2) Information from paragraph 1 of this article, upon written request of the state attorney, must be submitted to the state attorney in a complete, original, legible and comprehensible form. In the request, the state attorney specifies the deadline by which the data must be submitted. In case of refusal of surrender, it is possible to proceed according to Article 259 paragraph 1 of this Law.
(3) The data from paragraph 1 of this article will be recorded in real time by the body implementing the action. When obtaining, recording, protecting and storing data, special attention will be paid to the regulations related to the confidentiality of certain data (Articles 186 to 188). Depending on the circumstances, data that do not relate to the criminal offense for which the action is being taken, and are needed by the person against whom the measure is being implemented, can be recorded on a suitable device and returned to that person even before the end of the procedure.
(4) At the proposal of the state attorney, the investigating judge can order the protection and storage of all computer data from paragraph 1 of this article, for as long as necessary, and for a maximum of six months. After that, computer data will be returned except:
1) If they are involved in the commission of criminal offenses against computer systems, programs and data (Chapter XXV.) from the Criminal Code,
2) If they are involved in the commission of another criminal offense for which they are prosecuted ex officio committed using a computer system,
3) If they do not serve as evidence for the criminal offense for which proceedings are being conducted.
(5) The person who uses the computer and the person who is the service provider have the right to appeal within twenty-four hours against the decision of the investigating judge which determined the measures referred to in paragraph 3 of this article. The council decides on the appeal within three days. The appeal does not delay the execution of the decision.

(5) Protiv rješenja suca istrage kojim su određene mjere iz stavka 3. ovog članka, osoba koja se koristi računalom i osoba koja je davatelj usluga imaju pravo žalbe u roku od dvadeset četiri sata. O žalbi odlučuje vijeće u roku od tri dana. Žalba ne odgađa izvršenje rješenja.

cc. Para. 1(c)

(1) Obtainment of the production of stored computer data, encrypted or decrypted

(a) General Provisions in the CPC

2. Temporary confiscation of objects Article 261[144] (1) Items that should be confiscated according to the criminal law, or that can be used to establish the facts in the proceedings, will be temporarily confiscated and their safekeeping ensured. **15**
(2) Whoever keeps such objects, is obliged to hand them over at the request of the state attorney, investigator or police. The state attorney, investigator or police will warn the holder of the case of the consequences of refusing to act on the request.
(3) A person who does not comply with the request for surrender, even if there are no justified reasons for this, may be punished by the investigating judge on the reasoned proposal of the state attorney in accordance with Article 259, paragraph 1 of this Act.
(4) The measures referred to in paragraph 2 of this article cannot be applied to the defendant or persons who are exempted from the duty to testify (Article 285).

Article 263[145] **(Official Gazette 143/12, 145/13)**
(1) The provisions of Article 261 of this Act also apply to data stored in computers and devices connected to it, and devices used for data collection and transmission, data carriers and subscriber information held by the service provider, except when according to Article 262 of this of the Act, temporary confiscation of objects is prohibited.

[144] 2. Privremeno oduzimanje predmeta
Članak 261
(1) Predmeti koji se imaju oduzeti prema kaznenom zakonu, ili koji mogu poslužiti pri utvrđivanju činjenica u postupku, privremeno će se oduzeti i osigurati njihovo čuvanje.
(2) Tko drži takve predmete, dužan ih je predati na zahtjev državnog odvjetnika, istražitelja ili policije. Državni odvjetnik, istražitelj ili policija će držatelja predmeta upozoriti na posljedice koje proizlaze iz odbijanja postupanja po zahtjevu.
(3) Osobu koja ne postupi prema zahtjevu za predaju, premda za to ne postoje opravdani razlozi, sudac istrage može na obrazloženi prijedlog državnog odvjetnika kazniti prema članku 259. stavku 1. ovog Zakona.
(4) Mjere iz stavka 2. ovog članka, ne mogu se primijeniti prema okrivljeniku niti osobama koje su oslobođene dužnosti svjedočenja (članak 285.).

[145] Članak 263 (NN 143/12, 145/13) (1) Odredbe članka 261. ovog Zakona odnose se i na podatke pohranjene u računalima i s njim povezanim uređajima, te uređajima koji služe prikupljanju i prijenosu podataka, nositelje podataka i na pretplatničke informacije kojima raspolaže davatelj usluga, osim kad je prema članku 262. ovog Zakona, privremeno oduzimanje predmeta zabranjeno.
(2) Podaci iz stavka 1. ovog članka, na pisani zahtjev državnog odvjetnika se moraju predati državnom odvjetniku u cjelovitom, izvornom, čitljivom i razumljivom obliku. Državni odvjetnik u zahtjevu određuje rok u kojemu se imaju predati podaci. U slučaju odbijanja predaje, može se postupiti prema članku 259. stavku 1. ovog Zakona.
(5) Protiv rješenja suca istrage kojim su određene mjere iz stavka 3. ovog članka, osoba koja se koristi računalom i osoba koja je davatelj usluga imaju pravo žalbe u roku od dvadeset četiri sata. O žalbi odlučuje vijeće u roku od tri dana. Žalba ne odgađa izvršenje rješenja.

(2) Information from paragraph 1 of this article, upon written request of the state attorney, must be submitted to the state attorney in a complete, original, legible and comprehensible form. In the request, the state attorney specifies the deadline by which the data must be submitted. In case of refusal of surrender, it is possible to proceed according to Article 259 paragraph 1 of this Law.
(3)[146] The data from paragraph 1 of this article will be recorded in real time by the body implementing the action. When obtaining, recording, protecting and storing data, special attention will be paid to the regulations related to the confidentiality of certain data (Articles 186 to 188). Depending on the circumstances, data that do not relate to the criminal offense for which the action is being taken, and are needed by the person against whom the measure is being implemented, can be recorded on a suitable device and returned to that person even before the end of the procedure.
(4) At the proposal of the state attorney, the investigating judge can order the protection and storage of all computer data from paragraph 1 of this article, for as long as necessary, and for a maximum of six months. After that, computer data will be returned except:
1) if they are involved in the commission of criminal offenses against computer systems, programs and data (Chapter XXV.) from the Criminal Code,
2) if they are involved in the commission of another criminal offense for which they are prosecuted ex officio committed using a computer system,
3) if they do not serve as evidence for the criminal offense for which proceedings are being conducted.
(5) The person who uses the computer and the person who is the service provider have the right to appeal within twenty-four hours against the decision of the investigating judge which determined the measures referred to in paragraph 3 of this article. The council decides on the appeal within three days. The appeal does not delay the execution of the decision.

[146] (3) Podatke iz stavka 1. ovog članka, snimit će u realnom vremenu tijelo koje provodi radnju. Pri pribavljanju, snimanju, zaštiti i čuvanju podataka posebno će se voditi računa o propisima koji se odnose na čuvanje tajnosti određenih podataka (članak 186. do 188.). Prema okolnostima, podaci koji se ne odnose na kazneno djelo zbog kojega se postupa, a potrebni su osobi prema kojoj se provodi mjera, mogu se snimiti na odgovarajuće sredstvo i vratiti toj osobi i prije okončanja postupka.
(4) Na prijedlog državnog odvjetnika sudac istrage može rješenjem odrediti zaštitu i čuvanje svih računalnih podataka iz stavka 1. ovog članka, dok je to potrebno, a najdulje šest mjeseci. Nakon toga računalni podaci će se vratiti osim:
1) ako su uključeni u počinjenje kaznenih djela protiv računalnih sustava, programa i podataka (Glava XXV.) iz Kaznenog zakona,
2) ako su uključeni u počinjenje drugog kaznenog djela za koje se progoni po službenoj dužnosti počinjenog pomoću računalnog sustava,
3) ako ne služe kao dokaz za kazneno djelo za koje se vodi postupak.

12. Special evidentiary actions
Article 332[147] **(Official Gazette 145/13)**
(1) If the investigation of criminal offenses could not be carried out in any other way or would be possible only with disproportionate difficulties, at the written and reasoned request of the state attorney, the judge of the investigation may against a person for whom there are grounds for suspicion that he committed the crime alone or together with others to persons who participated in the criminal offense referred to in Article 334 of this Act, by means of a written, reasoned order, determine special evidentiary actions that temporarily limit certain constitutional rights of citizens, namely:
1) monitoring and technical recording of telephone conversations and other remote communications,
2) interception, collection and recording of computer data,
[…]

(b) Special Provisions in the Criminal Procedure Code, Tax Code, Digital Evidence Act

CPC 11. Electronic (digital) evidence **16**
Article 331
Unless otherwise prescribed by this Act, electronic evidence is obtained by applying the provisions of Articles 257, 262 and 263 of this Act.

General tax law/*Opći porezni zakon*

Obligation to maintain tax secrecy
Article 8[148] **(OG 106/18, 114/22)** (1) The tax authority is obliged to keep as a tax secret all information that the taxpayer provides in the tax procedure and all other information

[147] 12. Posebne dokazne radnje Članak 332 (NN 145/13)
(1) Ako se izvidi kaznenih djela ne bi mogli provesti na drugi način ili bi to bilo moguće samo uz nerazmjerne teškoće, na pisani obrazloženi zahtjev državnog odvjetnika, sudac istrage može protiv osobe za koju postoje osnove sumnje da je sama počinila ili zajedno s drugim osobama sudjelovala u kaznenom djelu iz članka 334. ovog Zakona, pisanim, obrazloženim nalogom odrediti posebne dokazne radnje kojima se privremeno ograničavaju određena ustavna prava građana, i to:
1) nadzor i tehničko snimanje telefonskih razgovora i drugih komunikacija na daljinu,
2) presretanje, prikupljanje i snimanje računalnih podataka,
[…]

[148] Obveza čuvanja porezne tajne Članak 8 (NN 106/18, 114/22)
(1) Porezno tijelo dužno je kao poreznu tajnu čuvati sve podatke koje porezni obveznik iznosi u poreznom postupku te sve druge podatke u vezi s poreznim postupkom kojima raspolaže, kao i podatke koje razmjenjuje s drugim državama u poreznim stvarima.
(2) Iznimno od stavka 1. ovoga članka, ne smatra se poreznom tajnom:
1. podatak o datumu upisa u sustav poreza na dodanu vrijednost ili ispisa iz sustava poreza na dodanu vrijednost
2. podatak o poreznim obveznicima koji su davali lažne podatke s namjerom umanjenja svoje ili tuđe obveze poreza na dodanu vrijednost (kružne prijevare poreza na dodanu vrijednost) ako je to utvrđeno u porezno-pravnom postupku.

related to the tax procedure at its disposal, as well as information that it exchanges with other countries in tax matters.
(2) Except from paragraph 1 of this article, the following are not considered tax secrets:
1. information on the date of entry into the value added tax system or printout from the value added tax system
2. information on taxpayers who provided false information with the intention of reducing their own or someone else's value-added tax liability (circular value-added tax fraud), if this was determined in the tax-legal procedure.
(3) The obligation to keep tax secrecy from paragraph 1 of this article applies to all tax authority officials, experts and other persons involved in the tax procedure.
(4) The obligation to maintain tax secrecy is violated if the facts specified in paragraph 1 of this article are used or published without authorization.
(5) The obligation to keep tax secrecy is not violated:
1. if the tax guarantor is given access to information about the taxpayer that is essential for his relationship with the taxpayer
2. if the members of the company are informed of the facts important for the taxation of the company
3. if information is provided during tax, misdemeanour, criminal or court proceedings
4. if information is provided with the written consent of the person to whom the information relates
5. if data is provided for the purposes of tax debt collection

(3) Obveza čuvanja porezne tajne iz stavka 1. ovoga članka odnosi se na sve službene osobe poreznog tijela, vještake i druge osobe koje su uključene u porezni postupak.
(4) Obveza čuvanja porezne tajne je povrijeđena ako se činjenice navedene u stavku 1. ovoga članka neovlašteno koriste ili objave.
(5) Obveza čuvanja porezne tajne nije povrijeđena:
1. ako se poreznom jamcu omogući uvid u podatke o poreznom obvezniku bitne za njegov odnos prema poreznom obvezniku
2. ako se članove društva osoba upozna s činjenicama bitnima za oporezivanje društva
3. ako se iznose podaci tijekom poreznog, prekršajnog, kaznenog ili sudskog postupka
4. ako se iznose podaci uz pisani pristanak osobe na koju se ti podaci odnose
5. ako se iznose podaci za potrebe naplate poreznog duga
6. ako se podaci daju na zahtjev drugog javnopravnog tijela koje po službenoj dužnosti traži podatke nužne za ostvarivanje prava pred tim tijelom povodom zahtjeva stranke u postupku, a koje bi inače stranka trebala sama pribaviti
7. ako ustrojstvene jedinice Ministarstva financija međusobno dostavljaju podatke koji mogu biti od utjecaja na utvrđivanje prava i obveza poreznih obveznika
8. ako se podaci daju u skladu s postupcima propisanim ugovorima o izbjegavanju dvostrukog oporezivanja i drugim međunarodnim ugovorima u poreznim stvarima koji su u primjeni u Republici Hrvatskoj
9. ako se podaci daju u skladu s postupkom propisanim ovim Zakonom za pružanje i dobivanje pravne pomoći i
10. ako se podaci daju sukladno zakonu kojim se uređuje administrativna suradnja u području poreza.
(6) Obveza čuvanja porezne tajne nije povrijeđena u slučaju kada porezno tijelo bez posebnog zahtjeva dostavlja drugom javnopravnom tijelu podatke za koje je saznalo tijekom vođenja poreznog postupka, ako postoji sumnja u postojanje kaznenog djela, kršenje zakona ili drugog propisa za čije je provođenje nadležno neko drugo javnopravno tijelo.
[…]

6. if the data is provided at the request of another public law body which ex officio requests the data necessary for the exercise of rights before that body due to the request of a party in the proceedings, which otherwise the party should obtain on its own
7. if the organizational units of the Ministry of Finance provide each other with data that may influence the determination of the rights and obligations of taxpayers
8. if the data is provided in accordance with the procedures prescribed by agreements on the avoidance of double taxation and other international agreements in tax matters that are in force in the Republic of Croatia
9. if the data is provided in accordance with the procedure prescribed by this Law for providing and obtaining legal assistance i
10. if the data is provided in accordance with the law regulating administrative cooperation in the field of taxes.
(6) The obligation to maintain tax secrecy is not violated in the event that a tax authority without a special request submits to another public law authority information about which it has learned during the conduct of tax proceedings, if there is a suspicion of the existence of a criminal offense, a violation of a law or other regulation for the enforcement of which someone is competent other public law body.
[…]

Law on Customs Service/*Zakon o carinskoj službi* **17**
Article 32[149]
(1) An authorized customs official checks the documents submitted in the procedures for which the Customs Administration is responsible and the data presented in those documents, including other documents and data collected in the implementation of supervision.
(2) An authorized customs official may demand from a person who according to the regulations is obliged to provide information or fulfil a certain obligation to submit any bookkeeping document, contract, business correspondence, records, or any other document that he considers necessary for implementation of supervision.

[149] Članak 32 (1) Ovlašteni carinski službenik provjerava isprave podnesene u postupcima za koje je nadležna Carinska uprava i podatke iskazane u tim ispravama, uključujući i ostale isprave te podatke koji se prikupljaju u provedbi nadzora.
(2) Ovlašteni carinski službenik može zahtijevati od osobe koja je prema propisima dužna dati podatke ili ispuniti određenu obvezu da mu u određenom roku i na određenom mjestu podnese bilo koju knjigovodstvenu ispravu, ugovor, poslovno dopisivanje, evidenciju ili neku drugu ispravu koju smatra potrebnom za provedbu nadzora.
(3) Isprave, podaci ili ispunjenje određene obveze iz stavka 2. ovoga članka mogu se zahtijevati od svake osobe koja raspolaže traženom dokumentacijom ili raspolaže podacima ili bi te isprave ili podatke trebala imati.
(4) Ako se poslovne knjige i propisane evidencije vode na elektronskom mediju ovlašteni carinski službenik može pregledati bazu podataka računalnog sustava te zahtijevati izradu, odnosno predaju svakog dokumenta ili deklaracije koja potvrđuje neki podatak koji je zabilježen na elektronskom mediju.

(3) Documents, data or the fulfilment of a specific obligation from paragraph 2 of this article may be requested from any person who possesses the requested documentation or data or should have these documents or data.
(4) If business books and prescribed records are kept on an electronic medium, the authorized customs officer may inspect the database of the computer system and demand the production or submission of any document or declaration that confirms some information recorded on the electronic medium.

See also: Act on the transfer and processing of air passenger data for the purpose of preventing, detecting, investigating and conducting criminal proceedings for criminal offenses of terrorism and other serious criminal offenses*/Zakon o prijenosu i obradi podataka o putnicima u zračnom prometu u svrhu sprječavanja, otkrivanja, istraživanja i vođenja kaznenog postupka za kaznena djela terorizma i druga teška kaznena djela.*

(2) Obtainment of banking account data and traffic data

Article 265 Criminal Procedure Code[150] **18**

(1) If the provision of information that is a bank secret is withheld, at the reasoned request of the state attorney, the court may issue a decision on the provision of such information. In the decision, the court determines the deadline by which the bank must provide the information.

(2) If it is likely that a certain person receives, keeps or otherwise disposes of income from a criminal offense in his bank accounts, and that income is important for the investigation of that criminal offense or is subject to compulsory confiscation according to the law, the state attorney shall, with a reasoned request to the court, propose to order the bank to deliver to the state attorney information about these accounts and income. The request contains information about the legal or physical person who holds or disposes of these funds or income. The description of the income must include the currency designation, but not its exact amount if it is not known. In the decision, the court determines the deadline in which the bank must act on it.

(3) Before the beginning and during the investigation, the decision on the state attorney's request from paragraphs 1 and 2 of this article is made by the judge of the investigation,

[150] Članak 265
(1) Ako je uskraćeno davanje podataka koji su bankovna tajna, na obrazloženi zahtjev državnog odvjetnika, sud može izdati rješenje o davanju tih podataka. U rješenju sud određuje rok u kojemu banka mora dati podatke.
(2) Ako je vjerojatno da određena osoba na svojim bankovnim računima prima, drži ili na drugi način raspolaže s prihodima ostvarenim kaznenim djelom, a taj je prihod važan za istragu tog kaznenog djela ili prema zakonu podliježe prisilnom oduzimanju, državni odvjetnik će, obrazloženim zahtjevom sudu, predložiti da naloži banci dostavu državnom odvjetniku podataka o tim računima i prihodima. Zahtjev sadrži podatke o pravnoj ili fizičkoj osobi koja ta sredstva, ili prihode drži, ili s njima raspolaže. Opis prihoda mora sadržavati oznaku valute, ali ne i njezin točan iznos ako nije poznat. U rješenju sud određuje rok u kojemu banka mora po njemu postupiti.
(3) Prije početka i tijekom istrage odluku o zahtjevu državnog odvjetnika iz stavka 1. i 2. ovoga članka, donosi sudac istrage, nakon podizanja optužnice optužno vijeće, a nakon njezine pravomoćnosti sud pred kojim se ima održati rasprava.
(4) Sudac istrage odlučuje o zahtjevu državnog odvjetnika iz stavka 1. i 2. ovog članka rješenjem odmah, a najkasnije u roku od dvanaest sati od primitka zahtjeva. Ako sudac istrage odbije zahtjev, državni odvjetnik može podnijeti žalbu u roku od dvanaest sati. O žalbi odlučuje vijeće u roku od dvadeset četiri sata. Protiv rješenja suda donesenog nakon podizanja optužnice nije dopuštena žalba.
(5) Ako postoje okolnosti iz stavka 2. i 3. ovog članka, na obrazloženi prijedlog državnog odvjetnika, sudac istrage može rješenjem naložiti banci ili drugoj pravnoj osobi da prati platni promet i transakcije na računima određene osobe, te da za vrijeme određeno rješenjem o praćenju platnog prometa redovito izvješćuje državnog odvjetnika.
(6) Mjere praćenja platnog prometa mogu trajati najdulje godinu dana. Čim prestanu razlozi praćenja državni odvjetnik je dužan obavijestiti suca istrage koji rješenjem obustavlja praćenje. Ako državni odvjetnik odustane od kaznenog progona ili ako prikupljeni podaci nisu potrebni za kazneni postupak, uništit će se podaci o praćenju pod nadzorom suca istrage koji o tome sastavlja posebni zapisnik. Rješenje o praćenju državni odvjetnik dostavlja osobi protiv koje je bilo naloženo, uz optužnicu ili uz odluku o odustajanju od kaznenog progona.
(7) O postupanju prema stavku 1. do 5. ovog članka banka ili druga pravna osoba ne smije davati obavijesti ili podatke.
(8) Za postupanje protivno stavku 1. do 5. ovog članka sudac istrage će na obrazloženi prijedlog državnog odvjetnika rješenjem kazniti banku novčanom kaznom do 1.000 000,00 kuna te odgovornu osobu u banci ili drugoj pravnoj osobi novčanom kaznom u iznosu do 200.000,00 kuna. Ako i nakon toga ne izvrši nalog može se odgovorna osoba kazniti zatvorom do izvršenja, a najdulje mjesec dana. Žalba protiv rješenja o novčanoj kazni i zatvoru ne zadržava izvršenje rješenja.

after the indictment is filed by the indictment panel, and after its finality by the court before which the hearing is to be held.
(4) The investigating judge decides on the state attorney's request from paragraphs 1 and 2 of this article with a decision immediately, and no later than within twelve hours of receiving the request. If the investigating judge rejects the request, the state attorney can file an appeal within twelve hours. The panel decides on the appeal within twenty-four hours. No appeal is allowed against the court's decision made after the indictment was filed.
(5) If there are circumstances from paragraphs 2 and 3 of this article, upon the reasoned proposal of the state attorney, the investigating judge may order a bank or other legal entity to monitor payment transactions and transactions on the accounts of a specific person, and for the time specified by the decision on regularly reports to the state attorney for the monitoring of payment transactions.
(6) Payment transaction monitoring measures can last for a maximum of one year. As soon as the reasons for the monitoring cease, the state attorney is obliged to inform the investigating judge, who suspends the monitoring by decision. If the state attorney abandons the criminal prosecution or if the collected data is not necessary for criminal proceedings, the monitoring data will be destroyed under the supervision of the investigating judge, who will draw up a special record. The state attorney delivers the decision on monitoring to the person against whom it was ordered, together with the indictment or with the decision to withdraw from criminal prosecution.
(7) The bank or other legal entity may not provide information or information about the procedure according to paragraphs 1 to 5 of this article.
(8) For actions contrary to paragraphs 1 to 5 of this article, the investigating judge shall, upon the reasoned proposal of the state attorney, issue a decision to fine the bank with a fine of up to HRK 1,000,000.00 and the responsible person in the bank or other legal entity with a fine of up to 200,000.00. kunas. If he does not execute the order even after that, the responsible person can be punished with imprisonment until the execution, and for a maximum of one month. An appeal against a decision on a fine and imprisonment does not delay the execution of the decision.

(3) Exception of data specifically retained in accordance with national law (pursuant to the second sentence of Article 15(1) of Directive 2002/58/EC of the European Parliament and of the Council)

(a) Transposition of this Directive

19 *Transposition deadline: 01/07/2013*
Law on Electronic Communications/*Zakon o elektroničkim komunikacijama*
Official publication: Narodne Novine; Number: NN 76/2022; Publication date: 2022-07-04.

(b) National Provision in relation to Article 15(1) s. 2 of this Directive

Law on Electronic Communications/*Zakon o elektroničkim komunikacijama* **20**

Relationship to other laws

Article 4[151]

(1) Application of the provisions of this Act does not affect:

- obligations related to the provision of services using electronic communication networks and services, which are regulated by special laws
- the scope and powers of the authority responsible for the protection of market competition, established in accordance with a special law
- the rights of service users or consumers, which are regulated by a special law
- obligations aimed at the general interest, especially the protection of personal data and privacy, which are regulated by a special law
- obligations regulating the area of national security and criminal procedure in accordance with special laws
- obligations related to making radio equipment available on the market, which are governed by special regulations.

(2) The provisions of this Act do not apply to content that is produced, transmitted or published through the provision of electronic communication networks and services.

Covert surveillance of electronic communications networks and services

Article 52[152] (1) Operators of public communication networks and publicly available electronic communication services, as well as legal and natural persons, who, on the

[151] Odnos prema drugim zakonima
Članak 4
(1) Primjena odredaba ovoga Zakona ne utječe na:
− obveze u vezi s pružanjem usluga uporabom elektroničkih komunikacijskih mreža i usluga, koje se uređuju posebnim zakonima
− djelokrug i ovlasti tijela nadležnog za zaštitu tržišnog natjecanja, osnovanog u skladu s posebnim zakonom
− prava korisnika usluga ili potrošača koja se uređuju posebnim zakonom
− obveze koje za cilj imaju opći interes, osobito zaštitu osobnih podataka i privatnost, a koje se uređuju posebnim zakonom
− obveze kojima se u skladu s posebnim zakonima uređuje područje nacionalne sigurnosti i kaznenog postupka
− obveze koje se odnose na stavljanje na raspolaganje radijske opreme na tržištu, koje se uređuju posebnim propisima.
(2) Odredbe ovoga Zakona ne primjenjuju se na sadržaje koji se proizvode, prenose ili objavljuju pružanjem elektroničkih komunikacijskih mreža i usluga.

[152] Tajni nadzor elektroničkih komunikacijskih mreža i usluga
Članak 52
(1) Operatori javnih komunikacijskih mreža i javno dostupnih elektroničkih komunikacijskih usluga te pravne i fizičke osobe, koje na temelju posebnih propisa obavljaju djelatnost elektroničkih komunikacijskih mreža i usluga na području Republike Hrvatske, moraju obavljati tu djelatnost te razvijati i upotrebljavati elektroničke komunikacijske mreže i usluge na način koji nije u suprotnosti s nacionalnim interesima u području nacionalne sigurnosti, u skladu sa zakonom kojim se uređuje sigurnosno-obavještajni sustav Republike Hrvatske, te moraju o vlastitom trošku osigurati i održavati funkciju tajnog nadzora elektroničkih komunikacijskih mreža i usluga, kao i elektroničke komunikacijske vodove do operativno-tehničkog tijela nadležnog za aktivaciju i upravljanje mjerom tajnog nadzora elektroničkih komunikacija.

basis of special regulations, perform the activity of electronic communication networks and services in the territory of the Republic of Croatia, must perform this activity and develop and use electronic communication networks and services on a way that does not conflict with national interests in the field of national security, in accordance with the law regulating the security and intelligence system of the Republic of Croatia, and must provide and maintain the function of secret surveillance of electronic communication networks and services, as well as electronic communication lines to operational-technical body responsible for the activation and management of the measure of secret surveillance of electronic communications.
(2) The procedure for determining the fulfilment of the obligations of operators and legal and natural persons from paragraph 1 of this article is prescribed by the law regulating the security and intelligence system of the Republic of Croatia.
(3) The competent body referred to in paragraph 1 of this article determines information security measures and standards in connection with the obligations of the operator referred to in paragraph 1 of this article in ensuring and maintaining the secret surveillance

(2) Postupak, kojim se utvrđuje izvršavanje obveza operatora te pravnih i fizičkih osoba iz stavka 1. ovoga članka, propisuje se zakonom kojim se uređuje sigurnosno-obavještajni sustav Republike Hrvatske.
(3) Nadležno tijelo iz stavka 1. ovoga članka određuje mjere i standarde informacijske sigurnosti u vezi s obvezama operatora iz stavka 1. ovoga članka u osiguranju i održavanju funkcije tajnog nadzora elektroničkih komunikacijskih mreža i usluga, te u suradnji s tijelima ovlaštenima za primjenu mjera tajnog nadzora elektroničkih komunikacijskih mreža i usluga nadzire provedbu mjera i standarda informacijske sigurnosti.
(4) Operatori iz stavka 1. ovoga članka obvezni su odrediti osobe odgovorne za provedbu mjera i standarda informacijske sigurnosti, kao i za provedbu obveza tajnog nadzora iz ovoga članka i članaka 53. i 54. ovoga Zakona.
(5) Obveze operatora te pravnih i fizičkih osoba iz stavka 1. ovoga članka prema nadležnom tijelu iz stavka 1. ovoga članka i prema tijelima ovlaštenima za primjenu mjera tajnog nadzora elektroničkih komunikacijskih mreža i usluga iz stavka 3. ovoga članka, u skladu sa zakonima iz područja nacionalne sigurnosti i kaznenog postupka, utvrđuju se tim zakonima i posebnim propisom kojim se uređuju obveze iz područja nacionalne sigurnosti za pravne i fizičke osobe u elektroničkim komunikacijama.
(6) Na obveze iz stavka 5. ovoga članka, koje imaju operatori te pravne i fizičke osobe iz stavka 1. ovoga članka, ne primjenjuju se odredbe članaka 41. do 47. ovoga Zakona, ni odredbe propisa kojima se uređuje zaštita osobnih podataka.
(7) Operatori iz stavka 1. ovoga članka moraju voditi popis krajnjih korisnika svojih usluga koji su obvezni dostaviti nadležnim tijelima iz stavka 5. ovoga članka na temelju njihova zahtjeva. Popis krajnjih korisnika mora sadržavati sve potrebne podatke koji omogućuju jednoznačnu i trenutačnu identifikaciju svakoga krajnjeg korisnika.
(8) Ako operatori iz stavka 1. ovoga članka sažimaju ili kodiraju (enkriptiraju) elektronički komunikacijski promet, takve prometne podatke moraju dostaviti nadležnim tijelima iz stavka 5. ovoga članka u izvornom obliku.
(9) Na zahtjev nadležnih tijela iz stavka 5. ovoga članka operatori iz stavka 1. ovoga članka moraju onemogućiti korisnicima uporabu programa koji kodiraju (enkriptiraju) sadržaj komunikacije ili omogućiti nadležnim tijelima iz stavka 5. ovoga članka provedbu mjera za uklanjanje kodiranja (enkripcije) u svrhu osiguravanja i održavanja funkcije tajnog nadzora elektroničkih komunikacijskih mreža i usluga.
(10) Operatori iz stavka 1. ovoga članka obvezni su dostaviti nadležnom tijelu iz stavka 1. ovoga članka, na njegov zahtjev, podatke tehničke ili prometne prirode koji se odnose na njihove mreže, usluge i opremu, a vrsta, opseg i druge značajke tih podataka, kao i način njihove dostave pobliže se utvrđuju posebnim propisom kojim se uređuju obveze iz područja nacionalne sigurnosti za pravne i fizičke osobe u elektroničkim komunikacijama.
(11) Na prijedlog nadležnog tijela iz stavka 1. ovoga članka Agencija će provesti postupak inspekcijskog nadzora u vezi s ispunjavanjem obveza iz ovoga članka, koje su određene operatorima iz stavka 1. ovoga članka.
(12) Odredbe ovoga članka primjenjuju se i na operatore iz članka 24. stavka 11. ovoga Zakona.
(13) Obveze propisane ovim člankom i člancima 53. i 54. ovoga Zakona na odgovarajući se način primjenjuju na sve pravne i fizičke osobe koje pružaju, uz naknadu ili bez naknade, elektroničke komunikacijske usluge.

function of electronic communication networks and services, and in cooperation with the authorities authorized to apply the measures secret surveillance of electronic communication networks and services supervises the implementation of information security measures and standards.
(4) The operators referred to in paragraph 1 of this article are obliged to appoint persons responsible for the implementation of information security measures and standards, as well as for the implementation of secret surveillance obligations from this article and articles 53 and 54 of this Act.
(5) Obligations of operators and legal and natural persons from paragraph 1 of this article towards the competent authority from paragraph 1 of this article and towards bodies authorized to apply secret surveillance measures of electronic communication networks and services from paragraph 3 of this article, in accordance with the laws from the field of national security and criminal proceedings, are determined by those laws and a special regulation regulating obligations from the field of national security for legal and natural persons in electronic communications.
(6) The provisions of Articles 41 to 47 of this Act, nor the provisions of regulations regulating the protection of personal data, shall not apply to the obligations referred to in paragraph 5 of this Article, which are owed by operators and legal and natural persons referred to in Paragraph 1 of this Article.
(7) The operators referred to in paragraph 1 of this article must keep a list of the end users of their services, which they are obliged to submit to the authorities referred to in paragraph 5 of this article based on their request. The list of end users must contain all the necessary data that enable the unique and immediate identification of each end user.
(8) If the operators referred to in paragraph 1 of this article summarize or encode (encrypt) electronic communication traffic, they must submit such traffic data to the authorities referred to in paragraph 5 of this article in their original form.
(9) At the request of the competent authorities from paragraph 5 of this article, operators from paragraph 1 of this article must prevent users from using programs that encode (encrypt) the content of communication or allow the competent authorities from paragraph 5 of this article to implement measures to remove coding (encryption). for the purpose of ensuring and maintaining the function of secret surveillance of electronic communication networks and services.
(10) The operators referred to in paragraph 1 of this article are obliged to submit to the competent authority referred to in paragraph 1 of this article, upon its request, data of a technical or traffic nature relating to their networks, services and equipment, and the type, extent and other features of these data, as well as the method of their delivery, are determined in more detail by a special regulation regulating obligations in the field of national security for legal and natural persons in electronic communications.
(11) At the proposal of the competent authority from paragraph 1 of this article, the Agency will carry out the procedure of inspection in connection with the fulfilment of

the obligations from this article, which are determined by the operators from paragraph 1 of this article.
(12) The provisions of this article also apply to operators from Article 24, paragraph 11 of this Act.
(13) Obligations prescribed by this article and Articles 53 and 54 of this Act shall be applied in an appropriate manner to all legal and natural persons who provide, with or without compensation, electronic communication services.

Data retention obligation
Article 53[153] (1) Operators of public communication networks and publicly available electronic communication services are obliged to retain data on electronic communications from Article 54 of this Act for the purpose of enabling the investigation, detection and prosecution of criminal offences, in accordance with the law in the field of criminal proceedings, and in the purpose of protecting defence and national security, in accordance with the laws in the field of defence and national security.

[153] Obveza zadržavanja podataka

Članak 53
(1) Operatori javnih komunikacijskih mreža i javno dostupnih elektroničkih komunikacijskih usluga obvezni su zadržati podatke o elektroničkim komunikacijama iz članka 54. ovoga Zakona u svrhu omogućivanja provedbe istrage, otkrivanja i kaznenog progona kaznenih djela, u skladu sa zakonom iz područja kaznenog postupka, te u svrhu zaštite obrane i nacionalne sigurnosti, u skladu sa zakonima iz područja obrane i nacionalne sigurnosti.
(2) Operatori iz stavka 1. ovoga članka obvezni su zadržati podatke iz stavka 1. ovoga članka u izvornom obliku ili kao podatke obrađene tijekom obavljanja djelatnosti elektroničkih komunikacijskih mreža i usluga. Operatori nemaju obvezu zadržavanja podataka iz stavka 1. ovoga članka koje nisu proizveli ni obradili.
(3) Operatori iz stavka 1. ovoga članka obvezni su zadržati podatke iz stavka 1. ovoga članka u razdoblju od dvanaest mjeseci od dana obavljene komunikacije, bez obzira na odredbe članka 45. stavaka 1. i 2. ovoga Zakona.
(4) Operatori iz stavka 1. ovoga članka provode obvezu zadržavanja podataka tako da se zadržani podaci, zajedno sa svim drugim potrebnim i s njima povezanim podacima, mogu bez odgode dostaviti nadležnom tijelu iz članka 52. stavka 1. ovoga Zakona.
(5) Operatori iz stavka 1. ovoga članka moraju primjenjivati sljedeća načela sigurnosti zadržanih podataka:
1. zadržani podaci moraju biti jednake kakvoće i podvrgnuti jednakim mjerama sigurnosti i zaštite kao i podaci u elektroničkoj komunikacijskoj mreži operatora
2. zadržani podaci moraju biti zaštićeni na prikladan način od slučajnog ili nezakonitog uništenja, slučajnog gubitka ili izmjene, neovlaštene ili nezakonite pohrane, obrade, pristupa ili razotkrivanja
3. u slučaju kada se zadržani podaci ne upotrebljavaju u svrhe utvrđene člankom 45. ovoga Zakona, pristup zadržanim podacima mora se ograničiti isključivo na ovlaštene osobe nadležnih tijela iz članka 48. stavka 4. i članka 52. stavka 1. ovoga Zakona
4. zadržani podaci moraju se uništiti nakon isteka razdoblja zadržavanja iz stavka 3. ovoga članka, osim podataka koji su bili obrađeni i pohranjeni za potrebe nadležnih tijela iz članka 48. stavka 4. i članka 52. stavka 1. ovoga Zakona.
(6) U svrhu primjene načela sigurnosti zadržanih podataka iz stavka 5. ovoga članka operatori iz stavka 1. ovoga članka moraju o vlastitom trošku osigurati sve potrebne tehničke i ustrojstvene mjere.
(7) Nadzor nad primjenom načela sigurnosti zadržanih podataka iz stavka 5. ovoga članka i prikupljanje statističkih pokazatelja o zadržanim podacima pobliže se propisuju posebnim propisom koji uređuje obveze iz područja nacionalne sigurnosti za pravne i fizičke osobe u elektroničkim komunikacijama.
(8) Operatori iz stavka 1. ovoga članka obvezni su ustrojiti postupke u svrhu ispunjavanja obveza iz ovoga članka, te u primjerenom roku dostaviti nadležnom tijelu iz članka 52. stavka 1. ovoga Zakona, na njegov zahtjev, podatke o ustrojenim postupcima, broju zaprimljenih zahtjeva, pravnom temelju za podnošenje zahtjeva i vrsti dostavljenih podataka na temelju zaprimljenih zahtjeva.

(2) The operators referred to in paragraph 1 of this article are obliged to keep the data referred to in paragraph 1 of this article in their original form or as data processed during the performance of activities of electronic communication networks and services. Operators have no obligation to retain data from paragraph 1 of this article that they did not produce or process.
(3) The operators referred to in paragraph 1 of this article are obliged to keep the data referred to in paragraph 1 of this article for a period of twelve months from the date of communication, regardless of the provisions of Article 45, paragraphs 1 and 2 of this Act.
(4) The operators referred to in paragraph 1 of this article implement the obligation to retain data so that the retained data, together with all other necessary and related data, can be submitted without delay to the competent authority referred to in article 52, paragraph 1 of this Act.
(5) Operators from paragraph 1 of this article must apply the following principles of security of retained data:
1. the retained data must be of the same quality and subject to the same security and protection measures as the data in the operator's electronic communication network
2. retained data must be adequately protected against accidental or unlawful destruction, accidental loss or alteration, unauthorized or unlawful storage, processing, access or disclosure
3. in the event that the retained data is not used for the purposes specified in Article 45 of this Act, access to the retained data must be limited exclusively to authorized persons of the competent authorities from Article 48, paragraph 4 and Article 52, paragraph 1 of this Act
4. retained data must be destroyed after the expiration of the retention period referred to in paragraph 3 of this article, except for data that was processed and stored for the purposes of the competent authorities referred to in Article 48, paragraph 4 and Article 52, paragraph 1 of this Act.
(6) For the purpose of applying the principle of security of retained data from paragraph 5 of this article, operators from paragraph 1 of this article must provide all necessary technical and organizational measures at their own expense.
(7) Supervision of the application of the principle of security of retained data from paragraph 5 of this article and the collection of statistical indicators on retained data are prescribed in more detail by a special regulation that governs obligations in the field of national security for legal and natural persons in electronic communications.
(8) Operators referred to in paragraph 1 of this Article are obliged to organize procedures for the purpose of fulfilling the obligations referred to in this Article, and to submit to the competent authority referred to in Article 52 paragraph 1 of this Act, upon its request, within an appropriate period, data on the procedures established, the number of received

request, the legal basis for submitting the request and the type of data submitted based on the requests received.

Types of data retained
Article 54[154]
(1) The obligation to retain data from Article 53 of this Act includes the following permanent and temporary types of data:
- data necessary for monitoring and determining the source of communication
- data necessary to determine the destination of the communication
- data necessary to determine the date, time and duration of the communication
- data necessary to determine the type of communication
- data necessary to determine the user's communication equipment or equipment that is considered to be the user's communication equipment
- data needed to determine the location of mobile communication equipment.

(2) Retained data from paragraph 1 of this article also includes data related to unsuccessful calls, whereby there is no obligation to retain data on calls that were not established at all.
(3) Retention of data revealing the content of the communication is prohibited.
(4) More detailed specifications on certain types of retained data from paragraph 1 of this article are determined by a special regulation that governs obligations in the field of national security for legal and natural persons in electronic communications.

[154] Vrste zadržanih podataka

Članak 54
(1) Obveza zadržavanja podataka iz članka 53. ovoga Zakona obuhvaća sljedeće stalne i privremene vrste podataka:
− podatke potrebne za praćenje i utvrđivanje izvora komunikacije
− podatke potrebne za utvrđivanje odredišta komunikacije
− podatke potrebne za utvrđivanje nadnevka, vremena i trajanja komunikacije
− podatke potrebne za utvrđivanje vrste komunikacije
− podatke potrebne za utvrđivanje korisničke komunikacijske opreme ili opreme koja se smatra korisničkom komunikacijskom opremom
− podatke potrebne za utvrđivanje lokacije pokretne komunikacijske opreme.
(2) Zadržani podaci iz stavka 1. ovoga članka obuhvaćaju i podatke koji se odnose na neuspješne pozive, pri čemu nema obveze zadržavanja podataka o pozivima koji uopće nisu bili uspostavljeni.
(3) Zabranjeno je zadržavanje podataka koji otkrivaju sadržaj komunikacije.
(4) Podrobnije odrednice o pojedinim vrstama zadržanih podataka iz stavka 1. ovoga članka utvrđuju se posebnim propisom koji uređuje obveze iz područja nacionalne sigurnosti za pravne i fizičke osobe u elektroničkim komunikacijama.

ee. Para. 1(e) Interception of electronic communications to and from the suspect or accused person

2. Special evidentiary actions

Article 332 (Official Gazette 145/13) (1) If the investigation of criminal offenses could not be carried out in any other way or would be possible only with disproportionate difficulties, at the written and reasoned request of the state attorney, the judge of the investigation may against a person for whom there are grounds for suspicion that he committed the crime alone or together with others to persons who participated in the criminal offense referred to in Article 334 of this Act, by means of a written, reasoned order, determine special evidentiary actions that temporarily limit certain constitutional rights of citizens, namely:

1) monitoring and technical recording of telephone conversations and other remote communications,

2) interception, collection and recording of computer data,

3) entry into the premises for the purpose of conducting surveillance and technical recording of the premises,

4) secret monitoring and technical recording of persons and objects,

5) the use of undercover investigators and confidants,

6) simulated sale and purchase of objects and simulated giving of bribes and simulated receiving of bribes,

7) providing simulated business services or entering into simulated legal transactions,

8) supervised transportation and delivery of objects of the criminal offense.

(2) Exceptionally, if there is a risk of delay and if the state attorney has reason to believe that he will not be able to obtain the order of the investigating judge in time, the order from paragraph 1 of this article may be issued by the state attorney within twenty-four hours.

(3) The state attorney cannot issue an order from paragraph 2 of this article for special evidentiary actions from:

- paragraph 1, point 2) of this article, if the method of execution of that action requires entry into the home, or remote entry into the suspect's computer located in his home,

(4) The state attorney must submit the order with the date of issuance and the letter explaining the reasons for its issuance to the investigating judge within eight hours of issuance. At the same time, if he believes that it is necessary to continue with the implementation of a special evidentiary action, he will submit a written reasoned request for its further implementation to the judge of the investigation. Immediately after receiving the warrant and letter, the investigative judge examines whether the conditions for issuing the warrant existed and whether there was a risk of delay from paragraph 2 of this article.

(5) The judge of the investigation decides with a decision on the legality of the state attorney's order. If the investigating judge approves the state attorney's order, and the state attorney has filed a request for further evidentiary proceedings, he will proceed according to paragraph 1 of this article. If the judge of the investigation does not agree with the state attorney's order, he will request that the council make a decision on it. If further performance of the evidentiary action determined according to paragraph 2 of this article is required, it shall continue until the council's decision. The Council decides on the request of the investigating judge within twelve hours of receiving the request. If the council confirmed the state attorney's order, and the state attorney demanded further evidence, the council will issue the order from paragraph 1 of this article. If the council does not approve the order, in the decision it will order that the actions be stopped immediately, and the data collected on the basis of the state attorney's order will be handed over to the investigating judge, who will destroy them. The judge of the investigation draws up a report on the destruction of data.
(6) Special evidentiary actions referred to in Article 332, paragraph 1, point 3 of this Act, when it is necessary to enter the home for the purpose of its implementation, are determined exclusively by order of the court, which is obliged to take into account the proportional limitation of the right to inviolability of personal and family life.
(7) Actions from Point 1, Paragraph 1 of this Article may also be imposed on persons for whom there are grounds for suspicion that they are transmitting communications and messages related to the offense to or from the perpetrator of the criminal offenses referred to in Article 334 of this Act, that is, that the perpetrator serves their connections to the telephone or other telecommunications device, which hide the perpetrator of the criminal offense or by concealing the means with which the criminal offense was committed, traces of the criminal offense or objects created or obtained by the criminal offense or in some other way help him not to be discovered.
(8) Under the conditions from paragraph 1 of this article, the actions from paragraph 1, points 1, 2, 3, 4, 6, 7 and 8 of this article may, with the written consent of the person, be applied to assets, premises and objects of that person.
(9) In the event that there is no knowledge of the identity of the participant in the criminal act, the action referred to in paragraph 1, point 8 of this article may be determined according to the subject of the criminal act.
(10) The execution of the actions referred to in paragraph 1, points 5 and 6 of this article must not constitute an incitement to commit a criminal offense.

c) Para. 2: Specific restrictions in national law that apply regarding certain categories of persons or professionals with an LLP obligation, Article 29

Without prejudice to Article 29, the investigation measures set out in paragraph 1 of this Article may be subject to ***conditions in accordance with the applicable national law if the national law contains specific restrictions that apply with regard to certain categories of persons or professionals who are legally bound by an obligation of confidentiality.***

aa. In Confiscation Cases: General Situations (defence counsel, media…)

Article 262[155] **(Official Gazette 76/09, 143/12, 140/13)**

(1) The following ***are not subject to temporary confiscation:***

1) files and other documents of state bodies, the publication of which would violate the obligation of secrecy until the competent authority decides otherwise,

2) written communications from the defendant to the defence counsel, unless the defendant requests otherwise,

[155] **Članak 262 (NN 76/09, 143/12, 140/13)**

(1) Privremenom oduzimanju ne podliježu:

1) spisi i druge isprave državnih tijela čije bi objavljivanje povrijedilo obvezu tajnosti dok nadležno tijelo ne odluči drukčije,

2) pisana priopćenja okrivljenika branitelju, osim ako okrivljenik ne zahtijeva drukčije,

3) snimke i privatni dnevnik pronađeni kod osoba iz članka 285. stavka 1. točke 1. do 3. ovog Zakona, koje su te osobe snimile ili napisale, a sadrže snimke ili zapise o činjenicama o kojima su te osobe oslobođene dužnosti svjedočenja,

4) zapisi, izvodi iz registara i slične isprave koje se nalaze kod osoba iz članka 285. stavka 1. točka 4. ovog Zakona, sastavljeni o činjenicama koje su u obavljanju svoga zanimanja te osobe saznale od okrivljenika,

5) zapisi o činjenicama koje su sastavili novinari i urednici u sredstvima javnog priopćavanja o izvorima obavijesti i podataka za koje su saznali u obavljanju svoga zanimanja i koji su uporabljeni prilikom uređivanja sredstava javnog priopćavanja, a koji se nalaze u njihovom posjedu ili u uredništvu u kojem su zaposleni.

(2) Zabrana privremenog oduzimanja predmeta, isprava i tehničkih snimki iz stavka 1. točke 2. do 5. ovog članka, ne primjenjuje se:

1) u pogledu branitelja ili osobe oslobođene obveze svjedočenja prema članku 285. stavku 1. ovog Zakona ako postoji vjerojatnost da su okrivljeniku pomogli u počinjenju kaznenog djela, pružili mu pomoć nakon počinjenja kaznenog djela ili postupali kao prikrivatelji,

2) u pogledu novinara i urednika u sredstvima javnog priopćavanja ako postoji vjerojatnost da su okrivljeniku pomogli u počinjenju kaznenog djela, pružili mu pomoć nakon počinjenja kaznenog djela ili postupali kao prikrivatelji kaznenog djela, te za kaznena djela iz članka 305. i 305.a Kaznenog zakona (»Narodne novine«, br. 110/97., 27/98., 50/00., 129/00., 51/01., 111/03., 190/03., 105/04., 84/05., 71/06., 110/07., 152/08., 57/11. i 77/11.) odnosno za kaznena djela iz članka 307. i 308. Kaznenog zakona,

3) ako se radi o predmetima koji se imaju oduzeti prema zakonu.

(3) O vjerojatnosti pružanja pomoći u kaznenom djelu iz stavka 2. ovog članka, na zahtjev državnog odvjetnika, do podizanja optužnice odlučuje rješenjem sudac istrage. Sudac istrage donosi rješenje u roku od 24 sata nakon podnošenja zahtjeva državnog odvjetnika. O žalbi protiv rješenja suca istrage odlučuje vijeće. Nakon podizanja optužnice odlučuje sud pred kojim se vodi postupak. Žalba protiv odluke optužnog vijeća i raspravnog suda nije dopuštena.

(4) Zabrana privremenog oduzimanja predmeta, isprava i snimki iz stavka 1. točke 2. do 5. ovog članka, ne primjenjuje se u predmetima kaznenih djela kaznenopravne zaštite djece.

(5) Državni odvjetnik, istražitelj ili policija, mogu oduzeti predmete prema stavku 1., 2. i 3. ovog članka i kad provode izvide kaznenih djela ili kad istražitelj ili policija izvršavaju nalog suda.

(6) Pri oduzimanju predmeta u zapisniku će se naznačiti gdje je pronađen i opisat će se, a po potrebi i na drugi način osigurati utvrđivanje njegove istovjetnosti. Za privremeno oduzeti predmet izdat će se potvrda.

3) recordings and private diaries found with persons referred to in Article 285, paragraph 1, points 1 to 3 of this Act, which were recorded or written by these persons, and contain recordings or records of facts about which these persons are exempted from the duty to testify,
4) records, excerpts from registers and similar documents found in the possession of persons referred to in Article 285, paragraph 1, point 4 of this Act, compiled on facts that those persons learned from the defendant in the course of their occupation,
5) records of facts compiled by journalists and editors in the means of public communication about the sources of information and data that they learned about in the performance of their profession and which were used when editing the means of public communication, and which are in their possession or in the editorial office where are employed.
(2) The ban on temporary confiscation of objects, documents and technical recordings from paragraph 1, points 2 to 5 of this article does not apply:
1) with regard to defence counsel or a person exempted from the obligation to testify according to Article 285, paragraph 1 of this Act, if there is a probability that they helped the defendant in committing a criminal offense, provided assistance to him after the commission of a criminal offense or acted as cover -ups,
2) with regard t*o journalists and editors in the media* if there is a probability that they helped the defendant in committing a criminal offense, provided assistance to him after the commission of a criminal offense or acted as a concealer of a criminal offense, and for criminal offenses from Articles 305 and 305a of the Criminal Code of the law ("Official Gazette", no. 110/97, 27/98, 50/00, 129/00, 51/01, 111/03, 190/03, 105/04, 84/05., 71/06., 110/07., 152/08., 57/11. and 77/11.) or for criminal offenses from Articles 307 and 308 of the Criminal Code,
3) if it is about objects that have to be confiscated according to the law.
(3) On the likelihood of providing assistance in the criminal offense referred to in paragraph 2 of this article, at the request of the state attorney, until the indictment is filed, the judge of the investigation decides with a decision. The judge of the investigation makes a decision within 24 hours after the submission of the state attorney's request. The panel decides on the appeal against the decision of the investigating judge. After the indictment is filed, the court before which the proceedings are conducted decides. An appeal against the decision of the indictment panel and trial court is not allowed.
(4) The ban on temporary confiscation of objects, documents and recordings from paragraph 1, points 2 to 5 of this article does not apply in cases of criminal offenses of child protection.
(5) The state attorney, investigator or the police may confiscate items according to paragraphs 1, 2 and 3 of this article when they are investigating criminal offenses or when the investigator or the police are executing a court order.

(6) When confiscating an item, the record shall indicate where it was found and describe it, and if necessary, ensure that its identity is established in another way. A certificate will be issued for the temporarily confiscated item.
(7) An item confiscated contrary to the provisions of paragraph 1 of this article cannot be used as evidence in the proceedings.

bb. In Confiscation Cases: Special Situations

Article 264[156]
(1) State bodies may refuse to show and hand over their files and documents, if it is secret information according to a special law (classified information).
(2) Legal entities may request that data related to their business not be published.
(3) The decision to declassify the data referred to in paragraph 1 of this article is made by the state body at the request of the state attorney or the court.
(4) The decision to publish the data referred to in paragraph 2 of this article shall be made by decision of the judge of the investigation or the court before which the hearing is conducted, based on the reasoned proposal of the state attorney. An appeal against the decision of the court before which the hearing is held is not allowed.

d) Para. 3: Conditions/Thresholds for investigation measures

The investigation measures set out in points(c), (e) and (f) of paragraph 1 of this Article may be subject to ***further conditions, including limitations, provided for in the applicable national law. In particular, Member States may limit the application of points (e) and (f) of paragraph 1 of this Article to specific serious offences. A Member State intending to make use of such limitation shall notify the EPPO of the relevant list of specific serious offences in accordance with Article 117.***

aa. Conditions and Limitations for investigation measures of Para. 1(c), (e) and (f)

E.g. a **bank secrecy** may hinder the prosecutors to obtain certain information. These kind of rights of suspects or persons concerned are considered limitations and conditions for certain investigation measures that are protected by the constitutional rights of the person. The Union legislator has therefore opted to respect in accordance with ECtHR law that these protections ensure the equality of arms. **21**

[156] **Članak 264** (1) Državna tijela mogu uskratiti pokazivanje i predaju svojih spisa i isprava, ako se radi o tajnom podatku prema posebnom zakonu (klasificirani podatak).
(2) Pravne osobe mogu tražiti da se ne objavljuju podaci koji se odnose na njihovo poslovanje.
(3) Odluku o deklasificiranju podatka iz stavka 1. ovog članka donosi državno tijelo na zahtjev državnog odvjetnika ili suda.

22 **Article 265**[157]

(1) If the provision of information that is a bank secret is withheld, at the reasoned request of the state attorney, the court may issue a decision on the provision of such information. In the decision, the court determines the deadline by which the bank must provide the information.

(2) If it is likely that a certain person receives, keeps or otherwise disposes of income from a criminal offense in his bank accounts, and that income is important for the investigation of that criminal offense or is subject to compulsory confiscation according to the law, the state attorney shall, with a reasoned request to the court, propose to order the bank to deliver to the state attorney information about these accounts and income. The request contains information about the legal or physical person who holds or disposes of these funds or income. The description of the income must include the currency designation, but not its exact amount if it is not known. In the decision, the court determines the deadline in which the bank must act on it.

(3) Before the beginning and during the investigation, the decision on the state attorney's request from paragraphs 1 and 2 of this article is made by the judge of the investigation, after the indictment is filed by the indictment panel, and after its finality by the court before which the hearing is to be held.

[157] **Članak 265** (1) Ako je uskraćeno davanje podataka koji su bankovna tajna, na obrazloženi zahtjev državnog odvjetnika, sud može izdati rješenje o davanju tih podataka. U rješenju sud određuje rok u kojemu banka mora dati podatke.
(2) Ako je vjerojatno da određena osoba na svojim bankovnim računima prima, drži ili na drugi način raspolaže s prihodima ostvarenim kaznenim djelom, a taj je prihod važan za istragu tog kaznenog djela ili prema zakonu podliježe prisilnom oduzimanju, državni odvjetnik će, obrazloženim zahtjevom sudu, predložiti da naloži banci dostavu državnom odvjetniku podataka o tim računima i prihodima. Zahtjev sadrži podatke o pravnoj ili fizičkoj osobi koja ta sredstva, ili prihode drži, ili s njima raspolaže. Opis prihoda mora sadržavati oznaku valute, ali ne i njezin točan iznos ako nije poznat. U rješenju sud određuje rok u kojemu banka mora po njemu postupiti.
(3) Prije početka i tijekom istrage odluku o zahtjevu državnog odvjetnika iz stavka 1. i 2. ovoga članka, donosi sudac istrage, nakon podizanja optužnice optužno vijeće, a nakon njezine pravomoćnosti sud pred kojim se ima održati rasprava.
(4) Sudac istrage odlučuje o zahtjevu državnog odvjetnika iz stavka 1. i 2. ovog članka rješenjem odmah, a najkasnije u roku od dvanaest sati od primitka zahtjeva. Ako sudac istrage odbije zahtjev, državni odvjetnik može podnijeti žalbu u roku od dvanaest sati. O žalbi odlučuje vijeće u roku od dvadeset četiri sata. Protiv rješenja suda donesenog nakon podizanja optužnice nije dopuštena žalba.
(5) Ako postoje okolnosti iz stavka 2. i 3. ovog članka, na obrazloženi prijedlog državnog odvjetnika, sudac istrage može rješenjem naložiti banci ili drugoj pravnoj osobi da prati platni promet i transakcije na računima određene osobe, te da za vrijeme određeno rješenjem o praćenju platnog prometa redovito izvješćuje državnog odvjetnika.
(6) Mjere praćenja platnog prometa mogu trajati najdulje godinu dana. Čim prestanu razlozi praćenja državni odvjetnik je dužan obavijestiti suca istrage koji rješenjem obustavlja praćenje. Ako državni odvjetnik odustane od kaznenog progona ili ako prikupljeni podaci nisu potrebni za kazneni postupak, uništit će se podaci o praćenju pod nadzorom suca istrage koji o tome sastavlja posebni zapisnik. Rješenje o praćenju državni odvjetnik dostavlja osobi protiv koje je bilo naloženo, uz optužnicu ili uz odluku o odustajanju od kaznenog progona.
(7) O postupanju prema stavku 1. do 5. ovog članka banka ili druga pravna osoba ne smije davati obavijesti ili podatke.
(8) Za postupanje protivno stavku 1. do 5. ovog članka sudac istrage će na obrazloženi prijedlog državnog odvjetnika rješenjem kazniti banku novčanom kaznom do 1.000 000,00 kuna te odgovornu osobu u banci ili drugoj pravnoj osobi novčanom kaznom u iznosu do 200.000,00 kuna. Ako i nakon toga ne izvrši nalog može se odgovorna osoba kazniti zatvorom do izvršenja, a najdulje mjesec dana. Žalba protiv rješenja o novčanoj kazni i zatvoru ne zadržava izvršenje rješenja.

(4) The investigating judge decides on the state attorney's request from paragraphs 1 and 2 of this article with a decision immediately, and no later than within twelve hours of receiving the request. If the investigating judge rejects the request, the state attorney can file an appeal within twelve hours. The panel decides on the appeal.

bb. Serious offences Limitation for offences of Para. 1(e) and (f)

Article 334 of the Croatian Criminal Procedure Code presents serious offences and limitations for offences. **23**

cc. Notifications according to the last sentence of Para. 3

The Croatian Government has as well reported restrictions to the EPPO. **24**

e) Para. 4: Any other measure(s) in the EDP's Member State

The European Delegated Prosecutors shall be entitled to request or to ***order any other measures in their Member State that are available to prosecutors under national law in similar national cases,*** *in addition to the measures referred to in paragraph 1.*

aa. Special rules on special searches

(1) Aircrafts and dangerous situations inside and onside means of transport

Article 258[158] **25**

If the search must be carried out on a ship or aircraft, the search warrant shall be delivered to the master of the ship or aircraft who will be present at the search.

Article 259[159] **(Official Gazette 76/09)**

(1) When searching a means of transport, dangerous, toxic, flammable and similar things or means, the person who manages or disposes of such a thing is obliged, at the request of the body conducting the search, to take the necessary measures for the safe and undisturbed conduct of the search. For failure to comply with the request, the investigating judge will, on the reasoned proposal of the state attorney, fine that person in the amount of up to HRK 50,000.00, and if he does not comply with the request even after that, he may be sentenced to prison until the request is fulfilled, for a maximum of one month.

[158] **Članak 258** Ako se pretraga mora poduzeti na brodu ili zrakoplovu, nalog o pretrazi će se dostaviti zapovjedniku broda ili zrakoplova koji će biti prisutan pretrazi.

[159] **Članak 259 (NN 76/09)** (1) Kod pretrage prijevoznog sredstva, opasne, otrovne, lako upaljive i slične stvari ili sredstva, osoba koja upravlja ili raspolaže takvom stvari dužna je na zahtjev tijela koje provodi pretragu poduzeti mjere neophodne za sigurno i neometano provođenje pretrage. Za neizvršavanje zahtjeva sudac istrage će na obrazloženi prijedlog državnog odvjetnika tu osobu kazniti novčanom kaznom u iznosu do 50.000,00 kuna, a ako i nakon toga ne postupi po zahtjevu može se kazniti zatvorom do izvršenja zahtjeva, a najdulje mjesec dana. Žalba protiv rješenja o novčanoj kazni i zatvoru ne zadržava izvršenje rješenja. Tijelo koje provodi pretragu prije poduzimanja pretrage upozoriti će osobe iz stavka 1. ovog članka, na posljedice koje proizlaze iz odbijanja postupanja po zahtjevu. Okrivljenik se ne može kazniti. (2) Tijelo koje provodi pretragu iz stavka 1. ovog članka, može radi poduzimanja mjera neophodnih za neometano provođenje pretrage imenovati stručnu osobu.

An appeal against a decision on a fine and imprisonment does not delay the execution of the decision. Before undertaking the search, the body conducting the search will warn the persons referred to in paragraph 1 of this article about the consequences of refusing to act on the request. The defendant cannot be punished.
(2) The body that conducts the search referred to in paragraph 1 of this article may appoint an expert in order to take measures necessary for the smooth conduct of the search.

(2) Bank safes

26 **Article 260**[160] **(Official Gazette 76/09, 80/11)**
(1) If it is probable that in the bank safe there are objects committed by a criminal offense or intended to commit a criminal offense for which a prison sentence of at least three years is prescribed, and these objects are important for criminal proceedings or are subject to compulsory confiscation according to the law, the state attorney will submit a written reasoned request that the court order the bank to provide access to the safe and issue a search warrant (Article 242, paragraph 1). If the court deems the state attorney's request well-founded, it will issue a decision prohibiting the disposition of the items in the safe and set a deadline by which the bank must act on it, and issue a search warrant. The provisions of Articles 242 and 243 of this Act shall be applied accordingly. Before the confirmation of the indictment, the decision on the state attorney's request is made by the investigating judge, and after the confirmation of the indictment, the court before which the hearing is to be held. If the court deems the state attorney's proposal unfounded, it issues a decision rejecting the request. The state attorney has the right to appeal against the decision of the investigating judge within eight hours. The council makes a decision on the appeal within twelve hours.
(2) A person who, without justifiable reason, does not act according to the decision from paragraph 1 of this article, will be punished by the investigating judge according to article 259, paragraph 1 of this article.

[160] **Članak 260 (NN 76/09, 80/11)**
(1) Ako je vjerojatno da su u bankovnom sefu predmeti ostvareni kaznenim djelom ili namijenjeni počinjenju kaznenog djela za koje je propisana kazna zatvora najmanje tri godine, a ti su predmeti važni za kazneni postupak ili prema zakonu podliježu prisilnom oduzimanju, državni odvjetnik će podnijeti pisani obrazloženi zahtjev da sud naloži banci omogućavanje pristupa sefu te izdavanje naloga za pretragu (članak 242. stavak 1.). Ako sud zahtjev državnog odvjetnika ocijeni osnovanim, rješenjem će zabraniti raspolaganje predmetima u sefu i odrediti rok u kojem banka mora po njemu postupiti, te izdati nalog za pretragu. Na odgovarajući način se primjenjuju odredbe članka 242. i 243. ovog Zakona. Prije potvrđivanja optužnice rješenje o zahtjevu državnog odvjetnika donosi sudac istrage, a nakon potvrđivanja optužnice, sud pred kojim se ima održati rasprava. Ako sud prijedlog državnog odvjetnika ocijeni neosnovanim, donosi rješenje kojim odbija zahtjev. Protiv rješenja suca istrage državni odvjetnik ima pravo žalbe u roku od osam sati. Vijeće donosi odluku o žalbi u roku od dvanaest sati.
(2) Osobu koja bez opravdanog razloga ne postupi prema rješenju iz stavka 1. ovog članka, sudac istrage će kazniti prema članku 259. stavku 1. ovog članka.

bb. Obtaining Expertise, Articles 308–329 CPC

8. Expertise 27
Article 308
An expert opinion is determined when, in order to determine or evaluate an important fact, a finding and opinion must be obtained from a person who possesses the necessary professional knowledge or skill.

Article 309
(1) Expert examination is determined by a written order by the body leading the procedure. The order will specify the facts with which the expert opinion is conducted and to whom it is entrusted. The order is also delivered to the parties.
(2) If there is an expert institution or state body for a certain type of expert examination, such expert examinations, especially more complex ones, will, as a rule, be entrusted to such an institution or body. The institution or body appoints one or more experts who will perform the expert examination.
(3) As a rule, one expert is appointed, and if the expert examination is complex, two or more experts.
(4) If there are experts permanently appointed by the court for any type of expert examination, other experts may be appointed only if there is a risk of delay, or if the permanent experts are prevented, or if other circumstances require it.

f) Para. 5: National Procedures and national modalities for taking investigative measures

The European Delegated Prosecutors may only order the measures referred to in paragraphs 1 and 4 where there are reasonable grounds to believe that the specific measure in question might provide information or evidence useful to the investigation, and where there is no less intrusive measure available which could achieve the same objective. ***The procedures and the modalities for taking the measures shall be governed by the applicable national law.***

aa. For searches, Article 251 et seq.

Article 253[161] (1) Before the search of the home, the person to whom the search warrant applies will be informed that he has the right to inform the defender who can be present during the search. 28

[161] **Članak 253** (1) Prije pretrage doma, osoba na koju se odnosi nalog o pretrazi poučit će se da ima pravo izvijestiti branitelja koji može biti prisutan pretrazi.
(2) Tijelo koje provodi pretragu omogućit će toj osobi da uzme branitelja po vlastitom izboru i u tu svrhu zastati s pretragom do dolaska branitelja, a najkasnije do tri sata od kad je osoba izjavila da želi uzeti branitelja. Ako je iz okolnosti vidljivo da izabrani branitelj u tom roku ne može doći, tijelo koje provodi pretragu će omogućiti osobi da uzme branitelja s liste dežurnih odvjetnika koju za područje županije sastavlja Hrvatska odvjetnička komora i

(2) The body conducting the search will enable that person to take a defender of his own choice and for this purpose stop the search until the arrival of the defender, and no later than three hours after the person declared that he wants to take a defender. If it is evident from the circumstances that the chosen defender cannot come within that period, the body conducting the search will allow the person to take a defender from the list of lawyers on duty, which is drawn up by the Croatian Bar Association for the area of the county and delivered to the state attorney and the competent police administrations along with a report to the investigating judge. The time spent during the search of the home is not counted in the legal term of arrest referred to in Article 109, paragraph 2 of this Act. The body conducting the search will indicate the time of the stop in the search report.
(3) If the person does not take a defender or the summoned defender does not come within that period, the body can search the home.

Article 254[162]
(1) The search of the home or other premises may be attended by a person who owns or resides in the premises or a person authorized by these persons to attend the search.
(2) Searches of homes or other premises must be attended by at least two adult citizens as witnesses.
(3) Before the start of the search, the witnesses will be warned to be careful how the search is conducted and that they have the right to make comments before signing the search report if they believe that the search was not conducted in the manner prescribed in this Law or that the content of the report is not correct.

dostavlja državnom odvjetniku i nadležnim policijskim upravama uz izvješće sucu istrage. Vrijeme zastajanja s pretragom doma ne računa se u zakonski rok dovođenja iz članka 109. stavka 2. ovog Zakona. Tijelo koje provodi pretragu će u zapisniku o pretrazi naznačiti vrijeme zastajanja.
(3) Ako osoba ne uzme branitelja ili pozvani branitelj u tom roku ne dođe, tijelo može provesti pretragu doma.

[162] **Članak 254** (1) Pretrazi doma ili drugih prostora može biti prisutna osoba koja je u posjedu prostora ili boravi u njemu ili osoba koju te osobe ovlaste da prisustvuje pretrazi.
(2) Pretrazi doma ili drugih prostora moraju biti prisutna najmanje dva punoljetna građanina kao svjedoci.
(3) Svjedoci će se prije početka pretrage upozoriti da paze kako se pretraga obavlja te da imaju pravo prije potpisivanja zapisnika o pretrazi staviti svoje primjedbe ako smatraju da pretraga nije provedena na način propisan u ovom Zakonu ili da sadržaj zapisnika nije točan.
(4) Kad se pretraga obavlja u prostoru državnog tijela, pozvat će se njihov predstavnik koji može biti prisutan pretrazi.
(5) Kad se pretraga obavlja u prostoru druge pravne osobe, pozvat će se njihov predstavnik koji može biti prisutan pretrazi.

bb. Confiscation-related rules

Article 267[163] **29**

(1) Files or documents that are temporarily confiscated because they can be used as evidence shall be listed. If this is not possible, the files or documents will be placed in an envelope and sealed. The person from whom the file or document is temporarily confiscated can put his stamp and signature on the cover.
(2) The envelope is opened by the state attorney. When reviewing files or documents, care must be taken to ensure that their contents do not become known to unauthorized persons. A report will be drawn up on the opening of the package.
(3) The person from whom the documents or documents were confiscated will be invited to be present at the opening of the envelope. If she does not respond to the summons or is absent, the envelope will be opened, the files or documents will be examined and listed in her absence.

Article 270[164] (Official Gazette 70/17)
(1) Temporarily confiscated items must be returned as soon as they are no longer needed for further proceedings, unless they are subject to the provisions on confiscation according to the law or if there are no longer any legal reasons for the application of the measure from Article 266, paragraph 2 of this Act.
(2) The state attorney and the court monitor ex officio the existence of reasons for keeping temporarily confiscated items.

[163] **Članak 267** (1) Spisi ili isprave koji se privremeno oduzimaju jer mogu poslužiti kao dokaz, će se popisati. Ako to nije moguće, spisi ili isprave će se staviti u omot i zapečatiti. Osoba od koje se privremeno oduzima spis ili isprava može na omot staviti svoj pečat i potpis.
(2) Omot otvara državni odvjetnik. Pri pregledavanju spisa ili isprave mora se paziti da njihov sadržaj ne saznaju neovlaštene osobe. O otvaranju omota će se sastaviti zapisnik.
(3) Osoba od koje su spisi ili isprava oduzeti pozvat će se da bude na otvaranju omota. Ako se ona ne odazove pozivu ili je odsutna, omot će se otvoriti, spisi ili isprave pregledati i popisati u njezinoj odsutnosti.

[164] **Članak 270 (NN 70/17)** (1) Privremeno oduzeti predmeti moraju biti vraćeni čim više nisu potrebni za daljnje vođenje postupka, osim ako ne podliježu odredbama o oduzimanju prema zakonu ili ako prestanu postojati zakonski razlozi za primjenu mjere iz članka 266. stavka 2. ovog Zakona.
(2) Državni odvjetnik i sud paze po službenoj dužnosti na postojanje razloga za držanje privremeno oduzetih predmeta.

2. Article 31 Cross-border investigations

1. The European Delegated Prosecutors shall act in close cooperation by assisting and regularly consulting each other in cross-border cases. Where a measure needs to be undertaken in a Member State other than the Member State of the handling European Delegated Prosecutor, the latter European Delegated Prosecutor ***shall decide on the adoption of the necessary measure and assign it to a European Delegated Prosecutor*** located in the Member State where the measure needs to be carried out.
2. The handling European Delegated Prosecutor may assign any measures, which are available to him/her in accordance with Article 30. **The justification and adoption of such measures shall be governed by the law of the Member States' of the handling European Delegated Prosecutor.** Where the handling European Delegated Prosecutor assigns an investigation measure to one or several European Delegated Prosecutors from another Member State, he/she shall at the same time inform his supervising European Prosecutor.
3. If judicial authorisation for the measure is required under the law of the Member State of the assisting European Delegated Prosecutor, the assisting European Delegated Prosecutor shall obtain that authorisation in accordance with the law of that Member State. If judicial authorisation for the assigned measure is refused, the handling European Delegated Prosecutor shall withdraw the assignment.
However, where the law of the Member State of the assisting European Delegated Prosecutor does not require such a judicial authorisation, but the law of the Member State of the handling European Delegated Prosecutor requires it, ***the authorisation shall be obtained by the latter European Delegated Prosecutor and submitted together with the assignment***.
4. The assisting European Delegated Prosecutor shall undertake the assigned measure, or instruct the competent national authority to do so.

5. Where the assisting European Delegated Prosecutor considers that:
(a) the assignment is incomplete or contains a manifest relevant error;
(b) the measure cannot be undertaken within the time limit set out in the assignment for justified and objective reasons;
(c) an alternative but less intrusive measure would achieve the same results as the measure assigned; or
(d) the assigned measure does not exist or would not be available in a similar domestic case under the law of his/her Member State,
he/she shall inform his supervising European Prosecutor and consult with the handling European Delegated Prosecutor in order to resolve the matter bilaterally.
6. If the assigned measure does not exist in a purely domestic situation, but would be available in a cross-border situation covered by legal instruments on mutual recognition or cross-border cooperation, the European Delegated Prosecutors concerned may, in agreement with the supervising European Prosecutors concerned, have recourse to such instruments.
7. If the European Delegated Prosecutors cannot resolve the matter within 7 working days and the assignment is maintained, the matter shall be referred to the competent Permanent Chamber. The same applies where the assigned measure is not undertaken within the time limit set out in the assignment or within a reasonable time.
8. The competent Permanent Chamber shall to the extent necessary hear the European Delegated Prosecutors concerned by the case and then decide without undue delay, **in accordance with applicable national law** as well as this Regulation, whether and by when the assigned measure needed, or a substitute measure, shall be undertaken by the assisting European Delegated Prosecutor, and communicate this decision to the said European Delegated Prosecutors through the competent European Prosecutor.

a) Overview of general national codes and provisions

First of all, the handling EDP from Croatia will need to determine the Member State that relates to his/her investigations. Potentially this might be any Member State that is part of the EU and opted-in to the enhanced cooperation. The Croatian EDP will need to identify the investigation measure (pls. refer to the table below). On 21 December 2023, the ECJ ruled that executing Member State courts may review only the enforcement of investigative measures, while substantive elements like justification and proportionality are reserved for the issuing Member State. For measures seriously impacting fundamental rights, prior judicial review must occur in the issuing Member State[165]: **1**

I. Determine the Member State, where the investigation measure needs to be carried out **2**

[165] ECJ, C-281/22, Judgement of 21 December 2023; Zerbst 2024, 94 et seq.;

II. Identify the measures by virtue of Article 31 para 2 (all measures by virtue of Article 30 EPPO-RG)
III. Contact the regional EDP office (* information in the EPPO Case Management System and available to the general public on the Website of the EPPO)
IV. Officially assign the relevant measure
V. Adjust the follow-up and obey Article 31 Paras 3–8 EPPO-RG

3 Applicable codes:
Croatian Criminal Procedure Code
Croatian Tax Procedure Code

b) Para. 2: Assignment of measures by a handling EDP to an assisting EDP in another, foreign MS

4 In the cases of Article 31 para 1, para 3 s. 3 EPPO-RG all provision that were mentioned in Article 30 EPPO-RG above shall apply.

aa. Availability of measures to the EDP in Croatia

5 If the measure is available under the law of the present Member State depends on the general rules on investigation measures in the CPC of the Member State of the handling EDP.

6 In order not to have to repeat the regulations here verbatim and in translation, only the relevant articles or numbers and the respective law (sometimes there are provisions in the Customs or Tax Act). The tables below refer to other volumes of the series, which contain the national laws.

bb. Justification and adoption of such measures governed by the law of the MS' of the handling ED

7 *Sources & national sections 1 Article 31 EPPO-RG: Overview for Croatia*

"The handling European Delegated Prosecutor may assign any measures, which are available to him/her **in accordance with Article 30** [EPPO-RG]…"	List of provisions that are printed in full length above below Article 30:
Article 30 para 1 (a)	See above → Article 30 EPPO-RG.
Article 30 para 1 (b)	See above → Article 30 EPPO-RG.
Article 30 para 1 (c)	See above → Article 30 EPPO-RG.
Article 30 para 1 (d)	See above → Article 30 EPPO-RG.
Article 30 para 1 (e)	See above → Article 30 EPPO-RG.
Article 30 para 1 (f)	See above → Article 30 EPPO-RG.

c) Para. 3: Judicial authorisation for the measure required under the law of the Member State of the assisting European Delegated Prosecutor

In the case that judicial authorisation for the measure is required under the law of the Member State of the assisting European Delegated Prosecutor it must be obtained by the assisting i.e. not the EDP from the Member State that assigned the measure from his home Member State but the EDP that resides elsewhere and is not conducting or carrying out the investigation as his/her investigation. **8**

If the handling EDP looks for information about the question if judicial authorisation for the measure is required under the law of the Member State of the assisting European Delegated Prosecutor, he/she may refer to the other country chapters in this compendium and consult Article 30 EPPO-RG in the relevant chapter or take a closer look at Part. B. of the whole book, where a comparative overview summarizes these situations. **9**

d) Fraud-related peculiarities

The national law that is concerned in relation to the situation of Article 31 Para. 8 EPPO-RG is the national procedural law, which governs the investigation measures by virtue of Article 30 EPPO-RG of the law of the handling or of the law of the assisting EDP. **10**

3. Article 32 Enforcement of assigned measures

The assigned measures shall be carried out in accordance with this Regulation and **the law of the Member State of the assisting European Delegated Prosecutor. [National] Formalities and procedures expressly indicated by the handling European Delegated Prosecutor** shall be complied with unless such formalities and procedures are contrary to the fundamental principles of law of the Member State of the assisting European Delegated Prosecutor.

a) Accordance-clause: Assigned measures according to Para. 2 of Article 31

The accordance-clause requires the handling EDP to question the assisting EDP if he/she can carry out the assigned measures (see → Article 31 Para. 2 EPPO-RG) a) in accordance with this Regulation and b) in accordance with the law of the Member State of the assisting European Delegated Prosecutor. The following table indicates in an abstract style, where to locate the law of the assisting Member State.

Sources & national sections 2 Article 32 – Overview for Croatia

Country of origin of the assisting/or several assissting MS	Article 32 is important because it allows for investigative measures to be carried out in accordance with both the EPPO Regulation and the national law of the assisting EDP's Member State. The wording underlines that national law determines how formalities and procedures are applied during the investigative process, as long as these formalities are not contrary to the fundamental principles of law in the assisting EDP's Member State. The enumeration and comparative overview are not exhaustive and can only provide a first easy access option for legal assessment e.g. a chamber decision to open a case or refer it back to national authorities or delegate a specific measure to an EDP.	
	„***the law of the Member State of the assisting European Delegated Prosecutor.***"	Article 30 para 1 (a) Article 30 para 1 (b) Article 30 para 1 (c) Article 30 para 1 (d) Article 30 para 1 (e) Article 30 para 1 (f)
AT *see Article 30 EPPO-RG in the CNP-Volume.*	Strafprozessordnung (ÖStPO)	**Article 30 para 1 (a)** ss. 93 para 2, 111 and 111 in combination with 119 et seq., 119, 120–122 StPO. **Article 30 para 1 (b)** ss. 110, 111, 115, 122, 135 para 1, 144, 157 CPC

		Article 30 para 1 (c) ss. 76a, 110, 111, 112, 113, 114, 115 CPC, 135 para 2 CPC **Article 30 para 1 (d)** ss. 110, 115, 122 CPC ss. 135 para 3 CPC, s. 135a was recently declared unconstitutional![166] **Article 30 para 1 (f)** Article 30 para 1 f: ss. 130, 135 para 2 et seq. CPC
BG *see Article 30 EPPO-RG in the CNP-Volume.*	Nakazatelno protsesualen kodeks	**Article 30 para 1 (a)** Article 159 et seq., 164 **Article 30 para 1 (b)** Article 159 et seq. CPC **Article 30 para 1 (c) -** **Article 30 para 1 (d)** Law on Administrative Offenses and Penalties; **Article 30 para 1 (e)** Article 165, 172 CPC **Article 30 para 1 (f)** Article 165, 172 CPC
BE *see Article 30 EPPO-RG in the CNP-Volume.*	Code d'Instruction Criminelle	**Article 30 para 1 (a)** Article 62 (Article 56), Article 90*coties* search on premises of professionals e.g. lawyers (*juge d'instruction* Article 90*octies* s. 3) **Article 30 para 1 (b)** Article 35, 35bis (immovable property) s, 35*ter* (seizure of substitutes), 36, 37, 38, 39*bis* (computers) CPC. **Article 30 para 1 (c) -** **Article 30 para 1 (d) -** **Article 30 para 1 (e) -** Article 39bis, 46bis, but mainly Article 90ter **Article 30 para 1 (f)**

[166] See Eurojust, Cybercrime Judicial Monitor (CJM), N°6, 2021, online https://www.eurojust.europa.eu/sites/default/files/Documents/pdf/cybercrime_judicial_monitor_issue_6_2021.pdf, p. 9 et seq.

		Article 46sexies (juge d'instruction = Article 46sexies ss. 3, 5 CPC
CY *see Article 30 EPPO-RG in the CNP-Volume.*	Ο περί Ποινικής Δικονομίας Νόμος (ΚΕΦ.155)	**Article 30 para 1 (a)** ss. 11 (for an arrest), 25 CPC (search without a warrant), 26 CPC (Power for means of transport research) **Article 30 para 1 (b)** s. 33 CPC **Article 30 para 1 (e)** see ss. 4, 5, 5a, 6, 6a The Protection of the Privacy of Private Communication (Interception of Conversations and Access to Recorded Content of Private Communication) Law of 1996 (92 (I)/1996)[167]/see as well Law on the Regulation of Electronic Communications and Postal Services **Article 30 para 1 (f)** -
CZ *see Article 30 EPPO-RG in the CNP-Volume.*	Zákon č. 141/1961 Sb. Zákon o trestním řízení soudním (trestní řád)	**Article 30 para 1 (a)** mainly ss. 82, 83 but see as well 112, 113, 114, 115 CPC **Article 30 para 1 (b)** ss. 77b para 3, 78 (obligation to submit things with evidential value), 79, 79a[168] (Securing crime tools and proceeds of crime), 79b CPC **Article 30 para 1 (c)** ss. 5 et seq. AML Act, s. 78 CPC, s. 88, 88a, CPC, 158d CPC, s. 97 (3) of Act No 127/2005 Coll. on Electronic Communication

[167] Ο περί Προστασίας του Απόρρητου της Ιδιωτικής Επικοινωνίας (Παρακολούθηση Συνδιαλέξεων και Πρόσβαση σε Καταγεγραμμένο Περιεχόμενο Ιδιωτικής Επικοινωνίας) Νόμος του 1996 (92(I)/1996).

[168] § 79b

Doručení rozhodnutí o zajištění a vyrozumění o něm

(1) Orgán činný v trestním řízení, který rozhodl o zajištění, bezodkladně doručí rozhodnutí o zajištění orgánu nebo osobě, které jsou příslušné k provedení zajištění, a poté, co orgán nebo osoba provedou zajištění, i osobě, jíž byla věc zajištěna. Současně orgány nebo osoby příslušné k provedení zajištění vyzve, aby, pokud zjistí, že se s věcí, která byla zajištěna, nakládá tak, že hrozí zmaření nebo ztížení účelu zajištění, mu tuto skutečnost neprodleně oznámily. [...]

		Article 30 para 1 (d) ss. 8, 78 et seq; 82 et seq. CPC in combination with Article 496 Civil Code **Article 30 para 1 (e)** s. 88 CPC **Article 30 para 1 (f)** s. 113 CPC
DE *see Article 30 EPPO-RG in the CNP-Volume.*	Deutsche Strafprozessordnung	**Article 30 para 1 (a)** ss. 102–10, 110 CPC **Article 30 para 1 (b)** Chapter 8 CPC, ss. 94, 97 (Prohibition), 111c, s. 443 CPC **Article 30 para 1 (c)** ss. 94–98, 99, 100, 108 CPC **Article 30 para 1 (d)** ss. 73 et seq. CC; 111b CPC; Law on the reform of criminal asset confiscation **Article 30 para 1 (e)** s. 100a° CPC, 100g CPC, 111k CPC **Article 30 para 1 (f)** ss. 98a–e CPC, ss. 100g CPC, 100i CPC, ss. 161, 163, 163e, f CPC, para 4: ss. 95a StPO-E, 100c Residential surveillance, 100f acoustic surveillance outside the apartment according to § 100f, 110a the use of undercover investigators according to § 110a, source telephone surveillance, ss. 100a para 1 sentences 1 to 3, para 5, 100e StPO (telecommunications using laptops, PCs or IP telephony)
DK *see Article 30 EPPO-RG in the*	Retsplejeloven Lov om rettens pleje	**Article 30 para 1 (a)** *****opted out of AFSJ = Chapter 73 Retsplejeloven: s. 793 “Dwellings and other housing, documents, pa-

CNP-Volume.		pers and the like, as well as the contents of locked objects and 2) other objects as well as locations outside housing spaces." **Article 30 para 1 (b)** Chapter 74 ss. 801, 802, 802 para 3 (all of the suspect's property) 803, 803a (an association's assets), 807 (formalities during a seizure operation), 807a (seizure by everyone), 807b–807f (special rules on seizure e.g. in AML cases) Retsplejeloven. **Article 30 para 1 (c)** See Tax Control Act/*Skattekontrollov*; Money Laundering Act. **Article 30 para 1 (d)** ss. 75–77a CC; s. 804 Retspleejeloven and see CIR no 94 of 13/05/1952, Ministry of Justice More information, Circular on the police's management of seized or deposited sums of money or securities/CIR nr 94 af 13/05/1952, *Cirkulære om politiets forvaltning af beslaglagte eller deponerede pengebeløb eller værdipapirer.* **Article 30 para 1 (e)** *opted out of AFSJ= but see the Fourth Book of the Code of Judicial Procedure (Retsplejeloven) Chapter 67 and 68 provide for investigative rules and measures; Chapter 71 finally introduces special investigative measures such as telcommunications surveillance. (Kapitel 71: *Indgreb i meddelelseshemmeligheden, observation, dataaflæsning, forstyrrelse*

		eller afbrydelse af radio- eller telekommunikation, blokering af hjemmesider og overtagelse af tv-overvågning) s. 780 et seq. **Article 30 para 1 (f)** s. 791a Retsplejeloven
EE *see Article 30 EPPO-RG in the CNP-Volume.*	Kriminaalmenetluse seadustik	**Article 30 para 1 (a)** ss. 91, 92, 470 para 5 CPC. **Article 30 para 1 (b)** ss. 89 Seizure and examination of postal or telegraphic items; 123, 142 Seizure of property, 143; 470 (handing over of property to a foreign state). **Article 30 para 1 (c)** s. 142 (2^1) CPC **Article 30 para 1 (d)** See following Act: "Procedure for transfer, transfer and destruction of confiscated property, return of money from the transfer of property from the budget to the legal owner, accounting and destruction of physical evidence, storage, evaluation and transfer of seized property and assessment, transfer and destruction of quickly perishable physical evidence" **Article 30 para 1 (e)** ss. 126^1 et seq. CPC **Article 30 para 1 (f)** s. 126^5. Covert surveillance, covert collection of comparative samples and conduct of initial examinations, covert examination and replacement of things; s. 126^6. Covert examination of postal items

		s. 126[9]. Use of police agents
EL *see Article 30 EPPO-RG in the CNP-Volume.*	Νόμος 4620/2019 - ΦΕΚ 96/A/11-6-2019: Κώδικας Ποινικής Δικονομίας	**Article 30 para 1 (a)** Article 243 in combination with Article 253, Article 256 (night search in a house) CPC **Article 30 para 1 (b)** Article 260 (seizure of securities in banks other public or private institutions), Article 260 para 2: "In case of refusal, they search and seize the useful documents and things.", Article 261 (asset freezing), Article 263 (obligation of civil servats to deliver documents), *Article 264 (General confiscation of documents); Article 265 (confiscation of digital data). **Article 30 para 1 (c)** Article 258 et seq.; 260 para 2 CPC/(Law 4619/2019) and see AML legislation Law 4557/2018 **Article 30 para 1 (d)** Article 39, 40 AML legislation Law 4557/2018 and Article 260 CPC **Article 30 para 1 (e)** See Article 3, 4 Law 2225/1994 For the protection of freedom and response and communication and other provisions as amended Law 4871/2021/*ΝΟΜΟΣ ΥΠ'ΑΡΙΘ. 2225 ΦΕΚ 121/20.07.1994 Για την προστασία της ελευθερίας και ανταπόκρισης και επικοινωνίας και άλλες διατάξεις.* **Article 30 para 1 (f)** Article 254 (cover investigation for certain crimes), Article 254 para 1 c (controlled deliveries for certain crimes), Article 255 special investigative acts in corruption cases

		Article 255 para 1 (cover investigation in order to tackle corruption)
ES[169] *see Article 30 EPPO-RG in the CNP-Volume.*	Ley de Enjuiciamiento Criminal	**Article 30 para 1 (a)** Article 46, 47 Organic Law 9/2021 (EPPO Adoption law, see Chapter on Spain), Article 326 (description of the crime scene), 364 (special evidence gatherin in cases of theft or fraud); and cf. mainly Article 545 et seq. CPC **Article 30 para 1 (b)** Article 334, 367bis, 545 et seq. **Article 30 para 1 (c)** Article 127 CC **Article 30 para 1 (d)** Article 127, 128, 129, 301, 302, 303, 304 CC and AML legislation in combination with the Civil Procedure Code, Article 367 e t seq. CPC **Article 30 para 1 (e)** Article 588 bis et seq., 588ter et seq. CPC and *lex specialis* is provided for in Article 48 Organic Law 9/2021 **Article 30 para 1 (f)** Article 588 bis et seq., 588ter et seq. and lex specialis is provided for in Article 48 Organic Law 9/2021
FI *see Article 30 EPPO-RG in the CNP-Volume.*	Laki oikeudenkäynnistä rikosasioissa 11.7.1997/689	**Article 30 para 1 (a)** Chapter 8 ss. 1–34 Coecive Measures Act; see ss. 2, 3, 4, 5, 6–14 searches on premises **Article 30 para 1 (b)** Chapter 2, s. 15 (dangerous objects) Police Act[170]; Chapter 6 Seizure with the aim to secure property or pay-

[169] See María Luisa Villamarín López, Spanish criminal procedure examined: successes, opportunities and failures in the adaptation to EU requirements, ERA Forum volume 23, 2022, 127–139.
[170] See *Poliisilaki 22.7.2011/872*, cf. https://www.finlex.fi/fi/laki/ajantasa/2011/20110872#L2P3

		ments, Chapter 7 Seizure and reproduction of the document, ss. 1, 5 (Seizure and reproduction of parcels, etc.), 6, Coercive Measures Act [Legislation monitored until SDK 178/2022 (published on March 17, 2022)] **Article 30 para 1 (c)** Section 23 of Chapter 8 Coercive Measures Act **Article 30 para 1 (d)** Chapter 10, ss. 2 et seq. CC[171] **Article 30 para 1 (e)** Chapter 5, s. 1 et seq., Chapter 6, s.s. 6 et seq. Police Act 7/22/2011/872 [172]; Chapter 3, s. 3, Subs.1 of the Preliminary Investigation Act, Act on the Prevention of Crime in Customs (623/2015), Chapter 10 ss. 1–4 of the Coercive Measures Act **Article 30 para 1 (f)** Chapter 5, s. 1 et seq., Chapter 6, s.s. 6 et seq., ss. 30, 31, 32 et seq. Police Act[173]; ss. 23, 24, 24, 36 39, 40, 42 (controlled delivery) Law on Crime Prevention in Customs 5/22/2015/623[174]; Chapter 10, S. 3 of the Coercive Measures Act Especially ss. 13 "Systematic monitoring and its conditions", s. 15 "Covert access to information and its conditions" Police Act 7/22/2011/872
FR *see Article 30*	Code du procédure pénale	**Article 30 para 1 (a)**

[171] See https://www.finlex.fi/en/laki/kaannokset/1889/en18890039_20150766.pdf.
[172] See *Poliisilaki 22.7.2011/872*, cf. https://www.finlex.fi/fi/laki/ajantasa/2011/20110872#L2P3.
[173] See *Poliisilaki 22.7.2011/872*, cf. https://www.finlex.fi/fi/laki/ajantasa/2011/20110872#L2P3
[174] See *Laki rikostorjunnasta Tullissa 22.5.2015/623*, cf. https://www.finlex.fi/fi/laki/ajantasa/2015/20150623#L3P23.

EPPO-RG in the CNP-Volume for the full text..		*Depends on the investigatory framework. Pls. see French volume.* **Article 30 para 1 (b)** *Depends on the investigatory framework. Pls. see French volume.* **Article 30 para 1 (c)** Article L.871-1 of the Internal Security Code Article 230-1 to 230-5 Criminal Code (deciphering) Article 706-102-1 to 706-102-7 Criminal Code **Article 30 para 1 (d)** *Depends on the investigatory framework. Pls. see French volume.* **Article 30 para 1 (e)** *Depends on the investigatory framework. Pls. see French volume.* **Article 30 para 1 (f)**
HU *see Article 30 EPPO-RG in the CNP-Volume.*	2017. évi XC. Törvény a büntetőeljárásról *	**Article 30 para 1 (a)** ss. 306, 307, Sec. 820 CPC **Article 30 para 1 (b)** ss. 306, 307, 820 **Article 30 para 1 (c)** Article 308, 309, 324 CPC **Article 30 para 1 (d)** s. 151 CPC in combination with ss. 72–74 CC of Hungary and see Act LII, of 1994 on judicial enforcement. **Article 30 para 1 (e)** ss. 261 et seq. Hungary Act XV. 2017. **Article 30 Para. 1 (f)**
IT *See in the EPPO-RG and in the CNP-Volume.*	Codice di Procedura Penale	**Article 30 para 1 (a)** Article 244 et seq. stipulates provisions for inspections but Article 247 et seq. stipulate provisions for searches (Perquisizioni) CPC, Article 247 - Cases and forms of searches Article 248 - Request for delivery

		Article 249 - Personal searches Article 250 - Local searches Article 251 - House searches. Time limits Article 252 - Seizure following a search **Article 30 para 1 (b)** Article 262, Article 316–321 (Chapter 1 and 2) Article 321 (sequestro preventivo), 368, 253, 252, 254; 671 CPC. En detail the following provisions should be consulted by an Austrian EDP in a case, which involves Italy. Article 253 - Object and formality of the seizure Article 254 - Seizure of correspondence Article 254 bis - Seizure of IT data from IT, telematic and telecommunication service providers Article 255 - Seizure from banks Article 256 - Duty of exhibition and secrets Article 256 bis - Acquisition of documents, deeds or other things by the judicial authority at the offices of the security information services Article 256 ter - Acquisition of deeds, documents or other things for which state secrecy is raised
LT *see Article 30 EPPO-RG in the CNP-Volume.*	Lietuvos Respublikos baudžiamojo proceso kodekso	**Article 30 para 1 (a)** mainly Article 145 (search any premise or other place), 146 (search of a person), 147, 148, 149 CPC and see Article 169 and 170 CPC in the pre-trial investigaton phase, Article 205, 206, 207 CPC **Article 30 para 1 (b)**

		Articles 17-4 in connection with Articles 133 (security), 134 (seizure of documents), 149 (search and seizure) and in special cases of a pre-trial investigation see Article 1701 (Powers of the prosecutor to secure the confiscation of property) Lietuvos Respublikos baudžiamojo proceso kodeksas, the Lithuanian and Article 170 para 5 CPC in pre-trial investigations. **Article 30 para 1 (c)** Articles 154, 158 CPC **Article 30 para 1 (d)** Article 151 CPC in combination with ss. 72–75 CC of Lithuania **Article 30 para 1 (e)** Article 154 CPC **Article 30 para 1 (f)** Article 159 (covert investigation officer) CPC, Article 160 Covert tracking
LU *see Article 30 EPPO-RG in the CNP-Volume.*	Code de procédure pénale	**Article 30 para 1 (a)** Articles 33, 65 CPC: "(1) Searches are carried out in all places where objects may be found, the discovery of which would be useful for establishing the truth." **Article 30 para 1 (b)** Articles 47, 31 Paras 2, 3, 33, 34, 35, 65, 66 para 1: "of all objects, documents, effects, data stored, processed or transmitted in an automated data processing or transmission system and other things referred to in Article 31 (3)", 66 para 3 (entry into stored, processed and automated data) 67, 68, 67 (return/release of seized things), 194-1, 194-7 CPC

		Article 30 para 1 (c) No special provision. **Article 30 para 1 (d)** Loi du 22 juin 2022 sur la gestion et le recouvrement des avoirs saisis ou confisqués **Article 30 para 1 (e)** Articles 65–67 (general information on interception of communications), especially 67-1, 88, 88-1, 88-2 (special provisions on the interception of communications and technical means of surveillance) CPC and Article 7 of the law of July 5, 2016 (Nota bene: all of these provisions are under review as they become more and more outdated with the ongoing "cybercriminalité") and see Articles 32, 33 Law of August 1, 2018 transposing Directive 2014/41/EU of the European Parliament and of the Council of April 3, 2014 on the European investigation order in criminal matters; 2° amendment of the Code of Criminal Procedure; 3° modification of the amended law of 8 August 2000 on international legal assistance in criminal matters.) **Article 30 para 1 (f)**
LV *see Article 30 EPPO-RG in the CNP-Volume.*	Kriminālprocesa likums	**Article 30 para 1 (a)** ss. 159, 160 (inspection, which may lead to an investigation), 163 (inspection of other places, vehicles etc.); but mainly ss. 179–188 CPC will apply. S. 179. Searches, S. 180. Decision on a Search, S. 181. Persons Present at a Search, S. 182. Procedures for

		Conducting a Search, S. 183. Search of a Person, S. 184. Search in the Premises of Diplomatic or Consular Representative Offices, S. 185. Issuance of a Copy of the Minutes of a Search, S. 186. Removal, s. 188. Removal Procedures **Article 30 para 1 (b)** ss. 361, S. 361.1 Sending for Execution of the Decision on the Seizure of a Property, 363, 364 CPC (issuing of copies of the protocol on a seizure) CPC **Article 30 para 1 (c)** ss. **Article 30 para 1 (d)** ss. 70 CC, ss. 124 CPC **Article 30 para 1 (e)** Chapter 11 Special Investigative Actions, ss. 215 et seq. CPC but cf. especially ss. 218, 219 **Article 30 para 1 (f)** Chapter 11 Special Investigative Actions, ss. 217 et seq. CPC, S. 223. Surveillance and Tracking of a Person
MT *see Article 30 EPPO-RG in the CNP-Volume.*	SUBSIDIARY LEGISLATION 9.09CRIMINAL PROCEDURE (REGULATION OF REGISTRIES, ARCHIVES AND FUNCTIONS OF DIRECTOR GENERAL (COURTS) AND OTHER COURT EXECUTIVE OFFICERS) REGULATIONS	**Article 30 para 1 (a)** Verbatim, See CNP-Volume **Article 30 para 1 (b)** See CNP-Volume **Article 30 para 1 (c)** See CNP-Volume **Article 30 para 1 (d)** Article 435B, C Criminal Code of Malta and see mainly CHAPTER 621 of the Laws of Malta: PROCEEDS OF CRIME ACT **Article 30 para 1 (e)** See CNP-Volume

		Article 30 para 1 (f)
PT *see Article 30 EPPO-RG in the CNP-Volume.*	Codigó de Procesal Pénal	**Article 30 para 1 (a)** ss. 351, 354, 355K., 355L., 355P. ("when lawfully on a premise") ss. 351 para 2 in a flagrante delicto situation: "(2) For the purposes of sub-article (1), the Police may stop a person or a vehicle until the search is performed and shall seize anything discovered during the search and the possession of which is prohibited or which may be connected with an offence", s. 354 in a flagrante delicto situation: "354. Anything seized as a result of a search under the preceding articles of this title shall be preserved and the Police carrying out the search shall draw up a report stating all the particulars of the search and including a detailed list of the things so seized". And see the following ss. 355E, G (search of premises, which may lead to seizure of things on the premises e.g. s. 355 E (3)(b): "discovering and seizing any property in respect of which an alert has been entered in the Schengen Information System.") in the real investigative phase. Next see ss. 355AF (person) and 355AR. Criminal Code Cap. 9 Laws of Malta, Book 2 Laws Of Criminal Procedure Part I of the Authorities to which the Administration of Criminal Justice is entrusted, Title I Of the powers and duties of the Attorney General and the Executive Police in Respect of Criminal Prosecutions **Article 30 para 1 (b)**

		s. 355P. (General rules of seizure.): "355P. The Police, when lawfully on any premises, may seize anything which is on the premises if they have reasonable grounds for believing that it has been obtained in consequence of the commission of an offence or that it is evidence in relation to an offence or it is the subject of an alert in the Schengen Information System and that it is necessary to seize it to prevent it being concealed, lost, damaged, altered or destroyed." And see s. 355Q. (Computer data), and see s. 628B. para 1 (f) in mutual assistance cases (criminal law). **Article 30 para 1 (c)** No special provision in the CPC; Article 3 See Article 4 Law No. 5/2002, of January 11 MEASURES TO FIGHT ORGANIZED CRIME. **Article 30 para 1 (d)** See Article 4 Law No. 5/2002, of January 11 MEASURES TO FIGHT ORGANIZED CRIME; Portuguese Securities Market Code. **Article 30 para 1 (e)** see. ss. 628 para 1 (d) and the newly introduced s. 628E. Criminal Code Cap. 9 Laws of Malta, Book 2 Laws Of Criminal Procedure Part I of the Authorities to which the Administration of Criminal Justice is entrusted, Title I Of the powers and duties of the Attorney General and the Executive Police in Respect of Criminal Prosecutions. And last but not least see ss. 6, 7 Security Service Act, Chapter 391 of the Laws of Malta.

		Article 30 para 1 (f)
RO[175] *see Article 30 EPPO-RG in the CNP-Volume.*	Codul de procedură penală al României	**Article 30 para 1 (a)** Article 156 CPC: "Common provisions (1) The search may be house, body, computer or vehicle search. (2) The search shall be carried out with respect for dignity, without constituting disproportionate interference with private life."; 157 (home search), 159 (formalities), 161 (report), 165, 166 (body search related provisions) CPC, 167 CPC (vehicle search), 168 (computer search), 192 (on-the-spot search) **Article 30 para 1 (b)** Article 158 para 13 CPC, 168 para 10 CPC; 171 but cf. mainly s. 252, 252^1, 252^2 CPC **Article 30 para 1 (c)** Article 138 §1 and §3 CPC (access to computer systems), Article 152 para 1 CPC **Article 30 para 1 (d)** Article 270 CC; latest changes by Law no. 228/2020. And see LAW no. 129 of July 11, 2019 for the prevention and combating of money laundering and the financing of terrorism, as well as for the amendment and completion of some normative acts **Article 30 para 1 (e)** Article 138 CPC **Article 30 para 1 (f)** Article 138 CPC General dispositions

[175] See Claudia Jderu, Money laundering, confiscation, freezing and seizing of proceeds of crime. Romanian perspective. Human rights issues, ERA Forum volume 17, 2016, 287–297.

		(1) The following are special methods of surveillance or research: a) interception of communications or any type of remote communication; b) access to a computer system; c) video, audio or photography surveillance; d) location or tracking by technical means; e) obtaining data on a person's financial transactions; f) detention, delivery or search of postal items; g) the use of undercover investigators and collaborators; h) authorized participation in certain activities; i) supervised delivery; j) obtaining the traffic and location data processed by the providers of public electronic communications networks or the providers of electronic communications services intended for the public.; […] - Article 148 - Use of undercover or real-identity investigators and collaorators - Article 151 Controlled delivery In summary Article 138 CPC has a broader range than Art. 30 EPPO Regulation, covering detention, delivery, or search of postal items, among other methods like financial transaction data, undercover operations, or supervised delivery. highlights the need for judicial authorisation.

SI *see Article 30 EPPO-RG in the CNP-Volume.*	Zakon o državnem tožilstvu (ZDT-1	**Article 30 para 1 (a)** Article 164 but see mainly Articles 214, 215, 216, 217, 218 CPC **Article 30 para 1 (b)** Article 148 but see mainly Articles 156 CPC; 220, 221, 222, 222a CPC **Article 30 para 1 (c)** - **Article 30 para 1 (d)** Articles 502–502e CPC in combination with Article 73 et seq. CC **Article 30 para 1 (e)** Articles 150, 150a, 150b, 151 Zakon o kazenskem postopku, the Slovenian CPC **Article 30 para 1 (f) & para 4** Article 149a para 1 (controlled delivery) CPC
SK *see Article 30 EPPO-RG in the CNP-Volume.*	301, ZÁKON z 24. mája 2005 TRESTNÝ PORIADO	**Article 30 para 1 (a)** ss. 99 et seq., 101, 102, 103, 104, 105 (Inspection and entry into the dwelling, other premises and land) CPC **Article 30 para 1 (b)** s. 89 et seq. (Securing things important for criminal proceedings), ss. 95 et seq. (Securing crime instruments and proceeds of crime) Part Four - Seizure of Matters Important for Criminal Proceedings (s. 89 - s. 98a), S. 1 - Case relevant to criminal proceedings (s. 89), s. 89 - Matter important for criminal proceedings, S. Two - Seizure of Evidence (S.s 89a - 94): s. 89a - Obligation to issue a thing, s. 90 - Withdrawal of the case, s. 91 - Preservation, release and withdrawal of computer data, s. 92 - Acceptance of the

		seized thing, s. 93 - Common provisions, s. 94 - Custody of issued, confiscated, taken over or otherwise seized items, S. 3 - Seizure of criminal instruments and proceeds of crime (s. 95 - s. 98a): s. 95 - Securing funds, s. 95a, s. 95b, s. 96 - Securing book-entry securities, s. 96a - Securing real estate, s. 96b - Real estate inspection, s. 96c - Ensuring ownership interest in a legal entity, s. 96d - Securing virtual currency, s. 96e - Securing other property value, s. 96f - Securing a movable thing, s. 96g - Ensuring substitute value, Return of case (s. 97 - s. 98a), s. 97, s. 98, s. 98a - Common provisions for securing property, things and other property values **Article 30 para 1 (c)** ss. 90, 116 §6, 118 CPC **Article 30 para 1 (d)** The Law 101/2010 Coll. of March 4, 2010 on proving the origin of property applies; Article 56–60 CC **Article 30 para 1 (e)** ss. 115–118 Zákon č. 301/2005 Z. z. Trestný poriadok, the Slovakian CPC **Article 30 para 1 (f) & para 4** s. 111(Controlled delivery) s. 112 (Fake transfers) s. 113 (tracking and tracing peope and things) s. 114 (video & audio recordings)

b) National Formalities and procedures expressly indicated by the handling European Delegated Prosecutor

11 On Croatian territory the standards for formalities and procedures relating to investigative measures enshrined in the Croatian CPC are quite high.

12 The handling EDPs in the regional office of Zagreb may indicate general provisions from the Croatian Constitution.

13 The concerete formalities and procedures depend on the concerned investigation measures, which cannot be determined compeletely in abstracto. But the main principles can be listed:

14
- Reasonable suspicion element[176]
- Warrant obtainement[177]
- Right to privacy[178]
- Right to liberty[179]
- Right to a fair investigation[180]

Taking the investigation **criminal financial conduct as an example** it becomes obvious that the Croatian CPC prescribes a lot of special formalities and procedures, which are obligatory in order not to endanger the criminal prosecution in general.

[176] Article 24 of the Croatian Constitution Article 202 defines reasonable suspicion as a requirement for initiating criminal investigations or arrests. Authorities must have sufficient evidence pointing towards the likelihood of a crime.
[177] Article 34 of the Croatian Constitution provides protection from unlawful searches and seizures, stating that a court order (warrant) is required for searches of homes or private premises, except under certain urgent circumstances.
[178] Article 35 of the Croatian Constitution guarantees the right to privacy, specifically protecting personal and family life, home, and communication. Any interference with privacy must comply with the law and follow strict legal procedures.
[179] Article 22 of the Croatian Constitution ensures the right to liberty and prohibits unlawful detention or deprivation of liberty. The article provides protection from arbitrary arrest, mandating that deprivation of liberty must follow due process. Article 123 CPC outlines the circumstances under which someone can be lawfully detained and arrested, with immediate judicial oversight to ensure the legality of the detention.
[180] Article 29 of the Croatian Constitution provides the right to a fair trial, which includes the right to a fair and impartial investigation. This article establishes the principles of due process, equality before the law, and guarantees the rights of the accused in criminal proceedings.

4. Article 33 Pre-trial arrest and cross-border surrender

1. The handling European Delegated Prosecutor may order or request the arrest or pre-trial detention of the suspect or accused person in accordance with the national law applicable in similar domestic cases.
2. Where it is necessary to arrest and surrender a person who is not present in the Member State in which the handling European Delegated Prosecutor is located, the latter shall issue or request the competent authority of that Member State to issue a European Arrest Warrant in accordance with Council Framework Decision 2002/584/JHA (3).

a) General relation to national law: applicable Codes

The following Codes and Rulebooks apply regarding Article 33 EPPO-Regulation: **1**

- Criminal Procedure Code
- Law on International Legal Assistance in Criminal Matters
- Rulebooks, which are supplementary to the Croatia CPC, e.g. "Rulebook on reception and treatment of arrestees and detainees and on records of detainees in the detention police unit - under the jurisdiction of the Ministry of Internal Affairs"[181].

First of all, recent case shows how important detention and extradition detention can become in a trial procedure – it can *de facto* lead to corrections of sentence calculations and herethorugh have a negative impact on the trial of PIF offences and the deterrent effect of penalties for EU budget-damaging crimes:

Case Study: Supreme Court of the Republic of Croatia, Judgement of 13 December 2023, Poslovni broj: I Kž-EPPO-3/2023-10

This case decided by the Supreme Court of the Republic of Croatia highlights the importance of properly accounting for all periods of detention, including extradition detention, when calculating prison sentences. The defendants were Z. D. G., R., and F. K.

Z. was convicted of multiple offenses including participation in a criminal organization, unauthorized trading, tax evasion, and bribery. He was sentenced to a total of 2 years and 11 months in prison, with 1 year and 6 months of that sentence suspended

[181] See https://mpu.gov.hr/pristup-informacijama-6341/zakoni-i-ostali-propisi/zakoni-i-propisi-6354/kazneno-pravo/6441.

on the condition of no new offenses within 5 years. He was ordered to pay €3,282,009.41 in damages to the Republic of Croatia.
R. M. was given for similar offenses as Z. D. G., including participation in a criminal organization, unauthorized trading, tax evasion, and bribery a total prison sentence of 2 years and 11 months, with 1 year and 6 months suspended on similar conditions. He was ordered to pay €3,282,009.41 in damages.
And F.K. was finally convicted of unauthorized trading and tax evasion within a criminal organization. He was sentenced to 1 year and 1 month in prison for each charge, with 1 year of the sentence suspended. He was also ordered to pay €10,000 in damages.
F. K. challenged the initial sentencing decision with an argument, pointing out that the time he spent in extradition detention (from February 28, 2022, to May 5, 2022) was not included in the calculation of his prison sentence.

II Decision and Arguments:
The Supreme Court agreed with F. K.'s argument. The Court ruled that the initial court failed to account for the extradition detention period in F. K.'s sentence calculation. The Court amended the original judgment to include the time spent in extradition detention, adjusting F. K.'s sentence accordingly. The remainder of the original decision was upheld.

Background Information:
The case had a pre-story: The High Criminal Court of the Republic of Croatia, identified by business number II Kž-102/2023-5 had to decide as the County Court extended pretrial detention for the defendants based on Article 127(4) and Article 131(1) of the Croatian Criminal Procedure Code and they appealed. The detention was extended on the grounds listed in Article 123(1), points 1 and 3 of the Criminal Procedure Code (ZKP/08). The court ruled on the appeals filed by the defendants against the decision of the County Court in Zagreb, which had extended their pretrial detention after an indictment was issued. The High Criminal Court rejected the appeals as unfounded. The court argumented with the general justification for detention and upheld the County Court's finding that the conditions for pretrial detention, based on the seriousness of the criminal charges, were still valid. It also ruled that pretrial detention was necessary to prevent flight risk and the possibility of the defendants committing similar crimes. The defendants' appeals were rejected as the court said that Z.D.G.'s reference to a constitutional court decision (U-III-3678/2022) was not applicable, as the facts of his case involved a criminal organization, not co-perpetration as in the referenced decision. The appeals regarding the alleged lack of sufficient reasoning for

the extension of detention were dismissed because the reasons provided by the lower court were clear and substantiated.
Another important fact was that the court emphasized that the defendants, especially Z.D.G. and R.M., were citizens of other countries (R.S., possibly Serbia) with no strong ties to Croatia, creating a high probability of a flight risk and the risk of recidivism – especially due to the nature of the criminal organization and the significant financial gains from the alleged crimes (illicit profit of over €2.7 million and damage to EU and Croatian finances of over HRK 25 million), the court ruled there was a significant risk that the defendants might reoffend. The defendants were accused of crimes involving organized smuggling and significant financial damage, which justified continued detention.

Analysis and Comment of the Supreme Court's Decision
In terms of fair sentencing, this decision has an impact on EPPO actions and national decisions. According to Art. 36 EPPO Regulation the EPPO is competent to file indictements to national courts. Thus, national courts assess the legality of measures according to Art. 33 EPPO Regulation and subsequent applicaple national law e.g. the exztradition provisions and the sentencing laws. Thus, national judges are at the forefront to ensure the prosecution of offences against the EU budget properly, e.g. by calculating the correct sentencing periods. Nontheless, the case illustrates perfectly the complexities involved in cross-border legal matters, especially when dealing with international detention and extradition. The EPPO is a great adavantage compared to times before the 1st of June 2021, but it cannot solve the problems of a non-existent European judge in criminal matters, or a school of European judges. The EU member states have good judges and judges, who are less good, but the case shows as well that the rule of law mechanism ensures that the rights of the person convicted were ensured by the Supreme Court. The case underscores on the one hand the need for clear legal procedures and coordination between national and EU legal frameworks. And on the other hand EDPs and national judges can learn from this case because F. K. challenged the initial sentencing decision, arguing that the time he spent in extradition detention (from February 28, 2022, to May 5, 2022) was not included in the calculation of his prison sentence. This is a matter that should be recognized in daily practice for example, with prison term control calendars that are used across borders, e.g. via uniform digital systems and sentence calculators for judges.
Ensuring that such periods are recognized is crucial for maintaining fair sentencing practices and it illustrates the complexities involved in cross-border legal matters, especially when dealing with international detention and extradition. It underscores the

need for clear legal procedures and coordination between national and EU legal frameworks. The EPPO can use this case to ensure that similar issues are correctly handled in future cases involving cross-border criminal activities.

2 Secondly and with these background information from a recent EPPO case in Croatia in mind, the chapter can study and interpret the **wording of Art. 33 EPPO Regulation** and hereby enable any EDP or practitioner to find the relevant national law, which might apply in his/her case. The structure follows para and para 2 of Art. 33 EPPO Regulation.

b) Para. 1: Provisions for arrest and pre-trial detention

aa. Arrest

3 **Article 106**[182] **(OG 143/12)** (1) Anyone may prevent the escape of a person caught in a criminal act who is being prosecuted ex officio and must immediately notify the police. A person prevented from escaping can be detained until the arrival of the police, to whom he will be handed over.
(2) Caught in the act of a criminal act is a person who is observed by someone in the act of a criminal act, i.e. a person who is caught immediately after the criminal act under circumstances that indicate that he has committed a criminal act.

Article 107[183] **(OG 80/11)** The police are authorized to arrest:
1) a person against whom a summons order and a decision on detention or pre-trial detention are being executed,
2) a person for whom there are grounds for suspicion of having committed a criminal offense for which he is being prosecuted ex officio, when there is one of the reasons for ordering pre-trial detention from Article 123 of this Act,
3) a person caught in a criminal act for which he is being prosecuted ex officio.

a) [182] **6. Uhićenje**
Članak 106 (NN **143/12**)
(1) Svatko smije spriječiti bijeg osobe zatečene u kaznenom djelu koje se progoni po službenoj dužnosti i o tome mora odmah obavijestiti policiju. Osoba spriječena u bijegu može se zadržati do dolaska policije kojoj će biti predana.
(2) Zatečena u kaznenom djelu je osoba koju netko opazi u radnji kaznenog djela, odnosno osoba koja je neposredno nakon kaznenog djela zatečena pod okolnostima koje upućuju na to da je počinila kazneno djelo.
[183] Članak 107 (NN 80/11)
Policija je ovlaštena uhititi:
1) osobu protiv koje izvršava dovedbeni nalog te rješenje o pritvoru ili istražnom zatvoru,
2) osobu za koju postoje osnove sumnje da je počinila kazneno djelo za koje se progoni po službenoj dužnosti, kad postoji neki od razloga za određivanje istražnog zatvora iz članka 123. ovog Zakona,
SUDSKA PRAKSA: Rješenje
3) osobu zatečenu u kaznenom djelu za koje se progoni po službenoj dužnosti.

Article 108[184] **(Official Gazette 76/09, 145/13, 70/17, 80/22)** (1) Upon arrest, the detainee must be immediately given a written instruction on the rights from Article 108a paragraph 1 of this Act. If the written instruction could not be given, the police must immediately inform the arrested person in a way that he can understand of the rights from Article 7, Paragraph 2, Items 1 to 4 of this Law, unless he is unable to understand the instruction or there is a danger to life or limb.
(2) If the written instruction from Article 108a paragraph 1 of this Act was not given to the detainee upon arrest, it shall be delivered to him immediately upon arrival at the official premises of the police. If the detainee cannot read the instruction, it will be handled in the manner prescribed in Article 8, Paragraph 5 of this Law.
(3) If the arrest is carried out on the basis of a warrant of arrest, the warrant must be read and delivered to the detainee during the deprivation of liberty, unless this is not possible due to the circumstances of the arrest.
(4) During an arrest, only the force authorized by the police under a special law may be used.
(5) The police will immediately notify:
1) state attorney,

[184] Članak 108 (NN 76/09, 145/13, 70/17, 80/22)
(1) Prilikom uhićenja uhićeniku se mora odmah predati pisana pouka o pravima iz članka 108.a stavka 1. ovog Zakona. Ako se pisana pouka nije mogla predati, policija mora uhićenika odmah upoznati na njemu razumljiv način s pravima iz članka 7. stavka 2. točke 1. do 4. ovog Zakona osim ako pouku nije sposoban shvatiti ili postoji opasnost za život ili tijelo.
(2) Ako pisana pouka iz članka 108.a stavka 1. ovog Zakona nije predana uhićeniku prilikom uhićenja, uručit će mu se odmah po dolasku u službene prostorije policije. Ako uhićenik ne može pročitati pouku postupit će se na način propisan u članku 8. stavku 5. ovog Zakona.
(3) Ako se uhićenje provodi na temelju dovedbenog naloga, nalog mora biti pročitan i uručen uhićeniku prilikom oduzimanja slobode, osim ako to s obzirom na okolnosti uhićenja nije moguće.
(4) Prilikom uhićenja smije se upotrijebiti samo ona sila na koju policiju ovlašćuje posebni zakon.
(5) O uhićenju će policija odmah obavijestiti:
1) državnog odvjetnika,
2) osobe iz članka 108.a stavka 1. točke 3., 5. i 6. na zahtjev uhićenika,
3) nadležno tijelo socijalne skrbi ako je potrebno poduzeti mjere za zbrinjavanje djece i drugih članova obitelji uhićenika o kojima se on brine,
4) skrbnika ako je uhićenik lišen poslovne sposobnosti,
5) roditelja ili skrbnika ako je uhićenik dijete.
(6) Nakon predaje pouke policija će pitati uhićenika je li pouku razumio. Ako uhićenik izjavi da nije razumio pouku, policija će ga o njegovim pravima poučiti na njemu razumljiv način.
(7) Uhićenik iz članka 107. točaka 2. i 3. ovoga Zakona ima pravo slobodnog, neometanog i povjerljivog razgovora s braniteljem čim je izabrao branitelja, odnosno čim je donesena odluka o imenovanju branitelja, a prije ispitivanja u trajanju do trideset minuta. Ako uhićenik nema izabranog branitelja ili on ne može doći, mora mu se omogućiti da uzme branitelja s liste dežurnih odvjetnika Hrvatske odvjetničke komore. Ako uhićenik izjavi da ne želi uzeti branitelja, policija je dužna upoznati ga na jednostavan i razumljiv način sa značenjem prava na branitelja i posljedicama odricanja od tog prava. Odricanje od prava na branitelja mora biti izričito, nedvosmisleno i u pisanom obliku.
(8) Uhićenik može, dok traje uhićenje, komunicirati barem s jednom trećom osobom po svom izboru. Ovo se pravo može ograničiti samo ako je to nužno radi zaštite interesa postupka ili drugih važnih interesa.
(9) Ako je uhićenik dijete, dok traje uhićenje, omogućit će se uhićenom djetetu komunikacija s njegovim roditeljem ili drugom osobom koja o djetetu skrbi, osim ako je to protivno najboljim interesima djeteta, ili ako je to nužno radi zaštite interesa postupka ili drugih važnih interesa.

2) persons from Article 108a, paragraph 1, items 3, 5 and 6 at the request of the arrested person,
3) the competent social welfare authority if it is necessary to take measures to take care of the children and other family members of the detainee whom he cares for,
4) the guardian if the arrested person is deprived of legal capacity,
5) parents or guardians if the detainee is a child.
(6) After the instruction, the police will ask the arrested person if he understood the instruction. If the arrested person declares that he did not understand the lesson, the police will teach him about his rights in a way that he can understand.
(7) The detainee referred to in Article 107, points 2 and 3 of this Act has the right to a free, undisturbed and confidential conversation with the defence attorney as soon as he has chosen a defence attorney, i.e. as soon as the decision to appoint a defence attorney has been made, and before interrogation for up to thirty minutes. If the detainee does not have a chosen defence lawyer or he cannot come, he must be allowed to take a defence lawyer from the list of duty lawyers of the Croatian Bar Association. If the detainee declares that he does not want to hire a defence attorney, the police are obliged to inform him in a simple and comprehensible way about the meaning of the right to a defence attorney and the consequences of waiving that right. Waiver of the right to a defence attorney must be explicit, unambiguous and in writing.
(8) An arrested person may, during the arrest, communicate with at least one third person of his choice. This right can be restricted only if it is necessary to protect the interests of the procedure or other important interests.
(9) If the arrested person is a child, while the arrest is in progress, the arrested child will be allowed to communicate with his parent or other person who takes care of the child, unless this is against the best interests of the child, or if it is necessary to protect the interests of the proceedings or other important interest.

Article 108a[185] **(Official Gazette 145/13, 70/17)** (1) The instruction on the rights of detainees contains information on:

[185] Članak 108.a (NN 145/13, 70/17)
(1) Pouka o pravima uhićenika sadrži obavijest o:
1) razlozima uhićenja i osnovama sumnje,
2) pravu da nije dužan iskazivati,
3) pravu na branitelja po vlastitom izboru ili na branitelja postavljenog s liste dežurnih odvjetnika,
4) pravu na tumačenje i prevođenje sukladno članku 8. ovog Zakona,
5) pravu da se na njegov zahtjev o uhićenju izvijesti obitelj ili druga osoba koju on odredi,
6) pravu stranog državljanina da će na njegov zahtjev o uhićenju odmah biti obaviješteno nadležno konzularno tijelo ili veleposlanstvo te će mu se s njima bez odgađanja omogućiti kontakt (članak 116. ovoga Zakona),
7) pravu na uvid u spis predmeta sukladno odredbama ovog Zakona,
8) pravu na hitnu medicinsku pomoć,
9) tome da lišenje slobode od trenutka uhićenja do dovođenja sucu istrage može trajati najdulje 48 sati, a za kaznena djela za koja je propisana kazna zatvora do jedne godine najdulje 36 sati.
(2) Uhićenik ima pravo zadržati pouku o pravima za vrijeme lišenja slobode.

1) reasons for arrest and grounds for suspicion,
2) the right that he is not obliged to testify,
3) the right to a defence attorney of his own choice or to a defence attorney appointed from the list of lawyers on duty,
4) the right to interpretation and translation in accordance with Article 8 of this Act,
5) the right to have his family or other person designated by him informed of the arrest at his request,
6) the right of a foreign citizen that, at his request, the competent consular body or embassy will be notified immediately of his arrest and that he will be able to contact them without delay (Article 116 of this Act),
7) the right to inspect the case file in accordance with the provisions of this Act,
8) the right to emergency medical assistance,
9) the fact that the deprivation of liberty from the moment of arrest until the investigation is brought to the judge can last for a maximum of 48 hours, and for criminal offenses for which a prison sentence of up to one year is prescribed, for a maximum of 36 hours.
(2) The detainee has the right to retain instruction on rights during the deprivation of liberty.

Article 108b[186] **(Official Gazette 145/13, 70/17)**
(1) If there is an urgent need to remove serious and serious consequences for the life, liberty or physical integrity of a person or to remove the danger that evidence will be hidden or destroyed, the state attorney may order the police to postpone the notification of persons referred to in Article 108a paragraph 1. points 3 and 5 of this Act only as long as there are reasons for it, and no longer than 12 hours from the moment of arrest.
(2) In the case referred to in paragraph 1 of this article, the order of the state attorney shall be attached to the report on arrest and bringing, in which the specific reasons for delaying the notification shall be stated.
(3) In the case referred to in paragraph 1 of this article, the detainee may be questioned during the delay only about the circumstances that led to the delay in notification.

[186] Članak 108.b (NN 145/13, 70/17)
(1) Ako postoji hitna potreba da se otklone ozbiljne i teške posljedice za život, slobodu ili tjelesni integritet osobe ili za otklanjanjem opasnosti da će se sakriti ili uništiti dokazi, državni odvjetnik može naložiti policiji odgodu obavještavanja osoba iz članka 108.a stavka 1. točaka 3. i 5. ovoga Zakona samo dok za to postoje razlozi, a najduže 12 sati od trenutka uhićenja.
(2) U slučaju iz stavka 1. ovoga članka u izvješću o uhićenju i dovođenju priložit će se nalog državnog odvjetnika u kojem će se navesti konkretni razlozi odgode davanja obavijesti.
(3) U slučaju iz stavka 1. ovoga članka, uhićenika se za vrijeme odgode može ispitati samo o okolnostima koje su dovele do odgode obavještavanja.

Article 108.c[187] **(OG 70/17)**
When the police interrogate an arrestee, they will act in accordance with the provisions of Article 208a of this Act.

Article 109[188] **(Official Gazette 76/09, 80/11, 145/13, 80/22)**
(1) The police must bring the arrested person to the detention police unit designated by a special law within the time limit specified in paragraph 2 of this article and hand him over to the detention supervisor or release him. The delay must be explained separately.
(2) The term in which the arrested person must be brought to the detention unit and handed over to the detention supervisor or released runs from the moment of arrest, and is twenty-four hours, and for criminal offenses for which a prison sentence of up to one year is prescribed, twelve hours.
(3) The detention supervisor will draw up a record in which he will enter the personal data of the detainee according to Article 272, paragraph 1 of this Act. Information about the arrestee, the time and reasons for the arrest are entered into the records of arrested persons in the Information System of the Ministry responsible for internal affairs, immediately after the arrestee is brought.
(4) The detention supervisor informs the state attorney immediately upon receiving the detainee. The notification is entered in the detention record of the arrested person.

[187] Članak 108.c (NN 70/17)
Kada policija ispituje uhićenika, postupit će sukladno odredbama članka 208.a ovoga Zakona.
[188] Članak 109 (NN 76/09, 80/11, 145/13, 80/22)
(1) Policija mora uhićenika u roku navedenom u stavku 2. ovog članka dovesti u pritvorsku policijsku jedinicu određenu posebnim zakonom i predati pritvorskom nadzorniku ili ga pustiti na slobodu. Zakašnjenje se mora posebno obrazložiti.
(2) Rok u kojem uhićenik mora biti doveden u pritvorsku jedinicu i predan pritvorskom nadzorniku ili pušten na slobodu teče od trenutka uhićenja, a iznosi dvadeset i četiri sata, a za kaznena djela za koja je propisana kazna zatvora do jedne godine dvanaest sati.
(3) Pritvorski nadzornik će sastaviti zapisnik u koji će unijeti osobne podatke uhićenika prema članku 272. stavku 1. ovog Zakona. Podaci o uhićeniku, trenutku i razlozima uhićenja se unose u evidenciju uhićenih osoba u Informacijskom sustavu ministarstva nadležnog za unutarnje poslove, odmah po dovođenju uhićenika.
(4) Pritvorski nadzornik obavještava državnog odvjetnika odmah po prijemu uhićenika. Obavijest se unosi u pritvorski zapisnik uhićenika.
(5) Pritvorski nadzornik će sastaviti posebni zapisnik o oduzimanju predmeta od uhićenika. Ako se radi o predmetima koji mogu poslužiti kao dokaz, zapisnik i oduzete predmete predat će državnom odvjetniku posebno pazeći da se predmeti ne unište ili ne ugrozi njihova uporaba u dokaznom postupku. Primjerak zapisnika pritvorski nadzornik predaje i policijskom službeniku koji je doveo uhićenika.
(6) Državni odvjetnik je dužan ispitati uhićenika, najkasnije šesnaest sati nakon predaje pritvorskom nadzorniku, a uhićenika za kaznena djela za koja je propisana kazna zatvora do jedne godine najkasnije dvanaest sati nakon predaje pritvorskom nadzorniku.
(7) Pritvorski nadzornik će uhićenika i pritvorenika odmah pustiti na slobodu:
1) ako to naloži državni odvjetnik,
2) ako uhićenik nije ispitan u roku iz stavka 6. ovog članka,
3) ako je pritvor ukinut.
O puštanju uhićenika i pritvorenika na slobodu pritvorski nadzornik će unijeti bilješku u zapisnik i evidenciju iz stavka 3. ovog članka.
(8) O puštanju uhićenika na slobodu u slučajevima iz stavka 7. točke 2) ovoga članka, pritvorski nadzornik će odmah obavijestiti višeg državnog odvjetnika.

(5) The detention supervisor will draw up a special report on confiscation of items from detainees. If it is about items that can be used as evidence, the record and seized items will be handed over to the state attorney, taking special care to ensure that the items are not destroyed or that their use in the evidentiary proceedings is not jeopardized. A copy of the record is handed over by the custody supervisor to the police officer who brought the detainee.
(6) The state attorney is obliged to interrogate the detainee no later than sixteen hours after handing over to the detention supervisor, and the detainee for criminal offenses for which a prison sentence of up to one year is prescribed no later than twelve hours after handing over to the detention supervisor.
(7) The detention supervisor shall immediately release the arrested person and the detainee:
1) if ordered by the state attorney,
2) if the detainee was not questioned within the period referred to in paragraph 6 of this article,
3) if the detention is terminated.
On the release of arrestees and detainees, the detention supervisor will enter a note in the minutes and records from paragraph 3 of this article.
(8) The detention supervisor shall immediately inform the senior state attorney about the release of detainees in the cases referred to in paragraph 7, point 2) of this article.

Article 110[189]
(1) The detention supervisor orders a search of the detainee when he is brought to the detention police unit. If necessary, they will order a medical examination of the arrested person.
(2) Objects and traces that could be used as evidence or that could be used to endanger security or endanger the course of the procedure, will be temporarily confiscated with confirmation.

[189] Članak 110
(1) Pritvorski nadzornik nalaže pretragu uhićenika prilikom njegova dovođenja u pritvorsku policijsku jedinicu. Prema potrebi naložit će liječnički pregled uhićenika.
(2) Predmeti i tragovi koji bi mogli poslužiti kao dokaz ili koji mogu poslužiti za ugrožavanje sigurnosti ili ugrožavanje tijeka postupka, privremeno će se oduzeti uz potvrdu.

Article 111[190] **(Official Gazette 145/13)**
(1) The detention supervisor will check whether the detainee has received and understood the instruction on rights from Article 108a paragraph 1 of this Act.
(2) The detention supervisor will inform the detainee who is a foreign citizen that he has the right to communicate with the consular representative of his country.
(3) If the detainee is a foreign citizen, and the Republic of Croatia has an international agreement with his country that stipulates mutual notification of the arrest, the competent authority of the foreign country shall be notified immediately, unless the detainee is a refugee for racial, national, political or religious reasons, or if he seeks political asylum and objects to such notification.
(4) The detention supervisor shall make a note in the detention record about the instructions given to the detainee according to the provisions of this Act and about his requests in accordance with the provisions of this article. The note is also signed by the arrestee.
(5) The minister responsible for internal affairs issues regulations on the reception and treatment of arrestees and detainees in the detention police unit.

[190] Članak 111 (NN 145/13)
(1) Pritvorski nadzornik će provjeriti da li je dovedeni uhićenik primio i razumio pouku o pravima iz članka 108.a stavka 1. ovog Zakona.
(2) Pritvorski nadzornik će uhićeniku koji je strani državljanin priopćiti da ima pravo na komunikaciju s konzularnim predstavnikom svoje države.
(3) Ako je uhićenik strani državljanin, a Republika Hrvatska s njegovom državom ima međunarodni ugovor prema kojem je propisano uzajamno obavještavanje o uhićenju, odmah će se obavijestiti nadležno tijelo strane države, osim ako je uhićenik izbjeglica iz rasnih, nacionalnih, političkih ili vjerskih razloga, ili ako traži politički azil i protivi se takvom obavještavanju.
(4) Pritvorski nadzornik u pritvorski zapisnik unosi zabilješku o poukama koje su uhićeniku priopćene prema odredbama ovog Zakona te o njegovim zahtjevima u skladu s odredbama ovog članka. Zabilješku potpisuje i uhićenik.
(5) Ministar nadležan za unutarnje poslove donosi propise o prijamu i postupanju s uhićenikom i pritvorenikom u pritvorskoj policijskoj jedinici.

bb. Pre-trial detention

Article 112[191] **(Official Gazette 76/09, 80/11, 143/12, 145/13)** **4**

(1) The state attorney, by means of a written and reasoned decision, orders detention against the detainee if he determines that there are grounds for suspecting that the detainee has committed a criminal offense for which criminal proceedings are initiated ex officio, and there are some of the reasons for pre-trial detention from Article 123, paragraph 1. points 1 - 4 of this Law, and detention is necessary for the purpose of establishing identity, verifying alibi and collecting data on evidence.

(2) If, during the arrest, it is established that there are grounds for suspecting that the arrested person has committed another criminal offense for which criminal proceedings are initiated ex officio, he cannot be re-arrested, but the state attorney can order detention against him.

(3) The state attorney is obliged to order the detention supervisor to detain the detainee or order him to release him immediately upon receiving the notification from Article 109, paragraph 4 of this Act.

(4) The detainee may appeal against the detention order within six hours. The investigating judge decides on the appeal within eight hours. The appeal does not delay the execution of the decision.

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[191] **7. Pritvor**

Članak 112 (NN 76/09, 80/11, 143/12, 145/13)

(1) Državni odvjetnik pisanim i obrazloženim rješenjem određuje pritvor protiv uhićenika ako utvrdi da postoje osnove sumnje da je uhićenik počinio kazneno djelo za koje se kazneni postupak pokreće po službenoj dužnosti, a postoje neki od razloga za istražni zatvor iz članka 123. stavka 1. točke 1. – 4. ovog Zakona, a pritvor je potreban radi utvrđivanja istovjetnosti, provjere alibija te prikupljanja podataka o dokazima.

(2) Ako se za vrijeme uhićenja ustanovi postojanje osnova sumnje da je uhićenik počinio drugo kazneno djelo za koje se kazneni postupak pokreće po službenoj dužnosti, ne može biti ponovno uhićen već državni odvjetnik može protiv njega odrediti pritvor.

(3) Državni odvjetnik je dužan odmah po primitku obavijesti iz članka 109. stavka 4. ovog Zakona naložiti pritvorskom nadzorniku da zadrži uhićenika ili mu naložiti da ga pusti na slobodu.

(4) Protiv rješenja o pritvoru pritvorenik se može žaliti u roku od šest sati. O žalbi odlučuje sudac istrage u roku od osam sati. Žalba ne zadržava izvršenje rješenja.

(5) Pritvor iz stavka 1. i 2. ovog članka može trajati najdulje četrdeset i osam sati od trenutka uhićenja, osim za kaznena djela za koja je propisana kazna zatvora do jedne godine, kada pritvor iz stavka 1. i 2. ovog članka može trajati najdulje trideset i šest sati od trenutka uhićenja. Na prijedlog državnog odvjetnika sudac istrage može obrazloženim rješenjem produljiti pritvor za daljnjih trideset šest sati ako je to nužno radi prikupljanja dokaza o kaznenom djelu za koje je propisana kazna zatvora od pet godina ili teža. Protiv rješenja suca istrage o produljenju pritvora pritvorenik se može žaliti u roku od šest sati. O žalbi odlučuje vijeće u roku od dvanaest sati. Žalba ne zadržava izvršenje rješenja. Pritvorenik može žalbu izjaviti na zapisnik.

(6) Pritvor će se odmah ukinuti ako su prestali razlozi zbog kojih je određen.

(7) Državni odvjetnik nakon što je ispitao uhićenika može pisanim nalogom naložiti policiji da najkasnije u roku od četrdeset i osam sati od trenutka uhićenja, odnosno trideset i šest sati od trenutka uhićenja za kaznena djela za koja je propisana kazna zatvora do jedne godine, dovede uhićenika sucu istrage radi postupanja prema članku 118. ovog Zakona. U tom slučaju državni odvjetnik ne donosi rješenje o pritvoru.

(8) Ako u rokovima iz stavka 5. ovog članka protiv uhićenika nije određen pritvor ili uhićenik nije doveden sucu istrage prema stavcima 5. i 7. ovog članka, ima se pustiti na slobodu.

(5) The detention referred to in paragraphs 1 and 2 of this article may last no longer than forty-eight hours from the moment of arrest, except for criminal offenses for which a prison sentence of up to one year is prescribed, when the detention referred to in paragraphs 1 and 2 of this article may last at most thirty-six hours from the moment of arrest. At the proposal of the state attorney, the judge of the investigation can extend the detention by a reasoned decision for another thirty-six hours if it is necessary to gather evidence about a criminal offense for which a prison sentence of five years or more is prescribed. The detainee can appeal against the decision of the investigating judge on the extension of detention within six hours. The panel decides on the appeal within twelve hours. The appeal does not delay the execution of the decision. A detainee can file an appeal on the record.
(6) Detention shall be immediately terminated if the reasons for which it was imposed have ceased.
(7) After questioning the arrested person, the State Attorney may, by written order, order the police to bring, no later than forty-eight hours from the moment of arrest, or thirty-six hours from the moment of arrest for criminal offenses for which a prison sentence of up to one year is prescribed, of the arrested person to the investigating judge in order to proceed according to Article 118 of this Law. In that case, the state attorney does not issue a decision on custody.
(8) If within the time limits referred to in paragraph 5 of this article, detention is not ordered against the detainee or the detainee is not brought to the investigating judge according to paragraphs 5 and 7 of this article, he shall be released.

Article 113[192] **(Official Gazette 76/09)**
(1) Deleted.
(2) Deleted.
(3) The minister responsible for internal affairs shall issue regulations on the records of detainees in the detention police unit.

Article 114 (OG 70/17)[193]
The detainee has the right to a free, undisturbed and confidential conversation with the defence counsel.

[192] Članak 113 (NN **76/09**)
(1) Brisan.
(2) Brisan.
(3) Ministar nadležan za unutarnje poslove donosi propise o evidenciji pritvorenika u pritvorskoj policijskoj jedinici.
[193] Članak 114 (NN **70/17**)
Pritvorenik ima pravo slobodnog, neometanog i povjerljivog razgovora s braniteljem.

Article 115[194] (1) During detention, the detainee must be provided with uninterrupted rest for at least eight hours in every twenty-four hours.
(2) The detention supervisor takes care of the necessary medical assistance and care of detainees.

Article 116[195] **(OG 70/17)**
Consular and diplomatic representatives can visit their citizens who are arrested or detained, talk with them and help them choose a defender.

Article 117[196]
The police can proceed according to Article 211 of this Law in order to establish the identity of the arrested person.

Article 118[197] **(Official Gazette 80/11, 145/13)**
(1) By order of the state attorney, the police will bring a detainee for whom there are grounds for pre-trial detention before the expiration of the term for detention referred to in Article 112, paragraph 5 of this Act, or within the term referred to in Article 112, paragraph 7 of this Act, to a judge for investigation holding a hearing to determine pre-trial detention or release. The detention supervisor previously submits the detention record to the state attorney, and upon request of the investigating judge or the state attorney, records, cases and other information on actions taken according to Article 110 of this Act. The state attorney must be present at that hearing.
(2) On the basis of the order of the investigating judge, the detainee will be held in custody until the holding of the hearing to decide on pretrial detention, and for a maximum of twelve hours, from the moment of bringing the investigating judge.
(3) Deleted.

[194] Članak 115
(1) Tijekom trajanja pritvora pritvoreniku se mora osigurati neprekidan odmor u trajanju od najmanje osam sati u svakih dvadeset četiri sata.
(2) Pritvorski nadzornik skrbi za potrebnu medicinsku pomoć i njegu pritvorenika.
[195] Članak 116 (NN **70/17**)
Konzularni i diplomatski predstavnici mogu posjećivati svoje državljane koji su uhićeni ili pritvoreni, razgovarati s njima te im pomoći u izboru branitelja.
[196] Članak 117
Policija može radi utvrđivanja istovjetnosti uhićenika postupiti prema članku 211. ovog Zakona.
[197] Članak 118 (NN 80/11, 145/13)
(1) Po nalogu državnog odvjetnika policija će pritvorenika kod kojeg postoje razlozi za određivanje istražnog zatvora prije isteka roka za pritvor iz članka 112. stavka 5. ovog Zakona, ili u roku iz članka 112. stavka 7. ovog Zakona, dovesti sucu istrage radi održavanja ročišta za određivanje istražnog zatvora ili puštanja na slobodu. Pritvorski nadzornik prethodno dostavlja pritvorski zapisnik državnom odvjetniku, a na zahtjev suca istrage ili državnog odvjetnika i zapisnike, predmete i druge podatke o radnjama poduzetim prema članku 110. ovog Zakona. Državni odvjetnik mora biti prisutan na tom ročištu.
(2) Na temelju naloga suca istrage pritvorenik će se zadržati u pritvoru do održavanja ročišta za odlučivanje o istražnom zatvoru, a najdulje dvanaest sati, od trenutka dovođenja sucu istrage.
(3) Brisan.

8. Pre-trial detention in the home
Article 119[198] **(OG 76/09, 143/12 - in force until December 31, 2020)**
(1) When there are circumstances from Article 123, paragraph 1, points 1 to 4 of this Act, the court may order pretrial detention in a home against a pregnant woman, a person with physical defects that make it impossible or significantly difficult for her to move, a person who has reached the age of 70 years of age and in those cases when the court deems it extremely justified, if for the purpose of pre-trial detention it is sufficient to prohibit the defendant from leaving the home.
(2) Before ordering pre-trial detention in the home, the court will ask the defendant for the written consent of the adults residing in the defendant's home regarding the use of technical means of supervision from paragraph 3 of this article.
(3) The decision on pretrial detention in the home contains a ban on the defendant to leave the home. With this decision, the court can determine the application of technical means of supervision, which ensures the implementation of pretrial detention in the home. If necessary, the court can order a precautionary measure.
(4) The court may exceptionally allow a person in pretrial detention in a home to leave the home for a certain period of time if:
1) it is necessary for the treatment of a person, or
2) this is dictated by special circumstances that could lead to serious consequences for life, health or property.
(5) If a person in pre-trial detention in a home moves away from the home in violation of a court order, or otherwise obstructs the implementation of pre-trial detention in a home, pre-trial detention will be ordered against that person. The person will be warned about this in the decision on pretrial detention in the home.

[198] **8. Istražni zatvor u domu**
Članak 119 (NN **76/09**, **143/12** - na snazi do 31.12.2020.)
(1) Kad postoje okolnosti iz članka 123. stavka 1. točke 1. do 4. ovog Zakona, sud može odrediti istražni zatvor u domu protiv trudne žene, osobe s tjelesnim nedostacima koje joj onemogućuju ili bitno otežavaju kretanje, osobe koja je navršila 70 godina života te u onim slučajevima kada to sud ocijeni iznimno opravdanim, ako je za ostvarenje svrhe istražnog zatvora dovoljna zabrana okrivljeniku da se udaljuje iz doma.
(2) Prije određivanja istražnog zatvora u domu sud će zatražiti od okrivljenika pisanu suglasnost punoljetnih osoba koje borave u domu okrivljenika o primjeni tehničkih sredstava nadzora iz stavka 3. ovog članka.
(3) Rješenje o istražnom zatvoru u domu sadrži zabranu okrivljeniku da se udaljuje iz doma. Tim rješenjem sud može odrediti primjenu tehničkih sredstava nadzora kojim se osigurava provođenje istražnog zatvora u domu. Prema potrebi, sud može naložiti mjeru opreza.
(4) Osobi u istražnom zatvoru u domu, sud može iznimno odobriti da se za određeno vrijeme udalji iz doma ako:
1) je to neophodno potrebno radi liječenja osobe, ili
2) to nalažu posebne okolnosti uslijed kojih bi mogle nastupiti teške posljedice po život, zdravlje ili imovinu.
(5) Ako se osoba u istražnom zatvoru u domu udalji iz doma protivno zabrani suda, ili na drugi način ometa provođenje istražnog zatvora u domu, protiv te osobe odredit će se istražni zatvor. O tome će se osoba upozoriti u rješenju o određivanju istražnog zatvora u domu.
SUDSKA PRAKSA: **Rješenje**

Article 119[199] **(Official Gazette 76/09, 143/12, 126/19 - in force until December 31, 2020)**

(1) When there are circumstances from Article 123, paragraph 1, points 1 to 4 of this Act, the court may order pretrial detention in a home against a pregnant woman, a person with physical defects that make it impossible or significantly difficult for her to move, a person who has reached the age of 70 years of age and in those cases when the court deems it extremely justified, if for the purpose of pre-trial detention it is sufficient to prohibit the defendant from leaving the home.

(2) The decision on pretrial detention in the home contains a ban on the defendant to leave the home. With this decision, the court can determine the application of technical means of supervision, which ensures the implementation of pretrial detention in the home. If necessary, the court can order a precautionary measure.

(3) The court may exceptionally grant permission to a person in pretrial detention in a home to move away from the home for a certain period of time if:

1) it is necessary for the treatment of a person, or

2) this is dictated by special circumstances that could lead to serious consequences for life, health or property.

(4) If a person in pre-trial detention in a home moves away from the home in violation of a court order, or otherwise obstructs the implementation of pre-trial detention in a home, pre-trial detention will be ordered against that person. The person will be warned about this in the decision on pretrial detention in the home.

Article 120[200]

Unless otherwise prescribed by this Law, the provisions on pretrial detention shall be applied accordingly to pretrial detention in the home.

[199] Članak 119 (NN **76/09**, **143/12**, **126/19** - na snazi do 31.12.2020.)

(1) Kad postoje okolnosti iz članka 123. stavka 1. točke 1. do 4. ovog Zakona, sud može odrediti istražni zatvor u domu protiv trudne žene, osobe s tjelesnim nedostacima koje joj onemogućuju ili bitno otežavaju kretanje, osobe koja je navršila 70 godina života te u onim slučajevima kada to sud ocijeni iznimno opravdanim, ako je za ostvarenje svrhe istražnog zatvora dovoljna zabrana okrivljeniku da se udaljuje iz doma.

(2) Rješenje o istražnom zatvoru u domu sadrži zabranu okrivljeniku da se udaljuje iz doma. Tim rješenjem sud može odrediti primjenu tehničkih sredstava nadzora kojim se osigurava provođenje istražnog zatvora u domu. Prema potrebi, sud može naložiti mjeru opreza.

(3) Osobi u istražnom zatvoru u domu, sud može iznimno odobriti da se za određeno vrijeme udalji iz doma ako:

1) je to neophodno potrebno radi liječenja osobe, ili

2) to nalažu posebne okolnosti uslijed kojih bi mogle nastupiti teške posljedice po život, zdravlje ili imovinu.

(4) Ako se osoba u istražnom zatvoru u domu udalji iz doma protivno zabrani suda, ili na drugi način ometa provođenje istražnog zatvora u domu, protiv te osobe odredit će se istražni zatvor. O tome će se osoba upozoriti u rješenju o određivanju istražnog zatvora u domu.

[200] Članak 120

Ako drukčije nije propisano ovim Zakonom, na istražni zatvor u domu se odgovarajuće primjenjuju odredbe o istražnom zatvoru.

Article 121[201] **(Official Gazette 76/09, 80/11, 143/12, 126/19, 80/22)**
(1) The remand prison in the home is supervised by the police in whose territory it is carried out.
(2) Pre-trial detention in a home with which the court has ordered the application of electronic surveillance is carried out by the competent organizational unit of the ministry responsible for judicial affairs with the help of the police in whose territory it is carried out.
(3) In the area of pre-trial detention in the home, the police have the powers prescribed by this Act (Articles 135 to 143) and other regulations.
(4) The minister responsible for internal affairs issues regulations on records and execution of pretrial detention in the home.
(5) The minister responsible for judicial affairs, with the prior consent of the minister responsible for internal affairs, will issue a regulation on the manner of executing electronic surveillance from Article 119, paragraph 2 of this Act.
21. Rulebook on the method of supervising the execution of pretrial detention in the home

9. Pre-trial detention
a) General provisions on pretrial detention
Article 122[202]
(1) As soon as the reasons for pre-trial detention cease, it must be abolished and the prisoner must be released.
(2) When deciding on pre-trial detention, especially its duration, special consideration will be given to the ratio between the gravity of the crime committed, the punishment

[201] Članak 121 (NN 76/09, 80/11, 143/12, 126/19, 80/22)
(1) Istražni zatvor u domu nadzire policija na čijem se području izvršava.
(2) Istražni zatvor u domu uz koji je sud odredio primjenu elektroničkog nadzora izvršava nadležna ustrojstvena jedinica ministarstva nadležnog za poslove pravosuđa uz pomoć policije na čijem se području izvršava.
(3) U prostoru istražnog zatvora u domu policija ima ovlasti propisane ovim Zakonom (članak 135. do 143.) i drugim propisima.
(4) Ministar nadležan za unutarnje poslove donosi propise o evidenciji i izvršavanju istražnog zatvora u domu.
(5) Ministar nadležan za poslove pravosuđa, uz prethodnu suglasnost ministra nadležnog za unutarnje poslove, donijet će pravilnik o načinu izvršavanja elektroničkog nadzora iz članka 119. stavka 2. ovoga Zakona.

[202] **9. Istražni zatvor**
a) Opće odredbe o istražnom zatvoru
Članak 122
(1) Čim prestanu razlozi zbog kojih je istražni zatvor određen, on se mora ukinuti i zatvorenika se mora pustiti na slobodu.
(2) Pri odlučivanju o istražnom zatvoru, posebno o njegovu trajanju, vodit će se posebno računa o razmjeru između težine počinjenog kaznenog djela, kazne koja se, prema podacima kojima raspolaže sud, može očekivati u postupku i potrebe određivanja i trajanja istražnog zatvora. Protiv trudne žene, osobe s tjelesnim nedostacima koje joj onemogućuju ili bitno otežavaju kretanje te osobe koja je navršila 70 godina života, istražni zatvor se, može iznimno odrediti.
(3) U predmetu u kojemu je određen istražni zatvor postupa se osobito žurno (članak 11. stavak 2.).

that, according to the information available to the court, can be expected in the proceedings and the need to determine the duration of pre-trial detention. A pregnant woman, a person with physical defects that make it impossible or significantly difficult for her to move, or a person who has reached the age of 70, may be ordered to pretrial detention exceptionally.
(3) In a case in which pre-trial detention is ordered, the procedure is particularly urgent (Article 11, paragraph 2).

b) Grounds for determining pretrial detention
Article 123[203] **(Official Gazette 76/09, 143/12, 145/13, 126/19)**
(1) Pre-trial detention may be ordered if there is reasonable suspicion that a certain person has committed a criminal offense and if:
1) is on the run or special circumstances point to the danger that she will run away (she is hiding, her identity cannot be determined, etc.),
2) special circumstances point to the danger that they will destroy, hide, alter or falsify evidence or traces important for the criminal proceedings or that they will hinder the criminal proceedings by influencing witnesses, experts, participants or concealers,
3) special circumstances point to the danger that he will repeat the criminal offense or that he will complete the attempted criminal offense, or that he will commit a more serious crime for which, according to the law, it is possible to impose a prison sentence of five years or a more severe sentence, which he threatens,
4) pre-trial detention is necessary for the smooth development of proceedings for a criminal offense for which a long-term prison sentence is prescribed and in which the circumstances of the commission of the criminal offense are particularly serious,
5) the defendant who has been duly summoned avoids coming to the hearing.

[203] b) Osnove za određivanje istražnog zatvora
Članak 123 (NN 76/09, 143/12, 145/13, 126/19)
(1) Istražni zatvor se može odrediti ako postoji osnovana sumnja da je određena osoba počinila kazneno djelo i ako:
1) je u bijegu ili osobite okolnosti upućuju na opasnost da će pobjeći (krije se, ne može se utvrditi njezina istovjetnost i slično),
2) osobite okolnosti upućuju na opasnost da će uništiti, sakriti, izmijeniti ili krivotvoriti dokaze ili tragove važne za kazneni postupak ili da će ometati kazneni postupak utjecajem na svjedoke, vještake, sudionike ili prikrivače,
3) osobite okolnosti upućuju na opasnost da će ponoviti kazneno djelo ili da će dovršiti pokušano kazneno djelo, ili da će počiniti teže kazneno djelo za koje je prema zakonu moguće izreći kaznu zatvora od pet godina ili težu kaznu, kojim prijeti,
4) je istražni zatvor nužan radi neometanog odvijanja postupka za kazneno djelo za koje je propisana kazna dugotrajnog zatvora i kod kojeg su okolnosti počinjenja kaznenog djela posebno teške,
5) okrivljenik koji je uredno pozvan izbjegava doći na raspravu.
(2) Pri izricanju presude uvijek će se odrediti ili produljiti istražni zatvor protiv okrivljenika kojem je izrečena kazna zatvora od pet godina ili teža kazna, neovisno o najduljem trajanju istražnog zatvora propisanog u članku 133. ovoga Zakona.
(3) Ako je prvostupanjskom presudom izrečena kazna zatvora do pet godina, istražni zatvor se nakon izricanja presude ne može odrediti ili produljiti po stavku 1. točki 4. ovog članka.
(4) Istražni zatvor se, usprkos postojanju okolnosti iz stavka 1. ovog članka, neće odrediti ili produljiti ako je već isteklo najdulje vrijeme trajanja istražnog zatvora (članak 133.).

(2) When pronouncing the verdict, pre-trial detention shall always be determined or extended against the defendant who has been sentenced to a prison sentence of five years or a heavier sentence, regardless of the longest duration of pre-trial detention prescribed in Article 133 of this Act.
(3) If the first-instance verdict imposed a prison sentence of up to five years, the remand prison cannot be determined or extended after the verdict is pronounced according to paragraph 1, point 4 of this article.
(4) Pre-trial detention, despite the existence of the circumstances referred to in paragraph 1 of this article, will not be determined or extended if the longest period of pre-trial detention has already expired (Article 133).

c) Decision on determination and extension of pretrial detention
Article 124[204] **(Official Gazette 76/09, 143/12, 70/17)**
(1) Pre-trial detention is determined and extended by a written decision of the competent court.
(2) The sentence of the decision on pretrial detention contains, in addition to the information from Article 272, paragraph 1 of this Act, and:
1) if an investigation is being carried out, an indication of the decision on the conduct of the investigation on the basis of which the decision on pre-trial detention was made,
2) the legal basis for pre-trial detention,
3) the term of pre-trial detention,
4) the provision on taking into account the time for which the person being imprisoned was deprived of liberty before the decision on pre-trial detention was made, indicating the moment of arrest,
5) the amount of the guarantee and the form of posting the bail, which can replace pre-trial detention.

[204] c) Rješenje o određivanju i produljenju istražnog zatvora
Članak 124 (NN 76/09, 143/12, 70/17)
(1) Istražni zatvor se određuje i produljuje pisanim rješenjem nadležnog suda.
Sudska praksa: Rješenje, Rješenje
(2) Izreka rješenja o istražnom zatvoru sadrži, osim podataka iz članka 272. stavka 1. ovog Zakona, i:
1) ako se provodi istraga, naznaku rješenja o provođenju istrage povodom kojega je doneseno rješenje o istražnom zatvoru,
2) zakonsku osnovu za istražni zatvor,
3) rok na koji je određen istražni zatvor,
4) odredbu o uračunavanju vremena za koje je osoba koja se zatvara bila lišena slobode prije donošenja rješenja o istražnom zatvoru s naznakom trenutka uhićenja,
5) visinu jamstva i oblik polaganja jamčevine koji mogu zamijeniti istražni zatvor.
(3) U obrazloženju rješenja o istražnom zatvoru će se određeno i potpuno izložiti činjenice i dokazi iz kojih proizlazi postojanje osnovane sumnje da je okrivljenik počinio kazneno djelo i razloga iz članka 123. stavka 1. ovog Zakona, razloga zbog kojih sud smatra da se svrha istražnog zatvora ne može ostvariti drugom blažom mjerom, kao i razloga visine jamstva, a prilikom produljenja trajanja istražnog zatvora i okolnosti koje opravdavaju njegovu daljnju primjenu.
(4) Rješenje o određivanju istražnog zatvora predaje se zatvoreniku odmah po zatvaranju. Primitak rješenja i trenutak primitka zatvorenik potvrđuje potpisom.

(3) In the explanation of the decision on pre-trial detention, the facts and evidence from which the existence of a reasonable suspicion that the defendant committed a criminal offense and the reasons from Article 123, paragraph 1 of this Law, the reasons for which the court considers that the purpose pre-trial detention cannot be carried out by another milder measure, as well as reasons for the amount of the guarantee, and when extending the duration of pre-trial detention and the circumstances that justify its further application.
(4) The decision on pretrial detention shall be handed over to the prisoner immediately after imprisonment. The prisoner confirms receipt of the decision and the moment of receipt by signing.
d) Abolition of pretrial detention and revocation of the decision on pretrial detention

Article 125[205] (Official Gazette 76/09, 143/12, 70/17)
(1) The court will abolish pre-trial detention and the defendant will be released:
1) as soon as the reasons for which the pre-trial detention was ordered or extended have ceased,
2) if further pre-trial detention would not be proportionate to the gravity of the committed criminal act,
3) if the same purpose can be achieved by another milder measure,
4) when it is proposed by the state attorney before the indictment is filed,
5) if the state attorney, even after prior notification to the senior state attorney, unjustifiably fails to take actions in the procedure within the legal deadlines,
6) when the court pronounces a verdict acquitting the defendant of the charge or the charge is dismissed or the defendant is sentenced to a fine, community service at liberty,

[205] d) Ukidanje istražnog zatvora i opoziv rješenja o istražnom zatvoru
Članak 125 (NN 76/09, 143/12, 70/17)
(1) Sud će ukinuti istražni zatvor i okrivljenik će biti pušten na slobodu:
1) čim su prestali razlozi zbog kojih je istražni zatvor određen ili produljen,
2) ako daljnji istražni zatvor ne bi bio u razmjeru s težinom počinjenog kaznenog djela,
3) ako se ista svrha može ostvariti drugom blažom mjerom,
4) kad to prije podizanja optužnice predlaže državni odvjetnik,
5) ako državni odvjetnik i nakon prethodne obavijesti višem državnom odvjetniku neopravdano u zakonskim rokovima ne poduzima radnje u postupku,
6) kad sud izrekne presudu kojom se okrivljenik oslobađa od optužbe ili se optužba odbija ili je okrivljeniku izrečena novčana kazna, rad za opće dobro na slobodi, uvjetna osuda ili sudska opomena, ili kazna zatvora u trajanju kraćem ili jednakom dotadašnjem trajanju istražnog zatvora,
7) kad isteknu rokovi trajanja istražnog zatvora,
8) kad je istražni zatvor određen prema članku 123. stavku 1. točki 2. ovog Zakona, ako je okrivljenik okolnosno i detaljno priznao djelo i krivnju, ili čim budu prikupljeni, odnosno izvedeni dokazi zbog čijeg je osiguranja taj zatvor određen, a najkasnije do završetka rasprave.
(2) Žrtva će, ako je tako zahtijevala, putem policije odmah biti obaviještena o ukidanju pritvora ili istražnog zatvora protiv okrivljenika, osim ako bi time okrivljenik bio doveden u opasnost. Žrtva će biti obaviještena i o mjerama koje su poduzete radi njezine zaštite, ako su takve mjere određen.
(3) Prije donošenja odluke o ukidanju istražnog zatvora određenog na temelju stavka 1. točke 5., sud će obavijestiti višeg državnog odvjetnika o nepravovremenom poduzimanju radnji i odrediti rok u kojemu se radnja ima provesti. Ako nakon isteka roka nije radnja poduzeta, postupit će se prema stavku 1. točki 5. ovog članka.

a suspended sentence or a court warning, or a prison sentence for a period shorter than or equal to the previous period of pre-trial detention,
7) when the terms of pre-trial detention expire,
8) when pre-trial detention is ordered according to Article 123, paragraph 1, item 2 of this Law, if the defendant has circumstantially and in detail admitted the act and guilt, or as soon as the evidence for which the detention was ordered is collected or produced, and no later than end of discussion.
(2) The victim, if he so requested, will be immediately informed by the police about the termination of custody or pre-trial detention against the defendant, unless this would put the defendant in danger. The victim will also be informed of the measures taken for his protection, if such measures have been determined.
(3) Before making a decision on the abolition of pre-trial detention determined on the basis of paragraph 1, item 5, the court will inform the senior state attorney about the untimely taking of actions and determine the deadline by which the action is to be carried out. If no action has been taken after the expiry of the deadline, the procedure will be carried out according to paragraph 1, point 5 of this article.

Article 126[206] The court that ordered or extended pre-trial detention will revoke the decision on pre-trial detention, if after its adoption, and before the defendant's imprisonment, it determines that there are no reasons why pre-trial detention was ordered or legal conditions for its determination. If a warrant was issued for the defendant, the court will order its withdrawal after the impeachment decision becomes final.
e) The judicial authority responsible for determining, extending and abolishing pre-trial detention

Article 127[207] **(Official Gazette 76/09)** (1) Pre-trial detention until the filing of the indictment is ordered by the investigating judge at the proposal of the state attorney, and abolished at the proposal of the defendant, the state attorney, or ex officio.

[206] Članak 126
Sud koji je odredio ili produljio istražni zatvor rješenjem će opozvati odluku o istražnom zatvoru, ako nakon njezinog donošenja, a prije zatvaranja okrivljenika, utvrdi da ne postoje razlozi zbog kojih je istražni zatvor bio određen ili zakonski uvjeti za njegovo određivanje. Ako je za okrivljenikom bila raspisana tjeralica, sud će nakon pravomoćnosti rješenja o opozivu naložiti njezino povlačenje.
[207] Članak 127 (NN 76/09)
(1) Istražni zatvor do podnošenja optužnice određuje sudac istrage na prijedlog državnog odvjetnika, a ukida ga na prijedlog okrivljenika, državnog odvjetnika ili po službenoj dužnosti.
(2) O prijedlogu državnog odvjetnika da se odredi istražni zatvor, sudac istrage odlučuje odmah, a najkasnije u roku od dvanaest sati od podnošenja prijedloga. Kad se sudac istrage ne složi s prijedlogom državnog odvjetnika za određivanje istražnog zatvora, donosi rješenje kojim se prijedlog odbija te ako je okrivljenik u pritvoru naložit će da se odmah pusti na slobodu. Protiv tog rješenja državni odvjetnik ima pravo žalbe u roku od dvadeset četiri sata. O žalbi odlučuje vijeće u roku od četrdeset i osam sati.
(3) Ako što drugo nije propisano posebnim zakonom, prije podnošenja optužnice, o produljenju istražnog zatvora odlučuje sudac istrage na prijedlog državnog odvjetnika.

(2) The judge of the investigation shall decide on the state attorney's proposal to order pre-trial detention immediately, and no later than within twelve hours of the submission of the proposal. When the investigating judge does not agree with the state attorney's proposal for pretrial detention, he issues a decision rejecting the proposal, and if the defendant is in custody, he will order his immediate release. The state attorney has the right to appeal against this decision within twenty-four hours. The panel decides on the appeal within forty-eight hours.
(3) If nothing else is prescribed by a special law, before filing the indictment, the judge of the investigation decides on the extension of pretrial detention on the proposal of the state attorney.
(4) After the submission of the indictment, the pre-trial detention until the confirmation of the indictment is determined, extended and terminated by the indictment panel. After the confirmation of the indictment, until the verdict becomes final, the pretrial detention is determined, extended and abolished by the trial court in session, and by the council outside the session, except in the case referred to in paragraph 5 of this article.
(5) When deciding on an appeal against a verdict, the remand prison determines, extends and terminates the panel that decides on the appeal.
(6) When the court, deciding on extraordinary legal remedies, cancels the challenged verdict and returns the case for retrial, it will order pre-trial detention if there are reasons from Article 123 of this Act, and the deadlines from Articles 130 and 133 of this Act have not passed.

Article 128[208] **(OG 70/17)**
After the submission of the indictment, and until the verdict becomes final, the defendant and his defence attorney can propose to the court the abolition of pretrial detention. An appeal is not allowed against the decision of the court rejecting the proposal for the abolition of pretrial detention.

(4) Nakon podnošenja optužnice, istražni zatvor do potvrđivanja optužnice određuje, produljuje i ukida optužno vijeće. Nakon potvrđivanja optužnice, do pravomoćnosti presude, istražni zatvor određuje, produljuje i ukida raspravni sud u zasjedanju, a izvan zasjedanja vijeće, osim u slučaju iz stavka 5. ovog članka.
(5) Kad odlučuje o žalbi protiv presude, istražni zatvor određuje, produljuje i ukida vijeće koje odlučuje o žalbi.
(6) Kad sud koji, odlučujući o izvanrednim pravnim lijekovima, ukine pobijanu presudu i predmet vrati na ponovni postupak, odredit će istražni zatvor ako postoje razlozi iz članka 123. ovog Zakona, a nisu protekli rokovi iz članka 130. i 133. ovog Zakona.
[208] Članak 128 (NN 70/17)
Nakon predaje optužnice, a do pravomoćnosti presude, okrivljenik i njegov branitelj mogu sudu predložiti ukidanje istražnog zatvora. Protiv rješenja suda kojim se odbija prijedlog za ukidanje istražnog zatvora žalba nije dopuštena.

f) Hearing for deciding on pretrial detention

Article 129[209] **(Official Gazette 76/09, 80/11, 143/12)** (1) The court decides on the determination, extension and termination of pre-trial detention at a closed oral hearing. If the state attorney proposes the abolition of pre-trial detention, the court will, immediately after receiving the proposal on the abolition of pre-trial detention, terminate the pre-trial detention by decision without determining and holding a hearing. No appeal is allowed against this decision.

(2) The state attorney, the defendant and the defence attorney of the defendant are invited to the hearing referred to in paragraph 1 of this article. The state attorney, the defendant and the defence attorney must be notified of the hearing within an appropriate period. The defendant who is deprived of liberty and wants to attend the hearing will be brought to the hearing. The defendant's handwritten statement that he does not want to attend the hearing will be delivered to the court before the hearing. A defendant deprived of liberty who is incompetent to stand trial or is unable to participate in the hearing due to a severely impaired health condition will not be brought. The court may decide that the defendant, who agrees to it, participates in the hearing referred to in paragraph 1 of this article through a closed technical device for remote communication (audio-video device). Unless otherwise prescribed by this Law (Article 118, paragraph 1),

[209] f) Ročište za odlučivanje o istražnom zatvoru
Članak 129 (NN 76/09, 80/11, 143/12)
(1) O određivanju, produljenju i ukidanju istražnog zatvora odlučuje sud na nejavnom usmenom ročištu. Ako državni odvjetnik predlaže ukidanje istražnog zatvora sud će odmah po primitku prijedloga o ukidanju istražnog zatvora, rješenjem ukinuti istražni zatvor bez određivanja i provođenja ročišta. Protiv tog rješenja žalba nije dopuštena.
(2) Na ročište iz stavka 1. ovog članka pozivaju se državni odvjetnik, okrivljenik i branitelj okrivljenika. Državni odvjetnik, okrivljenik i branitelj moraju o ročištu biti obaviješteni u primjerenom roku. Okrivljenik koji je lišen slobode, a želi prisustvovati ročištu, bit će na ročište doveden. Vlastoručno potpisana izjava okrivljenika da ne želi prisustvovati ročištu bit će dostavljena sudu do održavanja sjednice. Okrivljenik lišen slobode koji je raspravno nesposoban ili zbog teško narušenog zdravstvenog stanja nije u mogućnosti sudjelovati na ročištu, neće biti doveden. Sud može odlučiti da okrivljenik, koji na to pristane, sudjeluje na ročištu iz stavka 1. ovog članka putem zatvorenog tehničkog uređaja za vezu na daljinu (audio-video uređaj). Ako drukčije nije propisano ovim Zakonom (članak 118. stavak 1.), sjednica vijeća održat će se i ako uredno pozvani državni odvjetnik, okrivljenik i branitelj ne dođu na sjednicu, ili ako okrivljenik ili branitelj nije uredno primio poziv zbog toga jer je promijenio boravište ne obavijestivši o tome sud, ili zbog toga jer mu dostava nije bila moguća zbog njegove nedostupnosti.
(3) Obje stranke će na ročištu izložiti svoja stajališta o istražnom zatvoru, a prema potrebi i o visini jamstva. Prvo govori državni odvjetnik, zatim okrivljenik i njegov branitelj. Obje stranke imaju pravo na odgovor. Sud određuje koji će se dokazi izvesti i njihov redoslijed. Sud može na prijedlog stranaka ili po službenoj dužnosti izvesti dokaze koje smatra potrebnima za donošenje odluke o istražnom zatvoru i jamstvu. Stranke mogu svjedocima postavljati pitanja i stavljati primjedbe na provedene dokaze. Okrivljenik i njegov branitelj imaju pravo zadnji govoriti. Odluku o istražnom zatvoru sud usmeno objavljuje na završetku ročišta.
(4) Na ročištu za odlučivanje o istražnom zatvoru u istrazi državni odvjetnik će prethodno suca istrage obavijestiti o tijeku istrage radi ocjene pravovremenosti poduzimanja radnji.
(5) Ako sud donese odluku o određivanju ili produljenju istražnog zatvora, poučit će okrivljenika o pravu na žalbu i o pravu da predloži ukidanje istražnog zatvora u skladu s odredbom članka 128. ovog Zakona.
(6) O ročištu se sastavlja zapisnik koji se prilaže spisu predmeta zajedno s rješenjem kojim je odlučeno o istražnom zatvoru.
(7) Sud i nakon donošenja rješenja o određivanju ili produljenju istražnog zatvora, kad odlučuje o bilo kojem pitanju, po službenoj dužnosti pazi postoje li razlozi za istražni zatvor.

(3) At the hearing, both parties will present their views on pre-trial detention and, if necessary, on the amount of bail. The state attorney speaks first, then the defendant and his defence attorney. Both parties have the right to reply. The court determines which evidence will be presented and their order. The court may, at the request of the parties or ex officio, present the evidence it deems necessary for making a decision on pretrial detention and bail. The parties can ask witnesses questions and comment on the evidence presented. The defendant and his defence attorney have the right to speak last. The court orally announces the decision on pretrial detention at the end of the hearing.
(4) At the hearing to decide on pre-trial detention in the investigation, the state attorney will previously inform the investigating judge about the progress of the investigation in order to assess the timeliness of taking actions.
(5) If the court makes a decision on determining or extending pre-trial detention, it will instruct the defendant about the right to appeal and the right to propose the abolition of pre-trial detention in accordance with the provisions of Article 128 of this Law.
(6) A record shall be drawn up of the hearing, which shall be attached to the case file together with the decision deciding on pretrial detention.
(7) The court, even after passing a decision on the determination or extension of pre-trial detention, when deciding on any issue, ex officio checks whether there are reasons for pre-trial detention.

g) Duration of pretrial detention
Article 130[210] (Official Gazette 80/11, 145/13, 70/17)
(1) Pre-trial detention determined by the decision of the investigating judge or council may last for a maximum of one month from the day of deprivation of liberty.
(2) For justified reasons, the judge of the investigation, on the proposal of the state attorney, can extend the pre-trial detention, the first time for a maximum of two more months, and then, for criminal offenses under the jurisdiction of the county court, or when it is prescribed by a special law, for a maximum of another three months.
(3) For criminal offenses from Article 21 of the Law on the Office for the Suppression of Corruption and Organized Crime, if the investigation is extended, the judge of the

[210] g) Trajanje istražnog zatvora
Članak 130 (NN 80/11, 145/13, 70/17)
(1) Istražni zatvor određen rješenjem suca istrage ili vijeća može trajati najdulje mjesec dana od dana lišenja slobode.
(2) Iz opravdanih razloga sudac istrage na prijedlog državnog odvjetnika može produljiti istražni zatvor i to prvi puta za još najviše dva mjeseca, a zatim, za kaznena djela iz nadležnosti županijskog suda, ili kad je to propisano posebnim zakonom, za još najviše tri mjeseca.
(3) Za kaznena djela iz članka 21. Zakona o Uredu za suzbijanje korupcije i organiziranog kriminaliteta, ako je istraga produljena, sudac istrage može produljiti istražni zatvor za još tri mjeseca i još jednom za najviše tri mjeseca. Sveukupni rok trajanja istražnog zatvora do podizanja optužnice može iznositi dvanaest mjeseci.
(4) Istekom roka na koji je istražni zatvor određen, odnosno produljen ili istekom roka iz stavka 2. i 3. ovog članka, zatvorenik se ima pustiti na slobodu. Prilikom puštanja zatvorenika na slobodu, upravitelj zatvora postupit će sukladno članku 125. stavku 2. ovoga Zakona.

investigation may extend the pre-trial detention for another three months and one more time for a maximum of three months. The total term of pretrial detention until the indictment is filed can be twelve months.
(4) Upon the expiration of the period for which the remand prison was set, or extended, or upon the expiration of the period referred to in paragraphs 2 and 3 of this article, the prisoner may be released. When releasing a prisoner, the prison manager will act in accordance with Article 125, paragraph 2 of this Act.

Article 131[211]
(1) If at the time the indictment is submitted to the court, the defendant is in pretrial detention, the indictment panel shall immediately, and at the latest within forty-eight hours after the indictment is submitted, hold the hearing referred to in Article 129 of this Law and decide on pretrial detention, and extended or canceled by decision.
(2) After the filing of the indictment, pre-trial detention can last until the verdict becomes final, and after the verdict becomes final, at the latest until the ruling on referral to serving a prison sentence becomes final.
(3) The decision on pre-trial detention after the filing of the indictment does not determine the duration of pre-trial detention, but the court will examine every two months, until the pronouncement of the non-final verdict, counting from the date of finality of the previous decision on pre-trial detention, whether there are legal conditions for the further application of pre-trial detention of prison, and extend or terminate it by decision. An appeal against this decision does not delay its execution. If the defendant is in remand prison at the time of passing the non-final verdict, the council will examine whether there are legal conditions for the further application of pre-trial detention and will cancel or extend it by decision.
(4) The total duration of pre-trial detention until the indictment is filed, including the time of arrest and detention, cannot exceed six months, unless otherwise prescribed by a special law. After the submission of a new indictment according to Article 356 of this Law, the provisions of paragraph 2 of this Article shall be applied.

[211] Članak 131
(1) Ako se u vrijeme podnošenja optužnice sudu okrivljenik nalazi u istražnom zatvoru, optužno vijeće će odmah, a najkasnije u roku od četrdeset i osam sati po podnošenju optužnice održati ročište iz članka 129. ovog Zakona i odlučiti o istražnom zatvoru, te ga svojim rješenjem produljiti ili ukinuti.
(2) Nakon podnošenja optužnice istražni zatvor može trajati do pravomoćnosti presude, a nakon pravomoćnosti presude najdulje do pravomoćnosti rješenja o upućivanju na izdržavanje kazne zatvora.
(3) U rješenju o istražnom zatvoru nakon podnošenja optužnice ne određuje se rok trajanja istražnog zatvora, ali će sud svaka dva mjeseca, do izricanja nepravomoćne presude, računajući od dana pravomoćnosti prethodnog rješenja o istražnom zatvoru, ispitivati postoje li zakonski uvjeti za daljnju primjenu istražnog zatvora, te ga rješenjem produljiti ili ukinuti. Žalba protiv ovog rješenja ne zadržava njegovo izvršenje. Ako se okrivljenik u trenutku donošenja nepravomoćne presude nalazi u istražnom zatvoru, vijeće će prilikom donošenja presude ispitati postoje li zakonski uvjeti za daljnju primjenu istražnog zatvora te će ga rješenjem ukinuti ili produljiti.
(4) Ukupno trajanje istražnog zatvora do podizanja optužnice, računajući i vrijeme uhićenja i pritvora, ne može prijeći šest mjeseci, osim ako posebnim zakonom nije propisano drukčije. Nakon podnošenja nove optužnice prema članku 356. ovog Zakona primijenit će se odredbe stavka 2. ovog članka.

Article 132[212]
Pre-trial detention determined according to Article 123, paragraph 1, point 5 of this Act may last for a maximum of one month. This imprisonment can be determined again on the same basis for the same duration, if the defendant continues to avoid coming to the hearing even after the remand of pretrial detention.

Article 133[213] **(Official Gazette 145/13, 152/14)**
(1) Until the verdict of the court of first instance is passed, pre-trial detention can last for the longest time:
1) two months if the criminal offense can be sentenced to imprisonment of up to one year,
2) three months if the criminal offense can be sentenced to imprisonment for up to three years,
3) six months if the criminal offense can be sentenced to imprisonment for up to five years,
4) twelve months if the criminal offense can be sentenced to imprisonment for up to eight years,
5) two years if the criminal offense can be sentenced to imprisonment for more than eight years,
6) three years if the criminal offense can be sentenced to long-term imprisonment.

[212] Članak 132
Istražni zatvor određen prema članku 123. stavku 1. točki 5. ovog Zakona može trajati najdulje mjesec dana. Taj zatvor može se ponovno odrediti iz iste osnove u istom trajanju, ako okrivljenik i nakon ukidanja istražnog zatvora dalje izbjegava dolazak na raspravu.
[213] Članak 133 (NN 145/13, 152/14)
(1) Do donošenja presude suda prvog stupnja istražni zatvor može trajati najdulje:
1) dva mjeseca ako se za kazneno djelo može izreći kazna zatvora do jedne godine,
2) tri mjeseca ako se za kazneno djelo može izreći kazna zatvora do tri godine,
3) šest mjeseci ako se za kazneno djelo može izreći kazna zatvora do pet godina,
4) dvanaest mjeseci ako se za kazneno djelo može izreći kazna zatvora do osam godina,
5) dvije godine ako se za kazneno djelo može izreći kazna zatvora preko osam godina,
6) tri godine ako se za kazneno djelo može izreći kazna dugotrajnog zatvora.
(2) U predmetima za kaznena djela iz članka 21. Zakona o Uredu za suzbijanje korupcije i organiziranog kriminaliteta u kojima je istraga produljena, sveukupno trajanje istražnog zatvora iz stavka 1. ovog članka produljuje se za vrijeme za koje je bila produljena istraga.
(3) U predmetima u kojima je donesena nepravomoćna presuda, ukupno trajanje istražnog zatvora do njezine pravomoćnosti produljuje se za jednu šestinu u slučajevima iz stavka 1. točke 1. do 4. ovog članka, a za jednu četvrtinu u slučajevima iz stavka 1. točke 5. i 6. ovog članka.
(4) Kad je presuda ukinuta, a nakon što isteknu rokovi iz stavka 3. ovog članka, u postupku za kaznena djela iz stavka 1. točke 1. i 2. ovog članka ukupno trajanje istražnog zatvora iz stavka 1. i 3. ovog članka produljuje se za daljnjih tri mjeseca, za kaznena djela iz stavka 1. točke 3. i 4. ovog članka za daljnjih šest mjeseci, a za kaznena djela iz stavka 1. točke 5. i 6. ovog članka za još jednu godinu.
(5) Ako je protiv drugostupanjske presude dopuštena žalba, ukupno trajanje istražnog zatvora iz stavka 1. i 3. ovog članka, produljuje se za još šest mjeseci.
(6) Okrivljenik koji se nalazi u istražnom zatvoru, a presuda kojom mu je izrečena kazna zatvora je postala pravomoćna, ostat će u tom zatvoru do upućivanja na izdržavanje kazne, a najdulje do isteka trajanja izrečene kazne.

(2) In criminal cases referred to in Article 21 of the Law on the Office for the Suppression of Corruption and Organized Crime in which the investigation has been extended, the total duration of pretrial detention from paragraph 1 of this article shall be extended for the time for which the investigation was extended.
(3) In cases in which an invalid judgment was passed, the total duration of pre-trial detention until its finality is extended by one-sixth in the cases referred to in paragraph 1, points 1 to 4 of this article, and by one-fourth in the cases referred to in paragraph 1, point 5 and 6 of this article.
(4) When the judgment has been revoked, and after the deadlines from paragraph 3 of this article have expired, in the proceedings for criminal offenses from paragraph 1, points 1 and 2 of this article, the total duration of pre-trial detention from paragraphs 1 and 3 of this article it is extended for a further three months, for criminal offenses from paragraph 1, points 3 and 4 of this article for a further six months, and for criminal offenses from paragraph 1, points 5 and 6 of this article for another year.
(5) If an appeal is allowed against the second-instance verdict, the total duration of pre-trial detention from paragraphs 1 and 3 of this article shall be extended by another six months.
(6) The defendant who is in pre-trial detention, and the verdict by which he was sentenced to imprisonment has become final, will remain in that prison until he is sent to serve the sentence, and at the latest until the end of the imposed sentence.

Article 133a[214] **(Official Gazette 126/19)**
A defendant who is in pre-trial detention determined on the basis of Article 123, paragraph 2 of this Act, and the verdict by which he was sentenced to imprisonment has not become final, will remain in pre-trial detention until he is sent to serve the sentence, and at the latest until the end of the imposed sentence. penalties.

h) Appeal against the decision on determining, canceling or extending pre-trial detention
Article 134[215] **(OG 126/19)** (1) The defendant, his defence counsel and the state attorney may file an appeal against the decision determining, extending or canceling pre-trial

[214] Članak 133.a (NN 126/19)
Okrivljenik koji se nalazi u istražnom zatvoru koji je određen na temelju članka 123. stavka 2. ovoga Zakona, a presuda kojom mu je izrečena kazna zatvora nije postala pravomoćna, ostat će u istražnom zatvoru do upućivanja na izdržavanje kazne, a najdulje do isteka trajanja izrečene kazne.
[215] h) Žalba protiv rješenja o određivanju, ukidanju ili produljenju istražnog zatvora
Članak 134 (NN 126/19)
(1) Žalbu protiv rješenja kojim se određuje, produljuje ili ukida istražni zatvor mogu podnijeti okrivljenik, njegov branitelj i državni odvjetnik u roku od tri dana. Protiv rješenja vijeća drugostupanjskog suda kojim se određuje, produljuje ili ukida istražni zatvor, žalba nije dopuštena, osim kad vijeće tog suda odlučujući prema članku 127. stavku 5. ovog Zakona odredi istražni zatvor okrivljeniku protiv kojega istražni zatvor nije bio određen. O žalbi odlučuje viši sud u roku od tri dana.
(2) Žalba protiv rješenja o određivanju, produljenju ili ukidanju istražnog zatvora ne zadržava njegovo izvršenje.

detention within three days. An appeal is not allowed against the decision of the panel of the second-instance court which determines, extends or cancels pre-trial detention, except when the panel of that court decides according to Article 127, paragraph 5 of this Law, to pre-trial detention for a defendant against whom pre-trial detention was not ordered. The higher court decides on the appeal within three days.
(2) An appeal against a decision on the determination, extension or cancellation of pre-trial detention shall not delay its execution.

i) Pre-trial detention and treatment of prisoners
Article 135[216]
(1) Pre-trial detention is carried out according to the provisions of this Act and the regulations based on it.
(2) A defendant against whom pre-trial detention has been ordered based on the grounds specified in Article 551, paragraph 1 of this Act, will be sent to a hospital for persons deprived of liberty or a suitable psychiatric institution, which is obliged to receive the defendant and provide him with the necessary health care, by decision of the prison administrator, along with all the rights that the defendant has according to the provisions of this Chapter and other regulations on execution of pretrial detention.
(3) Only those employees of the ministry responsible for justice who have the necessary knowledge and skills and the professional training provided for in the regulations can work on the tasks of executing pretrial detention.
(4) The minister responsible for justice issues regulations on prisons where pre-trial detention is carried out, and on the conditions that must be met by employees who carry out pre-trial detention.

Article 136[217] **(OG 70/17)** (1) Pre-trial detention must be carried out in such a way that the person and dignity of the prisoner is not insulted. Authorized employees of the judicial police may use means of coercion when carrying out pre-trial detention only under

[216] i) Izvršenje istražnog zatvora i postupanje sa zatvorenicima
Članak 135
(1) Istražni zatvor se izvršava prema odredbama ovog Zakona i na njemu utemeljenih propisa.
(2) Okrivljenik protiv kojeg je određen istražni zatvor iz osnova navedenih u članku 551. stavku 1. ovog Zakona, bit će odlukom upravitelja zatvora upućen u bolnicu za osobe lišene slobode ili odgovarajuću psihijatrijsku ustanovu koja je dužna primiti okrivljenika i pružiti mu potrebnu zdravstvenu skrb, uz sva prava koja okrivljenik ima prema odredbama ove Glave i drugih propisa o izvršavanju istražnog zatvora.
(3) Na poslovima izvršavanja istražnog zatvora mogu raditi samo oni djelatnici ministarstva nadležnog za pravosuđe koji imaju potrebna znanja i vještine i stručnu spremu predviđenu propisima.
(4) Ministar nadležan za pravosuđe donosi propise o zatvorima u kojima se izvršava istražni zatvor, te o uvjetima koje moraju ispunjavati djelatnici koji izvršavaju istražni zatvor.
[217] Članak 136 (NN 70/17)
(1) Istražni zatvor se mora izvršavati tako da se ne vrijeđa osobu i dostojanstvo zatvorenika. Ovlašteni djelatnici pravosudne policije pri izvršavanju istražnog zatvora smiju upotrijebiti sredstva prisile samo pod zakonom

the conditions specified by law and in a prescribed manner, if it is not possible to carry out pre-trial detention measures to which the prisoner actively or passively resists in any other way.
(2) The prisoner's rights and freedoms may be limited only to the extent necessary to achieve the purpose for which the remand prison was established, to prevent the escape of the prisoner and the commission of a criminal offense, and to eliminate the danger to people's lives and health.
(3) In case of escape of a prisoner from an institution for persons deprived of liberty, the head of the institution will act in accordance with Article 125, paragraph 2 of this Act.
(4) The prison administration collects, processes and stores data on prisoners. The collection of this data includes:
1) data on the identity of the prisoner and his psychophysical condition,
2) data on admission to pretrial detention, duration, extension and cancellation of pretrial detention,
3) data on the work performed by the prisoner,
4) data on the behaviour of prisoners and applied disciplinary measures,
5) other information determined by the minister responsible for justice.
(5) The data from paragraph 4 of this article are stored and used while the pre-trial detention lasts. In addition to the central records on prisoners maintained by the ministry responsible for justice, these data are provided upon written request to the criminal procedure authorities and the individual to whom they refer.
(6) The minister responsible for justice issues a regulation on data records from paragraph 4 of this article.

Article 137[218] Prisoners are accommodated in rooms of appropriate size that meet the necessary health conditions. People of different genders may not be accommodated in

određenim uvjetima i na propisan način, ako na drugi način nije moguće provesti mjere izvršenja istražnog zatvora kojima zatvorenik pruža aktivni ili pasivni otpor.
(2) Zatvorenikova prava i slobode mogu biti ograničeni samo u mjeri potrebnoj da se ostvari svrha radi kojeg je određen istražni zatvor, spriječi bijeg zatvorenika i počinjenje kaznenog djela te otkloni opasnost po život i zdravlje ljudi.
(3) U slučaju bijega zatvorenika iz ustanove za osobe lišene slobode, čelnik ustanove postupit će sukladno članku 125. stavku 2. ovoga Zakona.
(4) Uprava zatvora prikuplja, obrađuje i pohranjuje podatke o zatvorenicima. Zbirka tih podataka sadržava:
1) podatke o istovjetnosti zatvorenika i njegovu psihofizičkom stanju,
2) podatke o primitku u istražni zatvor, trajanju, produljenju i ukinuću istražnog zatvora,
3) podatke o radu koji zatvorenik obavlja,
4) podatke o ponašanju zatvorenika i primijenjenim stegovnim mjerama,
5) druge podatke koje određuje ministar nadležan za pravosuđe.
(5) Podaci iz stavka 4. ovog članka, pohranjuju se i uporabljuju dok traje istražni zatvor. Osim središnjoj evidenciji o zatvorenicima koju vodi ministarstvo nadležno za pravosuđe, ti se podaci daju na pisani zahtjev tijelima kaznenog postupka i pojedincu na kojega se odnose.
(6) Ministar nadležan za pravosuđe donosi propis o evidenciji podataka iz stavka 4. ovog članka.
[218] Članak 137

the same room. As a rule, prisoners will not be accommodated in the same room as persons serving a prison sentence. The prisoner will not be placed together with persons who could have a harmful effect on him or with persons with whom association could adversely affect the conduct of the proceedings.

Article 138[219]
(1) Prisoners have the right to eight hours of uninterrupted rest in twenty-four hours. In addition, they will be provided with free air movement for at least two hours a day.
(2) A prisoner may have items of personal use, hygiene items, purchase books, newspapers and other printed matter at his own expense, means for monitoring public media, and have other items in a quantity and size that do not interfere with staying in the room and do not disturb house order. Upon admission to the prison, items related to the criminal offense will be confiscated from the prisoner after a personal search, and other items that the defendant may not have in the prison according to his instructions will be stored and kept or handed over to a person designated by the prisoner.

Article 139[220] **(Official Gazette 70/17, 80/22)**
(1) With the approval of the investigating judge, i.e. the president of the council and under his supervision or the supervision of a person designated by him, the prisoner has

Zatvorenici se smještaju u prostorije odgovarajuće veličine koje udovoljavaju potrebnim zdravstvenim uvjetima. U istu prostoriju ne smiju biti smještene osobe različita spola. U pravilu, zatvorenici se neće smjestiti u istu prostoriju s osobama koje izdržavaju kaznu zatvora. Zatvorenik se neće smjestiti zajedno s osobama koje bi na njega mogle štetno djelovati ili s osobama s kojima bi druženje moglo štetno utjecati na vođenje postupka.

[219] Članak 138
(1) Zatvorenici imaju pravo na osmosatni neprekidni odmor u vremenu od dvadeset četiri sata. Osim toga, njima će se osigurati kretanje na slobodnom zraku najmanje dva sata dnevno.
(2) Zatvorenik smije kod sebe imati predmete osobne uporabe, higijenske potrepštine, o svom trošku nabavljati knjige, novine i druge tiskovine, sredstva za praćenje javnih medija te imati druge predmete u količini i veličini koja ne ometa boravak u prostoriji i ne remeti kućni red. Prilikom primitka u zatvor od zatvorenika će se nakon osobne pretrage oduzeti predmeti u svezi s kaznenim djelom, a ostali predmeti koje okrivljenik ne smije imati u zatvoru prema njegovoj će se uputi pohraniti i čuvati ili predati osobi koju odredi zatvorenik.

[220] Članak 139 (NN 70/17, 80/22)
(1) Po odobrenju suca istrage odnosno predsjednika vijeća i pod njegovim nadzorom ili nadzorom osobe koju on odredi, zatvorenika imaju pravo posjećivati, u okviru kućnog reda, njegovi srodnici, a na njegov zahtjev, liječnik i druge osobe. Pojedini se posjeti mogu zabraniti ako bi zbog toga mogla nastati šteta za vođenje postupka.
(2) Sudac istrage odnosno predsjednik vijeća odobrit će konzularnom službeniku strane zemlje posjet zatvoreniku koji je državljanin te zemlje, sukladno kućnom redu zatvora.
(3) Zatvorenik se smije dopisivati s osobama izvan zatvora sa znanjem i pod nadzorom suca istrage, a nakon podignute optužnice, sa znanjem i pod nadzorom predsjednika vijeća. Zatvoreniku se može zabraniti odašiljanje i primanje pisama i drugih pošiljaka, ali ne i odašiljanje molbe, pritužbe ili žalbe.
(4) Zatvoreniku će sudac istrage, ili predsjednik vijeća, odobriti da o svom trošku sukladno kućnom redu pod nadzorom uprave zatvora, obavlja telefonske razgovore s određenom osobom. Uprava zatvora u tu svrhu zatvorenicima osigurava javni telefonski priključak koji zatvoreniku omogućava telefoniranje najmanje jednom dnevno u primjerenom trajanju.
(5) Zatvorenik ima pravo slobodnog, neometanog i povjerljivog razgovora s braniteljem, koji se može osigurati i putem zatvorenog tehničkog uređaja za vezu na daljinu (audio-video uređaj), ako okrivljenik na to pristane.
(6) Iznimno od stavka 3. ovoga članka, zatvorenik ima pravo, bez ograničenja i nadzora sadržaja, podnijeti pritužbu pučkom pravobranitelju i zaprimiti njegov odgovor, na način propisan odredbama posebnog zakona.

the right to be visited, within the framework of house rules, by his relatives, and at his request, by a doctor and other persons. Individual visits may be prohibited if this could cause damage to the conduct of the proceedings.
(2) The judge of the investigation or the president of the panel will allow the consular officer of a foreign country to visit a prisoner who is a citizen of that country, in accordance with the house rules of the prison.
(3) A prisoner may correspond with persons outside the prison with the knowledge and under the supervision of the investigating judge, and after the indictment has been filed, with the knowledge and under the supervision of the president of the council. A prisoner may be prohibited from sending and receiving letters and other items, but not from sending a request, complaint or appeal.
(4) The investigating judge, or the president of the panel, will authorize the prisoner to conduct telephone conversations with a certain person at his own expense, in accordance with house rules, under the supervision of the prison administration. For this purpose, the prison administration provides prisoners with a public telephone connection that allows the prisoner to make telephone calls at least once a day for an appropriate duration.
(5) The prisoner has the right to a free, undisturbed and confidential conversation with the defence counsel, which can also be ensured through a closed technical device for remote communication (audio-video device), if the defendant agrees to it.
(6) Exceptionally from paragraph 3 of this article, the prisoner has the right, without restriction and control of content, to submit a complaint to the Ombudsman and receive his response, in the manner prescribed by the provisions of a special law.

Article 140[221] (Official Gazette 76/09)
(1) For disciplinary offenses committed by prisoners, the investigating judge, single judge, or the president of the council may, on the proposal of the prison manager, impose

[221] Članak 140 (NN 76/09)
(1) Za stegovne prijestupe zatvorenika sudac istrage, sudac pojedinac, odnosno predsjednik vijeća može, na prijedlog upravitelja zatvora, izreći stegovnu kaznu ograničenja posjeta i dopisivanja. To se ograničenje ne odnosi na veze zatvorenika s braniteljem ili susrete s konzularnim službenikom.
SUDSKA PRAKSA: Rješenje
(2) Stegovni prijestupi su sve teže povrede koje se odnose na:
1) fizičke napade na druge zatvorenike, djelatnike ili službene osobe, odnosno njihovo vrijeđanje,
SUDSKA PRAKSA: Rješenje
2) izrađivanje, primanje, unošenje, krijumčarenje predmeta za napad ili bijeg,
3) unošenje u zatvor ili pripremanje u zatvoru opojnih sredstava ili alkohola,
4) unošenje u zatvor sredstava koja su protivna pravilima o izvršavanju kazne zatvora,
5) povrede propisa o sigurnosti na radu, protupožarnoj zaštiti te sprječavanju posljedica prirodnih nepogoda,
6) namjerno prouzrokovanje veće materijalne štete,
7) nedolično ponašanje pred drugim zatvorenicima ili službenim osobama.
(3) Protiv rješenja o stegovnoj mjeri dopuštena je žalba u roku od dvadeset četiri sata. Žalba ne zadržava izvršenje rješenja.
(4) Prisilne mjere prema zatvoreniku mogu se poduzeti u slučajevima koji su propisani pravilima o policijskim ovlastima i o izvršavanju kazne zatvora. O primjeni prisilnih mjera prema zatvoreniku uprava zatvora bez odgode izvješćuje suca istrage, suca pojedinca ili predsjednika vijeća.

a disciplinary penalty of restrictions on visits and correspondence. This restriction does not apply to a prisoner's relationship with a defence attorney or meetings with a consular officer.
(2) Disciplinary offenses are increasingly serious violations related to:
1) physical attacks on other prisoners, employees or officials, i.e. insulting them,
2) making, receiving, importing, smuggling objects for attack or escape,
3) bringing into the prison or preparing in the prison intoxicants or alcohol,
4) bringing into the prison funds that are against the rules on the execution of a prison sentence,
5) violations of regulations on occupational safety, fire protection and prevention of the consequences of natural disasters,
6) intentionally causing major material damage,
7) inappropriate behaviour in front of other prisoners or officials.
(3) An appeal against the decision on a disciplinary measure is allowed within twenty-four hours. The appeal does not delay the execution of the decision.
(4) Coercive measures against a prisoner may be taken in cases prescribed by the rules on police powers and the execution of a prison sentence. The prison administration reports the application of coercive measures to the prisoner to the investigating judge, individual judge or the president of the council without delay.

Article 141[222] **(Official Gazette 76/09, 70/17)**
(1) The president of the competent court supervises the execution of pretrial detention.
(2) The president of the court or a judge appointed by him is obliged to visit the prisoners at least once a week and, if necessary, and without the presence of a judicial police officer, examine how the prisoners are fed, how they meet other needs and how they are

[222] Članak 141 (NN 76/09, 70/17)
(1) Nadzor nad izvršenjem istražnog zatvora obavlja predsjednik nadležnog suda.
(2) Predsjednik suda ili sudac kojega on odredi dužan je najmanje jedanput tjedno obići zatvorenike i ako je potrebno, i bez prisutnosti pravosudnog policajca, ispitati kako se zatvorenici hrane, kako zadovoljavaju ostale potrebe i kako se s njima postupa. Predsjednik suda, odnosno sudac kojeg on odredi, dužan je poduzeti potrebne mjere da se otklone nepravilnosti uočene pri obilasku zatvora.
(3) Predsjednik suda i sudac istrage ili predsjednik vijeća, odnosno sudac pojedinac pred kojim se vodi postupak, neovisno o nadzoru iz stavka 2. ovog članka, mogu u svako doba obilaziti zatvorenike, s njima razgovarati i od njih primati pritužbe. Sudac istrage ili predsjednik vijeća odnosno sudac pojedinac pred kojim se vodi postupak koji su zaprimili pritužbu zatvorenika, ispitat će navode iz pritužbe te o utvrđenome, kao i o mjerama koje su poduzete da se otklone uočene nepravilnosti, u roku od trideset dana od dana zaprimanja pritužbe pisanim putem obavijestiti podnositelja.
(4) Ako tijekom pregleda ili povodom pritužbe zatvorenika, sudac iz stavka 2. ovog članka, utvrdi da je istekao rok trajanja istražnog zatvora određen u rješenju o istražnom zatvoru ili da ne postoji zakonita odluka o oduzimanju slobode, odmah će odrediti zatvorenikovo puštanje na slobodu. Prilikom puštanja zatvorenika na slobodu, upravitelj zatvora postupit će sukladno članku 125. stavku 2. ovoga Zakona.
(5) Zatvorenik ima pravo pritužbe predsjedniku suda na postupak i odluku zaposlenika zatvora u kojem se izvršava istražni zatvor te pravo podnijeti zahtjev za sudsku zaštitu protiv postupka ili odluke kojom se nezakonito prikraćuje ili ograničava njegovo pravo, uz odgovarajuću primjenu odredaba zakona o izvršavanju kazne zatvora.

treated. The president of the court, i.e. the judge appointed by him, is obliged to take the necessary measures to eliminate the irregularities observed during the tour of the prison.
(3) The president of the court and the investigating judge or the president of the panel, that is, the single judge before whom the proceedings are conducted, regardless of the supervision referred to in paragraph 2 of this article, may visit the prisoners at any time, talk to them and receive complaints from them. The investigating judge or the president of the panel, or the individual judge before whom the proceedings are conducted, who received the prisoner's complaint, will examine the allegations from the complaint and the established, as well as the measures taken to eliminate the observed irregularities, within thirty days from the day of receiving the complaint in writing by informing the applicant.
(4) If, during the examination or on the occasion of a prisoner's complaint, the judge from paragraph 2 of this article determines that the period of pretrial detention specified in the decision on pretrial detention has expired or that there is no legal decision on deprivation of liberty, he will immediately order the prisoner's release. When releasing a prisoner, the prison manager will act in accordance with Article 125, paragraph 2 of this Act.
(5) The prisoner has the right to complain to the president of the court about the procedure and decision of the employee of the prison in which pretrial detention is being carried out, and the right to submit a request for judicial protection against the procedure or decision that illegally restricts or limits his right, with the appropriate application of the provisions of the law on the execution of prison sentences.

Article 142[223] **(OG 70/17)**
Consular and diplomatic representatives can visit their citizens who are in pre-trial detention, talk with them and help them choose defence counsel.

Article 143[224]
The minister responsible for justice will prescribe house rules in prisons, which will regulate the execution of pretrial detention in accordance with the provisions of this Law. Rulebook on house rules in prisons for pretrial detention
j) Eyewitness report of the remand prison

[223] Članak 142 (NN 70/17)
Konzularni i diplomatski predstavnici mogu posjećivati svoje državljane koji su u istražnom zatvoru, razgovarati s njima te im pomoći u izboru branitelja.
[224] Članak 143
Ministar nadležan za pravosuđe propisat će kućni red u zatvorima kojim će se pobliže urediti izvršavanje istražnog zatvora u skladu s odredbama ovog Zakona.

Article 144 (OG 76/09)[225]
(1) The Ministry responsible for justice keeps records of persons against whom pre-trial detention has been ordered and who have been deprived of their liberty based on the decision on pre-trial detention (remand prison official).
(2) The court shall submit every decision on determining, prolonging and canceling pre-trial detention, as well as on revoking the decision on pre-trial detention, electronically to the ministry responsible for justice.
(3) The Ministry responsible for justice ensures the constant availability of data from the remand prison register to the court and the state attorney's office.
(4) The minister responsible for justice issues a regulation on the pretrial detention register.
28. Rulebook on registries, personal records, personal records and records kept in the prison system

c) Para. 2: Cross-border surrender

The rules on cross-border surrender are highly important for the EDPS but as they are so intrusive, it must be ensured that the suspect and accused at a later stage has access to a lawyer early in the process: **5**

Competent authorities of the Member States **6**
"Article 6, paragraph 1 of the Judicial Cooperation in Criminal Matters Act with the Member States of the European Union (OG 91/10, 81/13,124/13, 26/15, 102/17, 68/18, 70/19,141/20)3 stipulates that a European Arrest Warrant is issued by the judicial authority conducting proceedings for the purpose of surrendering the requested person for prosecution, while for the purpose of enforcing a prison sentence or involuntary placement, it is issued by the county court executing judge. The European Arrest Warrant is issued by the **competent state attorney's office** in the proceedings prior to the confirmation of the indictment. The European Arrest Warrant is issued by the competent court after the confirmation of the indictment and in the process of execution of the prison sentence. In criminal cases within the jurisdiction of the European Public Prosecutor's Office, the delegated European prosecutor is authorized to issue a European Arrest Warrant for the purpose of surrendering the requested person for prosecution against which he/she is conducting proceedings in the proceedings

[225] j) Očevidnik istražnog zatvora
Članak 144 (NN 76/09)
(1) Ministarstvo nadležno za pravosuđe vodi evidenciju o osobama protiv kojih je određen istražni zatvor i koje su lišene slobode na temelju rješenja o istražnom zatvora (očevidnik istražnog zatvora).
(2) Sud će svako rješenje o određivanju, produljenju i ukidanju istražnog zatvora te o stavljanju rješenja o istražnom zatvoru izvan snage dostaviti elektronskim putem ministarstvu nadležnom za pravosuđe.
(3) Ministarstvo nadležno za pravosuđe osigurava stalnu dostupnost podataka iz očevidnika istražnog zatvora sudu i državnom odvjetništvu.
(4) Ministar nadležan za pravosuđe donosi propis o očevidniku istražnog zatvora.

preceding the confirmation of the indictment, given that the delegated European prosecutor is authorized to take all actions taken by the competent state attorney's offices on the basis of the Judicial Cooperation in Criminal Matters with EU Member States Act for the purpose of achieving judicial cooperation with EU Member States, in accordance with Article 5, paragraph 4 of the Act Implementing Council Regulation (EU) 2017/1939 of 12 October 2017 on the implementation of enhanced cooperation in connection with the establishment of the European Public Prosecutor's Office ("EPPO")."[226]

7 For provisions on the cross-border surrender, the Law on International Legal Assistance in Criminal Matters has to be consulted. In particular:

8

Temporary surrender for hearing

Article 26[227] (1) At the request of a foreign judicial body, a person who has been deprived of his liberty in the Republic of Croatia, including Croatian citizens, may be temporarily handed over to a foreign judicial body for hearing as a witness or for confrontation, provided that within the time limit set by the domestic judicial body is returned to the Republic of Croatia and if:

1. agrees to be temporarily surrendered,
2. her presence is necessary in criminal proceedings conducted in a foreign country,
3. as a result of temporary surrender, the deprivation of liberty will not be extended,
4. there are no other decisive reasons against temporary surrender.

(2) A person referred to in paragraph 1 of this article who is temporarily handed over to a foreign judicial authority remains in custody for the entire period of stay abroad, unless the domestic judicial authority requires his release.

[226] See https://www.eppo.europa.eu/sites/default/files/2021-11/15-HR.pdf, p. 8.

[227] Privremena predaja radi saslušanja

Članak 26

(1) Na zamolbu stranoga pravosudnog tijela, osoba kojoj je u Republici Hrvatskoj oduzeta sloboda, uključujući i hrvatske državljane, može biti privremeno predana stranom pravosudnom tijelu radi saslušanja u svojstvu svjedoka ili radi suočenja, pod uvjetom da u roku određenom od strane domaćega pravosudnog tijela bude vraćena u Republiku Hrvatsku i ako:

1. pristane biti privremeno predana,
2. je njezina prisutnost neophodna u kaznenom postupku koji se vodi u stranoj državi,
3. uslijed privremene predaje neće doći do produženja oduzimanja slobode,
4. ne postoje drugi odlučujući razlozi koji se protive privremenoj predaji.

(2) Osoba iz stavka 1. ovoga članka koja je privremeno predana stranom pravosudnom tijelu, ostaje u pritvoru za cijelo vrijeme boravka u inozemstvu, osim ukoliko domaće pravosudno tijelo ne zahtijeva njezino puštanje na slobodu.

CHAPTER III. EXTRADITION First part: ASSUMPTIONS
Extradition of a Croatian citizen
Article 32[228] (1) A Croatian citizen cannot be extradited to a foreign country for the purpose of criminal prosecution or serving a prison sentence, nor can he be transferred from the Republic of Croatia to a foreign country to serve a prison sentence as a convict. (2) The provision of paragraph 1 of this article does not apply in cases of temporary surrender of a Croatian citizen to a domestic judicial authority for the purpose of undertaking certain actions in criminal proceedings in the Republic of Croatia.

Extradition of a foreigner
Article 33[229] A foreigner may be extradited to another country for the purpose of criminal prosecution or the execution of a sanction that includes deprivation of liberty, if that country has requested extradition, or at the request or with the consent of the Republic of Croatia, has taken over the criminal prosecution or the execution of a criminal sentence.

Article 34[230] (1) A foreigner who, on the basis of a decision of a foreign judicial body of the country requesting extradition, has been accused or convicted of criminal offenses punishable in accordance with the law of that country, shall be extradited to that country for the purpose of conducting criminal proceedings, i.e. for the execution of sanctions

[228] GLAVA III. IZRUČENJE Prvi dio: PRETPOSTAVKE Izručenje hrvatskog državljanina
Članak 32 (1) Hrvatski državljanin ne može biti izručen radi kaznenog progona ili izvršenja kazne zatvora stranoj državi, niti kao osuđenik može biti premješten iz Republike Hrvatske u stranu državu radi izdržavanja kazne zatvora.
(2) Odredba stavka 1. ovoga članka ne primjenjuje se u slučajevima privremene predaje hrvatskog državljanina domaćem pravosudnom tijelu radi poduzimanja određenih radnji u kaznenom postupku u Republici Hrvatskoj.
[229] Izručenje stranca
Članak 33
Stranac može biti izručen drugoj državi radi kaznenog progona ili izvršenja sankcije koja uključuje oduzimanje slobode, ako je ta država zatražila izručenje, ili je na zahtjev odnosno uz suglasnost Republike Hrvatske preuzela kazneni progon ili izvršenje kaznene presude.
[230] Članak 34
(1) Stranac koji je na temelju odluke stranoga pravosudnog tijela države koja izručenje traži, okrivljen ili osuđen radi kaznenih djela kažnjivih u skladu sa zakonom te države, izručit će se toj državi, radi vođenja kaznenog postupka, odnosno radi izvršenja sankcija koja uključuje lišavanje slobode, ako takva djela sadrže bitna obilježja kaznenih djela i prema domaćem pravu.
(2) Izručenje radi vođenja kaznenog postupka može se odobriti samo za kaznena djela koja su prema domaćem pravu kažnjiva kaznom zatvora ili sigurnosnom mjerom s lišenjem slobode na najduže razdoblje od barem jedne godine ili primjenom strože kazne.
(3) Izručenje radi izvršenja sankcija lišavanjem slobode može se odobriti kada je, u slučaju kaznenih djela iz stavka 1. ovoga članka, donesena pravomoćna presuda na kaznu zatvora ili sigurnosnu mjeru s lišavanjem slobode, koja je odmjerena u trajanju od najmanje četiri mjeseca.
(4) Iznimno, ako je zamolbom za izručenje obuhvaćeno nekoliko zasebnih kaznenih djela od kojih pojedina ne udovoljavaju uvjetima iz stavka 1. i 2. ovoga članka u odnosu na duljinu kazne koja se može izreći ili se radi o kaznenim djelima za koja je propisana samo novčana kazna, izručenje se može odobriti i za ta kaznena djela.
(5) Izručenje će se dopustiti ako država moliteljica jamči da bi izvršila istovrsnu zamolbu Republike Hrvatske.

that include deprivation of liberty, if such acts contain essential characteristics of criminal acts and according to domestic law.
(2) Extradition for the purpose of conducting criminal proceedings can only be approved for criminal offenses that are punishable under domestic law by imprisonment or a security measure with deprivation of liberty for a maximum period of at least one year or by the application of a more severe punishment.
(3) Extradition for the purpose of execution of sanctions by deprivation of liberty may be approved when, in the case of criminal offenses referred to in paragraph 1 of this article, a final sentence of imprisonment or a security measure with deprivation of liberty, which has been imposed for a duration of at least four months, has been passed.
(4) Exceptionally, if the request for extradition covers several separate criminal offenses, some of which do not meet the conditions from paragraphs 1 and 2 of this article in relation to the length of the sentence that can be imposed, or if it concerns criminal offenses for which only fine, extradition can also be granted for these crimes.
(5) Extradition will be allowed if the requesting state guarantees that it would carry out a similar request from the Republic of Croatia.

Refusal of extradition
Article 35[231] (1) Extradition will not be allowed:
1. if the person whose extradition is sought is a citizen of the Republic of Croatia,
2. if the offense for which extradition is requested was committed on the territory of the Republic of Croatia, against it or its citizen,
3. if the offense for which extradition is requested is not a criminal offense under both domestic law and the law of the country where it was committed,

[231] Odbijanje izručenja
Članak 35
(1) Izručenje se neće dopustiti:
1. ako je osoba čije se izručenje traži državljanin Republike Hrvatske,
2. ako je djelo zbog kojeg se traži izručenje počinjeno na području Republike Hrvatske, protiv nje ili njezina državljanina,
3. ako djelo zbog kojeg se traži izručenje nije kazneno djelo i po domaćem zakonu i po zakonu države u kojoj je počinjeno,
4. ako je po domaćem zakonu nastupila zastara kaznenog gonjenja ili zastara izvršenja kazne prije nego što je strani državljanin pritvoren ili kao okrivljenik ispitan,
5. ako je stranac čije se izručenje traži zbog istog djela od domaćeg suda već osuđen, ili ako je za isto djelo od domaćeg suda pravomoćno oslobođen, osim ako se stječu uvjeti za ponav ljanje kaznenog postupka predviđeni Zakonom o kaznenom postupku, ili ako je protiv stranca u Republici Hrvatskoj zbog istog djela počinjenog prema Republici Hrvatskoj pokrenut kazneni postupak, a ako je pokrenut postupak zbog djela počinjenog prema državljaninu Republike Hrvatske – ako nije položeno osiguranje za ostvarivanje imovinskopravnog zahtjeva oštećenika,
6. ako nije utvrđena istovjetnost osobe čije se izručenje traži,
7. ako nema dovoljno dokaza za osnovanu sumnju da je stranac čije se izručenje traži počinio određeno kazneno djelo ili da postoji pravomoćna presuda.
(2) Izručenje se može odbiti ako Republika Hrvatska može preuzeti progon kaznenog djela ili izvršenje strane kaznene presude, a to se čini prikladnim s obzirom na socijalnu rehabilitaciju okrivljenika.

4. if, according to domestic law, the statute of limitations for criminal prosecution or the statute of limitations for the execution of the sentence began to run before the foreign citizen was detained or questioned as a defendant,
5. if the foreigner whose extradition is requested for the same offense has already been convicted by a domestic court, or if he has been legally acquitted by a domestic court for the same offense, unless the conditions for repeating the criminal procedure provided for in the Criminal Procedure Act are met, or if it is against criminal proceedings have been initiated against a foreigner in the Republic of Croatia for the same offense committed against the Republic of Croatia, and if proceedings have been initiated for an offense committed against a citizen of the Republic of Croatia - if no insurance has been deposited for the realization of the property claim of the injured party,
6. if the identity of the person whose extradition is requested has not been established,
7. if there is insufficient evidence for a well-founded suspicion that the foreigner whose extradition is sought has committed a specific criminal offense or that there is a final judgment.
(2) Extradition may be refused if the Republic of Croatia can take over the prosecution of a criminal offense or the execution of a foreign criminal judgment, and this seems appropriate in view of the defendant's social rehabilitation.

Article 36[232]

A foreigner who is subject to the jurisdiction of the Republic of Croatia may exceptionally be extradited to a foreign country if this is justified by special circumstances, especially the possibility of social rehabilitation.

The principle of specialties

Article 37[233] (1) Extradition will be permitted under the condition that the country requesting the extraditee:
1. does not prosecute or punish or extradite to a third country for a specific offense committed before extradition, and in relation to which extradition was not granted,

[232] Članak 36
Stranac koji podliježe sudbenosti Republike Hrvatske iznimno može biti izručen stranoj državi ako to opravdavaju posebne okolnosti, a osobito mogućnosti socijalne rehabilitacije.
[233] Načelo specijaliteta
Članak 37
(1) Izručenje će se dopustiti pod uvjetom da država moliteljica izručenika:
1. ne progoni ili ne kazni ili ne izruči trećoj državi zbog određenog djela počinjenog prije izručenja, a u odnosu na koje djelo nije odobreno izručenje,
2. ne ograničava u njegovim osobnim pravima iz razloga koji nije nastao u vezi s izručenjem,
3. ne izvede pred izvanredni sud.
(2) Uvjeti iz stavka 1. točke 1. i 2. ovoga članka neće se primijeniti:
1. ako ih se izručenik izrijekom odrekne, ili
2. ako izručenik, usprkos upozorenju na posljedice, ne napusti državno područje države moliteljice u roku od 45 dana nakon uvjetnog ili konačnog oslobođenja, iako je mogao, ili ako se nakon napuštanja tog područja ponovno tamo vrati.

2. does not limit his personal rights for reasons that did not arise in connection with extradition,
3. not brought before an extraordinary court.
(2) The conditions from paragraph 1, points 1 and 2 of this article shall not apply:
1. if the extradited party expressly renounces them, or
2. if the extraditee, despite being warned of the consequences, does not leave the territory of the requesting state within 45 days after conditional or final release, even though he could, or if after leaving that territory he returns there again.

Additional request for extradition
Article 38[234]
If the extradited person is accused of other criminal offenses, the requesting state will be allowed to conduct criminal proceedings for those offenses as well, under the conditions of Articles 34, 35 and 37 of this Act.

Requests for extradition by several countries
Article 39[235]
(1) If several states submit a request for the extradition of the same person for the same criminal offense, extradition will be granted to the state on whose territory the offense was committed, or on whose territory most of the criminal activities were committed in the case of a prolonged or permanent criminal offense, or on whose territory in the area where the organizer resides in the event of a criminal offense of organized crime.
(2) If several countries submit a request for the extradition of the same person for different criminal offenses, the decision will be made with regard to the circumstances of the specific case, especially with regard to the gravity of the criminal offense, the order of submission of the request, the citizenship of the extradited person, the possibility of better social rehabilitation and the possibility of extradition third country.
(3) The decision from the previous paragraphs of this article must be for women.

[234] Dodatna zamolba za izručenjem
Članak 38
Ako izručenik bude optužen za druga kaznena djela, državi moliteljici dopustit će se provođenje kaznenog postupka i za ta djela, pod uvjetima iz članka 34., 35. i 37 ovoga Zakona.
[235] Zamolbe za izručenje od strane više zemalja
Članak 39
(1) Podnese li više država zamolbu za izručenje iste osobe za isto kazneno djelo, izručenje će se odobriti državi na čijem području je djelo počinjeno, ili na čijem području je počinjen veći dio kriminalnih aktivnosti u slučaju produljenog ili trajnoga kaznenog djela, ili na čijem području organizator ima prebivalište u slučaju kaznenog djela organiziranog kriminala.

(2) Podnese li više država zamolbu za izručenje iste osobe za različita kaznena djela, odluka će se donijeti s obzirom na okolnosti konkretnog slučaja, posebice s obzirom na težinu kaznenog djela, redoslijed podnošenja zahtjeva, državljanstvo izručenika, mogućnost bolje socijalne rehabilitacije i mogućnosti izručenja trećoj državi.
(3) Odluka iz prethodnih stavaka ovoga članka mora biti ob razlo žena.

Conditions of extradition to the Republic of Croatia
Article 40[236]
(1) If criminal proceedings are being conducted in the Republic of Croatia against a person who is in a foreign country, or if such a person has been sentenced by a domestic court, the Minister of Justice may submit a request for extradition at the request of the domestic judicial authority.
(2) If the requested person is extradited, he will be criminally prosecuted, i.e., a sanction may be imposed against him only for the criminal offense for which extradition has been approved, unless he has waived that right and the extraditing state has not set such a condition.
(3) Documents from Article 43 of this Act shall be attached to the request from paragraph 1 of this Article.

Article 41[237]
(1) If a foreign state has approved extradition with certain conditions regarding the type or amount of punishment that can be imposed or executed and with these conditions the extradition is accepted, the court is bound by those conditions when imposing a sentence, and if it is about the execution of an already imposed sentence, the court that judged in the last instance will change the verdict and adjust the imposed sentence to the conditions of extradition.
(2) If the extradited person was detained in a foreign country for the criminal offense for which he was extradited, the time he spent in detention will be included in the sentence.

[236] Uvjeti izručenja u Republiku Hrvatsku
Članak 40 (1) Ako se protiv osobe koja se nalazi u stranoj državi vodi u Republici Hrvatskoj kazneni postupak ili je takvoj osobi domaći sud izrekao pravomoćnu presudu, ministar pravosuđa može podnijeti zamolbu za izručenje na traženje domaćega pravosudnog tijela.
(2) Ako tražena osoba bude izručena, kazneno će se progoniti odnosno prema njoj će se moći izvršiti sankcija samo za kazneno djelo za koje je izručenje odobreno, osim ako se toga prava odrekla, a država koja izručuje nije postavila takav uvjet.
(3) Zamolbi iz stavka 1. ovoga članka prilažu se dokumenti iz članka 43. ovoga Zakona.
[237] Članak 41
(1) Ako je strana država odobrila izručenje uz određene uvjete u pogledu vrste ili visine kazne koja se može izreći odnosno izvršiti i uz te uvjete izručenje bude prihvaćeno, sud je pri izricanju kazne vezan tim uvjetima, a ako je riječ o izvršenju već izrečene kazne, sud koji je sudio u posljednjem stupnju preinačit će presudu i prilagoditi izrečenu kaznu uvjetima izručenja.
(2) Ako je izručenik bio pritvoren u stranoj državi zbog kaznenog djela zbog kojeg je izručen, vrijeme što ga je proveo u pritvoru uračunat će se u kaznu.

Conducting extradited persons through the Republic of Croatia

Article 42[238] (1) If a foreign country requests extradition from another foreign country, and the extradited person is to be extradited through the territory of the Republic of Croatia, the Minister of Justice may approve the extradition to the foreign country that requested the extradition in accordance with the conditions required for the approval of extradition from Articles 34 and 35. of this Act.

(2) The request for extradition through the state territory of the Republic of Croatia must contain all information from Article 43 of this Act.

(3) The costs of escorting the extradited person through the territory of the Republic of Croatia shall be borne by the state requesting the extradition.

Part Two: EXTRADITION PROCEDURE

Request for extradition

Article 43[239]

(1) The request for extradition contains information from Article 8, paragraph 3 of this Act, and the following shall be attached to the request:

1. means for establishing the identity of the extradited person (accurate description, photographs, fingerprints, etc.),
2. indictment or judgment or decision on detention or any other document equivalent to that decision, in the original or a certified copy, which should indicate the name and surname of the person whose extradition is requested and other information necessary to establish his identity,
3. description of the act, legal name of the criminal act and evidence for reasonable suspicion,

[238] Provođenje izručenika kroz Republiku Hrvatsku
Članak 42 (1) Ako strana država traži izručenje od druge strane države, a izručenik se ima provesti preko teritorija Republike Hrvatske, ministar pravosuđa može stranoj državi koja je provođenje zatražila odobriti njegovo provođenje sukladno uvjetima koji su potrebni za odobrenje izručenja iz članka 34. i 35. ovoga Zakona.
(2) Zamolba za provođenje izručenika preko državnog područja Republike Hrvatske mora sadržavati sve podatke iz članka 43. ovoga Zakona.
(3) Troškove provođenja izručenika preko teritorija Republike Hrvatske snosi država koja traži izručenje.

[239] Drugi dio: POSTUPAK ZA IZRUČENJE
Zamolba za izručenje
Članak 43
(1) Zamolba za izručenje sadrži podatke iz članka 8. stavka 3. ovoga Zakona, a zamolbi se prilažu:
1. sredstva za utvrđivanje istovjetnosti izručenika (točan opis, fotografije, otisci prstiju i sl.),
2. optužnica ili presuda ili odluka o pritvoru ili koji drugi akt ravan toj odluci, u izvorniku ili ovjerenom prijepisu, u kojem treba biti naznačeno ime i prezime osobe čije se izručenje traži i ostali podaci potrebni za utvrđivanje njezine istovjetnosti,
3. opis djela, zakonski naziv kaznenog djela i dokazi za osnovanu sumnju,
4. izvadak iz teksta kaznenog zakona koji se treba primijeniti ili je primijenjen prema izručeniku zbog djela u povodu kojega se traži izručenje, a ako je djelo počinjeno na području treće države, onda i izvadak iz teksta kaznenog zakona te države.
(2) Ako su dokumenti iz stavka 1. ovoga članka sastavljeni na stranom jeziku, zamolbi treba priložiti i prijevod na hrvatski jezik.

4. an extract from the text of the criminal law that should be applied or has been applied to the extradited person because of the offense for which extradition is requested, and if the offense was committed on the territory of a third country, then also an extract from the text of the criminal law of that country.
(2) If the documents referred to in paragraph 1 of this article are drawn up in a foreign language, a translation into Croatian should also be attached to the application.

Request for provisional arrest for extradition
Article 44[240]
The request for temporary arrest for the purpose of extradition, in addition to the content from Article 8, paragraph 3 of this Act, must also contain:
1. data to determine the identity of the person whose arrest for the purpose of extradition is requested,
2. factual and legal description of the criminal offense,
3. the statement of the judicial body on the existence of a final conviction will be confirmed by judgments or decisions on custody,
4. a statement that the extradition of the person whose arrest is requested for extradition will be requested.

Article 45[241]
The Ministry of Justice submits a request for extradition, or a request for temporary arrest for the purpose of extradition, to the competent court in whose territory the person whose extradition is requested resides or is located.

Article 46[242]
A person whose extradition is sought may be arrested for extradition on the basis of a request from a foreign judicial authority or, with the condition of reciprocity, on the basis of an issued international warrant.

[240] Zamolba za privremeno uhićenje radi izručenja
Članak 44
Zamolba za privremeno uhićenje radi izručenja, pored sadržaja iz članka 8. stavka 3. ovoga Zakona, mora sadržavati i:
1. podatke za utvrđivanje identiteta osobe čije se uhićenje radi izručenja traži,
2. činjenični i pravni opis kaznenog djela,
3. izjavu pravosudnog tijela o postojanju pravomoćne osuđu ju će presude ili odluke o pritvoru,
4. izjavu da će biti zatraženo izručenje osobe čije se uhićenje radi izručenja traži.
[241] Članak 45
Zamolbu za izručenje, odnosno zamolbu za privremeno uhićenje u svrhu izručenja Ministarstvo pravosuđa dostavlja nadležnom sudu na čijem području boravi ili na čijem se području zatekne osoba čije se izručenje traži.
[242] Članak 46
Osoba čije se izručenje traži može biti uhićena radi izručenja na temelju zamolbe stranoga pravosudnog tijela ili, uz uvjet uzajamnosti, na temelju raspisane međunarodne tjeralice.

Decision on detention for extradition
Article 47[243]
(1) The competent court issues a decision on detention for the purpose of extradition, unless there is a probability that the extradition will not be approved, and the alien's remaining at large does not jeopardize the extradition procedure.
(2) If the foreigner is not fit for detention or if it is justified by other reasons, the competent court may order other measures to ensure his presence instead of detention.

Abolition of detention
Article 48[244]
(1) The investigating judge will release the foreigner when the grounds for detention cease or if the request for extradition is not submitted within the time limit set by him, taking into account all the circumstances of the request for extradition, which cannot be longer than 40 days from the date detention. Detention determined on the basis of Article 44 of this Act may be terminated if a request for extradition is not submitted within 18 days from the date of detention of the alien.
(2) The Ministry of Justice shall notify the requesting state without delay of the deadlines referred to in paragraph 1 of this Article, upon whose request the competent judicial authority may extend the duration of detention by a maximum of 30 days.
(3) If the extradited person is already in custody on some other basis, the period referred to in paragraph 1 of this article begins to run from the decision on detention for the purpose of extradition.

[243] Rješenje o pritvoru radi izručenja
Članak 47
(1) Nadležni sud donosi rješenje o pritvoru radi izručenja, osim ako postoji vjerojatnost da izručenje neće biti odobreno, a ostanak stranca na slobodi ne ugrožava postupak izručenja.
(2) Ako stranac nije sposoban za pritvor ili ako to opravdavaju drugi razlozi, nadležni sud može umjesto pritvora odrediti druge mjere za osiguranje njegove nazočnosti.
[244] Ukidanje pritvora
Članak 48
(1) Istražni sudac će pustiti na slobodu stranca kad prestanu razlozi za pritvor ili ako zahtjev za izručenje ne bude podnesen u roku koji je on odredio vodeći računa o svim okolnostima iz zamolbe za izručenje, a koji ne može biti dulji od 40 dana od dana pritvaranja. Pritvor određen na temelju članka 44. ovoga Zakona može biti ukinut ako u roku od 18 dana od dana pritvaranja stranca ne bude podnesena zamolba za izručenje.
(2) O rokovima iz stavka 1. ovoga članka Ministarstvo pravosuđa bez odgode obavještava državu moliteljicu, na čiju zamolbu nadležno pravosudno tijelo može produljiti trajanje pritvora za još najviše 30 dana.
(3) Nalazi li se izručenik već u pritvoru po nekoj drugoj osnovi, rok iz stavka 1. ovoga članka počinje teći od odluke o pritvoru radi izručenja.

Extension and renewal of detention
Article 49[245]
(1) After receiving a request for extradition, the custody measure remains in effect during the entire extradition procedure until the deadline for execution of the decision on execution from Article 59 of this Act expires.
(2) If the extradited person is released from custody due to the expiration of the deadlines referred to in Article 48, paragraphs 1 and 2 of this Act, if the requesting state again submits a request for temporary arrest for extradition or a request for extradition, it is allowed to order detention for extradition again.

Temporary confiscation of items
Article 50[246]
(1) At the request of the requesting state, the domestic court may order a search of the arrested person and the premises.
(2) Upon arrest, items and property benefits that can be used as evidence in foreign criminal proceedings or that originate from a criminal offense will be temporarily confiscated.
(3) The measures referred to in paragraphs 1 and 2 of this article may last until the decision on detention for extradition is made, but no longer than 48 hours after the arrest.

Article 51[247]
Notification of arrest, temporary confiscation of objects, or search of the arrested person and premises shall be submitted to the Ministry of Justice without delay.

[245] Produljenje i obnova pritvora
Članak 49
(1) Nakon primitka zamolbe za izručenje, mjera pritvora ostaje na snazi tijekom cijelog postupka izručenja do isteka roka za izvršenje rješenja o izvršenju iz članka 59. ovoga Zakona.
(2) Bude li izručenik pušten iz pritvora zbog proteka rokova iz članka 48. stavka 1. i 2. ovoga Zakona, ako država moliteljica ponovno podnese zamolbu za privremeno uhićenje radi izručenja ili zamolbu za izručenje, dopušteno je ponovno odrediti pritvor radi izručenja.
[246] Privremeno oduzimanje predmeta
Članak 50
(1) Na zamolbu države moliteljice domaći sud može naložiti pretragu uhićenika i prostorija.
(2) Pri uhićenju će se privremeno oduzeti predmeti i imovinska korist koji u stranom kaznenom postupku mogu poslužiti kao dokaz ili koji potječu od kaznenog djela.
(3) Mjere iz stavka 1. i 2. ovoga članka mogu trajati do donošenja odluke o pritvoru radi izručenja, ali najduže 48 sati nakon uhićenja.
[247] Članak 51
Obavijest o uhićenju, privremenom oduzimanju predmeta, odnosno pretrazi uhićenika i prostorija dostavlja se Ministarstvu pravosuđa bez odgode.

Right to be heard
Article 52[248]
(1) When issuing a decision on detention for the purpose of extradition, the competent court will determine whether the person to be extradited is the person indicated in the request, and after that, he will be informed without delay why and on the basis of which evidence his extradition is requested and will invite him to state what he has in your defence. They will explain to him the prerequisites for extradition, and familiarize him with the right to appeal and the right to a defence attorney, that is, he will appoint an ex officio defence attorney if it is a criminal offense for which defence is mandatory under the Criminal Procedure Act, and will also inform the extradited person of the possibility of giving consent to surrender to the requesting state under the simplified procedure of extradition and waiver of rights from Article 54, paragraph 1 of this Act.
(2) The extradited person is briefly questioned about his personal circumstances, citizenship and relations with the requesting state, and whether and for what reasons he opposes arrest or extradition. The defendant's defence attorney may also participate in the interrogation.
(3) A record shall be drawn up of the examination and defence.

Reconnaissance operations
Article 53[249]
(1) After the hearing according to Article 52, paragraph 2 of this Act, the investigating judge, if necessary, conducts investigative activities in order to determine whether there are prerequisites for extradition.
(2) If criminal proceedings are pending against the extradited person in the Republic of Croatia for the same or another criminal offense, the investigating judge indicates this in the official notes.

[248] Pravo na saslušanje
Članak 52
(1) Prigodom donošenja rješenja o pritvoru radi izručenja, nadležni sud utvrdit će je li izručenik osoba naznačena u zamolbi, a nakon toga će mu bez odgađanja priopćiti zbog čega se i na temelju kojih dokaza traži njegovo izručenje i pozvati ga da navede što ima u svoju obranu. Obrazložit će mu pretpostavke za izručenje, te ga upoznati s pravom na žalbu i pravom na branitelja, odnosno postavit će mu branitelja po službenoj dužnosti ako je u pitanju kazneno djelo za koje je obrana obvezna po Zakonu o kaznenom postupku, a također će obavijestiti izručenika o mogućnosti davanja pristanka na predaju državi moliteljici po pojednostavljenom postupku izručenja i odricanja od prava iz članka 54. stavka 1. ovoga Zakona.
(2) Izručenik se ukratko ispituje o osobnim prilikama, državljanstvu i odnosima prema državi moliteljici, te da li se i iz kojih razloga protivi uhićenju ili izručenju. U ispitivanju može sudjelovati i branitelj izručenika.
(3) O ispitivanju i obrani sastavlja se zapisnik.
[249] Izvidne radnje
Članak 53
(1) Nakon saslušanja prema članku 52. stavku 2. ovoga Zakona, istražni sudac prema potrebi provodi izvidne radnje radi utvrđivanja postoje li pretpostavke za izručenje.
(2) Ako je protiv izručenika u tijeku kazneni postupak u Republici Hrvatskoj zbog istog ili drugog kaznenog djela, istražni sudac to naznačuje u službenim zabilješkama.

Simplified extradition
Article 54[250]
(1) The extradited person may consent to surrender to the requesting state under a simplified extradition procedure, as well as waive the right from Article 40, paragraph 2 of this Act, after which the competent court approves his extradition, if there are no reasons for a different decision.
(2) The consent and waiver referred to in paragraph 1 of this article shall be recorded in the record before the competent court in accordance with the Criminal Procedure Act, in a way that proves that the extradited person acted voluntarily and was fully aware of the consequences.
(3) Consent and waiver from paragraph 1 of this article are irrevocable.
(4) The competent court shall immediately notify the Ministry of Justice of the consent referred to in paragraph 1 of this Article, which shall, no later than within 10 days from the date of detention of the extradited person, notify the requesting state, which in that case is not obliged to submit a request for extradition.
(5) If the extraditee has given consent from paragraph 1 of this article, after the deadline from paragraph 4 of this article expires, the competent court will carry out a simplified extradition procedure if no request for extradition has been received yet.
(6) If the extraditee has given the consent referred to in paragraph 1 after the deadline referred to in paragraph 4 of this article, and in the meantime a request for extradition has been received, the competent court may implement a simplified extradition procedure.
(7) Simplified extradition has the effects of extradition and is subject to the same conditions. The requesting state will be warned about this.

[250] Pojednostavljeno izručenje Članak 54 (1) Izručenik može dati pristanak na predaju državi moliteljici po pojednostavljenom postupku izručenja, kao i odreći se prava iz članka 40. stavka 2. ovoga Zakona, nakon čega nadležni sud odobrava njegovo izručenje, ukoliko ne postoje razlozi za druga čiju odluku.
(2) Pristanak i odricanje iz stavka 1. ovoga članka unijet će se u zapisnik pred nadležnim sudom sukladno Zakonu o kaznenom postupku, na način koji dokazuje da je izručenik pri tome postupao dragovoljno i bio u potpunosti svjestan posljedica.
(3) Pristanak i odricanje iz stavka 1. ovoga članka su neopozivi.
(4) O pristanku iz stavka 1. ovoga članka nadležni sud će bez odlaganja izvijestiti Ministarstvo pravosuđa koje će, najkasnije u roku od 10 dana od dana pritvaranja izručenika, izvijestiti državu moliteljicu, koja u tom slučaju nije obvezna dostaviti zamolbu za izručenje.
(5) Ako je izručenik dao pristanak iz stavka 1. ovoga članka, nakon isteka roka iz stavka 4. ovoga članka, nadležni sud će provesti pojednostavljeni postupak izručenja ako još nije zaprimljena zamolba za izručenje.
(6) Ako je izručenik dao pristanak iz stavka 1. nakon isteka roka iz stavka 4. ovoga članka, a u međuvremenu je zaprimljena zamolba za izručenje, nadležni sud može provesti pojednostav ljeni postupak izručenja.
(7) Pojednostavljeno izručenje ima učinke izručenja i podliježe istim uvjetima. Na to će se upozoriti državu moliteljicu.

Decision rejecting the request for extradition
Article 55[251]
(1) If the competent court determines that the legal prerequisites for extradition have not been met, it will issue a decision rejecting the request for extradition and deliver it without delay to the Supreme Court of the Republic of Croatia, which, after hearing the competent state attorney, will confirm, cancel or amend the decision.
(2) The final decision refusing extradition shall be submitted to the Ministry of Justice, which shall inform the requesting state thereof.

Decision approving extradition
Article 56[252]
(1) When the panel of the competent court determines that the legal prerequisites for extradition have been met, it issues a decision.
(2) An appeal against this decision is allowed within 3 days. The Supreme Court of the Republic of Croatia decides on the appeal.

Decision of the Minister of Justice
Article 57[253]
(1) The final decision determining that the legal requirements for extradition have been met, together with the case file, shall be submitted to the Ministry of Justice.
(2) The Minister of Justice issues a decision allowing or not allowing extradition.

[251] Rješenje kojim se zahtjev za izručenje odbija Članak 55 (1) Ako nadležni sud utvrdi da nije udovoljeno zakonskim pretpostavkama za izručenje, donijet će rješenje da se zamolba za izručenje odbija i dostaviti ga bez odlaganja Vrhovnom sudu Republike Hrvatske, koji će nakon saslušanja nadležnoga državnog odvjetnika rješenje potvrditi, ukinuti ili preinačiti.
(2) Pravomoćno rješenje kojim se izručenje odbija dostavlja se Ministarstvu pravosuđa koje će o tome izvijestiti državu moliteljicu.
[252] Rješenje kojim se odobrava izručenje
Članak 56
(1) Kad vijeće nadležnog suda utvrdi da je udovoljeno zakonskim pretpostavkama za izručenje, o tome donosi rješenje.
(2) Protiv ovog rješenja dopuštena je žalba u roku od 3 dana. O žalbi odlučuje Vrhovni sud Republike Hrvatske.
[253] Rješenje ministra pravosuđa
Članak 57
(1) Pravomoćno rješenje kojim je utvrđeno da je udovoljeno zakonskim pretpostavkama za izručenje, zajedno sa spisom predmeta dostavlja se Ministarstvu pravosuđa.
(2) Ministar pravosuđa donosi rješenje kojim dopušta ili ne dopušta izručenje.
(3) U rješenju kojim dopušta izručenje ministar pravosuđa navest će:
1. da se izručenik ne može kazneno progoniti za drugo kazneno djelo počinjeno prije izručenja, osim ako se tog prava odrekao sukladno članku 40. stavku 2. ovoga Zakona,
2. da se prema izručeniku ne može izvršiti kazna za drugo prije izručenja počinjeno kazneno djelo, osim ako se tog prava odrekao sukladno članku 40. stavku 2. ovoga Zakona,
3. da se izručenik ne može izručiti trećoj državi radi kaznenog progona ili izvršenja kazne zatvora za djelo počinjeno prije izručenja, bez dopuštenja ministra pravosuđa Republike Hrvat ske.
(4) Osim navedenih uvjeta, ministar pravosuđa može rješe njem iz stavka 2. ovoga članka postaviti državi moliteljici i druge uvjete za izručenje.
(5) Protiv rješenja ministra pravosuđa iz stavka 2. ovoga članka žalba nije dopuštena.

(3) In the decision allowing extradition, the Minister of Justice shall state:
1. that the extradited person cannot be criminally prosecuted for another criminal offense committed before extradition, unless he waived that right in accordance with Article 40, Paragraph 2 of this Act,
2. that the extradited person cannot be punished for another criminal offense committed before extradition, unless he waived that right in accordance with Article 40, Paragraph 2 of this Act,
3. that the extradited person cannot be extradited to a third country for the purpose of criminal prosecution or execution of a prison sentence for an offense committed before extradition, without the permission of the Minister of Justice of the Republic of Croatia.
(4) In addition to the above-mentioned conditions, the Minister of Justice may set other conditions for extradition to the requesting state in the decision referred to in paragraph 2 of this Article.
(5) No appeal is allowed against the decision of the Minister of Justice from paragraph 2 of this article.

Enforceability of extradition decisions
Article 58[254]
The extradition decision is enforceable:
1. when the Minister of Justice issues a decision from Article 57, paragraph 2 of this Act,
2. in the case referred to in Article 54 of this Act, when the extradited party expressly consents to the extradition.

Execution of extradition
Article 59[255]
(1) The Ministry of Internal Affairs is responsible for the execution of the decision on extradition, which will agree the place and time of surrender of the extradited person with the competent authority of the requesting state.
(2) Surrender of the extradited person must be carried out no later than 2 months from the date of execution of the decision on extradition.

[254] Izvršivost rješenja o izručenju Članak 58
Rješenje o izručenju izvršno je:
1. kada ministar pravosuđa donese rješenje iz članka 57. stav ka 2. ovoga Zakona,
2. u slučaju iz članka 54. ovoga Zakona, kada izručenik izrijekom pristane na izručenje.
[255] Izvršenje izručenja
Članak 59
(1) Za izvršenje rješenja o izručenju nadležno je Ministarstvo unutarnjih poslova koje će sa nadležnim tijelom vlasti države moliteljice dogovoriti mjesto i vrijeme predaje izručenika.
(2) Predaja izručenika mora biti izvršena najkasnije u roku od 2 mjeseca od dana izvršnosti rješenja o izručenju.
(3) Ako država moliteljica ne preuzme izručenika u roku od osam dana od dogovorenog dana predaje iz stavka 1. ovoga članka, izručenik će biti pušten na slobodu. Taj rok može biti produžen do ukupno 30 dana na temelju opravdanog zahtjeva države moliteljice.

(3) If the requesting state does not take over the extradited person within eight days from the agreed date of surrender referred to in paragraph 1 of this article, the extradited person will be released. This period can be extended up to a total of 30 days based on the justified request of the requesting state.

Postponement of surrender and temporary extradition
Article 60[256]
(1) Execution of extradition may be postponed until the criminal proceedings against the extradited person in the Republic of Croatia for another criminal offense are completed, or until the extradited person in the Republic of Croatia has served a prison sentence or a security measure of deprivation of liberty.
(2) Temporary extradition may be allowed if it will not harm the criminal proceedings conducted before the domestic court and if the requesting country has guaranteed that it will keep the extradited person in custody during his stay in that country and that he will be released within the time limit set by the Ministry return the judiciary to the Republic of Croatia.

Article 61[257]
The Republic of Croatia bears the costs of bringing the extradited person from the requested country, and in case of extradition abroad, the Republic of Croatia bears the costs of detention and transportation of the extradited person to the agreed place of surrender in the Republic of Croatia.

[256] Odgoda predaje i privremeno izručenje Članak 60
(1) Izvršenje izručenja može biti odgođeno dok se protiv izručenika u Republici Hrvatskoj ne dovrši kazneni postupak koji se vodi zbog drugoga kaznenog djela, ili dok izručenik u Republici Hrvatskoj ne izdrži kaznu zatvora ili sigurnosnu mjeru oduzimanja slobode.
(2) Privremeno izručenje može biti dopušteno ako se time neće naštetiti kaznenom postupku koji se vodi pred domaćim sudom i ako je država moliteljica zajamčila da će izručenika zadržati u pritvoru za vrijeme njegovog boravka u toj državi i da će ga u roku kojeg je odredilo Ministarstvo pravosuđa vratiti u Republiku Hrvatsku.
[257] Članak 61
Republika Hrvatska snosi troškove dovođenja izručenika iz zamoljene države, a u slučaju izručenja u inozemstvo Republika Hrvatska snosi troškove pritvora i prijevoza izručenika do dogovorenog mjesta predaje u Republici Hrvatskoj.

5. Defence laws relating to EPPO actions concerning PIF Crime offences

The defence in EPPO proceedings plays an important role as the EPPO and its staff can be accountable[258]. The situation in each member state may vary even if the **Union's Directives** stemming from a **2012 roadmap**, thus not fully adapted to the EPPO mechanism such as Directive 2010/64/EU, Directive 2012/13/EU, Directive 2013/48/E, Directive (EU) 2016/343, Directive (EU) 2016/1919 and Directive (EU) 2016/800 e.g. on fundamental rights such as the right to access a lawyer (Directive 2013/48/EU) etc. are partly but not fully harmonized but mentioned by **Art. 41**.[259] As the EPPO operates at the inter-section of national and EU law provisions, there are risks of procedural inconsistencies and varying levels of individual rights protection for suspects and acussed persons. 1

The EPPO Regulation recognizes this by explicitly requiring **compliance with the Charter of Fundamental Rights** of the European Union (CFR). This provision mandates adherence to fair trial standards, including the rights to legal representation, interpretation, and information, as outlined in the already mentioned EU directives that shape procedural rights in criminal proceedings. The **efficiency principle** of Art. 4 para e TFEU seeks to ensure the effective prosecution of crimes affecting EU financial interests, which is requested from the member states by Art. 325 TFEU. 2

However, the **CJEU's *Kolev* and *Lin* judgments** highlight the tension between efficiency and fundamental rights. In *Kolev* the ECJ stressed the need for procedural efficiency in criminal proceedings but also ruled that efficiency cannot undermine the right to defense or access to justice.[260] But in the case called *Lin* the court decided again in the same vein of the *Taricco* judgements and did not bother much with procedural shortcuts, justified by the urgency of protecting EU financial interests.[261] 3

This problem **could step-by-step somehow bypass fundamental rights** if the court does not install or invents a "stop-mechanism" by interpretation.[262] The Court emphasised in *Lin* correctly that any derogations from procedural safeguards must meet strict proportionality tests and align with the Charter's guarantees. In EPPO cases, this raises questions about how investigative measures, including searches or interrogations, balance expediency with procedural guarantees. 4

Any **defence lawyer** should be aware of Article 42 that establishes **judicial review** mechanisms, allowing challenges to EPPO decisions in national courts and last but not 5

[258] See Rosaria Sicurella, Zlata Durdevic, Katalin Ligeti, Martina Costa (eds) 2022, A practical guide on the EPPO for defence lawyers who deal with cases investigated and prosecuted by the EPPO in their day-to-day practice, pp. 13 et seq. It includes case studies.
[259] Ibid, p. 13, 32, 62-63.
[260] ECJ, C-612/15, *Kolev and Others*, Judgment of 5 June 2018, para 50.
[261] ECJ, C-107/23, PPU (Lin), Judgment of the Court (Grand Chamber) of 24 July 2023.
[262] Schneider 2020, p. 432 et seq. analysing provisions, which protect witnesses vs. the efficiency principle.

least Article 50. It requires **proportionality** in investigative measures. The Croatian scenery on defence provisions has been explored already in a short-style manner.[263]

a) Defence Lawyers

6 The Croatian Bar (*Hrvatska odvjetnička komora*) may inform about contacts to law firms and lawyers specialized in the PIF crimes area.[264] According to a decision by the Supreme Court, the public prosecutor's office is generally required to be **careful when disclosing information** about an ongoing investigation, but information previously published by the media on Telegram cannot be attributed to collusive cooperation between the public prosecutor's office and the court against the accused.[265]

b) Defence in the investigation phase

aa. The Input from the Regulation 2017/1939

7 Art. 41 requests a three-fold protection of a suspect or accused and establishes a three-level protection by Union (CFR) and national fundamental rights (e.g. *ne bis in idem*).

(1) Access to national case file

8 **Article 183**[266] (Official Gazette 76/09, 143/12, 145/13) (1) The right to inspect the file includes the right to view, copy, copy and record the case file in accordance with this Law and the state attorney's file in accordance with a special law. The right to inspect the file also includes viewing the items that serve to establish the facts in the proceedings.

[263] Ibid, p. 32.
[264] See https://www.hok-cba.hr/ and https://www.hok-cba.hr/statusna-pitanja-i-obrasci/odvjetnicka-drustva/.
[265] Supreme Court of the Republic of Croatia, CRIMINAL DEPARTMENT. II 4 Cr 107/2020-6 /ECLI:HR:VSRH:2021:226.
[266] 4. Uvid u spis Članak 183 (NN 76/09, 143/12, 145/13) (1) Pravo na uvid u spis obuhvaća pravo razgledavanja, prepisivanja, preslikavanja i snimanja spisa predmeta u skladu s ovim Zakonom i državnoodvjetničkog spisa u skladu s posebnim zakonom. Pravo na uvid u spis obuhvaća i razgledavanje predmeta koji služe za utvrđivanje činjenica u postupku.
(2) Pravo uvida u spis u kojem je postupanje tajno, nejavno ili je isključena javnost dopušteno je u skladu s ovim Zakonom samo osobama koje mogu sudjelovati u tom postupku.
(3) Podaci o djetetu koje sudjeluje u postupku predstavljaju tajnu, kao i podaci koji su takvima proglašeni prema posebnom zakonu.
(4) Uvid u podatke koji su tajni odobrava se u skladu s odredbama ovog i posebnog zakona.
(5) Ako postoji bojazan iz članka 294. stavka 1. ovog Zakona sudac istrage će na prijedlog državnog odvjetnika ili po službenoj dužnosti na odgovarajući način (prijepisom zapisnika ili službene zabilješke bez podataka o istovjetnosti osobe, njihovim izdvajanjem u posebni omot i slično) zaštititi tajnost podataka tih osoba koji su u spisu.
(6) Osoba kojoj je dopušten uvid u spis tijekom izvida, istraživanja te istrage i rasprave koje su određene tajnom upozorit će se da je dužna čuvati kao tajnu podatke koje je saznala kao i podatke iz stavka 3. ovog članka, te da je odavanje tajne kazneno djelo. To će se zabilježiti u spisu koji se razgledava, uz potpis osobe koja je upozorena.
(7) Uvid u spis dopušta i omogućuje tijelo koje vodi postupak, ako ovim Zakonom nije drugačije određeno, a kad je postupak završen, uvid u spis dopušta predsjednik suda ili službena osoba koju on odredi.
(8) Svakome, u čijemu je to opravdanom interesu, može se dopustiti uvid u spis u skladu sa zakonom.

(2) In accordance with this Law, the right to inspect the file in which the proceedings are secret, non-public or the public is excluded is allowed only to persons who can participate in that procedure.
(3) Information about a child participating in the procedure is a secret, as well as information declared as such under a special law.
(4) Inspection of information that is secret is approved in accordance with the provisions of this and a special law.
(5) If there is an apprehension from Article 294, paragraph 1 of this Act, the investigating judge, at the proposal of the state attorney or ex officio, will protect the case in an appropriate manner (by copying the minutes or official notes without information about the identity of the person, separating them in a special envelope, etc.) secrecy of the data of those persons who are in the file.
(6) The person who is allowed to inspect the file during the inspection, investigation, investigation and hearing, which are determined to be confidential, will be warned that he is obliged to keep as secret the information he has learned, as well as the information from paragraph 3 of this article, and that disclosure of the secret felony. This will be noted in the file that is viewed, with the signature of the person who was warned.
(7) Inspection of the file is permitted and enabled by the authority conducting the proceedings, unless otherwise specified by this Law, and when the proceedings are completed, inspection of the file is permitted by the president of the court or an official designated by him.
(8) Anyone, in whose legitimate interest it is, may be allowed to inspect the file in accordance with the law.

Article 184[267] **(Official Gazette 76/09, 80/11, 145/13)** (1) The parties have the right to inspect the file.
(2) The victim, the injured party and their representative have the right to inspect the file. If an earlier inspection of the file would affect the testimony of the victim and the injured party, they acquire the right to inspect the file after they have been questioned.

[267] Članak 184 (NN 76/09, 80/11, 145/13)
(1) Stranke imaju pravo uvida u spis.
(2) Žrtva, oštećenik i njihov opunomoćenik imaju pravo na uvid u spis. Ako bi raniji uvid u spis utjecao na iskaz žrtve i oštećenika, pravo na uvid u spis stječu nakon što su ispitani.
(3) Oštećenik kao tužitelj ima pravo na uvid u spis od primitka obavijesti iz članka 55. stavka 1. ovog Zakona.
(4) Okrivljenik i branitelj imaju pravo uvida u spis:
1) nakon što je okrivljenik ispitan, ako je ispitivanje obavljeno prije donošenja rješenja o provođenju istrage, odnosno prije dostave obavijesti iz članka 213. stavka 2. ovog Zakona,
2) od dostave rješenja o provođenju istrage,
3) od dostave obavijesti iz članka 213. stavka 2. ovog Zakona,
4) od dostave privatne tužbe.
(5) Ako je provedena hitna dokazna radnja prema poznatom okrivljeniku (članak 212. ovog Zakona), a nisu ispunjeni uvjeti iz stavka 4. ovog članka, okrivljenik i branitelj imaju pravo uvida u zapisnik o provođenju te radnje najkasnije u roku od 30 dana od dana njezina provođenja.

(3) The injured party as a plaintiff has the right to inspect the file from the receipt of the notification from Article 55, paragraph 1 of this Act.
(4) The defendant and the defence attorney have the right to inspect the file:
1) after the defendant has been questioned, if the questioning was carried out before the decision on the investigation was made, i.e. before the notification from Article 213, paragraph 2 of this Act, was delivered,
2) from the delivery of the decision on conducting the investigation,
3) from the delivery of the notification from Article 213, paragraph 2 of this Act,
4) from the delivery of a private lawsuit.
(5) If an urgent evidentiary action has been taken against a known defendant (Article 212 of this Law), and the conditions from paragraph 4 of this Article have not been met, the defendant and the defence attorney have the right to inspect the record of the implementation of that action no later than within 30 days from on the day of its implementation.

Article 184a[268] **(Official Gazette 145/13)** (1) If there is a danger that inspection of part or the whole file will jeopardize the purpose of the investigation by making it impossible or difficult to gather important evidence, or if this would endanger the life, body or property of a large scale, the defendant may be denied the right to inspect part or the whole file for a maximum of thirty days from the date of delivery of the decision on conducting the investigation. When an investigation is not carried out, the denial of access to a part or the whole file can be determined due to endangering life, body or property on a large scale for a maximum of thirty days from the delivery of the notification from Article 213, paragraph 2 of this Act.

[268] Članak 184.a (NN 145/13)
(1) Ako postoji opasnost da će se uvidom u dio ili cijeli spis ugroziti svrha istrage onemogućavanjem ili otežavanjem prikupljanja važnog dokaza ili bi se time ugrozio život, tijelo ili imovina velikih razmjera okrivljeniku se može uskratiti pravo na uvid u dio ili cijeli spis najdulje trideset dana od dana dostave rješenja o provođenju istrage. Kada se ne provodi istraga, uskrata uvida u dio ili cijeli spis može se odrediti zbog ugrožavanja života, tijela ili imovine velikih razmjera najdulje trideset dana od dostave obavijesti iz članka 213. stavka 2. ovog Zakona.
(2) O uskrati prava na uvid u spis iz stavka 1. ovog članka do optuženja odlučuje državni odvjetnik rješenjem koje ne mora biti obrazloženo. Okrivljenik ima pravo na žalbu protiv rješenja u roku od tri dana. Žalba se podnosi državnom odvjetniku koji će ju odmah uz navođenje razloga uskrate uvida u spis, dostaviti sucu istrage. Okrivljenik nema pravo uvida u obrazloženje državnog odvjetnika. O žalbi okrivljenika odlučuje sudac istrage u roku od 48 sati. Odluka suca istrage kojom odbija žalbu okrivljenika dostavit će se okrivljeniku bez obrazloženja, a državnom odvjetniku s obrazloženjem.
(3) Ako bi se otkrivanjem dokaza u postupku za posebno teške oblike kaznenih djela iz članka 334. točke 1. i 2. ovog Zakona mogla nanijeti šteta istrazi u istom ili drugom postupku koji se vodi protiv istog ili drugih okrivljenika ili ako bi se njihovim otkrivanjem ugrozio život drugih osoba, na zahtjev državnog odvjetnika sudac istrage može rješenjem, a najdulje do kraja istrage okrivljeniku uskratiti uvid u pojedine dijelove spisa koji sadrže podatke o tim dokazima.
(4) Okrivljeniku koji se nalazi u istražnom zatvoru ne može se uskratiti uvid u dio spisa koji je od značaja za ocjenu postojanja osnovane sumnje da je počinio kazneno djelo i postojanja okolnosti na kojima se temelji odluka o određivanju ili produljenju istražnog zatvora.

(2) The state attorney decides on the denial of the right to inspect the file from paragraph 1 of this article until the indictment is filed, which does not need to be explained. The defendant has the right to appeal against the decision within three days. The appeal is submitted to the state attorney, who will immediately submit it to the investigating judge, along with the reasons for denying access to the file. The defendant does not have the right to see the state attorney's explanation. The investigating judge decides on the defendant's appeal within 48 hours. The decision of the investigating judge rejecting the defendant's appeal will be delivered to the defendant without an explanation, and to the state attorney with an explanation.
(3) If the disclosure of evidence in the proceedings for particularly serious forms of criminal offenses from Article 334, points 1 and 2 of this Act could cause damage to the investigation in the same or other proceedings conducted against the same or other defendants, or if their endangering the lives of other persons by revealing it, at the request of the state attorney, the judge of the investigation can deny the defendant access to certain parts of the file that contain information about this evidence by decision, and at the latest until the end of the investigation.
(4) A defendant who is in remand prison cannot be denied access to a part of the file that is important for evaluating the existence of reasonable suspicion that he has committed a criminal offense and the existence of circumstances on which the decision to determine or extend remand prison is based.

(2) Access to EPPO case file

The access to the EPPO case file is restricted and only possible under the thresholds of Article 45 et seq. EPPO-RG. Normally it will contain a copy of the files of the EDPs. **9**

bb. Defence while investigation is under-way, Articles 28–33 EPPO-RG

The protection rights of the CPC apply. In cases involving investigative measures of Article 30 EPPO-RG the following excerpts from the Constitution might apply: **10**

Article 28 Everyone shall be presumed innocent and my not be considered guilty of a criminal offence until his guilt has been proved by a final court judgment. **11**
Article 29 "Everyone shall have the right to the independent and fair trial provided by law which shall, within a reasonable term, decide upon his rights and obligations, or upon the suspicion or the charge of a penal offence.
• Right to speedy trial In the case of suspicion or accusation for a penal offence, the suspected, accused or prosecuted person shall have the right:
• To be informed in detail, and in the language he understands, within the shortest possible term, of the nature and reasons for the charges against him and of the evidence incriminating him,
• To have adequate time and opportunity to prepare his defence,

• To a defence counsel and free communication with him, and to be informed of this right,
• Right to counsel
• To defend himself in person or with the assistance of a defence counsel of his own choice, and if he lacks resources to engage a counsel, to have a free counsel under the terms specified by law,
• Right to counsel
• To be tried in his presence if he is accessible to the court,
• To interrogate or have the prosecution witnesses interrogated and to demand the presence and hearing of the defence witnesses under the same circumstances as for the witnesses for the prosecution,
• Right to examine evidence/witnesses
• To free assistance of an interpreter if he does not understand the language used in the court.
• Trial in native language of accused
The suspected, accused and prosecuted person shall not be forced to confess his guilt.
• Protection from self-incrimination Evidence illegally obtained shall not be admitted in court proceedings.
• Regulation of evidence collection Criminal proceedings shall only be initiated before the court of justice upon the demand of an authorized prosecutor."[269]

A **recent Croatian case**[270], which the EPPO conducted, involved an i**nvestigation into a criminal association** the **smuggling of large quantities of cigarettes** from Dubai into the EU via Croatia, circumventing customs procedures. The accused (IR) from Serbia allegedly coordinated with other individuals to import cigarettes illegally, falsely declaring goods to avoid excise duties and customs taxes. The operation caused heavy financial losses to the EU and Croatian budgets, amounting to millions of euros. Bribes were allegedly offered to customs officials to ensure that containers were not inspected. The investigation relied on **undercover agents** who engaged with the accused. Finally IR was sentenced to a **conditional prison term** of one year, subject to not committing further offenses within five years (probation). The Republic of Croatia was awarded a **property claim** of EUR 3,282,009.41, with a partial payment of EUR 35,000 from funds already deposited. Other defendants and associated financial recoveries were addressed separately.

[269] See https://legislationline.org/sites/default/files/documents/fc/Croatia_Constitution_1991_am2013_en.pdf.
[270] Country Court Zagreb, KOV-EPPO-13/2024-107: This case demonstrates the connection of EPPO jurisdiction, EU customs law, and Croatian criminal law, with the defense leveraging procedural safeguards, cooperation, and proportionality to mitigate penalties.

From the **point-of-view of a defence lawyer** the following of this case is remarkable: The defence argued for the accused's right against self-incrimination, ensuring no evidence obtained through **coercion or undue influence** was admissible. The defence questioned the **reliability** of undercover operations and the **use of evidence** derived from covert communications via the **Telegram app**. Next, it highlighted the disproportionate attribution of financial losses solely to the accused's actions, emphasizing the collective nature of the alleged criminal association. It was argued that the accused acted under instructions without full knowledge of the broader criminal scheme. A **plea agreement** was reached, acknowledging partial responsibility while negotiating **reduced penalties** and property claims. **12**

A **typical defence strategy** would or could, judging from this case example then **ensure** and control legal safeguards, which means that all actions by the EPPO complied with **procedural safeguards** under Croatian and EU law. A defence attorney will need to ensure **reliability of evidence analysis** e.g. by disputing the legality and admissibility of surveillance and undercover techniques. We saw as well that **mitigating circumstances** are often a possible argument – mostly by resenting the accused's limited financial status, lack of prior convictions, and minor role in the operation. Last but not least each court will consider **cooperation** if the defence likely facilitated cooperation to negotiate favourable terms, this might reduce sometimes the exposure to harsher penalties. **13**

Another EPPO-case involved the defendant UD, a business executive involved in public procurement and infrastructure projects in Varaždin. He was charged with bribery and manipulating public procurement procedures, violating Croatian CC Articles 293 (accepting a bribe) and 294 (giving a bribe, see above → Art. 26 bb. (1)). The final **allegations** were that the defendant collaborated with other parties to favour specific companies in public tenders by **manipulating procurement documentation** and rewarding accomplices with bribes and benefits. The misconduct caused financial harm to the EU-funded project. He was sentenced to a total **prison sentence of 2 years and 11 months** (1 year unconditional, the rest conditional with a 5-year probation), a fine of €35,000 and a confiscation of €8,482.26 as part of financial penalties. The judgement involved property claims for damages awarded to the EU budget. **14**

A **plea agreement** ensured that the defendant admitted guilt and influenced the **reduced sentence**. Thus the defence negotiated with the EPPO, admitting guilt in exchange for a reduced sentence and partial suspension. It emphasized the **defendant's limited role** compared to other co-defendants. Last but not least it resented the defendant's financial **15**

and **personal background** (e.g., **retirement status**, lack of previous convictions) to argue for the **court's indulgence**.[271]

16 In another case **ZDG and FK** were prosecuted for smuggling goods, evading taxes, bribing officials, and manipulating customs procedures. FK's defence successfully argued for the inclusion of pre-trial detention in sentencing, citing violations of Croatian criminal procedure and the Criminal Code. FK's appeal was well founded as the "the **first-instance court failed** to include in the single prison sentence imposed on the accused the time spent in extradition detention in the RS from 28 February 2022, when he was arrested in the RS, until his extradition to the Republic of Croatia on 5 May 2022. This resulted in a under Article 469, item 6 of the CPC/08, because the sentence imposed on the accused is not in accordance with Article 54."[272]

c) Defence in Indictment phase and the trial phase

17 The following provision should be taken into account:

18 **Article 4 Jurisdiction and composition of the court EPPO Adoption Act**
See above → Sources of law.

19 If the case results in an indictment and a trial (Art. 36 EPPOP Regulation), the EDP will have to pay attention to the fact that the **accused is present in the main hearing** of the trial as a recent case showed again that an appeal may be based on this ground, Article 405 Para. 5 CPC: "5. The **appeal is founded**. 6. The defendant complains that a significant violation of the provisions of the criminal procedure was committed because the hearing was held without the presence of the defendant, since it was a **procedural situation in which his presence at the hearing was necessary in order to present his defence**, especially after the examination of the injured party, and bearing in mind that in the statement on the merits of the accusation, the defendant denied guilt, so that when the first-instance verdict was passed, not all conditions from art. 404, paragraph 5 of the CPC, because the passing of a conviction, especially an unconditional prison sentence, without the presence of the accused represents an exception that should be interpreted very restrictively. If the court finds that the defendant is delaying the proceedings by his failure to appear, it may apply measures to ensure his presence at the hearing."[273]

[271] Zagreb Country Court, Kov-EPPO-16/2024-2, Judgement of December 19, 2024. This case demonstrates for us the EPPO's main focus on financial misconduct affecting EU funds and the strategic use of plea agreements to secure cooperation and expedite legal outcomes. Be aware: "The dissatisfied party has the right to file an appeal against this judgment within 15 (fifteen) days from the receipt of the written copy of the judgment"
[272] High Criminal Court of the Republic of Croatia, Kž-EPPO-3/2023-10, 16 March 2023: ZDG was sentenced to 2 years and 11 months, partially suspended for 1 year and 6 months over a 5-year probationary period. FK received a sentence of 1 year and 1 month, with 12 months suspended if no new offenses were committed within 4 years.
[273] Zagreb County Court, CRIMINAL DEPARTMENT, Kž 879/2022-3 //.

See as well further cases relevant for defence aspects in the footnotes.[274]

Art. 39 and 40 EPPO Regulation provide other tools to end a case (dismissal or simplified prosecution.[275] A general possibility to question the legality of a measure or the actions is the initiation or presentation of facts for disciplinary proceedings: **20**

Article 9 Disciplinary proceedings EPPO Adoption Law The Chief EP may initiate proceedings before the State Attorney's Council for committing the disciplinary act of a delegated EP, in connection with his work on cases within the competence of the EPPO.

Eventually, *Ceccarelli* pointed out in relation to the **internal European disciplinary actions** against ECPs that: "The evaluation and career progression of the EDPs are regulated in decisions adopted by the College in line with Art. 114(c) of the EPPO Regulation and fall entirely within the competence of the College. They are subject to disciplinary procedure inside the EPPO. The **final disciplinary decision** is made by the College, which can also dismiss the EDP in accordance with Art. 17(3) and (4) of the Regulation. Member States may only decide to dismiss or to take disciplinary action against EDPs for reasons not connected with their responsibilities within the EPPO, and only after informing the ECP."[276]

As seen from the aforementioned Croatian EPPO cases, the EPPO is not only the first-ever and primary prosecution body of the EU, which might infringe fundamental rights – thinking e.g. of the asylum sector[277] or the data protection area[278] – but it is the first-ever to have a **direct effect** if an investigation leads to an infringement. Thus, it is responsible for ensuring even more than other the protection of fundamental rights, particularly in cases where national and EU legal systems intersect. The EPPO Regulation requires compliance with the Charter of Fundamental Rights as of **Art. 51 para 1 CFR**, and particularly via Article 41 EPPO Regulation, which emphasizes fair trial standards and legal representation. The Charter applies when EU institutions or Member States **implement EU law**, binding national authorities and courts in EPPO-led investigations. This is particularly important for cross-border crimes against EU financial interests, which may result in unequal protection. **The future requires** any defence-lawyer to closely check results, EDPs to be proportionate and judges to test the scope of national vs Union fundamental rights **21**

[274] High Criminal Court of the Republic of Croatia, I Kž-EPPO-1/2023-4 (appeal, unlawful evidence); Municial Civil Court in Zagreb, OVR-3994/2024-5.
[275] See from the defence perspective Marin 2022, EPPO Handbook, p. 32 on Croatia, 55, 60 et seq.
[276] Ceccarelli 2024, p. 58 et seq. referring to College Decision 044/2021 of 12 May 2021 and Laying Down Rules on the Disciplinary Liability of the European Delegated Prosecutors"; College Decision 071/2021 of 9 June 2021 on "Appointing 5 European Prosecutors as Members of the Disciplinary Board for the EDPs".
[277] See Jorrit Rijpma and Apostolis Fotiadis 2022.
[278] See Wollenschläger 2017, p. 23 et seq. with in-depth references e.g. referencing Bäcker 2015.

C. OLAF-Regulation (EU, EURATOM) No 883/2013

I. General Introduction: Investigation Powers and National Law Related to OLAF in Croatia (Articles 3–8 OLAF Regulation)

OLAF's task and role as well as it actions are determined primarily by Union law. The history of OLAF can be traced back to the early 2000s and its predecessor UCLAF. OLAF has a renewed role within the changed anti-fraud architecture of the Union in the 2020s and is an important actor against fraud within the multi-annual framework legislation and the Union's policies, which depend on the action of the Member States and the agreements concluded on the political levels. **1**

In addition to that **OLAF and its investigators** shall follow internal guidelines[279], manuals on procedures[280] reports and working arrangements with union partners[281] as well as Administrative Cooperation Agreements (ACAs) with national partners, EU external actors. OLAF issues compendia, researches itself, organizes meetings and conferences and workshops for its national partners. All these non-binding guides and handbooks might be useful during investigations.[282] The statistics on latest actions and the past year can be deduced from the OLAF Reports, equal to the new EPPO's annual report and the PIF Report, which is issued by the EU Commission in close cooperation with OLAF, IBOAs and the EPPO as well as the input from ECA and national AFCOS, governments and researchers. **2**

OLAF is well accommodated in the Union **anti-fraud architecture** these days and the academic research is extensive and long lasting since the 2000s.[283] Last decade's land- **3**

[279] See EU Commission 2021; EU Commission 2016. For all translations see https://anti-fraud.ec.europa.eu/guidelines-investigations-olaf-staff_en. Accessed 31 May 2024.
[280] Brüner et al., OLAF Operational Procedures, Brussels, 2009, whereby it is unclear if investigators and the Office staff still use certain Manuals.
[281] OLAF, Working Arrangement between EPPO & OLAF, Point 4: "Exchange of information", 4.5 and 4.6 (cross double check between the databases for a PIF offence action), 5 ("Mutual Reporting and transmission of potential cases"), 5.1, 5.1.1. European Commission – "Agreement establishing the modalities of cooperation between the European Commission and the European Public Prosecutor's Office" 18 June 2021, Article 5 Para. 1, 4, 5 ("Reporting by the Commission") in combination with Annex I Contact points: "information will be transmitted via the head of OLAF to the head of operation at EPPO/central office", Annex III.A ("Information on the Initiation of an Investigation – template")
[282] See EU Commission 2011; EU Commission 2017; EU Commission 2022a, EU Commission 2022b, EU Commission 2022c; EU Commission (DG regional Policy), Information Note on Fraud Indicators for ERDF, ESF and CF,https://ec.europa.eu/regional_policy/sources/docoffic/cocof/2009/cocof_09_0003_00_en.pdf; EU Commission 2014.
[283] Brüner 2001, 17–26; Brüner 2009, p. 1 passim; Brüner 2008, 859–872; Gellert 2009, 85–88.

mark judgement "*Sigma Orionis SA vs European Commission*", decided by the European General Court[284], clarified the **application of national law and Union law**[285] in relation to external investigations of OLAF.[286] In the light of this jurisprudence the resistance to the actions of OLAF, in order to awaken national law, might be a defence strategy that Economic operators use. If this is the case, OLAF has to rely on national homologue investigators and thus as well limitations, thresholds and conditions of national law i.e. investigative powers in various areas of budget spending and structural funds (direct management) and revenue-related obligations (indirect management).

4 Current debates evolve around the **effectiveness of investigations** with regard to digital evidence by virtue of the **Regulation 2185/96**, which stems in parts from a more analogue society.[287] More and more questions are raised if the analogue society in law enforcement and the area of criminal justice is a problem of the digital age and presents obstacles to effective investigations. The **access to bank accounts** and registers if highly important for OLAF investigators as well as their national homologues. The relationship to the EPPO, especially the regional centres of the EDPs in the present country should be close. In addition to that the **external investigations** require a good coordination, which shall be governed by the relevant AFCOS (see → below Article 12a OLAF Regulation), which has been part of the current study and answered a questionnaire or commented and reviewed (for some countries that are very prone to frauds or countries that have recently changed their anti-fraud prevention in order to fulfil the requests for a national anti-fraud prevention strategy) Part B of this volume chapter.

5 Another question and debate have ever since existed concerning the **Reports of OLAF** (cf. → Article 11), which can and shall constitute evidence – even – in national criminal trials. They concern EPPO cases (see → Articles 23–28 EPPO-RG) or cases below the thresholds for which the EDPs could exercise their competence and jurisdiction on behalf of the EPPO. This area has been well researched by *Luchtman/Vervaele/Ligeti* and others in OLAF studies from the last decade, which we can refer to.[288]

6 Part C provides a collection of relevant laws on **OLAF's investigative powers**, including on-the-spot checks laws of certain countries. It includes case law examples involving evidence gathered by OLAF. In addition to the analysis parts of this chapter mentioned above the national authorities and the role of *the* special unit, body or agency in the

[284] GC, Case T-48/16, *Sigma Orionis SA v. Commission*, Judgement of 3 May, paras 70 et seq., 80–81 published in the electronic Reports of Cases and in OJ, 01/06/2018.
[285] See De Bellis 2021, 431 et seq; Herrnfeld 2022 p. 426 et seq.; recently Wouters 2020, 132 et seq.
[286] De Bellis 2021, 431 et seq.; OLAF Website, List of rulings of the Court of Justice of the EU concerning OLAF, https://anti-fraud.ec.europa.eu/about-us/legal-background/list-rulings-court-justice-eu-concerning-olaf_en. Acces sed 31 May 2024.
[287] See Carrera and Mitsilegas 2021.
[288] See Luchtman and Vervaele 2017.

countries Federal Ministry of Finances (e.g. in Germany the AFCOS is part of the Federal Ministry of Finance, Referat E6a) is explained below. Last but not least it shall be mentioned that a major conference dealt with Croatia and the operations of OLAF in the past decade, which can be referred to as a further source of essential information.[289]

1. Art. 1 Objectives and tasks

Art. 1 and 2 of the OLAF Regulation define terms and explain the role of OLAF: **7**

1. In order to step up the fight against fraud, corruption and any other illegal activity affecting the financial interests of the European Union and of the European Atomic Energy Community (hereinafter referred to collectively, when the context so requires, as 'the Union'), the European Anti-Fraud Office established by Decision 1999/352/EC, ECSC, Euratom ('the Office') shall exercise the powers of investigation conferred on the Commission by:
(a) the relevant Union acts; and
(b) the relevant cooperation and mutual assistance agreements concluded by the Union with third countries and international organisations.
2. The Office shall provide the Member States with assistance from the Commission in organising close and regular cooperation between their competent authorities in order to coordinate their action aimed at protecting the financial interests of the Union against fraud. The Office shall contribute to the design and development of methods of preventing and combating fraud, corruption and any other illegal activity affecting the financial interests of the Union. The Office shall promote and coordinate, with and among the Member States, the sharing of operational experience and best procedural practices in the field of the protection of the financial interests of the Union, and shall support joint anti-fraud actions undertaken by Member States on a voluntary basis.
3. This Regulation shall apply without prejudice to:
(a) Protocol No. 7 on the privileges and immunities of the European Union attached to the Treaty on European Union and to the Treaty on the Functioning of the European Union;
(b) the Statute for Members of the European Parliament;
I the Staff Regulations;
(d) Regulation (EC) No. 45/2001.

[289] See MINISTRY OF FINANCE, PRESENTATIONS, FIVE DAY CONFERENCE Zagreb, Croatia 07–11 May 2018 the Republic of Croatia, Further strengthening of the competent institutions in the area of managing on irregularities with the aim of protection of the EU financial interests. For the draft of this chapter, we contacted the AFCOS and the Ministry of Finance with a Questionnaire and we were supplied with valuable information in late 2022/3. In this regard we want to thank the contributors.

4. Within the institutions, bodies, offices and agencies established by, or on the basis of, the Treaties ('institutions, bodies, offices and agencies'), the Office shall conduct administrative investigations for the purpose of fighting fraud, corruption and any other illegal activity affecting the financial interests of the Union. To that end, it shall investigate serious matters relating to the discharge of professional duties constituting a dereliction of the obligations of officials and other servants of the Union liable to result in disciplinary or, as the case may be, criminal proceedings, or an equivalent failure to discharge obligations on the part of members of institutions and bodies, heads of offices and agencies or staff members of institutions, bodies, offices or agencies not subject to the Staff Regulations (hereinafter collectively referred to as 'officials, other servants, members of institutions or bodies, heads of offices or agencies, or staff members').
5. For the application of this Regulation, competent authorities of the Member States and institutions, bodies, offices or agencies may establish administrative arrangements with the Office. Those administrative arrangements may concern, in particular, the transmission of information and the conduct of investigations.

8 The (legal) definitions[290] are regulated by Art. 2 OLAF Regulation:

2. Art. 2 Definitions

For the purposes of this Regulation:
(1) 'financial interests of the Union' shall include revenues, expenditures and assets covered by the budget of the European Union and those covered by the budgets of the institutions, bodies, offices and agencies and the budgets managed and monitored by them;
(2) 'irregularity' shall mean 'irregularity' as defined in Article 1(2) of Regulation (EC, Euratom) No. 2988/95;
(3) 'fraud, corruption and any other illegal activity affecting the financial interests of the Union' shall have the meaning applied to those words in the relevant Union acts and the notion of 'any other illegal activity' shall include irregularity as defined in Article 1(2) of Regulation (EC, Euratom) No. 2988/95;
(4) 'administrative investigations' ('investigations') shall mean any inspection, check or other measure undertaken by the Office in accordance with Articles 3 and 4, with a view to achieving the objectives set out in Article 1 and to establishing, where necessary, the irregular nature of the activities under investigation; those investigations shall not affect the powers of the EPPO or of the competent authorities of Member States to initiate and conduct criminal proceedings;

[290] For the important role of "legal definitions" in EU legal frameworks see only Robertson and Aodha 2023, pp. 244–270. https://benjamins.com/online/hot/articles/leg2#c11-s3. Accessed 31 May 2024.

(5) ‘person concerned’ shall mean any person or Economic Operator suspected of having committed fraud, corruption or any other illegal activity affecting the financial interests of the Union and who is therefore subject to investigation by the Office;
(6) ‘Economic Operator’ shall have the meaning applied to that term by Regulation (EC, Euratom) No. 2988/95 and Regulation (Euratom, EC) No. 2185/96;
(7) ‘administrative arrangements’ shall mean arrangements of a technical and/or operational nature concluded by the Office, which may in particular aim at facilitating the cooperation and the exchange of information between the parties thereto, and which do not create additional legal obligations;
‘member of an institution’ means a member of the European Parliament, a member of the European Council, a representative of a Member State at ministerial level in the Council, a member of the Commission, a member of the Court of Justice of the European Union (CJEU), a member of the Governing Council of the European Central Bank or a member of the Court of Auditors, with respect to the obligations imposed by Union law in the context of the duties they perform in that capacity.
(1) ‘financial interests of the Union’ shall include revenues, expenditures and assets covered by the budget of the European Union and those covered by the budgets of the institutions, bodies, offices and agencies and the budgets managed and monitored by them;
(2) ‘Irregularity’ shall mean ‘irregularity’ as defined in Article 1(2) of Regulation (EC, Euratom) No. 2988/95;
(3) ‘Fraud, corruption and any other illegal activity affecting the financial interests of the Union’ shall have the meaning applied to those words in the relevant Union acts;
(4) ‘administrative investigations’ (‘investigations’) shall mean any inspection, check or other measure undertaken by the Office in accordance with Articles 3 and 4, with a view to achieving the objectives set out in Article 1 and to establishing, where necessary, the irregular nature of the activities under investigation; those investigations shall not affect the powers of the competent authorities of the Member States to initiate criminal proceedings;
(5) ‘person concerned’ shall mean any person or Economic Operator suspected of having committed fraud, corruption or any other illegal activity affecting the financial interests of the Union and who is therefore subject to investigation by the Office;
(6) ‘Economic Operator’ shall have the meaning applied to that term by Regulation (EC, Euratom) No. 2988/95 and Regulation (Euratom, EC) No. 2185/96;
(7) ‘administrative arrangements’ shall mean arrangements of a technical and/or operational nature concluded by the Office, which may in particular aim at facilitating the cooperation and the exchange of information between the parties thereto, and which do not create additional legal obligations.

3. Article 3 External investigations

[…] 2. The Office shall ***carry out on-the-spot checks and inspections in accordance with this Regulation and, to the extent not covered by this Regulation, in accordance with Regulation (Euratom, EC) No 2185/96.***
4. Where, in accordance with paragraph 3 of this Article, the ***economic operator concerned submits*** to an on-the-spot check and inspection authorised pursuant to this Regulation, Article 2(4) of Regulation (EC, Euratom) No 2988/95, the third subparagraph of Article 6(1) of Regulation (Euratom, EC) No 2185/96 and Article 7(1) of Regulation (Euratom, EC) No 2185/96 ***shall not apply insofar as those provisions require compliance with national law*** and are capable of restricting access to information and documentation by the Office to the same conditions as those that apply to national administrative inspectors.
5. At the request of the Office, the ***competent authority of the Member State*** concerned shall, without undue delay, provide the staff of the Office with the assistance needed in order to carry out their tasks effectively, as specified in the written authorisation referred to in Article 7(2).
The ***Member State concerned shall ensure***, in accordance with Regulation (Euratom, EC) No 2185/96, that the ***staff of the Office are allowed access to all information, documents and data relating to the matter under investigation which prove necessary in order for the on-the-spot checks and inspections to be carried out effectively and efficiently, and that the staff are able to assume custody of documents or data to ensure that there is no danger of their disappearance.*** Where privately owned devices are used for work purposes, those devices may be subject to inspection by the Office. The Office shall subject such devices to inspection only under the same conditions and to the same extent that national control authorities are allowed to investigate privately owned devices and where the Office has reasonable grounds for suspecting that their content may be relevant for the investigation.
6. Where the staff of the Office find that an ***economic operator resists*** an on-the-spot check and inspection authorised pursuant to this Regulation, namely where the economic operator refuses to grant the Office the necessary access to its premises or any other areas used for business purposes, conceals information or prevents the conduct of any of the activities that the Office needs to perform in the course of an on-the-spot check and inspection, the ***competent authorities, including, where appropriate, law enforcement authorities of the Member State concerned shall afford the staff of the Office the necessary assistance so as to enable the Office to conduct its on-the-spot check and inspection effectively and without undue delay.***
Article 2(4) of Regulation (EC, Euratom) No 2988/95
Subject to the Community law applicable, the procedures for the application of Community checks, measures and penalties shall be governed by the laws of the Member States.
the third subparagraph of Article 6(1) of Regulation (Euratom, EC) No 2185/96

Subject to the Community law applicable, they shall be required to comply, with the rules of procedure laid down by the law of the Member State concerned.

Article 7(1) of Regulation (Euratom, EC) No 2185/96

Commission inspectors shall have access, under the same conditions as national administrative inspectors and in compliance with national legislation, to all the information and documentation on the operations concerned which are required for the proper conduct of the on-the-spot checks and inspections. They may avail themselves of the same inspection facilities as national administrative inspectors and in particular copy relevant documents.

On-the-spot checks and inspections may concern, in particular:

– professional books and documents such as invoices, lists of terms and conditions, pay slips, statements of materials used and work done, and bank statements held by economic operators,

– computer data,

– production, packaging and dispatching systems and methods,

– physical checks as to the nature and quantity of goods or completed operations,

– the taking and checking of samples,

– the progress of works and investments for which financing has been provided, and the use made of completed investments,

– budgetary and accounting documents,

– the financial and technical implementation of subsidized projects.]

When providing assistance in accordance with this paragraph or with paragraph 5, the competent authorities of Member States ***shall act in accordance with national procedural rules applicable to the competent authority concerned. If such assistance requires authorisation from a judicial authority in accordance with national law***, such authorisation shall be applied for.

10. As part of its investigative function, the Office shall carry out the checks and inspections provided for in Article 9(1) of Regulation (EC, Euratom) No 2988/95 and in the sectoral rules referred to in Article 9(2) of that Regulation in Member States and, ***in accordance with cooperation and mutual assistance agreements and any other legal instrument in force***, in third countries and on the premises of international organisations.

12. Without prejudice to Article 12c(1), where, before a decision has been taken whether or not to open an external investigation, the Office handles information which suggests that there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union, it may inform the competent authorities of the Member States concerned and, where necessary, the institutions, bodies, offices and agencies concerned.

Without prejudice to the sectoral rules referred to in Article 9(2) of Regulation (EC, Euratom) No 2988/95, the competent authorities of the Member States concerned shall

ensure that appropriate action is taken, in which the Office may take part, ***in accordance with national law***. Upon request, the competent authorities of the Member States concerned shall inform the Office of the action taken and of their findings on the basis of information referred to in the first subparagraph of this paragraph.

1 On-the-spot checks have been discussed in the last decade quite thoroughly[291], but not enough for all countries. For Croatia, it is worth taking a closer look at the applicable provisions.

a) On the spot-checks and inspections – Renouncing the applicable national law – Paras 2, 4

2 The national law is renounced if the economic operator, the beneficiary, the grant recipient etc. submits to the investigation of the Office. In this case Union law applies.

b) Assistance needed, competent authorities and access to information in the Member States, Para. 5

3 Even in the case that Union law applies, OLAF may need the help and information from national authorities in the Member states (managing authorities, control bodies, customs and tax offices, etc.).

c) Resistance by the economic operator vs. law enforcement and effective investigations, Para. 6 or the new model and the relevance of resistance or conformity of the Economic Operator

4 If the economic operator, the beneficiary, the grant recipient etc. resists this conduct has an effect on the applicability of law. The ECJ rules in Sigma Orionis that national law applies in the case of resistance, which means that the investigations need to be in conformity with the national law applicable in similar national investigations.

d) The basic principle of conformity to Regulations 2185/96 and 883/2013

aa. Submission: Compliance with Union law

5 In the case of compliance of a Croatian Economic Operator Union law applies, thus the Regulation allows OLAF officials to conduct on-the-spot checks without prior information of national authorities.

[291] See Bovend'eerdt 2018.

bb. Resistance: Assistance in conformity with national procedural rules applicable

Does the participant, the personal or Economic operator concerned resist, the Regulation indicates that OLAF has to follow national law and inform national authorities that can provide assistance in conformity with national procedural rules applicable.[292] **6**

e) Competent authorities

The enumeration of law provisions below shows non-extensively the most important competent authorities, which need to be contacted if the **economic operator** *resists* and thus national law applies if OLAF wants to conduct investigations into irregularities: **7**

Who will be responsible then, depends on which area is affected (direct or shared management) and which type of irregularity or fraud is suspected, as well as in which payment (expenditure) or payment (revenue) area. See as well above → A. II. Institutions. **8**

Tax Administration Act[293] **9**
PART TWO – ACTIVITIES OF THE TAX ADMINISTRATION
Article 3[294]
(1) The activities of the Tax Administration shall be:
1. collecting, recording, processing and verifying the data relevant for establishing the tax base and collecting taxes, contributions and other public dues
2. setting up and developing services system and informing and educating the taxpayers to facilitate the exercising of rights and complying with obligations
3. drafting tax rulings
4. concluding transfer pricing agreements and agreements on voluntary tax compliance
5. assessing tax liabilities, contributions and other public dues
6. organising, monitoring and controlling the collection of taxes, contributions and other public dues
7. supervising taxpayers' business operations when applying the regulations that are under the competency of the Tax Administration

[292] ECJ, Case T-48/16 *Sigma Orionis v the Commission*, Margin Number 112: "Finally, it should be noted that, according to the rules applicable to the actions carried out by OLAF, the requirement to obtain a judicial authorisation, if provided for by national law, only applies in the case of an objection raised by the economic operator and that OLAF must then have recourse to national police forces which, according to the rules applicable to them, must comply with national law." It is therefore important to state again summarizing the judges saying the goal of the present study of national (procedural) laws: As the competent authorities shall afford the staff of the Office the necessary assistance, so as to enable the Office to conduct its on-the-spot check and inspection effectively and without undue delay, in accordance with national procedural rules applicable to the competent authority concerned, OLAF and the national authorities need to know the law, which must be applied. If such assistance requires authorisation from a judicial authority in accordance with national law, such authorisation shall be applied for (Art. 3, par. 6). See Böse and Schneider 2023, p. 117 et seq.

[293] See Zakon o Poreznoj upravi (Narodne novine, br. 115/16).

[294] Članak 3.
(1) Poslovi Porezne uprave su:
8. suzbijanje poreznih prijevara.

8. Fighting tax frauds PART THREE – INTERNAL ORGANISATION AND MANAGEMENT

Article 4 Internal organisation

(1) The following shall be established within the Tax Administration: Central Office, regional offices and local offices within the regional offices.

(2) Internal organisation of the Tax Administration, apart from matters governed by this Act, shall be stipulated by a regulation of the Government of the Republic of Croatia.

Article 5[295]

(1) Central Office shall have its headquarters in Zagreb.

(2) Regional offices shall be established, as a rule, for the territory of one country, and the Town of Zagreb.

(3) Regional office shall have jurisdiction as to the substance of the matter and territorial jurisdiction for the taxpayers having their headquarters, i.e. residence, in the territory of pertaining counties, and the Town of Zagreb.

(4) Regional office may, in the territory of its establishment, organise the conducting of certain activities outside its headquarters.

(5) One regional office may conduct certain activities for other regional offices.

(6) Local offices shall be established to conduct certain activities of regional offices.

(7) Local office shall have jurisdiction as to the substance of the matter and territorial jurisdiction for the taxpayers having their headquarters, i.e. residence, in the territory of the local office.

(8) By way of derogation from the provisions of paragraphs 2 and 3 of this Article, the Large Taxpayers Office is the office that shall have jurisdiction as to the substance of the matter and territorial jurisdiction for large taxpayers in the territory of the Republic of Croatia, and the criteria for designating large taxpayers shall be the business activity and the amount of generated turnover.

(9) Other regional offices may conduct certain activities for the Large Taxpayers Office.

[295] Članak 5 (1) Središnji ured ima sjedište u Zagrebu.
(2) Područni uredi ustrojavaju se u pravilu za područje jedne županije, odnosno Grada Zagreba.
(3) Područni ured je stvarno i mjesno nadležan za porezne obveznike sa sjedištem odnosno prebivalištem na području pripadajuće/pripadajućih županija, odnosno Grada Zagreba.
(4) Područni ured može na području za koje je ustrojen organizirati obavljanje pojedinih poslova izvan svojeg sjedišta.
(5) Jedan područni ured može pojedine poslove obavljati za druge područne urede.
(6) Za obavljanje pojedinih poslova područnih ureda osnivaju se ispostave.
(7) Ispostava je stvarno i mjesno nadležna za porezne obveznike sa sjedištem odnosno prebivalištem na području ispostave.
(8) Iznimno od odredbe stavaka 2. i 3. ovoga članka, Ured za velike porezne obveznike je ured koji je stvarno i mjesno nadležan za velike porezne obveznike na području Republike Hrvatske, a kriteriji za određivanje velikih poreznih obveznika su djelatnost i visina ostvarenih prihoda.
(9) Pojedine poslove za Ured za velike porezne obveznike mogu obavljati drugi područni uredi.
(10) Ministar financija pravilnikom određuje vrstu djelatnosti i visinu prihoda koji su potrebni za ispunjavanje kriterija za određivanje velikih poreznih obveznika.

(10) Minister of Finance shall prescribe, by virtue of an ordinance, the type of business activity and the amount of turnover required to meet the criteria for designating large taxpayers.

Article 32[296]
The officials of the Tax Administration and the **Independent Division for Detecting Tax Frauds** holding the posts in the **Tax Administration** and the **Ministry of Finance** on the day of this Act coming into force shall remain at their posts and shall keep the salary in accordance with the existing decisions on appointments until new decisions on appointments have been adopted.

In the area of customs controls the **Law on the Customs Service** stipulates that the Central office is competent to deal with EU fraud irregularities and fraud cases: **10**

Article 11[297] **11**
(1) **Central office** in accordance with this Law and special regulations:
9. **manages and supervises the keeping of records of the traditional own resources of the European Union from customs duties and taxes for sugar and supervises and confirms cases of fraud and irregularities and cases of write-offs,**
[...]

Article 12[298]
The **regional customs office** directly or through its organizational units in accordance with this Law and special regulations:
[...]
12. **determines and reports cases of fraud and irregularities and write-offs of traditional own funds of the European Union from customs duties,**

[296] Članak 32
Službenici Porezne uprave i službenici Samostalnog sektora za otkrivanje poreznih prijevara koji su danom stupanja na snagu ovoga Zakona zatečeni na radnim mjestima u Poreznoj upravi i Ministarstvu financija zadržavaju raspored na radnim mjestima i plaću sukladno postojećim rasporednim rješenjima do donošenja novih rješenja o njihovom rasporedu na radna mjesta.
[297] Članak 11
1. upravlja i nadzire vođenje evidencije tradicionalnih vlastitih sredstva Europske unije iz carinskih davanja i pristojbi za šećer te nadzire i potvrđuje slučajeve prijevara i nepravilnosti i slučajeve otpisa,
Članak 12
Područni carinski ured neposredno ili preko svojih ustrojstvenih jedinica u skladu s ovim Zakonom i posebnim propisima:
1. utvrđuje i prijavljuje slučajeve prijevara i nepravilnosti te otpisa tradicionalnih vlastitih sredstva Europske unije iz carinskih davanja,
[298] Članak 12
Područni carinski ured neposredno ili preko svojih ustrojstvenih jedinica u skladu s ovim Zakonom i posebnim propisima:
1. utvrđuje i prijavljuje slučajeve prijevara i nepravilnosti te otpisa tradicionalnih vlastitih sredstva Europske unije iz carinskih davanja,

12 Most of the terms for the area of customs duty fraud etc. are explained by the Law on the Customs Service:

13 **Article 3**[299] In terms of this Act, certain terms have the following meaning:
1. The tasks of the customs service are the tasks of the Customs Administration determined by this Law and other regulations.
2. Supervision is any action undertaken by the Customs Administration in accordance with this Act and other regulations, which ensures the correct application of customs, excise, tax and other regulations under its jurisdiction, as well as the suppression, prevention and detection of punishable acts from these regulations.
3. The place of supervision is any open or closed space or facility where supervision is carried out.
4. Customs and security measures are measures that, in accordance with customs regulations, are carried out with goods that are brought into or taken out of the customs territory in order to ensure the protection and preservation of the safety of society, and especially the protection of the health and life of people, animals and plants, the environment, cultural heritage, national treasures historical, artistic or archaeological value, intellectual property and the protection of other general and public law interests.

[299] Članak 3 U smislu ovoga Zakona pojedini pojmovi imaju sljedeće značenje:
1. Poslovi carinske službe su poslovi Carinske uprave određeni ovim Zakonom i drugim propisima.
2. Nadzor je svako postupanje koje poduzima Carinska uprava prema ovome Zakonu i drugim propisima kojim se osigurava pravilna primjena carinskih, trošarinskih, poreznih i drugih propisa iz svoje nadležnosti, kao i suzbijanje, sprječavanje i otkrivanje kažnjivih djela iz tih propisa.
3. Mjesto nadzora je svaki otvoreni ili zatvoreni prostor ili objekt gdje se obavlja nadzor.
4. Carinsko-sigurnosne mjere su mjere koje se sukladno carinskim propisima provode s robom koja se unosi u ili iznosi iz carinskog područja radi osiguranja zaštite i očuvanja sigurnosti društva, a osobito zaštite zdravlja i života ljudi, životinja i bilja, okoliša, kulturne baštine, nacionalnog blaga povijesne, umjetničke ili arheološke vrijednosti, intelektualnog vlasništva te zaštite drugih općih i javnopravnih interesa.
5. Carinska ovlast je ovlast određena ovim Zakonom i drugim propisima.
6. Roba su sve stvari koje se mogu razvrstati u Carinsku tarifu, uključujući i sve pokretne stvari koje se mogu klasificirati sukladno posebnim propisima.
7. Prometno sredstvo je svako sredstvo koje služi prijevozu ljudi ili robe.
8. Javna davanja su porezi i druga javna davanja sukladno Općem poreznom zakonu.
9. Javnopravne naknade su novčana davanja koja nisu propisana Općim poreznim zakonom, a koja se plaćaju sukladno posebnim propisima i koriste za podmirivanje posebno određenih potreba od općeg i/ili javnog interesa.
10. Ovlašteni carinski službenik je službenik Carinske uprave koji na temelju ovoga Zakona i drugih propisa obavlja poslove carinske službe primjenom carinskih ovlasti,
11. Ovrha je postupak prisilne naplate carinskog, trošarinskog i poreznog duga te drugih javnih davanja koji se provodi na temelju ovršne ili vjerodostojne isprave sukladno odredbama Općeg poreznog zakona.
12. Administrativna suradnja je oblik suradnje s drugim državama u vidu razmjene informacija vezanih uz obveznika, uzajamne pomoći pri naplati tražbina po osnovi carine, poreza i drugih javnih davanja te provedbi mjera osiguranja naplate duga, kao i drugim oblicima suradnje prema međunarodnim ugovorima.
13. Sustav analize i upravljanja rizicima je sustav administrativnih, operativnih, analitičkih, informatičkih, tehničkih i drugih postupaka, mjera i radnji koje se planiraju i poduzimaju radi identifikacije rizika u odnosu na pravilnu primjenu carinskih, trošarinskih, poreznih i drugih propisa iz nadležnosti Carinske uprave te poduzimanja svih mjera nužnih za ograničavanje izloženosti riziku i učinkovito suzbijanje, sprječavanje i otkrivanje povreda tih propisa. To, između ostaloga, obuhvaća postupke kao što su prikupljanje podataka i informacija, njihova obrada te analiza i procjena rizika, kao i sustavno i nasumično planiranje, određivanje te poduzimanje nadzornih i drugih operativno-analitičkih mjera i postupaka.

5. Customs authority is the authority determined by this Law and other regulations.
6. Goods are all things that can be classified in the Customs Tariff, including all movable things that can be classified in accordance with special regulations.
7. A means of transport is any means used to transport people or goods.
8. Public benefits are taxes and other public benefits in accordance with the General Tax Law.
9. Public law fees are monetary benefits that are not prescribed by the General Tax Law, and which are paid in accordance with special regulations and are used to meet specific needs of general and/or public interest.
10. An authorized customs officer is an officer of the Customs Administration who, on the basis of this Act and other regulations, performs duties of the customs service by applying customs powers,
11. Enforcement is the procedure of forced collection of customs, excise and tax debt and other public duties, which is carried out on the basis of an enforceable or authentic document in accordance with the provisions of the General Tax Code.
12. Administrative cooperation is a form of cooperation with other countries in the form of exchange of information related to the obligor, mutual assistance in the collection of claims based on customs, taxes and other public duties and the implementation of debt collection security measures, as well as other forms of cooperation according to international agreements.
13. The risk analysis and management system is a system of administrative, operational, analytical, IT, technical and other procedures, measures and actions that are planned and undertaken in order to identify risks in relation to the proper application of customs, excise, tax and other regulations under the jurisdiction of the Customs Administration and undertaking of all measures necessary to limit exposure to risk and effectively suppress, prevent and detect violations of these regulations. This includes, among other things, procedures such as the collection of data and information, their processing and analysis and assessment of risks, as well as systematic and random planning, determining and undertaking supervisory and other operational-analytical measures and procedures.

f) National law and "checks and inspections" of OLAF

National checks and inspections are essential to discover fraud and irregularities in the various area of revenue and expenditure. They are the corner stone of an anti-fraud policy of the Union and the Member States under Article 325 TFEU. In this area national law might apply and enable OLAF with its national partners to conduct investigations. **14**

aa. Administrative procedure in general

The administrative procedure in general is important for the question whether an applicant and beneficiary receive a positive administrative act and is provided with EU

money for a project or a purchase. These rules are enshrined in the Law on General Administrative Procedure (see → Official Gazette, NN 47/2009, (1065), law, 16.4.2009).[300] This law has the following contents and structure:

bb. Special administrative powers and provisions in certain areas of revenue and expenditure

15 The Rules on Budget Control are enshrined in the Budget Act and the Rulebook on Budgetary Supervision.[301]

16 Other Acts, such as the Customs Law and the Laws of the other Ministries for specific areas regulate specific administrative procedures, which cannot be pictured here in-depth. We refer therefore to the main Websites of the Croatian Ministries, which provide all for a section, which stipulates the legislative acts, which are applicable in the area of its competence.

17 In the area of revenue, the Laws on Taxation and VAT apply as specific administrative procedure laws.

(1) Administrative provisions

18 The **administrative provisions** are important because they contain the national law, which applies if an Economic Operator resists and OLAF must rely on its national equivalent institutions with special rights to intervene in an administrative procedure e.g. carry out an audit, an inspection, or an investigation into a certain irregularity according to the Union definition of an irregularity. The complete list of single administrative provisions cannot by displayed here, but it can be said that they have in common the rules on granting and refusing money or a certain action by a Croatian administrative body, which is competent either to ensure that the duties on the revenue side of the EU budget or that the duties on the expenditure side are fulfilled. If they come across an irregularity during the administrative process or the assessment of a contract, an assignment, an official reasoning of an operator, an application etc. they must probably report the incidence according to the reporting obligations (within the EU Regulations) to the relevant bodies. OLAF will then decide because of Article 5 OLAF Regulation and potentially act in accordance with Article 7 OLAF Regulation.

(a) Administrative provisions in the area of customs duties and value added tax (VAT) = revenue

(aa) Customs area

19 A special Croatian rulebook must be taken into account in this area:

[300] This law was last amended by the Law on Amendments to the Law on General Administrative Procedure NN 110/2021, (1930), law, 13.10.2021. Accessed 31 July 2024.
[301] See Articles 12, 115 et seq. Budget Act and Articles 1, 2 Rulebook.

- Rulebook on exemption from customs duties/*Pravilnik o ostvarivanju oslobođenja od carina*.

The Law on Customs Service clearly indicates in Article 16 that the customs officials may exercise their function ex officio. **20**

(bb) VAT area

A special ordinance must be considered, which relates to the VAT Act that is presented below: **21**

- Ordinance on exemption from value added tax and excise duties for goods imported in the personal luggage of persons traveling from third countries and for goods imported as a small shipment of non-commercial significance[302]

22

Value Added Tax Act
(Consolidated "Official Gazette" no. 39/22).
I FUNDAMENTAL PROVISIONS
Article 1
(1) Value added tax (hereinafter: VAT) shall be calculated and paid according to the provisions of this Act.
(2) VAT is the state budget revenue of the Republic of Croatia.
(3) The following shall be integral parts of this Act:
– Annex I, List of activities referred to in Article 6 paragraph 5. of this Act,
– Annex II, List of goods to be placed to warehouses referred to in Article 52 of this Act,
– Annex III, List of goods covered by the special margin scheme referred to in Article 95 of this Act.
3 VAT refund to taxable persons established in another Member State

Article 68
(1) A taxable person who does not have headquarters in the Republic of Croatia but in another Member State shall have the right to return of VAT charged for goods and services supplied or performed for him by other taxable persons on the home territory or for goods imported on the home territory, under the conditions referred to in paragraph 3 of this Article.
(2) Within the meaning of this VAT refund procedure, certain terms shall have the following meanings:

[302] Pravilnik o oslobođenju od poreza na dodanu vrijednost i trošarine za robu uvezenu u osobnoj prtljazi osoba koje putuju iz trećih država te za robu uvezenu kao mala pošiljka nekomercijalnog značaja.

1. “Taxable person without headquarters on the home territory” shall refer to a taxable person who does not have headquarters, a permanent establishment or permanent or habitual residence on the home territory but on the territory of another Member State,
2. “Period to be refunded” shall mean the period referred to in Article 70 paragraph 8 of this Act covered by the refund application,
3. “Refund application” shall mean the application for the refund of VAT charged on the home territory to a taxable person without headquarters on the home territory for goods or services supplied or performed for him by other taxable persons on the home territory or for goods imported on the home territory,
4. “Applicant” shall refer to the taxable person without headquarters on the home territory who is submitting the refund application.
(3) This procedure shall apply to a taxable person without headquarters on the home territory who fulfils the following conditions:
1. During the return period, the taxable person did not have headquarters or permanent establishment from which business transactions were made nor did he have a permanent or habitual residence if such headquarters or permanent establishment did not exist,
2. During the period to be refunded, the taxable person did supply goods or services which are deemed to be supplied on the home territory, other than:
a) Transport and transport-related services that are VAT exempt in accordance with Article 44 paragraph 1 item 35, Article 45 paragraph 1, Articles 46 and 47, Article 48 paragraph 1 items a), b), c), d) and e), Article 49 and Article 51 paragraph 3 of this Act,
b) Services and goods supply to a recipient who is not required to pay VAT in accordance with Article 10 paragraph 4, Article 75 paragraph 1 items 6 and 7 and Article 75 paragraph 2 of this Act.
(4) This procedure shall not apply to:
a) VAT amounts which are incorrectly calculated under the provisions of this Act,
b) VAT amounts calculated for the supply of goods which are exempt or may be exempt from VAT in accordance with the provisions of Article 41 paragraph 1 and Article 45 paragraph 1 item 2 of this Act.

Article 69
(1) A taxable person who does not have headquarters on the home territory and performs transactions based on which he is entitled to input tax deduction in the state where his headquarters are shall receive the refund of VAT charged for goods supplied or services performed on the home territory or for the import of goods on the home territory.
(2) The right to VAT refund referred to in paragraph 1 of this Article shall be determined in accordance with the provisions of this Act which refer to input tax deduction.
(3) A taxable person who does not have headquarters on the home territory and who simultaneously performs, in the Member State in which he has headquarters, transactions based on which he has the right to input tax deduction in that Member State and

transactions based on which he does not have the right to input tax deduction may receive VAT return in accordance with the provisions of this Article and the provisions on the proportional deduction of input tax applied in the Member State where the taxable person has headquarters.

Article 70

(1) In order to receive VAT refund on the home territory, the taxable person without headquarters on the home territory shall apply an electronic return application through the electronic portal of the Member State in which he has headquarters no later than on 30 September of the calendar year following the period to be refunded.

(2) The refund application must contain the following information:

a) The applicant's first and last name (company name) and complete address,

b) Address for electronic communication,

c) Description of the applicant's economic activity for which goods and services are acquired and the economic activity code,

d) The period to be refunded to which the refund application applies,

e) The applicant's statement that he did not, during the return period, supply goods or services which are deemed to be supplied on the home territory, with the exception of transactions referred to in Article 68 paragraph 3 item 2 of this Act,

f) The applicant's VAT number of tax number,

g) Information on his bank account (including IBAN and BIC).

(3) In addition to the information listed in paragraph 2 of this Article, the return application shall also contain the following information for each invoice or import document:

a) First and last name (company name) and the complete address of the goods or service supplier,

b) VAT identification number referred to in Article 77 paragraph 6 of this Act of the goods or services supplier, except in case of import,

c) Date and number of invoice or import document,

d) Taxable amount and VAT amount expressed in HRK,

e) Amount of VAT which may be deducted expressed in HRK and which is calculated in accordance with Article 69 of this Act,

f) Portion of deduction expressed as a percentage of the proportional input tax deduction calculated in accordance with the regulations of the headquarters state,

g) Type of acquired goods or service, described according to the numerical mark in accordance with paragraph 4 of this Article.

(4) In the refund application, the type of acquired goods and services shall be described with the following numerical marks:

1 = Fuel,

2 = Rental of means of transport,

3 = Costs for means of transport (other than goods and services listed under numerical marks 1 and 2),
4 = Tolls and fees for road use,
5 = Travel expenses, such as taxi transport costs or public transport costs,
6 = Accommodation,
7 = Food, drink and restaurant services,
8 = Tickets to fairs and exhibitions,
9 = Costs for luxury goods, leisure and business entertainment,
10 = Other, and the applicant using this numerical mark must list the type of supplied goods and services.
(5) The applicant shall submit the information in the return application, as well as any additional information, in Croatian and English.
(6) If, after the submission of the refund application, a part of VAT to be deducted is adjusted under the provisions on proportional input tax deduction which are applied in the Member State where the taxable person's headquarters are, the applicant shall correct the amount submitted in the application or already returned. The correction shall be applied in the refund application during the calendar year which follows after the stated return period or, if the applicant fails to submit a refund application during that calendar year, by issuing a special statement through the electronic portal of the Member State in which the taxable person has headquarters. When increasing or reducing the refund amount, all corrections related to the previous refund application shall be taken into account or, if a special statement was made, in form of special payment or remuneration.
(7) The refund application shall refer to:
a) Acquired goods or services for which an invoice was issued during the period to be refunded, under the condition that the VAT payment obligation arose prior to or at the time of invoicing, or for which the VAT payment obligation arose during the period to be refunded, under the condition that the invoice for that supply was issued before the VAT payment obligation arose,
b) Import of goods during the period to be refunded,
c) In addition to the transactions referred to in item a) and b) of this paragraph, the refund application may refer to invoices or import documents which are not covered by previous refund applications, and which refer to transactions performed during the calendar year to which the application refers.
(8) The period to be refunded may not be longer than one calendar year nor shorter than three consecutive calendar months. Refund applications may also refer to a period shorter than three months if that period includes the end of the calendar year.
(9) If the refund application refers to a period to be refunded shorter than one calendar year, but not shorter than three months, the amount of VAT for which refund is sought shall not be less than HRK 3,100.00.

(10) If the refund application refers to a period to be refunded of one calendar year or to the rest of the calendar year, the amount of VAT shall not be less than HRK 400.00.

Article 72
(1) If the refund application is approved, the Tax Administration shall reimburse the approved amount no later than within 10 business days after the expiry of the end time limit referred to in Article 71 paragraph 2 of this Act or, if additional information was requested, after the expiry of end time limit referred to in Article 71 paragraphs 6 and 7 of this Act.
(2) Refund shall be paid on the home territory or, at the applicant's request, in any other Member State. If VAT refund was made to a bank account in other Member State, the amount of all bank charges related to the transfer of funds shall be deducted from the refund amount paid to the applicant.
(3) If VAT refund has been made, it is subsequently found that the information in the application is inaccurate or that the refund was made in a fraudulent or any other improper manner, the taxable person without headquarters on the home territory shall be obliged to return the erroneously paid amount and to pay the fines and interest in accordance with special regulations.
(4) If a misdemeanour fine or interest was imposed and not paid, the Tax Administration may suspend any further refunds to the taxable person without headquarters on the home territory up to the unpaid amount.

(cc) Principle of investigation

The principle of investigation is regularly regulated in the beginning of a law dealing with administrative procedures and its concrete wording depends therefore on the specific Law. **23**

24

Chapter I. INITIATION OF PROCEDURE

Article 40 Ways of starting the procedure[303]

(1) Administrative proceedings are initiated at the request of a party or ex officio.
(2) When the procedure is initiated at the request of a party, the procedure is considered to have been initiated at the moment of submission of the proper request of the party to the public law body.
(3) When the procedure is initiated ex officio, the procedure is considered to have been initiated when an official in a public law body undertakes any action with the purpose of conducting the procedure ex officio.

Article 41 Initiation of the procedure at the request of the party[304]

(1) A party may directly submit a request for the initiation of a procedure to a public law body in written form or orally on the record, and such a request may be sent by post or submitted electronically.
(2) When the official determines that there are no legal prerequisites for initiating the procedure, he shall reject the request by decision.
(3) If a party has made several different requests in one submission, each request will be processed separately. If another public law body is competent to handle any of these requests, it will be handled according to the rules on the handling of a non-competent body based on a submission.

[303] Glava I.
POKRETANJE POSTUPKA
Načini pokretanja postupka
Članak 40
(1) Upravni postupak pokreće se na zahtjev stranke ili po službenoj dužnosti.
(2) Kad se postupak pokreće na zahtjev stranke, postupak se smatra pokrenutim u trenutku predaje urednog zahtjeva stranke javnopravnome tijelu.
(3) Kad se postupak pokreće po službenoj dužnosti, postupak se smatra pokrenutim kad službena osoba u javnopravnom tijelu poduzme bilo koju radnju sa svrhom vođenja postupka po službenoj dužnosti.

[304] Pokretanje postupka na zahtjev stranke
Članak 41
(1) Zahtjev za pokretanje postupka stranka može neposredno podnijeti javnopravnom tijelu u pisanom obliku ili usmeno na zapisnik, a može takav zahtjev poslati poštom ili dostaviti elektroničkim putem.
(2) Kad službena osoba utvrdi da ne postoje zakonske pretpostavke za pokretanje postupka, rješenjem će odbaciti zahtjev.
(3) Ako je stranka u jednom podnesku postavila više različitih zahtjeva, postupit će se po svakom zahtjevu odvojeno. Ako je za postupanje po kojem od tih zahtjeva nadležno drugo javnopravno tijelo, postupit će se po pravilima o postupanju nenadležnog tijela po podnesku.

Article 42 Ex officio initiation of proceedings[305]
(1) The procedure is initiated ex officio when it is prescribed by law or is necessary to protect the public interest.
(2) When evaluating the existence of grounds for initiating proceedings ex officio, the public law body will take into account petitions, or other notifications that point to the need to protect the public interest.
(3) When an official determines that there are no conditions for starting the procedure ex officio, he will inform the applicant about this as soon as possible, and no later than within 30 days from the date of submission of the petition, or notification.
(4) The applicant has the right to file an objection to the public law body from which he received a notification rejecting the proposal to initiate the procedure, within eight days from the date of receiving the notification, as well as in the event that he did not receive a response within the prescribed period.

Article 43 Initiation of the procedure by public announcement[306]
(1) A public legal body may initiate proceedings by public announcement when the parties are unknown or such a method of initiating proceedings is prescribed by law.
(2) The public announcement must contain an indication of the administrative matter, the designation of the persons to whom it applies, the manner of participation of those persons in the procedure, a list of documents that should be sent or personally delivered to the public legal body, and a warning of the consequences of not responding to the public announcement within a certain period.
(3) The parties must be given a deadline of at least 30 days to respond to the public announcement.

[305] Pokretanje postupka po službenoj dužnosti
Članak 42
(1) Postupak se pokreće po službenoj dužnosti kad je to propisano zakonom ili je nužno radi zaštite javnog interesa.
(2) Kod ocjene o postojanju razloga za pokretanje postupka po službenoj dužnosti javnopravno tijelo uzet će u obzir predstavke, odnosno druge obavijesti koje upućuju na potrebu zaštite javnoga interesa.
(3) Kad službena osoba utvrdi da ne postoje uvjeti za pokretanje postupka po službenoj dužnosti, obavijestit će o tome podnositelja što je prije moguće, a najkasnije u roku od 30 dana od dana podnošenja predstavke, odnosno obavijesti.
(4) Podnositelj ima pravo izjaviti prigovor javnopravnom tijelu od kojeg je primio obavijest kojom se ne prihvaća prijedlog za pokretanje postupka, u roku od osam dana od dana primanja obavijesti, kao i u slučaju da u propisanom roku nije dobio odgovor.
[306] Pokretanje postupka javnom objavom
Članak 43
(1) Javnopravno tijelo može javnom objavom pokrenuti postupak kad su stranke nepoznate ili je takav način pokretanja postupka propisan zakonom.
(2) Javna objava mora sadržavati naznaku upravne stvari, određenje osoba na koje se odnosi, način sudjelovanja tih osoba u postupku, popis isprava koje trebaju poslati ili ih osobno dostaviti javnopravnom tijelu te upozorenje na posljedice neodazivanja na javnu objavu u određenom roku.
(3) Strankama se mora odrediti rok od najmanje 30 dana za odazivanje na javnu objavu.
(4) Javna objava oglašava se u odgovarajućem službenom glasilu, sredstvima javnog priopćivanja, odnosno na drugi prikladan način kojim će se pozvanim osobama omogućiti saznanje o javnoj objavi.

(4) The public announcement is advertised in the corresponding official gazette, the means of public communication, that is, in another appropriate way that will enable the invited persons to learn about the public announcement.

25 In the area of customs controls Article 16 of the Law on Customs duties speaks of an ex officio principle:

An authorized customs officer exercises authority ex officio or by order of a superior. The superior person's order can be oral or written.

(dd) External audit (Tax Codes)

26 The Tax Administration Act provides in Article 13 Para. 2 the rights and powers of officials conducting a tax audit.

27 The Law on Customs Service provides for rules on checks for data and documents.

28

2. Review of documentation and verification of authenticity and authenticity of documents

Article 31

The authorized customs officer checks the compliance of the operations of natural and legal persons with the regulations under the jurisdiction of the Customs Administration on the basis of business books, records and other documents.

Article 32

(1) An authorized customs official checks the documents submitted in the procedures for which the Customs Administration is responsible and the data presented in those documents, including other documents and data collected in the implementation of supervision.

(2) An authorized customs official may demand from a person who according to the regulations is obliged to provide information or fulfil a certain obligation to submit any bookkeeping document, contract, business correspondence, records or any other document that he considers necessary for implementation of supervision.

(3) Documents, data or the fulfilment of a specific obligation from paragraph 2 of this article may be requested from any person who possesses the requested documentation or data or should have these documents or data.

(4) If business books and prescribed records are kept on an electronic medium, the authorized customs officer may inspect the database of the computer system and demand the production or submission of any document or declaration that confirms some information recorded on the electronic medium.

(ee) Tax and customs investigation (Customs Code/General Tax Code)

The investigation process is governed by several Croatian acts as well as EU regulations. Any investigator should consult the Tax Administration (*Porezna uprava*) laws and the authority under the head of the Ministry of Finance.[307] Responsible for tax offences, including VAT fraud and tax evasion is the Customs Administration (*Carinska uprava*), which handles customs offences, including smuggling and breaches of customs regulations. **29**

All these breaches might constitute an irregularity and fall under the scope of OLAF according to Art 7 OLAF Regulation. Next, USKOK the Office for the Suppression of Corruption and Organised Crime, which was already addressed above in Part B while studying the legal framework of the EPPO is involved in serious tax and customs fraud investigations, particularly when it affects EU financial interests. Last but not least the State Attorney's Office (DORH) and the EDPs in cases of serious fraud affecting EU funds (under the EPPO Regulation) might need to be contacted if OLAF decides not to open a case after an on-the-spot check according to the conditions laid down in Art. 5 and 7 OLAF Regulation (it will then on the basis of the Working Arrangement with the EPPO and Art. 12e OLAF Regulation et seq. need to decide if a case is referred to the EPPO or national authorities). The Croatian Financial Intelligence Unit (FIU) works closely with tax and customs authorities during investigations. Regulation No 2185/96, which relates to on-the-spot checks and inspections conducted by OLAF in cooperation with national authorities like Croatia's Tax and Customs Administrations can apply as well. **30**

The Tax Administration can carry out tax audits to detect irregularities, while Customs Administration inspects goods, warehouses, and border crossings to uncover smuggling or fraud. If sufficient evidence is found, tax and customs authorities may impose penalties, or refer the case for criminal prosecution. Croatian courts handle prosecutions with cooperation from EPPO in cross-border or serious EU fraud cases. **31**

In the next part, prominent provisions from this legal area are studied more closely: **32**

(ff) Fiscal supervision

The supervision in this sector is mainly conducted by the Croatian Ministry of Finance or the offices in the tax administration sector: **33**

PART SEVEN – INTERNAL AUDIT AND INTERNAL SUPERVISION
Article 25 Internal audit and internal supervision shall be carried out in the Tax Administration for the purpose of business auditing, and supervision of lawful operation and regularity of applying regulations for the purpose of harmonising the procedures the

[307] See Tax Administration (Porezna uprava): https://mfin.gov.hr/highlights-2848/tax-administration/2855.

officials of the Tax Administration are undertaking, as well as preventing, discovering and establishing violations of law and rules of profession by the officials of the Tax Administration.

34 In the area of customs service actions the Law on Customs Service applies:

35 **INTERNAL SUPERVISION AND INTERNAL CONTROL**
Article 60(1) The Customs Administration carries out internal supervision over the legality of work and the proper application of regulations under its jurisdiction with the intention of eliminating established irregularities and standardizing work practices.
(2) The customs administration carries out internal control with the intention of detecting, determining and preventing violations of the legality of work and service rules by customs officers and employees.
(3) In the implementation of internal supervision and internal control tasks, the customs authorities prescribed by this and other laws are applied.
(4) The manner of conducting internal supervision and internal control shall be prescribed by the ordinance of the Minister of Finance.

(gg) Tax Supervision

36 The Tax Supervision procedures is different to the term "**fiscal supervision**" (see above). The General Tax Code determines in this regard the rules for the procedure:

37 **Article 116 Persons Authorized to Perform Tax Supervision**
(1) Tax supervision shall be performed by tax supervisors, tax inspectors and other civil servants authorised to conduct tax audit.
(2) In addition to persons referred to in paragraph 1 of this Article, the head of the tax authority may authorise other trained professionals to perform specific tasks in connection with the tax supervision procedure.

Admissibility of Tax Supervision
Article 117
1) Tax supervision may be performed on all taxpayers and other persons who have at their disposal the facts and evidence relevant for taxation.
(2) Tax supervision can be performed within three years from the start of the statute of limitations with regard to the right to assessment of the tax liability.
(3) As an exception to paragraph 2 of this Article, tax supervision can be performed for a period for which no statute of limitations has arisen with regard to assessment of the tax liability:
1. in case of abuse of rights referred to in Article 172 of this Act
2. in procedures establishing differences between acquired assets and proven means for the acquisition of those assets according to income tax regulations

3. in procedures against tax fraud
4. in procedures initiated in accordance with the orders of other bodies.

Subject of Tax Supervision
Article 118
(1) Tax supervision encompasses inspection of one or several types of taxes and all facts important for taxation, accounting documents and records, business events and all other information, records and documents relevant for taxation.
(2) If the entrepreneur is a natural person, the supervision procedure can also include the facts that are not related to their business activity.
(3) Tax supervision of corporations or companies also includes the inspection of relationships important for taxation between a member of the company or corporation and the company or corporation itself.

(b) Administrative provisions in the area of structural funds and internal policies (*unutarnja politika*) = expenditure

Structural funds are essential tools to reach EU policy goals. They shall help to reduce regional disparities, fostering economic growth, and supporting sustainable development. To ensure that national and regional development strategies align with broader EU objectives, the so-called EU policies. They are regulated via a partly complicated system of Union Regulation. The CRF Regulations request the Member States to designate Payment Agencies and Management Authorities. These are typically placed or located within a Ministry of the competent Member State. The same applies to the Republic of Croatia. **38**

An **example of a contract** about a grant has been published on the Internet. In this example Croatia is the beneficiary for a project related to waterways and water supply.[308] This matter falls under the scope of many EU policies that aim e.g. at stopping climate change.

The Budget Law of Croatia stipulates the following definitions: **39**

Article 4. Meaning of terms[309] Certain terms in the sense of this Act have the following meanings: **40**

[308] See https://eeagrants.hr/wp-content/uploads/2022/07/Description-of-the-Management-and-Control-System-of-the-Energy-and-Climate-Change-Programme.pdf.
[309] Članak 4. Pojedini pojmovi u smislu ovoga Zakona imaju sljedeća značenja:
1. AFCOS je sustav kroz koji se provodi koordinacija zakonodavnih, upravnih i operativnih aktivnosti s ciljem zaštite financijskih interesa Europske unije i neposredna suradnja s Europskim uredom za borbu protiv prijevara (OLAF)
2. akti strateškog planiranja su akti definirani propisom kojim se uređuje sustav strateškog planiranja Republike Hrvatske i upravljanje javnim politikama

1. **AFCOS is a system through which the coordination of legislative, administrative and operational activities is carried out with the aim of protecting the financial interests of the European Union and direct cooperation with the European Anti-Fraud Office (OLAF)**.
2. strategic planning acts are acts defined by the regulation regulating the system of strategic planning of the Republic of Croatia and the management of public policies
3. the activity is a part of the program for which the duration is not determined in advance, and in which expenses and expenditures are planned for the achievement of the goals determined by the program
4. the gross principle is the presentation of all income and receipts as well as expenses and expenses in the full amount without offsets
5. donations are current or capital transfers of funds to non-profit organizations and citizens and households, which also include transfers in kind, which budgets and budget users can give for a specific purpose
6. aid given is current or capital transfers to foreign governments, international organizations, institutions and bodies of the European Union, budgets, budgetary and extra-budgetary users, banks and other financial institutions, companies, farmers and craftsmen
7. **The contribution of the Republic of Croatia to the budget of the European Union is the funds that the Republic of Croatia pays into the budget of the European Union**
8. State aid is actual and potential expenditure or reduced income granted by the grantor in any form that distorts or threatens to distort market competition by putting a certain entrepreneur or the production of a certain good and/or service in a more favourable position, insofar as it affects trade between the member states of the European Union of the Union, in accordance with Article 107 of the Treaty on the Functioning of the European Union

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3. aktivnost je dio programa za koji nije unaprijed utvrđeno vrijeme trajanja, a u kojem su planirani rashodi i izdaci za ostvarivanje ciljeva utvrđenih programom
4. brutonačelo je iskazivanje svih prihoda i primitaka te rashoda i izdataka u punom iznosu bez prijeboja
5. dane donacije su tekući ili kapitalni prijenosi sredstava neprofitnim organizacijama te građanima i kućanstvima koji uključuju i prijenose u naravi, a koje proračuni i proračunski korisnici mogu davati za određenu namjenu
6. dane pomoći su tekući ili kapitalni prijenosi inozemnim vladama, međunarodnim organizacijama, institucijama i tijelima Europske unije, proračunima, proračunskim i izvanproračunskim korisnicima, bankama i ostalim financijskim institucijama, trgovačkim društvima, poljoprivrednicima i obrtnicima
7. doprinos Republike Hrvatske proračunu Europske unije su sredstva koja Republika Hrvatska uplaćuje u proračun Europske unije
8. državna potpora je stvarni i potencijalni rashod ili umanjen prihod dodijeljen od davatelja potpore u bilo kojem obliku koji narušava ili prijeti narušavanjem tržišnog natjecanja stavljajući u povoljniji položaj određenog poduzetnika ili proizvodnju određene robe i/ili usluge utoliko što utječe na trgovinu između država članica Europske unije, u skladu s člankom 107. Ugovora o funkcioniranju Europske unije
9. državni proračun je akt koji donosi Hrvatski sabor (u daljnjem tekstu: Sabor), a sadrži plan za proračunsku godinu i projekcije za sljedeće dvije proračunske godine u kojima se procjenjuju prihodi i primici te utvrđuju rashodi i izdaci Republike Hrvatske i proračunskih korisnika državnog proračuna

The 9th state budget is an act passed by the Croatian Parliament (hereinafter: the Parliament), which contains a plan for the budget year and projections for the next two budget years, in which revenues and receipts are estimated and expenditures and expenditures of the Republic of Croatia and budget users of the state budget are determined.
[…]

Article 155 Protection of the financial interests of the European Union[310]
(1) The Republic of Croatia, as a beneficiary of European Union funds, ensures the protection of the European Union's financial interests by establishing a system for the suppression of irregularities and fraud (AFCOS).
(2) The Government shall by decree prescribe the institutional framework of the system for combating irregularities and fraud from paragraph 1 of this Article.

(aa) Structural funds

Typical administrative rules concerning structural funds include **eligibility conditions**.[311] **41**

In a recent case, the plaintiff, M. Ž., owner of the fishing craft „M.", challenged a decision made by the Ministry of Agriculture, Fisheries Directorate. The dispute arose over a **rejected application for financial aid** under the measure „Temporary cessation of fishing activities – COVID-19" for April 2021. The Ministry denied the aid, citing the non-functionality of the vessel's VMS (Vessel Monitoring System) device, which was a condition for eligibility under the relevant regulations.[312] The Croatian Ministries have the task to assess the conditions and **conclude on the criteria of the eligibility** in each case. They may **delegate these tasks** to **managing authorities**, which is an EU term meaning specialized national authorities, that have enough knowledge of the relevant EU law to decide funds, grants or project enquiries.

In the cited case the plaintiff argued that the VMS device had been disabled due to prolonged illness, and the defendant had been duly informed in advance. The vessel was docked and had not moved, and the Ministry was aware of its location. The **plaintiff contended** that the Ministry's decision was based on **excessive formalism** and violated several legal provisions. The Ministry maintained that the plaintiff had failed to follow proper procedure by not providing formal notification of the VMS shutdown and the vessel's location during the temporary cessation of activities. **42** **II**

[310] **Zaštita financijskih interesa Europske unije Članak 155**
(1) Republika Hrvatska kao korisnica sredstava Europske unije osigurava zaštitu financijskih interesa Europske unije uspostavljanjem sustava za suzbijanje nepravilnosti i prijevara (AFCOS).
(2) Vlada će uredbom propisati institucionalni okvir sustava za suzbijanje nepravilnosti i prijevara iz stavka 1. ovoga članka.
[311] See EU Commission (OLAF) 2013 for the problem of forged documents.
[312] Administrative Court in Rijeka, Croatia - Case No. 2 Us I-1729/2023.

43 The **Court found** that the Ministry' requirement for additional notifications, despite already having the necessary information, was **overly formalistic** and not justified in the context. The case was sent back by annulling the former decision of the Ministry with the obligation for reconsideration, and the Ministry is bound by the Court's legal interpretation.[313] In fact, the Court ruled that the Ministry should reconsider the plaintiff's application without assuming that the VMS device was non-functional.

44 **This case shows** that requests for funding or financial aid, e.g. submitted via automatic systems or in traditional formats may not include all information, which are necessary to decide a case and the decision of a managing authority or a Ministry may follow the exact wording of a law without interpreting the individual case. This way of deciding on matters, may lead to a strong formalism, too strong commitment to positive statutory law, so that in the end an administrative procedure may be disproportionate. Still, each case must be assessed individually, too.

45 The following statutory law will concentrate on administrative procedures in the area of structural funds. The measures will need to be checked for legality and finical plans or other methods must be used to collect information, present details on projects. OLAF can use these information to identify potential irregularity matters.

46

[Excerpt Budget Act] Redistribution of budget funds

Article 60 (1) Expenditures and expenditures of the state budget can be redistributed up to five percent at the level of the economic classification group adopted by the Parliament, which is reduced within the sources of financing general revenues and receipts and within the sources of financing dedicated receipts.

(2) As an exception to paragraph 1 of this article, the redistribution of funds within the source of financing general revenues and receipts can be carried out up to 15 percent at the level of the economic classification group adopted by the Parliament if this ensures an increase in the resources of the Republic of Croatia's participation planned in the state budget for financing projects that are co-financed from the funds of the European Union.

(3) As an exception to paragraph 1 of this article, funds for the participation of the Republic of Croatia planned in the state budget for the financing of projects that are co-financed from the funds of the European Union from the source of financing general revenues and receipts and funds for financing projects that are refunded from the aid of the European Union can be redistribute:

– without restrictions within the same division of the organizational classification

– a maximum of 15 percent between projects of different divisions of the organizational classification.

[313] Administrative Court in Rijeka, Croatia - Case No. 2 Us I-1729/2023.

(4) Exceptionally from paragraph 1 of this article, funds from the source of financing general revenues and receipts can be redistributed to the source of financing dedicated receipts up to 15 percent at the level of the economic classification group adopted by the Parliament.
(5) As an exception to paragraph 1 of this article, funds for the repayment of the principal and interest of the state debt and state guarantees, negative exchange rate differences and differences due to the application of the currency clause, and the contributions of the Republic of Croatia to the European Union budget based on the European Union's own funds may, if for it is possible to ensure this during the budget year by redistributing it without restrictions, according to the need.
(6) Funds from paragraphs 2 and 3 of this article can be secured by redistribution for subsequently determined activities and/or projects and/or items at the level of the economic classification group.
(7) Funds in the state budget can be redistributed exclusively in the plan for the current budget year.
(8) Funds cannot be redistributed between the Income and Expenditure Account and the Financing Account.
(9) The Minister of Finance approves the implementation of the redistribution of funds and the subsequent determination of activities and/or projects and/or items.
(10) The Government shall report to the Parliament on the implemented redistributions in the half-yearly and annual report on the execution of the budget.
(11) The provisions of this article are appropriately applied to the budgets of local and regional self-government units.

Execution of the budget and financial plan
Article 61[314]
(1) The budget and financial plan of the budgetary and extra-budgetary user are executed in accordance with laws and other regulations.
(2) The state budget and the financial plan of budgetary and non-budgetary users of the state budget are executed in accordance with available funds and due obligations.
(3) The budget of the unit of local and regional (regional) self-government and the financial plan of the budgetary and extra-budgetary user of the unit of local and regional (regional) self-government shall be executed in accordance with available funds and incurred obligations.
(4) Expenditures and expenditures of the budget and financial plan of the budget user are executed up to the amount of planned funds, except for expenditures and expenditures financed from income and receipts defined in Articles 52 and 54 of this Act.
(5) Expenditures of the financial plan of the extra-budgetary user are carried out in such a way that the planned deficit cannot be increased or the planned surplus must not be reduced.
(6) Repayments of the principal and interest of the debt of the central budget and state guarantees, as well as the contributions of the Republic of Croatia to the budget of the European Union based on the European Union's own funds, can be executed in amounts exceeding the planned amount.
(7) If the activities and projects for which funds are provided in the current year's budget have not been carried out to the extent determined by the budget and financial plan of the budget beneficiary, they may be carried out to that extent in the following year in

[314] Izvršavanje proračuna i financijskog plana
Članak 61
(1) Proračun i financijski plan proračunskog i izvanproračunskog korisnika izvršavaju se u skladu sa zakonima i drugim propisima.
(2) Državni proračun i financijski plan proračunskog i izvanproračunskog korisnika državnog proračuna izvršava se u skladu s raspoloživim sredstvima i dospjelim obvezama.
(3) Proračun jedinice lokalne i područne (regionalne) samouprave i financijski plan proračunskog i izvanproračunskog korisnika jedinice lokalne i područne (regionalne) samouprave izvršava se u skladu s raspoloživim sredstvima i nastalim obvezama.
(4) Rashodi i izdaci proračuna i financijskog plana proračunskog korisnika izvršavaju se do visine planiranih sredstava, osim rashoda i izdataka financiranih iz prihoda i primitaka definiranih u člancima 52. i 54. ovoga Zakona.
(5) Rashodi financijskog plana izvanproračunskog korisnika izvršavaju se tako da se ne smije povećati planirani manjak odnosno smanjiti planirani višak.
(6) Otplate glavnice i kamata duga središnjeg proračuna i državnih jamstava te doprinosi Republike Hrvatske proračunu Europske unije na temelju vlastitih sredstava Europske unije mogu se izvršavati u iznosima iznad planiranih.
(7) Ako aktivnosti i projekti za koje su sredstva osigurana u proračunu tekuće godine nisu izvršeni do visine utvrđene proračunom i financijskim planom proračunskog korisnika, mogu se u toj visini izvršavati u sljedećoj godini na način i pod uvjetima propisanima zakonom o izvršavanju državnog proračuna odnosno odlukom o izvršavanju proračuna.
(8) Ministar financija pravilnikom, a načelnik, gradonačelnik, župan aktom razrađuju način i uvjete izvršavanja proračuna s jedinstvenog računa proračuna.

the manner and under the conditions prescribed by the law on the execution of the state budget or by decision on budget execution.
(8) The Minister of Finance by ordinance, and the mayor, mayor, prefect by act elaborate the manner and conditions of executing the budget from the single budget account.

Payments of expenses and expenses
Article 62[315]
(1) Payment of expenses and expenditures of the budget and financial plan must be based on an authentic bookkeeping document proving the obligation to pay.
(2) The responsible person is obliged to verify the legal basis and the amount of the obligation arising from the accounting document before payment.

Obligation to check the legality and intended use of the paid funds
Article 63[316] Units of local and regional (regional) self-government, budgetary and extra-budgetary users are obliged to verify the legal and intended use of funds paid to budgetary and extra-budgetary users, i.e. end users.

Payment in advance when delivering goods, works and services
Article 64[317] (1) For the delivery of goods, works and services, payment in advance is foreseen only exceptionally, based on the previously obtained consent of the Minister of Finance, i.e. mayor, mayor, prefect.
(2) The budget user can foresee payment in advance without previously obtained consent from paragraph 1 of this article up to the amount established in the law or in the decision on the execution of the budget.
(3) The conditions for obtaining consent from paragraph 1 of this article shall be prescribed in the law or in the decision on the execution of the budget.

[315] Isplate rashoda i izdataka
Članak 62
(1) Plaćanje rashoda i izdataka proračuna i financijskog plana mora se temeljiti na vjerodostojnoj knjigovodstvenoj ispravi kojom se dokazuje obveza plaćanja.
(2) Odgovorna osoba dužna je prije isplate provjeriti pravni temelj i visinu obveze koja proizlazi iz knjigovodstvene isprave.
[316] Obveza provjere zakonitosti i namjenskog korištenja isplaćenih sredstava
Članak 63
Jedinice lokalne i područne (regionalne) samouprave, proračunski i izvanproračunski korisnici obvezni su provjeriti zakonito i namjensko korištenje sredstava isplaćenih proračunskim i izvanproračunskim korisnicima odnosno krajnjim korisnicima.
[317] Plaćanje predujmom prilikom isporuka robe, radova i usluga
Članak 64
(1) Za isporuke robe, radova i usluga plaćanje predujmom predviđa se samo iznimno, na temelju prethodno dobivene suglasnosti ministra financija odnosno načelnika, gradonačelnika, župana.
(2) Proračunski korisnik može predvidjeti plaćanje predujmom bez prethodno dobivene suglasnosti iz stavka 1. ovoga članka do iznosa utvrđenog u zakonu odnosno odluci o izvršavanju proračuna.
(3) Uvjeti za dobivanje suglasnosti iz stavka 1. ovoga članka propisat će se u zakonu odnosno odluci o izvršavanju proračuna.

Budget stock

Article 65[318]

(1) Funds for the budget stock are determined in the budget.

(2) Funds from the budget reserve are used to finance expenses incurred during the elimination of the consequences of natural disasters, epidemics, environmental and other unforeseeable accidents, or extraordinary events during the year.

(3) The funds of the budget reserve referred to in paragraph 2 of this article may amount to a maximum of 0.50 percent of the planned general budget revenues of the current year without receipts.

(4) The funds of the budget reserve cannot be used for lending.

Deciding on the use of budget stock funds

Article 66[319]

(1) The use of funds from the budget reserve from Article 65 of this Act shall be decided by the Government or the Prime Minister, i.e. the mayor, the mayor and the prefect, in accordance with the law on execution of the state budget, i.e. the decision on the execution of the budget of local and regional self-government units.

(2) The purpose, method, dynamics of payment and deadlines for the use of funds shall be determined in the decision on the approval of funds at the expense of the budget stock.

(3) The Ministry of Finance is obliged to report quarterly to the Government, and the head, mayor, prefect to the representative body on the use of funds from the budget reserve from Article 65 of this Act.

[318] Proračunska zaliha
Članak 65
(1) U proračunu se utvrđuju sredstva za proračunsku zalihu.
(2) Sredstva proračunske zalihe koriste se za financiranje rashoda nastalih pri otklanjanju posljedica elementarnih nepogoda, epidemija, ekoloških i ostalih nepredvidivih nesreća odnosno izvanrednih događaja tijekom godine.
(3) Sredstva proračunske zalihe iz stavka 2. ovoga članka mogu iznositi najviše 0,50 posto planiranih općih prihoda proračuna tekuće godine bez primitaka.
(4) Sredstva proračunske zalihe ne mogu se koristiti za pozajmljivanje.

[319] Odlučivanje o korištenju sredstava proračunske zalihe
Članak 66
(1) O korištenju sredstava proračunske zalihe iz članka 65. ovoga Zakona odlučuje Vlada ili predsjednik Vlade odnosno načelnik, gradonačelnik i župan sukladno zakonu o izvršavanju državnog proračuna odnosno odluci o izvršavanju proračuna jedinice lokalne i područne (regionalne) samouprave.
(2) U rješenju o odobravanju sredstava na teret proračunske zalihe utvrđuje se namjena, način, dinamika isplate i rokovi utroška sredstava.
(3) Ministarstvo financija obvezno je tromjesečno izvijestiti Vladu, a načelnik, gradonačelnik, župan predstavničko tijelo o korištenju sredstava proračunske zalihe iz članka 65. ovoga Zakona.

Expenditure of budget stock funds
Article 67[320]
(1) The user of the funds is obliged to spend the transferred funds of the budget stock within the time limit established in the decision from Article 66, paragraph 2 of this Act, and no later than one year from the date of receipt of the funds.
(2) Unspent and inappropriately spent budget funds from Articles 65 and 66 of this Act shall be returned to the budget account by the user of the funds in accordance with the ordinance from Article 61, Paragraph 8 of this Act.
(3) If, during the year, funds are provided in the budget for the purpose for which the budget reserve funds were allocated, the resolutions by which the budget reserve funds were approved are rendered invalid by force of law.
(4) The recipient of the funds referred to in the decision from Article 66, paragraph 2 of this Act is obliged to submit to the Ministry of Finance, i.e. the competent administrative body in the unit of local and regional (regional) self-government, a report on the legal, purposeful and purposeful expenditure of funds paid from the budget stock no later than within one month from the expiration of the period referred to in paragraph 1 of this article.
(5) If, during the inspection of the report from paragraph 4 of this article, the Ministry of Finance determines that the beneficiary from paragraph 1 of this article has not spent the funds in accordance with the decision from article 66, paragraph 2 of this Act, he is obliged to return the funds to the budget within 30 days from the date of notification of the Ministry of Finance.
(6) The Ministry of Finance, i.e. the competent administrative body in the unit of local and regional (regional) self-government, may request the delivery of a report on the legal, dedicated and purposeful expenditure of funds paid from the budget stock in terms shorter than those prescribed in paragraph 4 of this article.

[320] Utrošak sredstava proračunske zalihe
Članak 67.
(1) Korisnik sredstava dužan je utrošiti doznačena sredstva proračunske zalihe u roku utvrđenom u rješenju iz članka 66. stavka 2. ovoga Zakona, a najduže u roku od godinu dana od dana primitka sredstava.
(2) Neutrošena i nenamjenski utrošena sredstva proračunske zalihe iz članaka 65. i 66. ovoga Zakona korisnik sredstava dužan je vratiti na račun proračuna sukladno pravilniku iz članka 61. stavka 8. ovoga Zakona.
(3) Ako se tijekom godine u proračunu osiguraju sredstva za namjenu za koju su sredstva proračunske zalihe dodijeljena, rješenja kojima su sredstva proračunske zalihe odobrena stavljaju se izvan snage po sili zakona.
(4) Primatelj sredstava na kojega glasi rješenje iz članka 66. stavka 2. ovoga Zakona dužan je Ministarstvu financija odnosno nadležnom upravnom tijelu u jedinici lokalne i područne (regionalne) samouprave dostaviti izvješće o zakonitom, namjenskom i svrhovitom utrošku sredstava isplaćenih iz proračunske zalihe najkasnije u roku od mjesec dana od isteka roka iz stavka 1. ovoga članka.
(5) Ako prilikom kontrole izvješća iz stavka 4. ovoga članka Ministarstvo financija utvrdi da korisnik iz stavka 1. ovoga članka sredstva nije utrošio sukladno rješenju iz članka 66. stavka 2. ovoga Zakona, dužan je sredstva vratiti u proračun u roku od 30 dana od dana dostave obavijesti Ministarstva financija.
(6) Ministarstvo financija odnosno nadležno upravno tijelo u jedinici lokalne i područne (regionalne) samouprave može tražiti dostavu izvješća o zakonitom, namjenskom i svrhovitom utrošku sredstava isplaćenih iz proračunske zalihe u rokovima kraćim od onih propisanih u stavku 4. ovoga članka.

47 The Budget Act holds more rules on this area:

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Transfer of budget user's funds
Article 68[321]
(1) If during the year, on the basis of regulations, the scope or competence of the budget user is reduced, as a result of which the funds are reduced, or if the budget user is terminated, the unused funds for his expenses and expenditures are transferred to the budget stock or to the budget user who takes over his jobs.
(2) The decision on the allocation of funds from paragraph 1 of this article is made by the Government, i.e. the mayor, mayor, prefect and is published in the „Narodne novine" - the official newspaper of the Republic of Croatia (hereinafter: „Narodne novine"), i.e. in the official gazette of the local unit and regional self-governments.

Refund of funds from the single budget account
Article 69[322]
(1) Revenues paid in error or in excess to the single budget account shall be returned to the payers at the expense of those revenues.
(2) A decision against which an appeal is not allowed, but an administrative dispute may be initiated, shall be made regarding the refund referred to in paragraph 1 of this Article.
(3) Before passing the decision referred to in paragraph 2 of this article, the budget beneficiary under whose jurisdiction the wrongly or more paid incomes are responsible must submit a statement on the justification of the request for the return of wrongly or more paid incomes to the single budget account, the amount of funds to be returned to the payer, and documentation with which they support it.

[321] Prijenos sredstava proračunskog korisnika
Članak 68 (1) Ako se tijekom godine, na temelju propisa, smanji djelokrug ili nadležnost proračunskog korisnika, zbog čega se smanjuju sredstva, ili ako se ukine proračunski korisnik, neutrošena sredstva za njegove rashode i izdatke prenose se u proračunsku zalihu ili proračunskom korisniku koji preuzme njegove poslove.
(2) Odluku o rasporedu sredstva iz stavka 1. ovoga članka donosi Vlada odnosno načelnik, gradonačelnik, župan i objavljuje se u »Narodnim novinama« – službenom listu Republike Hrvatske (u daljnjem tekstu: »Narodne novine«) odnosno u službenom glasilu jedinice lokalne i područne (regionalne) samouprave.
[322] Povrat sredstava s jedinstvenog računa proračuna
Članak 69
(1) Pogrešno ili više uplaćeni prihodi na jedinstveni račun proračuna vraćaju se uplatiteljima na teret tih prihoda.
(2) O povratu iz stavka 1. ovoga članka donosi se rješenje protiv kojeg nije dopuštena žalba, ali se može pokrenuti upravni spor.
(3) Prije donošenja rješenja iz stavka 2. ovoga članka proračunski korisnik u čijoj su nadležnosti pogrešno ili više uplaćeni prihodi dužan je dostaviti očitovanje o opravdanosti zahtjeva za povrat pogrešno ili više uplaćenih prihoda na jedinstveni račun proračuna, iznos sredstava koja se vraćaju uplatitelju te dokumentaciju kojom to potkrepljuju.
(4) Ovlasti za donošenje rješenja iz stavka 2. ovoga članka za pogrešno ili više uplaćene prihode na jedinstveni račun proračuna utvrđuju se zakonom odnosno odlukom o izvršavanju proračuna.
(5) Način povrata pogrešno ili više uplaćenih sredstava iz proračuna utvrđuje se pravilnikom iz članka 61. stavka 8. ovoga Zakona odnosno aktom koji donosi načelnik, gradonačelnik, župan.

(4) The powers to issue the decision referred to in paragraph 2 of this article for wrongly or more paid revenues to the single budget account shall be established by law, i.e. by a decision on the execution of the budget.
(5) The method of returning funds from the budget that have been paid incorrectly or in excess is determined by the ordinance from Article 61, paragraph 8 of this Act, that is, by an act passed by the head, mayor, prefect.

Return of funds to the budget
Article 70[323]
(1) If it is subsequently determined that the payment from the budget was made illegally and/or unjustified, or if it is determined that the funds were spent illegally, not for the intended purpose, or for no purpose, the unit of local and regional (regional) self-government, or the budget user, is obliged to immediately demand the return of the funds in budget.
(2) The Minister of Finance regulates the method of returning funds to the budget by means of the ordinance from Article 61, Paragraph 8 of this Act, and the head, mayor, or county prefect by their act.

Funds of the European Union
Article 71[324]
(1) The funds of the European Union are earmarked revenues and receipts that are paid into the budget and are an integral part of it.
(2) The Minister of Finance shall establish the manner of planning, execution, recording and reporting of European Union funds by means of the regulation on the use of European Union funds.

[323] Povrat sredstava u proračun
Članak 70
(1) Ako se naknadno utvrdi da je isplata iz proračuna izvršena nezakonito i/ili neopravdano odnosno ako se utvrdi da su sredstva utrošena nezakonito, nenamjenski ili nesvrhovito, jedinica lokalne i područne (regionalne) samouprave odnosno proračunski korisnik dužan je odmah zahtijevati povrat sredstava u proračun.
(2) Ministar financija pravilnikom iz članka 61. stavka 8. ovoga Zakona uređuje način povrata sredstava u proračun, a načelnik, gradonačelnik odnosno župan svojim aktom.
[324] Sredstva Europske unije
Članak 71
(1) Sredstva Europske unije namjenski su prihodi i primici koji se uplaćuju u proračun i njegov su sastavni dio.
(2) Ministar financija pravilnikom o korištenju sredstava Europske unije utvrđuje način planiranja, izvršavanja, evidentiranja i izvještavanja o sredstvima Europske unije.

Allocation of funds from European Union funds

Article 72[325] (1) The budgetary user of the state budget responsible for allocating funds from a particular European Union program may initiate a procedure for allocating European Union funds up to ten percent above the amount of funds determined for a specific objective.

(2) As an exception to paragraph 1 of this article, the budget user of the state budget responsible for allocating funds from a particular European Union program may initiate a procedure for the allocation of European Union funds in an amount greater than the amount of funds determined in paragraph 1 of this article with the consent of the Government, and at the proposal of the budget user of the state budget responsible for managing a particular operational program.

Reimbursement of funds for projects financed by the European Union

Article 73[326] (1) If the competent authorities determine through checks that the funds for projects financed from the European Union funds have been spent improperly, the budget user of the state budget who allocated the funds must immediately demand the return of the budget funds to the state budget in accordance with the rules and deadlines established for the individual program that is, the European Union fund.

(2) Competent bodies from paragraph 1 of this article are bodies established by regulations governing the management and control system for a particular program or European Union fund from which the funds are used.

(3) The Minister of Finance, by means of the ordinance referred to in Article 71, paragraph 2 of this Act, regulates the method of returning funds and keeping records on the return of funds to the state budget.

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[325] Dodjela sredstava iz fondova europske unije
Članak 72
(1) Proračunski korisnik državnog proračuna nadležan za dodjelu sredstava iz pojedinog programa Europske unije može pokrenuti postupak za dodjelu sredstava Europske unije najviše do deset posto iznad visine sredstava određenih za pojedini specifični cilj.
(2) Iznimno od stavka 1. ovoga članka, proračunski korisnik državnog proračuna nadležan za dodjelu sredstava iz pojedinog programa Europske unije može pokrenuti postupak za dodjelu sredstava Europske unije u iznosu većem od visine sredstava utvrđene u stavku 1. ovoga članka uz suglasnost Vlade, a na prijedlog proračunskog korisnika državnog proračuna odgovornog za upravljanje pojedinim operativnim programom.

[326] Povrat sredstava za projekte koji se financiraju iz sredstava Europske unije
Članak 73
(1) Ako nadležna tijela provjerama utvrde da su sredstva za projekte koji se financiraju iz sredstava Europske unije utrošena nepravilno, proračunski korisnik državnog proračuna koji je sredstva dodijelio mora odmah zahtijevati povrat proračunskih sredstva u državni proračun u skladu s pravilima i rokovima utvrđenim za pojedini program odnosno fond Europske unije.
(2) Nadležna tijela iz stavka 1. ovoga članka su tijela utvrđena propisima kojima se uređuje sustav upravljanja i kontrola za pojedini program odnosno fond Europske unije iz kojeg se sredstva koriste.
(3) Ministar financija pravilnikom iz članka 71. stavka 2. ovoga Zakona uređuje način povrata sredstava i vođenja evidencija o povratu sredstava u državni proračun.
(4) Vlada odlukom na prijedlog ministra nadležnog za fondove Europske unije i ministra financija uređuje kriterije i postupak za odlučivanje o projektima za koje se neprihvatljivi troškovi neće potraživati od korisnika projekata u okviru programa koji se financiraju iz fondova Europske unije.

(4) The government, by decision on the proposal of the minister responsible for European Union funds and the minister of finance, regulates the criteria and procedure for deciding on projects for which unacceptable costs will not be claimed from project beneficiaries within the program financed from European Union funds.

Return of funds to the budget of the European Union
Article 74[327]
(1) Funds in the name of **ineligible costs in projects** that are financed with the funds of the European Union, and which the budget users of the state budget are obliged to pay into the budget of the European Union on the basis of requests for payment from the competent bodies of the European Union, are carried out at the expense of a special activity within the financial plan of the budget user.
(2) For the funds referred to in paragraph 1 of this article, the budget beneficiary of the state budget can subsequently determine activities and items within its financial plan, with the prior consent of the Minister of Finance.
(3) The funds from paragraph 1 of this article are provided by the budget user of the state budget from the sources of financing from their own income.
(4) As an exception to paragraph 3 of this article, if the budget user of the state budget does not have his own income or his own income is insufficient to cover unacceptable costs, the insufficient part of the funds from paragraph 1 of this article will be ensured during the budget year by redistribution without limitation from sources financing general income and receipts within the financial plan of the same division of the organizational classification, based on the decision of the Government proposed by the competent head of the division of the organizational classification with the prior consent of the Minister of Finance.
(5) Provisions from paragraphs 1 and 2 of this article shall be applied appropriately to local and regional self-government units and extra-budgetary beneficiaries.

[327] Povrat sredstava u proračun Europske unije
Članak 74
(1) Sredstva na ime neprihvatljivih troškova u projektima koji su financirani sredstvima Europske unije, a koja su proračunski korisnici državnog proračuna dužni uplatiti u proračun Europske unije na temelju zahtjeva za uplatu nadležnih tijela Europske unije, izvršavaju se na teret posebne aktivnosti unutar financijskog plana proračunskog korisnika.
(2) Za sredstva iz stavka 1. ovoga članka proračunski korisnik državnog proračuna može naknadno utvrditi aktivnosti i stavke unutar svog financijskog plana, uz prethodnu suglasnost ministra financija.
(3) Sredstva iz stavka 1. ovoga članka proračunski korisnik državnog proračuna osigurava iz izvora financiranja vlastiti prihodi.
(4) Iznimno od stavka 3. ovoga članka, ako proračunski korisnik državnog proračuna nema vlastitih prihoda ili su mu vlastiti prihodi nedostatni za podmirenje neprihvatljivih troškova, nedostatni dio sredstava iz stavka 1. ovoga članka će se tijekom proračunske godine osigurati preraspodjelom bez ograničenja iz izvora financiranja opći prihodi i primici unutar financijskog plana istog razdjela organizacijske klasifikacije, na temelju odluke Vlade koju predlaže nadležni čelnik razdjela organizacijske klasifikacije uz prethodnu suglasnost ministra financija.
(5) Odredbe iz stavaka 1. i 2. ovoga članka na odgovarajući način primjenjuju se na jedinice lokalne i područne (regionalne) samouprave i izvanproračunske korisnike.

Refund of funds in the name of inadmissible expenses to the state budget
Article 75[328]
(1) Funds in the name of ineligible costs in projects financed with European Union funds, which local and regional self-government units, budgetary and extra-budgetary users are required to pay into the state budget based on requests for payment from the competent authorities, are carried out at the expense of special activities within the budget or financial plan in accordance with the rulebook from Article 71, paragraph 2 of this Act.
(2) For the funds referred to in paragraph 1 of this article, local and regional self-government units, budgetary and extra-budgetary users may subsequently determine activities and items within the budget or their financial plan.

49 In fact and in summary it can be said that funds, which are deemed ineligible in EU-funded projects, they must be returned to the EU budget by the budget user or economic operator (e.g. the state budget entity) based on requests for payment from the EU authorities. This is done at the expense of special activities within the budget user's financial plan.

50 The budget beneficiary can adjust its financial plan to accommodate these costs, but only with prior consent from the Minister of Finance. If the budget user lacks sufficient own income, the missing funds can be sourced from general income within the same division's financial plan. This requires a decision by the Government, proposed by the relevant division's head, with the Minister of Finance's approval. Similar to the EU budget, ineligible costs in projects funded by the EU must be paid into the state budget by local and regional self-government units, as well as budgetary and extra-budgetary users. This is done through special activities in their budget or financial plan, as outlined in the applicable rulebook.

[328] Povrat sredstava na ime neprihvatljivih troškova u državni proračun
Članak 75
(1) Sredstva na ime neprihvatljivih troškova u projektima koji su financirani sredstvima Europske unije, a koja su jedinice lokalne i područne (regionalne) samouprave, proračunski i izvanproračunski korisnici dužni uplatiti u državni proračun na temelju zahtjeva za uplatu nadležnih tijela, izvršavaju se na teret posebne aktivnosti unutar proračuna odnosno financijskog plana sukladno pravilniku iz članka 71. stavka 2. ovoga Zakona.
(2) Za sredstva iz stavka 1. ovoga članka jedinice lokalne i područne (regionalne) samouprave, proračunski i izvanproračunski korisnici mogu naknadno utvrditi aktivnosti i stavke unutar proračuna odnosno svog financijskog plana.

(bb) Internal policies

In the area of internal policies divergent rules apply e.g. the budget law rules and the subsidy rules (see above). **51**

(c) Administrative provisions in the area of the common organization of the markets = expenditure

The rules on regulation of the market of agricultural products/*Zakon o uređenju tržišta poljoprivrednih proizvoda* apply: **52**

1. GENERAL PROVISIONS

Article 1[329] This Act prescribes the manner and measures of market regulation in certain sectors of agricultural products, the conditions for activating certain market regulation measures, the beneficiaries in the implementation of the said measures, their control, and administrative and inspection supervision.

Scope of measures and products

Article 3[330]

(1) Regulation of the market of agricultural products refers to the regulation of the internal market and trade with other countries, the recognition of producer organizations and sectoral organizations, as well as special provisions for individual sectors.

[329] 1. OPĆE ODREDBE
Članak 1
Ovim se Zakonom propisuju način i mjere uređenja tržišta u pojedinim sektorima poljoprivrednih proizvoda, uvjeti za aktiviranje pojedinih mjera uređenja tržišta, korisnici u provedbi navedenih mjera, njihova kontrola te upravni i inspekcijski nadzor.

[330] Obuhvat mjera i proizvoda
Članak 3
(1) Uređenje tržišta poljoprivrednih proizvoda odnosi se na uređenje unutarnjeg tržišta i trgovine s drugim zemljama, priznavanje proizvođačkih organizacija i sektorskih organizacija, kao i posebne odredbe za pojedine sektore.
(2) Uređenje tržišta u skladu s odredbama ovoga Zakona primjenjuje se za sljedeće sektore:
– žitarice,
– šećer,
– hmelj,
– maslinovo ulje i stolne masline,
– voće i povrće,
– prerađevine voća i povrća,
– vino,
– živo bilje i cvijeće,
– goveđe meso,
– svinjsko meso,
– ovčje i kozje meso,
– jaja i meso peradi,
– mlijeko i mliječni proizvodi,
– pčelarski proizvodi,
– ostali proizvodi.
(3) Popis proizvoda u sektorima iz stavka 2. ovoga članka utvrđen je Dodatkom, koji je sastavni dio ovoga Zakona.

(2) Regulation of the market in accordance with the provisions of this Act applies to the following sectors:
- cereals,
- sugar,
- hops,
- olive oil and table olives,
- fruits and vegetables,
- processed fruit and vegetables,
- wine,
- live plants and flowers,
- beef,
- pork,
- sheep and goat meat,
- eggs and poultry meat,
- milk and milk products,
- beekeeping products,
- other products.

(3) The list of products in the sectors referred to in paragraph 2 of this article is determined by the Addendum, which is an integral part of this Act.

Monitoring Committee
Article 5[331]
(1) The Minister shall establish a Committee for monitoring the implementation of market regulation measures (hereinafter: the Committee) consisting of representatives of bodies involved in the implementation and monitoring of the aforementioned measures.
(2) The Minister shall establish the powers of the Committee from paragraph 1 of this Article by means of a special act.

53 ⇒ Law on wine/Zakon o vinu

[331] Odbor za praćenje
Članak 5
(1) Ministar osniva Odbor za praćenje provedbe mjera uređenja tržišta (u daljnjem tekstu: Odbor) koji čine predstavnici tijela uključenih u provedbu i praćenje navedenih mjera.
(2) Ministar će posebnim aktom utvrditi ovlasti Odbora iz stavka 1. ovoga članka.

(e) Administrative provisions in the area of direct expenditure

[Excerpt Budget Act] **54**

X. BUDGET ACCOUNTING

Content of budget accounting

Article 131[332] Budgetary accounting regulates business books, bookkeeping documents and data processing, the content of accounts in the accounting plan, recognition of income and receipts as well as expenses and expenditures, assessment of balance sheet positions, revaluation, financial reporting and other areas related to budget accounting.

Principles of budget accounting

Article 132[333] (1) The principles of budget accounting are accuracy, truthfulness, reliability and individual presentation of business events.

(2) Budget accounting is based on the national accounting rules established in the rulebook on budget accounting and the calculation plan from Article 134, paragraph 1 of this Act, respecting the basic provisions from international accounting standards for the public sector.

(3) Budgetary accounting is conducted according to the principle of double-entry bookkeeping, and according to the schedule of accounts from the accounting plan prescribed by the rulebook from Article 134, paragraph 1 of this Act.

[332] X. PRORAČUNSKO RAČUNOVODSTVO
Sadržaj proračunskog računovodstva
Članak 131
Proračunskim računovodstvom uređuju se poslovne knjige, knjigovodstvene isprave i obrada podataka, sadržaj računa računskog plana, priznavanje prihoda i primitaka te rashoda i izdataka, procjenjivanje bilančnih pozicija, revalorizacija, financijsko izvještavanje i druga područja u svezi s proračunskim računovodstvom.

[333] Načela proračunskog računovodstva
Članak 132
(1) Načela proračunskog računovodstva su točnost, istinitost, pouzdanost i pojedinačno iskazivanje poslovnih događaja.
(2) Proračunsko računovodstvo temelji se na nacionalnim računovodstvenim pravilima utvrđenima u pravilniku o proračunskom računovodstvu i računskom planu iz članka 134. stavka 1. ovoga Zakona, uvažavajući osnovne postavke iz međunarodnih računovodstvenih standarda za javni sektor.
(3) Proračunsko računovodstvo vodi se po načelu dvojnog knjigovodstva, a prema rasporedu računa iz računskog plana propisanog pravilnikom iz članka 134. stavka 1. ovoga Zakona.

Application of budget accounting
Article 133[334]
(1) Budget accounting is applied by local and regional self-government units and budget users from Article 5, Paragraph 1 of this Act.
(2) The Minister of Finance shall prescribe the criteria for determining the obligation to apply budget accounting for extra-budgetary users from Article 5, paragraph 2 of this Act by the ordinance referred to in Article 134, paragraph 1 of this Act.
(3) Extra-budgetary users from Article 5, paragraph 2 of this Act are obliged to compile and submit financial statements in accordance with budget accounting.

Powers to enact regulations
Article 134[335] (1) The Minister of Finance issues a regulation on budget accounting and the calculation plan.
(2) The Minister of Finance shall issue a regulation on financial reporting in budget accounting.
(3) The Minister of Finance may issue instructions for the operational implementation of the regulations from paragraphs 1 and 2 of this article.

Responsibility and obligations
Article 135[336]
(1) The responsible person of the unit of local and regional (regional) self-government and budget user and extra-budget user who applies budget accounting in accordance

[334] Primjena proračunskog računovodstva
Članak 133
(1) Proračunsko računovodstvo primjenjuju jedinice lokalne i područne (regionalne) samouprave i proračunski korisnici iz članka 5. stavka 1. ovoga Zakona.
(2) Ministar financija pravilnikom iz članka 134. stavka 1. ovoga Zakona propisuje kriterije za utvrđivanje obveze primjene proračunskog računovodstva za izvanproračunske korisnike iz članka 5. stavka 2. ovoga Zakona.
(3) Izvanproračunski korisnici iz članka 5. stavka 2. ovoga Zakona obvezni su sastavljati i predavati financijske izvještaje u skladu s proračunskim računovodstvom.
[335] Ovlasti za donošenje pravilnika
Članak 134
(1) Ministar financija donosi pravilnik o proračunskom računovodstvu i računskom planu.
(2) Ministar financija donosi pravilnik o financijskom izvještavanju u proračunskom računovodstvu.
(3) Ministar financija može donijeti upute za operativnu provedbu pravilnika iz stavaka 1. i 2. ovoga članka.
[336] Odgovornost i obveze
Članak 135
(1) Odgovorna osoba jedinice lokalne i područne (regionalne) samouprave i proračunskog korisnika te izvanproračunskog korisnika koji primjenjuje proračunsko računovodstvo u skladu s odredbama ovoga Zakona odgovorna je za ustroj te za zakonito i pravilno vođenje proračunskog računovodstva.
(2) Vođenje proračunskog računovodstva može se povjeriti ovlaštenoj stručnoj organizaciji ili osobi.
(3) Za sastavljanje financijskih izvještaja odgovorna je osoba koja rukovodi službom računovodstva jedinice lokalne i područne (regionalne) samouprave i proračunskog korisnika te izvanproračunskog korisnika ili osoba kojoj je povjereno vođenje računovodstva.
(4) Odgovorna osoba jedinice lokalne i područne (regionalne) samouprave i proračunskog korisnika te izvanproračunskog korisnika ili osoba koju ona ovlasti potpisuje financijske izvještaje i odgovorna je za njihovo podnošenje.

with the provisions of this Act is responsible for the organization and for the legal and proper management of budget accounting.
(2) Management of budget accounting can be entrusted to an authorized professional organization or person.
(3) The person who manages the accounting department of the local and regional self-government unit and the budget user and extrabudgetary user or the person entrusted with accounting management is responsible for compiling financial statements.
(4) The responsible person of the unit of local and regional (regional) self-government and budget user and extra-budget user or the person authorized by him signs the financial statements and is responsible for their submission.

Business books
Article 136[337] (1) Business books of local and regional self-government units and budget users and non-budgetary users who apply budget accounting in accordance with the provisions of this Act are the diary, the main book and auxiliary books.
(2) The Minister of Finance shall prescribe the type and content of the business books referred to in paragraph 1 of this Act by the ordinance referred to in Article 134, paragraph 1 of this Act.

Accounting documents
Article 137[338]
(1) An accounting document is a written or electronically stored proof of a business change.
(2) Data entry in business books is based on credible, true and orderly accounting documents.
(3) The responsible person of the unit of local and regional (regional) self-government and budget user and extra-budget user who applies budget accounting in accordance

[337] Poslovne knjige
Članak 136
(1) Poslovne knjige jedinice lokalne i područne (regionalne) samouprave i proračunskog korisnika te izvanproračunskog korisnika koji primjenjuje proračunsko računovodstvo u skladu s odredbama ovoga Zakona jesu dnevnik, glavna knjiga i pomoćne knjige.
(2) Ministar financija pravilnikom iz članka 134. stavka 1. ovoga Zakona propisuje vrstu i sadržaj poslovnih knjiga iz stavka 1. ovoga članka.
[338] Knjigovodstvene isprave
Članak 137
(1) Knjigovodstvena isprava pisani je ili u elektroničkom obliku pohranjen dokaz o nastaloj poslovnoj promjeni.
(2) Unos podataka u poslovne knjige temelji se na vjerodostojnim, istinitim i urednim knjigovodstvenim ispravama.
(3) Odgovorna osoba jedinice lokalne i područne (regionalne) samouprave i proračunskog korisnika te izvanproračunskog korisnika koji primjenjuje proračunsko računovodstvo u skladu s odredbama ovoga Zakona ili osoba koju ona ovlasti ovjerava svojim potpisom odnosno elektroničkim potpisom vjerodostojnost knjigovodstvene isprave.
(4) Podatke iz stavka 2. ovoga članka odgovorna osoba osigurava i u pisanom obliku ili nekom drugom trajnom mediju.

with the provisions of this Act or the person authorized by him certifies with his signature or electronic signature the authenticity of the accounting document.
(4) Data from paragraph 2 of this article is also provided by the responsible person in written form or in some other permanent medium.

Principles of reporting assets, liabilities, own resources, income and expenses
Article 138[339]
(1) The recognition of income and receipts as well as expenses and expenses is based on the modified accrual accounting principle.
(2) The assessment of assets, liabilities and sources of ownership is performed according to the modified accrual accounting principle with the application of the historical cost method.
(3) The Minister of Finance shall prescribe the term and meaning of the modified accrual accounting principle and the procedure for the revaluation of fixed assets by means of a regulation from Article 134, paragraph 1 of this Act.

Financial reporting
Article 139[340]
(1) Local and regional self-government units and budgetary and extra-budgetary users are obliged to prepare financial statements.
(2) Financial reports from paragraph 1 of this article are reports on the state, structure and changes in the value and volume of assets, liabilities, own resources, income, expenses and receipts and expenses, that is, cash flows.

[339] Načela iskazivanja imovine, obveza, vlastitih izvora, prihoda i rashoda
Članak 138
(1) Priznavanje prihoda i primitaka te rashoda i izdataka temelji se na modificiranom računovodstvenom načelu nastanka događaja.
(2) Procjena imovine, obveza i izvora vlasništva obavlja se po modificiranom računovodstvenom načelu nastanka događaja uz primjenu metode povijesnog troška.
(3) Ministar financija pravilnikom iz članka 134. stavka 1. ovoga Zakona propisuje pojam i značenje modificiranoga računovodstvenog načela nastanka događaja i postupak revalorizacije dugotrajne imovine.
[340] Financijsko izvještavanje
Članak 139
(1) Jedinice lokalne i područne (regionalne) samouprave te proračunski i izvanproračunski korisnici dužni su sastavljati financijske izvještaje.
(2) Financijski izvještaji iz stavka 1. ovoga članka jesu izvještaji o stanju, strukturi i promjenama u vrijednosti i obujmu imovine, obveza, vlastitih izvora, prihoda, rashoda te primitaka i izdataka odnosno novčanih tokova.
(3) Financijski izvještaji iz stavka 1. ovoga članka sastavljaju se za razdoblja tijekom proračunske godine i za proračunsku godinu.
(4) Financijski izvještaji iz stavka 1. ovoga članka za razdoblja tijekom godine čuvaju se do predaje financijskih izvještaja za isto razdoblje sljedeće godine, a godišnji financijski izvještaj čuva se trajno i u izvorniku.
(5) Obveznici iz članka 5. stavaka 1. i 2. ovoga Zakona dužni su izraditi i dostaviti financijske izvještaje u skladu s pravilnikom iz članka 134. stavka 2. ovoga Zakona.
(6) Ministar financija pravilnikom iz članka 134. stavka 2. ovoga Zakona propisuje oblik i sadržaj financijskih izvještaja, razdoblja za koja se sastavljaju te obvezu i rokove njihova dostavljanja.

(3) The financial statements referred to in paragraph 1 of this article are drawn up for periods during the budget year and for the budget year.
(4) Financial statements from paragraph 1 of this article for periods during the year are kept until the submission of financial statements for the same period of the following year, and the annual financial statement is kept permanently and in the original.
(5) Obligees from Article 5, paragraphs 1 and 2 of this Act are obliged to prepare and submit financial statements in accordance with the regulations from Article 134, paragraph 2 of this Act.
(6) The Minister of Finance shall prescribe the form and content of financial statements, the periods for which they are drawn up, and the obligation and deadlines for their submission by means of the ordinance referred to in Article 134, paragraph 2 of this Act.

Consolidation of financial statements
Article 140[341] (1) Ministries and other state bodies at the division level of the organizational classification consolidate the financial statements of the budget beneficiaries who, according to the organizational classification, are under their jurisdiction and their own financial statements, and compile a consolidated financial statement that they submit to the Ministry of Finance.
(2) The unit of local and regional (regional) self-government consolidates the financial statements of the budget beneficiaries under its jurisdiction and its own financial statement, and prepares a consolidated financial statement that it submits to the Ministry of Finance.
(3) The Ministry of Finance consolidates:

[341] Konsolidacija financijskih izvještaja
Članak 140
(1) Ministarstva i druga državna tijela na razini razdjela organizacijske klasifikacije konsolidiraju financijske izvještaje proračunskih korisnika koji su, prema organizacijskoj klasifikaciji, u njihovoj nadležnosti i svoj financijski izvještaj te sastavljaju konsolidirani financijski izvještaj koji dostavljaju Ministarstvu financija.
(2) Jedinica lokalne i područne (regionalne) samouprave konsolidira financijske izvještaje proračunskih korisnika koji su u njezinoj nadležnosti i svoj financijski izvještaj te sastavlja konsolidirani financijski izvještaj koji dostavlja Ministarstvu financija.
(3) Ministarstvo financija konsolidira:
– konsolidirane financijske izvještaje iz stavka 1. ovoga članka i financijski izvještaj državnog proračuna te sastavlja konsolidirani financijski izvještaj državnog proračuna
– konsolidirani financijski izvještaj državnog proračuna iz podstavka 1. ovoga stavka i financijske izvještaje izvanproračunskih korisnika državnog proračuna te sastavlja konsolidirani financijski izvještaj središnjeg proračuna
– konsolidirane financijske izvještaje proračuna svih jedinica lokalne i područne (regionalne) samouprave i financijske izvještaje svih izvanproračunskih korisnika jedinica lokalne i područne (regionalne) samouprave te ih iskazuje u konsolidiranom financijskom izvještaju lokalnog proračuna
– konsolidirani financijski izvještaj središnjeg proračuna iz podstavka 2. ovoga stavka i konsolidirani financijski izvještaj lokalnog proračuna iz podstavka 3. ovoga stavka te sastavlja konsolidirani financijski izvještaj općeg proračuna.
(4) Ministar financija pravilnikom iz članka 134. stavka 2. ovoga Zakona propisuje razdoblja za koja se sastavljaju te obvezu i rokove dostavljanja konsolidiranih financijskih izvještaja iz ovoga članka.

- consolidated financial statements from paragraph 1 of this article and the financial statement of the state budget and prepares the consolidated financial statement of the state budget
- the consolidated financial statement of the state budget referred to in subparagraph 1 of this paragraph and the financial statements of non-budgetary users of the state budget, and compiles the consolidated financial statement of the central budget
- consolidated financial statements of the budgets of all local and regional (regional) self-government units and financial statements of all off-budget users of local and regional (regional) self-government units, and reports them in the consolidated financial statement of the local budget
- the consolidated financial statement of the central budget from subparagraph 2 of this paragraph and the consolidated financial statement of the local budget from subparagraph 3 of this paragraph and compiles the consolidated financial statement of the general budget.
(4) The Minister of Finance, by means of an ordinance from Article 134, paragraph 2 of this Act, prescribes the periods for which the consolidated financial statements from this Article are to be prepared and the obligation and deadlines for submission.

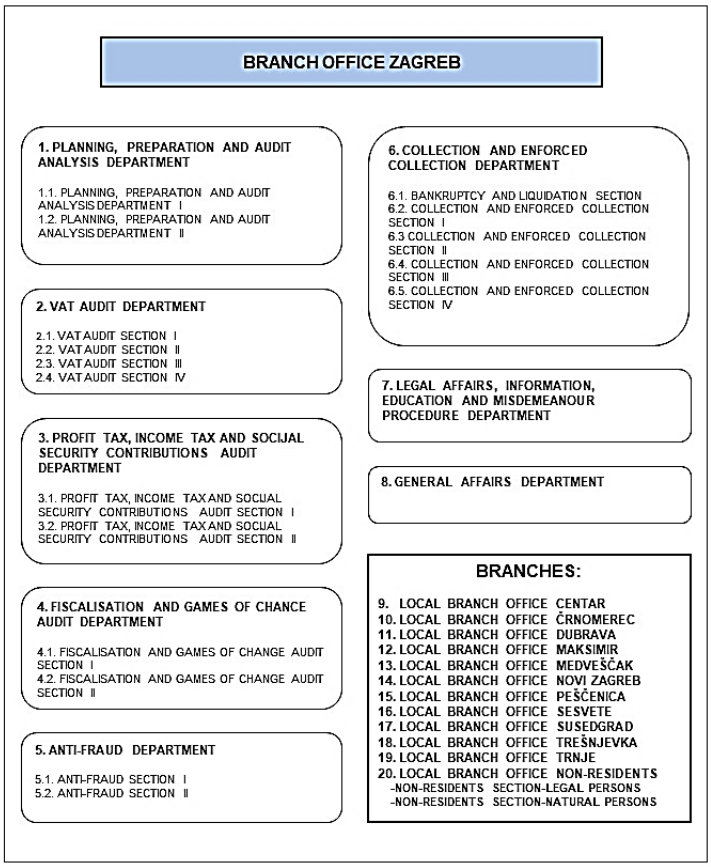
55 In short, business books include the diary, main book, and auxiliary books. Their type and content are prescribed by the Minister of Finance through regulations. Accounting documents are representing the proof of changes in a business and have to be credible, true, and orderly. The responsible persons or their representatives sign the veracity of such documents in writing or in electronic form. Income and expenses, assets and liabilities are valued in accordance with the modified accrual accounting principle and the historical cost method. The Minister of Finance defines these terms and sets revaluation procedures.

56 An entity shall prepare periodic and annual financial statements reflecting the assets, liabilities, income, expenses, and cash flows. The periodic reports are to be retained until the next year, while the annual reports are kept permanently. The form, content, and submission dates are controlled by the Minister of Finance. The ministries, state bodies, and local governments consolidate the financial statements of the entities within their jurisdiction. The Ministry of Finance further consolidates all financial statements to produce reports for the state budget, local budgets, and the general budget. And it prescribes the preparation periods, submission obligations, and deadlines for these consolidated reports (Art. 136–140).

(2) Investigative powers

(a) Investigative powers in the area of customs duties and VAT (General Tax Code)

The investigative powers of administrative authorities in the areas of customs duties and VAT are governed by the General Tax Code (*Opći porezni zakon*), the Customs Act, and related EU regulations and are intended to ensure proper enforcement and compliance with tax laws, including the collection of customs duties and VAT. The structure of a Branch Office of the Croatian Tax Administration (Zagreb) is important:[342] **57**



Source: https://www.porezna-uprava.hr/HR_o_nama/PublishingImages/PORU%c4%8cNI%20URED%20ZAGREBeng2.jpg. Accessed 31 May 2024.

[342] Organigram taken from the official website of the Croatian Tax Administration under the Ministry of Finance, see https://www.porezna-uprava.hr/en/Pages/organisational-schemes.aspx. Accessed 31 October 2024.

58 Croatian authorities use EU systems like TRACES (Trade Control and Expert System) for monitoring the movement of animals and animal products, and VIES (VAT Information Exchange System) to track cross-border VAT fraud. A lot of VAT frauds happen in the area of agriculture. The General Tax Code, which governs the tax administration, applies as well on VAT in the area of agricultural products.

(b) Investigative powers in the area of structural funds and internal policies

59 The authorities will usually verify that subsidies and grants, such as those from the EU CAP, are used for their intended purposes, and no fraud occurs in applying for these supports. In this area the Law on Fiscal Responsibility, applies.

60 *Case Study 5 On-the-spot Checks related to ERDF-Funding in Croatia*

Case-Study: EDRF-Funds fraud

In 2021 OLAF conducted investigations into suspected EDRF-Funds fraud. Later it submitted the case to the EPPO.

During these investigation, OLAF conducted on-the-spot-checks in Croatia and even carried out digital investigations.

"In June 2021, the European Anti-Fraud Office (OLAF) transmitted to the European Public Prosecutor's Office (EPPO) information concerning potential fraud committed in the framework of a project co-funded by the European Regional Development Fund (ERDF) in Croatia. The allegations refer to an IT system procured by the Croatian Ministry for Regional Development and EU Funds.
In the course of its complementary investigation and in close coordination and cooperation with the EPPO, OLAF conducted two on-the-spot checks combined with Digital Forensic Operations in Croatia."[343]

The later Press-Release from this time had the following wording:

"Based on the results of the preliminary investigative activities, carried out in cooperation with the European Anti-Fraud Office (OLAF), the Croatian National Police Office for the Suppression of Corruption and Organised Crime and the Independent Financial Investigation Sector of the Tax Administration of the Croatian Ministry of Finance, the EPPO has now officially initiated an investigation."[344]

[343] See https://anti-fraud.ec.europa.eu/media-corner/news/suspected-erdf-related-fraud-croatia-investigated-complementarity-olaf-and-eppo-2021-11-11_en. Accessed 31 July 2024.
[344] See https://www.eppo.europa.eu/en/news/former-minister-and-3-others-arrested-suspected-fraud-croatian-ministry-regional-development. Accessed 31 July 2024.

This case shows clearly how important OLAF's work is. It can be the –re-work for the EPPO and it can lead to own results that require a recommendation to a Croatian authority (see → Article 11 OLAF Regulation). For further information on fraud indications in relation to ERDF see bibliography → EU Commission 2019.

(c) Investigative powers in the area of common market organisations

The enforcement of laws and regulations in the market of agricultural products is governed by a combination of national legislation, EU regulations, and **oversight** by administrative authorities. Competent are e.g. the Ministry of Agriculture, the State Inspectorate, and Tax Administration, each of which has specific investigative powers aimed at **ensuring compliance** with rules related to agricultural production, food safety, trade practices, and taxation, including VAT and customs duties. The law regarding the Market of Agricultural Products (*Zakona O Uređenju Tržišta Poljoprivrednih Proizvoda*) can apply. It enables farm and market inspections. Thus, inspectors can visit farms, production facilities, and markets to ensure that agricultural products meet quality standards, labelling requirements, and food safety regulations as well as payment obligations, payment duties and EU funding obligations. **61**

A typical method is it to do verification and assessment checks. The authorities can data with these methods and this **cross-check data** between subsidies and production quotas (e.g., CAP payments) and market helps to prevent fraud, especially in the case of subsidies provided to farmers and **discover irregularities**. In the area of customs duties, inspectors will control that correct duties are paid, and that the origin of products is verified for VAT and tariff purposes. **62**

As agricultural products often involve cross-border trade, the Tax Administration plays a role in **monitoring the correct application** of Value Added Tax (VAT) on agricultural goods and ensuring that all customs duties are paid when products enter the EU market from third countries. In case of irregularities related to markets, the tax authorities may audit agricultural businesses and cooperatives to ensure they are accurately reporting their income, paying VAT, and complying with tax obligations on subsidies and other income from agricultural products. **63**

64 **Monitoring and submission of data on import and export**

Article 25[345] The Customs Administration monitors and supervises the realization of import and export of products according to the permits issued in accordance with the provisions of Articles 21, 22, 23 and 24 of this Act and submits data on this to the Ministry and the Payment Agency.

6. ADMINISTRATIVE CONTROL AND CONTROL ON THE FIELD

Article 28[346] (1) The Payments Agency is responsible for the implementation of administrative and on-site controls for all market regulation measures prescribed on the basis of this Act and regulations adopted on the basis of it.

(2) Administrative control of requests for individual market regulation measures includes control of compliance of all submitted requests with legal and sub-legal regulations.

(3) The sample on which the on-site control of the submitted requests will be carried out is selected on the basis of the risk analysis and elements of representativeness that the Payments Agency brings for each year.

(4) Based on the results of the controls, the Payments Agency will evaluate the effectiveness of the parameters used in the risk analysis in the previous year and, if necessary, improve the risk analysis methods that will be used for the next year.

(5) On the basis of written documents, the Agency for Payments may entrust the implementation of on-site control referred to in paragraph 1 of this Article to other bodies and control houses and laboratories.

[345] Praćenje i dostavljanje podatka o uvozu i izvozu
Članak 25
Carinska uprava prati i nadzire ostvarenje uvoza i izvoza proizvoda po dozvolama izdanim u skladu s odredbama članka 21., 22., 23. i 24. ovoga Zakona te o tome dostavlja podatke Ministarstvu i Agenciji za plaćanje.

[346] 6. ADMINISTRATIVNA KONTROLA I KONTROLA NA TERENU
Članak 28
(1) Agencija za plaćanja odgovorna je za provedbu administrativnih kontrola i kontrola na terenu koje se provode za sve mjere uređenja tržišta propisane na temelju ovoga Zakona i propisa donesenih na temelju njega.
(2) Administrativna kontrola zahtjeva za pojedine mjere uređenja tržišta obuhvaća kontrolu usklađenosti svih podnesenih zahtjeva sa zakonskim i podzakonskim propisima.
(3) Uzorak na kojem će biti provedena kontrola na terenu podnesenih zahtjeva odabire se na podlozi analize rizika i elemenata reprezentativnosti koje za svaku godinu donosi Agencija za plaćanja.
(4) Agencija za plaćanja će na temelju rezultata provedenih kontrola za svaku godinu ocijeniti učinkovitost parametara koji su korišteni pri analizi rizika u prethodnoj godini te prema potrebi unaprijediti metode analize rizika koje će biti korištene za iduću godinu.
(5) Agencija za plaćanja može na temelju pisanih akata povjeriti provedbu kontrole na terenu iz stavka 1. ovoga članka drugim tijelima te kontrolnim kućama i laboratorijima.

7. ADMINISTRATIVE AND INSPECTION SUPERVISION

Competence

Article 29[347] (1) Administrative supervision over the implementation of this Act and the regulations adopted on its basis is performed by the Ministry.

(2) Inspection supervision over the implementation of the provisions of this Act and regulations adopted on its basis is carried out by agricultural, livestock, wine, phytosanitary and veterinary inspectors of the Ministry and other inspectors competent according to special regulations.

Powers of the inspector

Article 30[348]

(1) In the implementation of inspection supervision, the competent inspector has the right to: a) enter and inspect business and production premises, facilities, land, devices, goods, crops, plantations, livestock, operations, documentation and other things belonging to users of market regulation measures, i.e. other supervised subjects,

b) request and review documents that can be used to determine the identity of persons subject to supervision, as well as other persons found at the place of supervision,

c) photograph or record persons, premises, objects, land and other items from point a) of this paragraph,

d) take samples of goods and materials for testing purposes without compensation for the value of the sample taken,

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[347] 7. UPRAVNI I INSPEKCIJSKI NADZOR
Nadležnost
Članak 29
(1) Upravni nadzor nad provedbom ovoga Zakona i propisa donesenih na temelju njega obavlja Ministarstvo.
(2) Inspekcijski nadzor nad provedbom odredbi ovoga Zakona i propisa donesenih na temelju njega provode poljoprivredni, stočarski, vinarski, fitosanitarni i veterinarski inspektori Ministarstva te drugi inspektori nadležni prema posebnim propisima.

[348] Ovlasti inspektora
Članak 30
(1) U provedbi inspekcijskog nadzora nadležni inspektor ima pravo:
a) ulaziti i pregledavati poslovne i proizvodne prostore, objekte, zemljište, uređaje, robu, usjeve, nasade, stoku, poslovanje, dokumentaciju i druge stvari kod korisnika mjera za uređenje tržišta, odnosno drugih nadziranih subjekata,
b) zatražiti i pregledati isprave kojima se može utvrditi identitet osoba koje podliježu nadzoru, kao i drugih osoba zatečenih na mjestu nadzora,
c) fotografirati ili snimiti osobe, prostore, objekte, zemljište i drugo iz točke a) ovoga stavka,
d) uzimati uzorke robe i materijala za potrebe ispitivanja bez naknade vrijednosti uzetog uzorka,
e) provoditi uvid u isprave korisnika mjera za uređenje tržišta odnosno drugih nadziranih subjekata,
f) prikupljati podatke i obavijesti od odgovornih osoba, svjedoka i drugih osoba,
g) izvršiti uvid u službene evidencije i baze podataka potrebne za obavljanje nadzora,
h) obavljati i druge radnje potrebne za provedbu inspekcijskog nadzora.
(2) Pod poslovnim i proizvodnim prostorima iz stavka 1. točke a) ovoga članka smatraju se stambene, poslovne i druge prostorije te prostori u kojima korisnik mjera za uređenje tržišta odnosno drugi nadzirani subjekt obavlja djelatnost.
(3) Troškove analize uzoraka snosi korisnik mjera za uređenje tržišta, odnosno drugi nadzirani subjekt ako se utvrdi da uzorci ne odgovaraju propisanim zahtjevima. Ako uzorak odgovara propisanim zahtjevima troškovi se podmiruju iz državnog proračuna.

e) carry out an inspection of the documents of users of market regulation measures, i.e. other supervised entities,
f) collect data and information from responsible persons, witnesses and other persons,
g) inspect the official records and databases necessary for supervision,
h) perform other actions necessary for the implementation of inspection supervision.
(2) Business and production premises referred to in paragraph 1, point a) of this article are residential, commercial and other premises, as well as premises where the beneficiary of market regulation measures or another supervised entity performs activities.
(3) The costs of the analysis of the samples shall be borne by the user of market regulation measures, i.e. another supervised entity if it is determined that the samples do not meet the prescribed requirements. If the sample meets the prescribed requirements, the costs are covered from the state budget.

Duties of supervised subjects
Article 31[349]
(1) Users of market regulation measures, i.e. other supervised entities that are subject to the supervision of the competent inspector, are obliged to enable him to perform supervision, allow access to business books and other documentation, provide the necessary data and information, and ensure conditions for smooth operation.
(2) In order to ensure attendance during the inspection, the inspector will inform the user of market regulation measures, i.e. another supervised entity, who is obliged to attend the inspection, immediately before the start of the inspection.
(3) If the beneficiary of market regulation measures, or another supervised entity, is absent, the inspector will carry out the supervision in the presence of an employee he found working for that beneficiary of market regulation measures, or another entity or a family member.
(4) Users, that is, other supervised entities from paragraph 1 of this article, are obliged to submit or prepare business documentation and data necessary for inspection supervision at the request of the competent inspector within which the inspector assigns to them.

[349] Dužnosti nadziranih subjekata
Članak 31
(1) Korisnici mjera za uređenje tržišta, odnosno drugi nadzirani subjekti koji podliježu nadzoru nadležnog inspektora, dužni su mu omogućiti obavljanje nadzora, dopustiti uvid u poslovne knjige i drugu dokumentaciju, pružiti potrebne podatke i obavijesti te osigurati uvjete za nesmetan rad.
(2) Radi osiguranja nazočnosti prilikom obavljanja inspekcijskog nadzora, inspektor će neposredno prije početka obavljanja nadzora izvijestiti korisnika mjera za uređenje tržišta, odnosno drugog nadziranog subjekta koji je dužan nazočiti nadzoru.
(3) Ukoliko je korisnik mjera za uređenje tržišta odnosno drugi nadzirani subjekt odsutan, inspektor će obaviti nadzor u nazočnosti djelatnika kojeg je zatekao na radu kod tog korisnika mjera za uređenje tržišta, odnosno drugog subjekta ili člana obitelji.
(4) Korisnici, odnosno drugi nadzirani subjekti iz stavka 1. ovoga članka dužni su na zahtjev nadležnog inspektora dostaviti ili pripremiti poslovnu dokumentaciju i podatke potrebne za obavljanje inspekcijskog nadzora u roku koji im inspektor odredi.
(5) Rok iz stavka 4. ovoga članka mora biti primjeren vrsti zahtjeva.

(5) The deadline referred to in paragraph 4 of this Article must be appropriate for the type of request.

Decision on elimination of irregularities or defects
Article 32[350]
(1) If the competent inspector, in the course of the inspection, determines that the provisions of this Act or the regulations adopted on its basis have been violated, the implementation of which the inspector has the right and obligation, in accordance with this Act and the regulations adopted on its basis:
- by decision to order that the identified irregularities, i.e. deficiencies, be eliminated within a certain period, and/or
- undertake other measures, i.e. perform other actions for which he is authorized by this Law or the regulations adopted on its basis.
(2) The competent inspector shall issue a decision from paragraph 1, sub-paragraph 1 of this Article without delay, and no later than within 15 days from the day of the end of the inspection.
(3) In the implementation of inspection supervision, the provisions of the Law on General Administrative Procedure shall be applied, unless otherwise stipulated by this Law.

[350] Rješenje o otklanjanju nepravilnosti odnosno nedostataka
Članak 32
(1) Ako nadležni inspektor u provedbi inspekcijskog nadzora utvrdi da su povrijeđene odredbe ovoga Zakona ili propisa donesenih na temelju njega čiju provedbu nadzire ima pravo i obvezu, u skladu s ovim Zakonom i propisima donesenim na temelju njega:
– rješenjem narediti da se utvrđene nepravilnosti, odnosno nedostaci otklone u određenom roku, i/ili
– poduzeti i druge mjere, odnosno izvršiti druge radnje za koje je ovlašten ovim Zakonom ili propisima donesenim na temelju njega.
(2) Nadležni će inspektor donijeti rješenje iz stavka 1. podstavka 1. ovoga članka bez odgađanja, a najkasnije u roku od 15 dana od dana završetka nadzora.
(3) U provedbi inspekcijskog nadzora primjenjuju se odredbe Zakona o općem upravnom postupku, ako ovim Zakonom nije drukčije određeno.

Complaint
Article 33[351]
(1) An appeal may be filed against the decision of the Ministry's inspector within 15 days from the date of delivery of the decision.
(2) Appeals against the decision of the Ministry's inspector are resolved by the Appeals Committee, whose members are appointed by the Minister.
(3) The committee consists of three members, two of whom are appointed from among inspectors of the Ministry, and one member from among civil servants in the Ministry who have completed university graduate studies in the legal profession.
(4) An appeal filed against the decision from paragraph 1 of this article does not postpone the execution of the decision.

Implementing regulations
Article 34[352]
The detailed method and procedure of inspection supervision and measures and actions of inspectors for each individual measure of market regulation shall be prescribed by the minister in a rulebook.

65 Investigation in the wine sector:

66 **Law on Wine**/*Zakon o vinu*

CHAPTER II. SUPERVISION
Administrative supervision
Article 86[353]
Administrative supervision over the implementation of this Act and the regulations adopted on the basis of this Act, as well as over the work of the Agency and the Agency for Payments in the state administration tasks entrusted to them, is performed by the Ministry.

[351] Žalba
Članak 33
(1) Protiv rješenja inspektora Ministarstva može se u roku od 15 dana od dana dostave rješenja izjaviti žalba.
(2) Žalbu protiv rješenja inspektora Ministarstva rješava Povjerenstvo za žalbe čije članove imenuje ministar.
(3) Povjerenstvo čine tri člana od kojih se dva člana imenuju iz reda inspektora Ministarstva, a jedan član iz reda državnih službenika u Ministarstvu koji imaju završen sveučilišni diplomski studij pravne struke.
(4) Žalba izjavljena protiv rješenja iz stavka 1. ovoga članka ne odgađa izvršenje rješenja.
[352] Provedbeni propisi
Članak 34
Detaljan način i postupak provedbe inspekcijskog nadzora te mjere i radnje inspektora za svaku pojedinu mjeru uređenja tržišta propisuje ministar pravilnikom.
[353] POGLAVLJE II. NADZOR
Upravni nadzor
Članak 86
Upravni nadzor nad provedbom ovoga Zakona i propisa donesenih na temelju ovoga Zakona te nad radom Agencije i Agencije za plaćanja u povjerenim im poslovima državne uprave obavlja Ministarstvo.
Inspekcijski nadzor /službene kontrole

Inspection supervision/official controls
Article 87[354]
(1) Inspection supervision/official controls (hereinafter: inspection supervision) in the production and trade of wine products, fruit wines and flavoured wine products according to this Act and the regulations adopted on the basis of this Act are carried out by the agricultural inspection of the State Inspectorate (hereinafter: competent inspection).
(2) The tasks of inspection supervision under the jurisdiction of the State Inspectorate are carried out by the agricultural inspector (hereinafter: competent inspector).
(3) The tasks of inspection supervision under this Law under the jurisdiction of the ministry responsible for customs affairs are carried out by customs inspectors, and the tasks of official control of health and hygiene/food safety are carried out by sanitary inspectors, in accordance with food regulations.

Tasks of the competent inspector
Article 88[355]
Competent inspectors check whether wine products, fruit wines and flavoured wine products on the market are produced and labelled in accordance with the provisions of this Act and the regulations adopted on the basis of it.

Powers of the competent inspector
Article 89[356]
(1) In the implementation of inspection supervision, the competent inspector has the following rights, duties and powers:
1. request and review documents that can be used to determine the identity of persons subject to supervision and persons found at the place of supervision

[354] Članak 87
(1) Inspekcijski nadzor /službene kontrole (u daljnjem tekstu: inspekcijski nadzor) u proizvodnji i trgovini vinskim proizvodima, voćnim vinima i aromatiziranim proizvodima od vina po ovom Zakonu i propisima donesenim na temelju ovoga Zakona obavlja poljoprivredna inspekcija Državnog inspektorata (u daljnjem tekstu: nadležna inspekcija).
(2) Poslove inspekcijskog nadzora iz nadležnosti Državnog inspektorata provodi poljoprivredni inspektor (u daljnjem tekstu: nadležni inspektor).
(3) Poslove inspekcijskog nadzora po ovome Zakonu iz nadležnosti ministarstva nadležnog za carinske poslove provode carinski inspektori, a poslove službene kontrole zdravstvene ispravnosti i higijene/sigurnosti hrane provode sanitarni inspektori, sukladno propisima o hrani.
[355] Zadaće nadležnog inspektora
Članak 88
Nadležni inspektori kontroliraju jesu li vinski proizvodi, voćna vina te aromatizirani proizvodi od vina na tržištu proizvedeni i označeni sukladno odredbama ovoga Zakonu i propisa donesenih na temelju njega.
[356] Ovlasti nadležnog inspektora
Članak 89
(1) U provedbi inspekcijskog nadzora nadležni inspektor ima sljedeća prava, dužnosti i ovlasti:
1. zatražiti i pregledati isprave kojima se može utvrditi identitet osoba koje podliježu nadzoru i osoba zatečenih na mjestu nadzora
2. zatražiti i pregledati rješenje o upisu u Upisnik poljoprivrednih gospodarstava, izvadak iz sudskog registra, obrtnicu ili iskaznicu obiteljskog poljoprivrednog gospodarstva

2. request and review a decision on registration in the Register of Agricultural Holdings, an extract from the court register, a trade certificate or a family agricultural holding card
3.[357] request and review business documentation (business books, registers, documents, contracts, documents) and other business documentation that allows insight into the client's business and, if necessary, make copies of business documentation
4. photograph or record people, vineyards, business premises, production facilities and other things related to viticulture and wine production, production of fruit wines and flavoured wine products
5. to inspect the vine plantations in order to determine and control the varietal composition of the plantations, the quantity and quality of grapes and the grape harvest
6. organoleptically inspect wine, fruit wines and flavoured wine products in production
7. inspect production facilities, business premises and means for production, processing, finishing, care and filling, as well as means in which wine products and fruit wines and flavoured wine products are transported
8. request for verification data and information on the production of wine products and fruit wines and flavoured wine products, as well as the means and procedures used in

[357] 3. zatražiti i pregledati poslovnu dokumentaciju (poslovne knjige, registre, dokumente, ugovore, isprave) i drugu poslovnu dokumentaciju koja omogućuje uvid u poslovanje stranke te prema potrebi raditi presliku poslovne dokumentacije
4. fotografirati ili snimiti osobe, vinograde, poslovne prostore, proizvodne objekte i drugo vezano za vinogradarsko-vinarsku proizvodnju, proizvodnju voćnih vina i aromatiziranih proizvoda od vina
5. pregledati nasade vinove loze radi utvrđivanja i kontrole sortnog sastava nasada, količine i kakvoće grožđa i berbe grožđa
6. organoleptički pregledati vino, voćna vina te aromatizirane proizvode od vina u proizvodnji
7. pregledati proizvodne objekte, poslovne prostorije i sredstva za proizvodnju, preradu, doradu, njegu i punjenje te sredstva u kojima se prevoze vinski proizvodi te voćna vina i aromatizirani proizvodi od vina
8. zatražiti radi provjere podatke i obavijesti o proizvodnji vinskih proizvoda te voćnih vina i aromatiziranih proizvoda od vina, kao i o sredstvima i postupcima koji se primjenjuju u proizvodnji, radi utvrđivanja je li proizvodnja obavljena u skladu s ovim Zakonom i propisima donesenim na temelju njega
9. prikupljati podatke i obavijesti od odgovornih osoba, svjedoka i drugih osoba
10. zabraniti uporabu prostorija, posuda, tehničkih sredstava i uređaja dok se ne otklone utvrđeni nedostaci
11. zabraniti preradu grožđa i voća, proizvodnju vina, voćnih vina, aromatiziranih proizvoda od vina i drugih proizvoda ako nije udovoljeno uvjetima propisanim ovim Zakonom i propisima donesenim na temelju njega
12. uzimati uzorke vina i drugih vinskih proizvoda te voćnih vina, aromatiziranih proizvoda od vina i enoloških sredstava
13. narediti otklanjanje tehničkih, skladišnih, higijenskih i drugih nedostataka koji se mogu otkloniti
14. narediti povlačenje s tržišta proizvoda koji ne odgovaraju propisanim uvjetima i/ili navedenim oznakama na proizvodu ili ne sadrže propisane oznake
15. po potrebi privremeno oduzeti stvari koje su predmetom počinjena prekršaja
16. narediti onesposobljavanje za izravnu ljudsku potrošnju vinskih proizvoda te voćnih vina i aromatiziranih proizvoda od vina, koji ne odgovaraju uvjetima propisanim ovim Zakonom i propisima donesenim na temelju njega ako se proizvod doradom ili preradom ne bi mogao uskladiti s propisanim uvjetima ili ako proizvođač ne obavi doradu ili preradu u danom roku
17. podnositi optužne prijedloge zbog povreda odredaba ovoga Zakona
18. nadzirati i ostalo propisano posebnim propisima.
(2) Pod poslovnim i proizvodnim prostorima te objektima iz stavka 1. ovoga članka smatraju se stambene, poslovne i druge prostorije i prostori u kojima nadzirani subjekt obavlja djelatnost.
(3) Nadležni inspektor u obavljanju inspekcijskog nadzora samostalno utvrđuje činjenice i okolnosti u postupku te na temelju utvrđenih činjenica i okolnosti rješava upravnu stvar.

production, in order to determine whether the production was carried out in accordance with this Act and the regulations adopted on its basis
9. collect data and information from responsible persons, witnesses and other persons
10. prohibit the use of premises, vessels, technical means and devices until the identified defects are eliminated
11. prohibit the processing of grapes and fruit, the production of wine, fruit wines, flavoured wine products and other products if the conditions prescribed by this Act and the regulations adopted on its basis are not met
12. take samples of wine and other wine products and fruit wines, flavoured wine products and oenological products
13. to order the removal of technical, storage, hygienic and other defects that can be removed
14. order the withdrawal from the market of products that do not meet the prescribed conditions and/or the specified markings on the product or do not contain the prescribed markings
15. if necessary, temporarily confiscate things that are the subject of the offense committed
16. to order the disqualification for direct human consumption of wine products and fruit wines and flavoured wine products, which do not meet the conditions prescribed by this Act and the regulations adopted on the basis of it, if the product could not be brought into line with the prescribed conditions through finishing or processing or if the manufacturer does not finish or processing within the given period
17. file charges for violations of the provisions of this Act
18. supervise and other prescribed by special regulations.
(2) Business and production premises and facilities from paragraph 1 of this Article are residential, business and other premises and premises where the supervised entity performs its activities.
(3) The competent inspector independently determines the facts and circumstances in the procedure and resolves the administrative matter on the basis of the established facts and circumstances.

Administrative measures
Article 90[358]
(1) If the competent inspector determines in the process of inspection that this Act or a regulation adopted on the basis of it has been violated, he shall:
- to order that identified deficiencies or irregularities, in the application of this Act as well as the regulations adopted on its basis, be eliminated within a certain period
- prohibit the production of wine products, fruit wines and flavoured wine products if the prescribed conditions prescribed by this Act and the regulations adopted on its basis are not met
- prohibit the placing on the market of products from Article 57 of this Act and/or
- prohibit and order the withdrawal from the market of adulterated, diseased or defective products.
(2) The competent inspector in the implementation of inspection supervision according to the provisions of this Act and the regulations adopted on its basis conducts the procedure and makes decisions determined by this Act and the regulations adopted on its basis.
(3) An appeal cannot be filed against the decision of the competent inspector, but an administrative dispute can be initiated.

(d) Investigative powers in the area of direct expenditure

67 In the area of direct expenditure the direct management i.e. the control and managing by one main authority (mainly the Commission itself) is the main source of money transfer. This framework applies to **sectors that receive** direct expenditure funding, including agriculture, infrastructure, research, and innovation. If it is mainly the European Commission, its agencies and delegations that manage the EU budget in this are, they are competent to supervision the accounting of projects in this area. The EU Commission runs e.g. the Funding and Tenders Portal (SEDIA) for this special area. The whole direct expenditure area is not immune to fraud. It can be said that it is prone to procurement,

[358] Upravne mjere
Članak 90
(1) Ako nadležni inspektor u postupku inspekcijskog nadzora utvrdi da je povrijeđen ovaj Zakon ili propis donesen na temelju njega rješenjem će:
– narediti da se utvrđeni nedostaci ili nepravilnosti, u primjeni ovoga Zakona kao i propisa donesenih na temelju njega, otklone u određenom roku
– zabraniti proizvodnju vinskih proizvoda, voćnih vina i aromatiziranih proizvoda od vina ako nisu ispunjeni propisani uvjeti propisani ovim Zakonom i propisima donesenim na temelju njega
– zabraniti stavljanje na tržište proizvoda iz članka 57. ovoga Zakona i/ili
– zabraniti i narediti povlačenje s tržišta patvorenog, bolesnog ili proizvoda s manom.
(2) Nadležni inspektor u provedbi inspekcijskog nadzora po odredbama ovoga Zakona i propisa donesenih na temelju njega vodi postupak i donosi rješenja određena ovim Zakonom i propisima donesenim na temelju njega.
(3) Protiv rješenja nadležnog inspektora ne može se izjaviti žalba već se može pokrenuti upravni spor.

or procurement related fraud (causing damage to the expenditure side of the budget).[359] For EU direct funds (such as the European Structural and Investment Funds - ESIF), managing authorities within Croatian ministries (e.g., Ministry of Finance, Ministry of Regional Development) are responsible for overseeing the allocation and use of EU funds. They monitor compliance with funding conditions, ensure projects are implemented according to guidelines, and conduct regular checks.

OLAF describes and displays investigations in this area as follows: **68**

"**Direct expenditure** **69**
Accounting for 14% of the EU budget, this is expenditure allocated and directly managed by EU institutions, bodies, agencies alone (not jointly with national authorities, as with the structural funds). Beneficiaries are generally located in EU countries.

It includes expenditure in, among others, the following areas:

- research and innovation (e.g. Horizon Europe programme)
- education, training and mobility of young people (e.g. ERASMUS+ programme)
- supporting the competitiveness of industry and in particular of micro, small and medium-sized enterprises (e.g. Single Market programme)
- environment and climate action (LIFE programme)
- improving the capacity of the EU to face security threats (Internal Security Fund)
- European public administration.

[359] See OECD 2019 p. 7, 14: "The implementation stage of the project cycle brings with it numerous fraud and corruption risks due to the number of actors potentially involved in project implementation and the complexity of some of the processes at this stage. For projects with high investment value, such as large-scale infrastructure projects, this stage becomes even more vulnerable to fraud and corruption. Furthermore, tenders put out either directly by the MA or beneficiary are common during the implementation stage, and procurement processes are notoriously prone to fraud and corruption. As shown in the illustrated schemes in the final part of the guide, there are a number of procurementspecific risks that occur at this stage. For example, members of an MA or beneficiary may tailor tender specifications or leak commercially sensitive tender information to favour one particular company or individual. Companies or contractors may also take part in collusive bidding schemes to manipulate competitive procedures. Responses from an OECD survey that was distributed to programme authorities show that procurement-related fraud and corruption risks at the level of beneficiaries are sometimes overlooked in risk analysis activities. In addition, some MAs generally base the identification of fraud risks on their own experience, without any additional input from other knowledgeable actors. Outside of the procurement process, perpetrators employ other tactics to siphon off funds and defraud the EU budget. For example, a beneficiary may fabricate fictitious works, services or activities, or inflate labour costs. In attempt to cover up fraudulent or corrupt behaviour or to justify non-eligible expenditure, perpetrators may manipulate documents and submit fictitious invoices. In some cases, perpetrators may even attempt to bribe officials or staff within programme authorities to conceal the scheme.

As a rule, national authorities are not involved in investigating fraud affecting direct expenditure."[360]

70 The Croatian Budget Act stipulates that the budget controllers have special powers and act under the supervisory of the Ministry of Finance:

XII. BUDGET CONTROL

Article 145[361] **Scope of budgetary control**

(1) Budget control is the inspection control of the legality, purposefulness and timeliness of the use of budget funds, the timeliness and completeness of the collection of income and receipts under the jurisdiction of budget users and units of local and regional (regional) self-government, and the inspection control of compliance with and application of laws and other regulations that have an impact to budget funds and funds from other sources, whether it is income/receipts, expenditures/expenditures, returns, assets, or liabilities.

(2) Budget supervision includes the supervision of accounting, financial and other business documents and the inspection of business premises, buildings, objects, goods and other things in accordance with the purpose of inspection supervision.

(3) The Ministry of Finance performs budgetary supervision of budgetary and extra-budgetary beneficiaries of the state budget, local and regional self-government units and their budgetary and extra-budgetary beneficiaries, commercial companies and other legal and natural persons that receive funds from the budget and from extra-budgetary beneficiaries, as well as supervision of the use of credit funds based on the guarantee of the state and units of local and regional self-government (subjects of supervision).

(4) The Minister of Finance prescribes the objectives, scope, content, method and conditions of the budget control ordinance, as well as the bodies or responsible persons to whom the budget control inspector is obliged to deliver the record of the performed

[360] OLAF, Information on Investigations related to EU expenditure, https://ec.europa.eu/anti-fraud/investigations/investigations-related-eu-expenditure_hr. Accessed 31 July 2024.

[361] XII. PRORAČUNSKI NADZOR

Članak 145 Obuhvat proračunskog nadzora

(1) Proračunski nadzor je inspekcijski nadzor zakonitosti, svrhovitosti i pravodobnosti korištenja proračunskih sredstava, pravodobnosti i potpunosti naplate prihoda i primitaka iz nadležnosti proračunskih korisnika i jedinica lokalne i područne (regionalne) samouprave te inspekcijski nadzor pridržavanja i primjene zakona i drugih propisa koji imaju utjecaj na proračunska sredstva i sredstva iz drugih izvora, bilo da se radi o prihodima/primicima, rashodima/izdacima, povratima, imovini bilo o obvezama.

(2) Proračunski nadzor obuhvaća nadzor računovodstvenih, financijskih i ostalih poslovnih dokumenata te pregled poslovnih prostorija, zgrada, predmeta, robe i drugih stvari u skladu sa svrhom inspekcijskog nadzora.

(3) Ministarstvo financija obavlja proračunski nadzor proračunskih i izvanproračunskih korisnika državnog proračuna, jedinica lokalne i područne (regionalne) samouprave i njihovih proračunskih i izvanproračunskih korisnika, trgovačkih društava te drugih pravnih i fizičkih osoba koje dobivaju sredstva iz proračuna i od izvanproračunskih korisnika, kao i nadzor korištenja kreditnih sredstava s osnove jamstva države i jedinica lokalne i područne (regionalne) samouprave (subjekti nadzora).

(4) Ministar financija pravilnikom o proračunskom nadzoru propisuje ciljeve, djelokrug, sadržaj, način i uvjete te tijela odnosno odgovorne osobe kojima je inspektor proračunskog nadzora dužan dostaviti zapisnik o obavljenom proračunskom nadzoru, ovlaštenu osobu proračunskog nadzora i mjere proračunskog nadzora.

budget control, the authorized person of the budget control and the measures of the budget control.

Article 146[362] **Method of budget control**
(1) Budget control is carried out based on petitions from citizens, requests from state administration bodies, local and regional (regional) self-government units and other legal entities, from which suspicion of irregularity or fraud arises, and by order of the Minister of Finance.
(2) The decision on budget supervision is made by the Minister of Finance.
(3) Budgetary supervision is performed by direct supervision of the subject of supervision, i.e. by analysing its financial and accounting documentation.

Article 153[363] **Special powers of persons performing budgetary control**
(1) Authorized persons of budgetary supervision are inspectors of budgetary supervision of the Ministry of Finance.
(2) Budget control inspectors have official cards issued by the Minister of Finance.
(3) The Minister of Finance shall by ordinance prescribe the appearance of the official identity card of the budget control inspector, the keeping of the register of official identity cards and the manner of their issuance, use and replacement.

In the area of direct expenditure beneficiaries subject themselves often under the regime of civil and administrative anti-fraud clauses, which are usually enshrined in the contract between the recipient and the monitoring payment office. **71**

Examples: The EU Commission supports large infrastructure projects.

OLAF has a **special unit**, which is competent to investigate and detect irregularities in the area of direct expenditure: **72**

[362] **Članak 146 Način obavljanja proračunskog nadzora**
(1) Proračunski nadzor obavlja se po predstavkama građana, zahtjevima tijela državne uprave, jedinica lokalne i područne (regionalne) samouprave i drugih pravnih osoba, iz kojih proizlazi sumnja na nepravilnost ili prijevaru, te po nalogu ministra financija.
(2) Odluku o obavljanju proračunskog nadzora donosi ministar financija.
(3) Proračunski nadzor obavlja se izravnim nadzorom kod subjekta nadzora odnosno analizom njegove financijsko-računovodstvene dokumentacije.

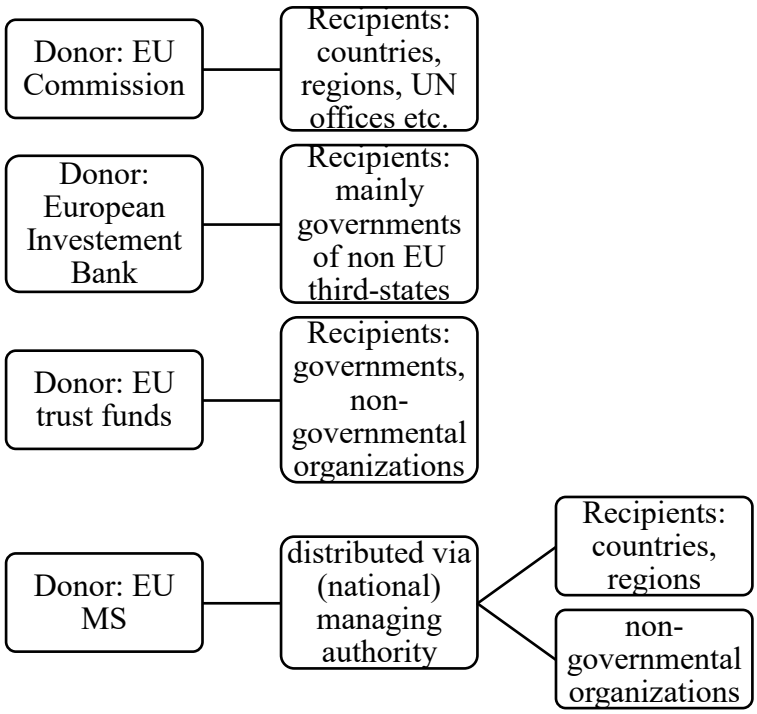
[363] Posebne ovlasti osoba koje obavljaju proračunski nadzor
Članak 153
(1) Ovlaštene osobe proračunskog nadzora su inspektori proračunskog nadzora Ministarstva financija.
(2) Inspektori proračunskog nadzora imaju službene iskaznice koje izdaje ministar financija.
(3) Ministar financija pravilnikom propisuje izgled službene iskaznice inspektora proračunskog nadzora, vođenje očevidnika o službenim iskaznicama te način njihova izdavanja, uporabe i zamjene.

- ***Direct Expenditure - Operations and Investigations (OLAF.A.2)*** Rue Joseph II 30/Josef II-straat 30, 1000, (postal office Box: 1049), Bruxelles/Brussel Belgium[364]

73 In the area of indirect management, the budget is implemented by various actors that have to carry out delegated tasks, which the Commission carries out itself in the area of direct management.[365] OLAF often works closely with Croatian authorities, particularly the Ministry of Finance and the Office for the Suppression of Corruption and Organized Crime (USKOK), to gather evidence and pursue cases of fraud or mismanagement of EU funds.

Nota bene: The **EU Aid explorer** can be used to discover beneficiaries and funding schemes.[366] A common fraud scheme in this area is the "manipulation of tender processes".[367]

Figure 7 EU external aid/expenditure (indirect management): Article 3 OLAF Regulation on-the-spot inspections to discover EU external aid expenditure-related frauds



Source: EU Commission, Funding by management mode, https://ec.europa.eu/info/funding-tenders/find-funding/funding-management-mode_en. Accessed 31 July 2024.

[364] EU, WHOisWHO, https://op.europa.eu/en/web/who-is-who/organization/-/organization/OLAF/COM_CRF230282. Accessed 31 July 2024.
[365] EU Commission, Funding by management mode, https://ec.europa.eu/info/funding-tenders/find-funding/funding-management-mode_en. And see EU Commission 2011.
[366] EU external aid explorer, https://euaidexplorer.ec.europa.eu/index_en.
[367] OLAF, Sucess Stories, May 2022, https://ec.europa.eu/anti-fraud/investigations/success-stories_en#external-aid. Accessed 31 July 2024.

For the investigations in external aid OLAF can make use of Administrative Cooperation Agreements (ACAs).[368] 74

(3) Protection of information

The protection of information during an on-the-spot check is as essential as it is in criminal procedure. If these rules are not strictly obeyed, they might cause a prohibition to use the evidence obtained during the unlawful action: 75

(a) Tax secrecy (General Tax Code)

[Excerpt General Tax Act] 76
Non-disclosure Obligation
Article 8
(1) The tax authority is obliged to treat all the information provided by the taxpayer in the course of the tax procedures as a tax secret, including any other information regarding the tax procedure which it has at its disposal, as well as the information it exchanges with other countries regarding matters of taxation.
(2) As an exception from the provisions of paragraph 1 of this Article, the following shall not be considered a tax secret:
1. information on the date of registration in the value added tax system or deregistration from the value added tax system
2. data on taxpayers who provided false information in order to decrease their or someone else's value added tax liability (value added tax carousel fraud), if that was a part of findings in the procedure regulated by tax legislations.
(3) The non-disclosure obligation as per paragraph 1 of this Article shall apply to all tax authority officials, expert witnesses and other persons who are involved in a tax procedure.
(4) The non-disclosure obligation shall be considered violated if the facts stated in paragraph 1 of this Article become a subject of an unauthorized use or publication.
(5) The non-disclosure obligation shall not be considered violated in the following cases:
1. if the tax guarantor has been allowed insight into the data on the taxpayer important for its relationship toward the taxpayer
2. if members of a company are acquainted with the facts essential to the taxation of the company
3. if information is provided in the course of tax, misdemeanour, criminal or court procedure

[368] OLAF, State of Play – June 2021 Administrative Cooperation Arrangements (ACAs) with partner authorities in non-EU countries and territories and counterpart administrative investigative services of International Organisations, https://ec.europa.eu/anti-fraud/system/files/2021-07/list_signed_acas_en_7fd50a9cbe.pdf. Accessed 31 July 2024.

4. if information is provided with the written consent of the person to whom this information refers
5. if information is provided for the purposes of collecting a tax debt
6. if information is provided based on the ex officio request submitted by a public authority which requested information essential to the exercise of rights before that authority motioned by the party in the procedure, and which the party should usually acquire itself
7. if the organizational units of the Ministry of Finance internally exchange data that may affect the determination of rights and obligations of taxpayers
8. if information is provided in accordance with procedures prescribed by agreements for the avoidance of double taxation and other international agreements on matters of taxation applicable in the Republic of Croatia
9. if information is provided in accordance with the procedure prescribed by this Act for the provision and obtaining of legal assistance and
10. if information is provided pursuant to the legal act regulating administrative cooperation in the field of taxation.

(6) The non-disclosure obligation shall not be considered violated in cases when a tax authority submits to another public authority, without special request, the information acquired in the course of a tax procedure, if it suspects the existence of a criminal offense, violation of the law or any other regulation within the scope of responsibility of the other public authority.

(7) The non-disclosure obligation shall not be considered violated, if the Ministry of Finance - Tax Administration publishes on its website, without the consent of the taxpayer, a list of due and outstanding debts on the basis of value added tax, profit tax, income tax and surtax, contributions, excise duties, special tax, real estate transfer tax, concession fees and customs duties, if the total amount of debt is:
1. greater than HRK 100,000.00 for natural persons performing a business activity
2. greater than HRK 300,000.00 for legal persons and
3. greater than HRK 15,000.00 for all other taxpayers.

(8) The list of due and outstanding debts referred to in paragraph 7 of this Article shall be published on 31 October of every year.

(9) The list referred to in paragraph 7 of this Article shall include the following information: name and family name or the title of the taxpayer, date of birth for a natural person, permanent residence or temporary residence of a natural person or the place where a legal person has been established, breakdown of debt amounts by type of tax and the total amount of tax debt. Upon request by a person who can prove legal interest, the Tax Administration may amend the list with other information necessary for the purpose of indisputable determination of the identity of an individual taxpayer from this list, such as the following: day and month of birth of a natural person and the name of a natural person’s parents. An overview of taxpayers that were identified not to be the

taxpayers that are included in the list is to be published on the web page of the Tax Administration. The Tax Administration may present information on the measures taken within the enforcement procedure relative to the taxpayers from the list referred to in paragraph 7 of this Article.
(10) Notwithstanding paragraphs 7 and 9 of this Article, the list shall not include information on debts of taxpayers in respect to which the tax authority approved deferral or instalment payment or rescheduling of tax debt recovery, or if it was established in a legally binding decision on the concluded pre-bankruptcy settlement that the debt would be rescheduled, or if the pre-bankruptcy agreement was confirmed, or if, pursuant to the Consumer Bankruptcy Act, an out-of-court agreement was concluded or a court settlement was arrived at the preparation hearing.
(11) Exceptionally, the non-disclosure obligation shall not be considered violated if the Ministry of Finance - Tax Administration, without the consent of the taxpayer, publishes in the media and on its website the information needed to correct inaccurate or incomplete information in case a taxpayer had submitted, directly or indirectly, incorrect or incomplete information to the media.
(12) The debt per categories for which publication of due and unpaid debt is proscribed for the last day of the month preceding the month in which due and unpaid debt is published shall be included when calculating the amount of the debt referred to in paragraph 7 of this Article, reduced for payments up to the date of data processing. If the last day of the month preceding the month in which due and unpaid debt is an official holiday or non-business day, the debt on the first business day shall be included in the calculation.
(13) The taxpayers who settle the debt entirely after the publication of the list per debt categories referred to in paragraph 7 of this Article shall be deleted from the list. The taxpayers who do not settle their debt referred to in paragraph 7 of this Article entirely shall be marked on the list of due and unpaid debt by special designations and notes, their unsettled debt after settling the part of the debt being smaller than the amount set as the publication criterion.

(b) Administrative secrecy (Administrative laws)

In the area of tax inspections and audits the civil servants are as well addressed by the Tax Administration Act: **77**

PART SIX – RIGHTS, OBLIGATIONS AND RESPONSIBILITIES OF OFFICIALS AND SUPPORT PERSONNEL **78**

Article 16

(1) Regulations governing civil servants shall apply on the rights, obligations and responsibilities of the officials of the Tax Administration, unless otherwise provided for under this Act.

(2) General labour laws, Collective Agreement for Civil Servants and Support Personnel as well as special provisions of regulations on civil servants shall apply on the rights, obligations and responsibilities of the support personnel, unless otherwise provided for under this Act.

Article 19

(1) Officials and employees of the Tax Administration shall carry out the work of the post to which they are appointed in accordance with the job description, and shall perform other activities under the order of their line manager.
(2) Officials and support personnel of the Tax Administration shall be obliged to perform its activities in accordance with the law, other regulations adopted under laws and rules of profession and to abide by the provisions of the Code of Ethics and the Code of Professional Ethics for the Officials of the Ministry of Finance, Tax Administration.
(3) Officials and support personnel of the Tax Administration shall be obliged to carry out work of the post overtime, under the order of line manager, if necessary for a successful and timely job performance.
(4) Line manager's order may be written or oral.
(5) Tax Administration shall provide all the necessary protection for the officials and support personnel on all activities they carry out.
(6) Job complexity coefficient, bonus for working conditions and criteria for and the maximum amount of bonus for exceptional working results for the officials of the Tax Administration shall be prescribed by regulation of the Government of the Republic of Croatia.

Article 23

Gross professional and work misconduct, other than misconduct stipulated by Civil Servants Act, shall be:
1. counterfeiting, altering, introducing or confirming false data in official documents or information system
2. keeping business books for taxpayers and compiling tax returns, tax refund applications, objections, complaints and suits for taxpayers in tax procedures
3. negligent work and professional performance which have caused, or which may cause damage for the taxpayer or body governed by public law
4. abuse of official identification card or badge
5. committing or failing to commit any act in order to disable or hamper timely, regular and lawful operation of the Tax Administration
6. refusing or avoiding medical fitness examination for the purpose of establishing medical fitness for work on the post to which he is appointed.

(c) Data secrecy

The general administrative law contains a general rule on data protection: **79**

Article 11. The principle of data access and data protection[369]
(1) Public law bodies are obliged to provide the parties with access to the necessary data, prescribed forms, the website of the public law body and provide them with other information, advice and professional assistance.
(2) In the procedure, personal and secret data must be protected, in accordance with regulations on the protection of personal data, i.e. confidentiality of data.

In the area of customs controls the Law on the Customs Service contains rules on the data assessment and protection of data secrecy: **80**

81

CHAPTER II.
SPECIAL PROVISIONS ON CERTAIN CUSTOMS AUTHORITIES
1. Collection, assessment, recording, processing and use of data and information
Article 24
(1) The customs administration collects personal and other data and information for the purpose of carrying out the work of the customs service from already existing sources of data, directly from the person to whom this data relates and from other persons who are likely to have knowledge of this data.
(2) The collection of personal and other data and information from the child is undertaken in the presence of parents, guardians, foster parents, the person entrusted with the care and education of the child, or an expert from the social welfare centre.
(3) An authorized customs officer who collects personal and other data and information from already existing data sources or from other persons is not obliged to inform the persons to whom this data relates if this would make it impossible or difficult to perform a certain task.
(4) Bodies, institutions and other entities that, on the basis of the law and within the scope of their activities, dispose of original personal data and information are obliged to submit the requested personal and other information and information at the request of an authorized customs officer.
(5) An authorized customs officer may collect personal and other data and information in official premises, at a person's place of work, in another suitable place, and with the person's prior consent, in their home.

[369] Načelo pristupa podacima i zaštite podataka
Članak 11.
(1) Javnopravna tijela dužna su strankama omogućiti pristup potrebnim podacima, propisanim obrascima, internetskoj stranici javnopravnog tijela i pružiti im druge obavijesti, savjete i stručnu pomoć.
(2) U postupku se moraju zaštititi osobni i tajni podaci, sukladno propisima o zaštiti osobnih podataka, odnosno tajnosti podataka.

Article 25
Before entering personal and other data and information into the records, the authorized customs officer is obliged to assess the reliability of the source and the credibility of the personal and other data and information.

Article 26
The Customs Administration keeps records of personal and other data and information that it collects in connection with the performance of tasks under its jurisdiction.

Article 27
(1) Personal data stored in the records may be used only for the purpose for which the records were created, and for other purposes only if this is prescribed by a special law.
(2) The Customs Administration may compare personal data and other data and information collected in accordance with this Law with personal data and other data and information that it is authorized to collect.
(3) Incorrect data and information stored in the records must be corrected without delay. The correction must be recorded.

Article 28
The interested person has the right to inspect his data in the records in accordance with a special regulation.

Article 29
(1) In the collection, recording, processing and use of personal and other data and notifications, the Customs Administration takes special care of the protection of personal and other data and their secrecy and confidentiality.
(2) When applying the authority from Article 24 of this Act, regulations governing the protection of personal data and data representing business and other secrets shall be applied.
(3) The customs administration is obliged to keep the data from the risk analysis and management system and the identity of the petitioner confidential.
(4) The Customs Administration can only provide documentation and data collected or established in the course of supervision and the identity of the petitioner to the courts, the state attorney's office, state administration bodies and other state bodies, upon their reasoned written request in proceedings under their jurisdiction.

Article 30
(1) Supervision of the data records kept by the Customs Administration, in which personal data are stored, is performed by the authority responsible for the protection of personal data in accordance with the law governing the protection of personal data.

(2) Data stored in records may be used for scientific and statistical purposes in accordance with special regulations.
(3) Various numerical data from records can be used for statistical and analytical purposes in the Customs Administration and the Ministry of Finance.
(4) The type, method of keeping and use, and the method and terms of keeping the records kept by the Customs Administration shall be prescribed by the ordinance of the Minister of Finance.

(d) Official secrecy (Customs Code, General Tax Code)

The **Budget Act** clearly stipulates the obligation to keep secrets if on duty for budgetary controls: **82**

Article 154[370] **Keeping business and professional secrets and classified data** **83**
(1) The inspector of budget supervision is obliged to keep business and professional secrets and classified data that he learns about during the performance of supervision and other tasks within his jurisdiction in accordance with the established degree of secrecy.
(2) The record of the budget supervision from Article 147, paragraph 1 of this Act can only be submitted to courts, state administration bodies and other state bodies upon their reasoned written request in court, misdemeanour and administrative proceedings under their jurisdiction.

In the area of customs controls the customs officers are obliged to keep secrets confidential (see Law on Customs Service): **84**

Article 82
(1) Customs officials may not use information, data or knowledge that they have or are available to them during the performance of their duties for non-official purposes.
(2) Customs officers may not use or provide information, data or knowledge for the purpose of obtaining any financial or other benefits for themselves or for another person.
(3) The duty to protect official, business and other secrets lasts for 15 years from the date of termination of employment in the service.

(4) Investigation reports (Customs Code, Budget Act, General Tax Code)

In the area of budgetary controls, the Croatian law has a provision, which *expressis verbis* requests the issuing and drafting of an investigation report: **85**

[370] **Članak 154 Čuvanje poslovne i profesionalne tajne i klasificiranih podataka**
(1) Inspektor proračunskog nadzora dužan je čuvati poslovnu i profesionalnu tajnu i klasificirane podatke za koje sazna tijekom obavljanja nadzora i drugih poslova iz svoje nadležnosti u skladu s utvrđenim stupnjem tajnosti.
(2) Zapisnik o obavljenom proračunskom nadzoru iz članka 147. stavka 1. ovoga Zakona može se dostaviti samo sudovima, tijelima državne uprave i drugim državnim tijelima na njihov obrazloženi pisani zahtjev u sudskim, prekršajnim i upravnim postupcima iz njihove nadležnosti.

86 **Article 147**[371] **Minutes of budget supervision**

(1) The budget supervision inspector is obliged to draw up a record of the completed budget supervision.

(2) The minutes referred to in paragraph 1 of this Article shall be submitted to the responsible person of the subject of supervision.

(3) The responsible person of the subject of supervision has the right to make comments in written form on the record of the performed budget supervision within 15 days from the date of receipt of the record.

(4) If the objections of the subject of supervision from paragraph 3 of this Article are not accepted, the budget supervision inspector is obliged to submit a written response to the objections to the responsible person of the subject of supervision within 15 days from the day of receipt of the objections.

(5) If new facts and material evidence are presented in the written comments, which should change the factual situation established in the record, the budget control inspector will draw up a supplemental record on such facts and material evidence.

(6) The supplementary record from paragraph 5 of this article shall be submitted by the budget supervision inspector to the responsible person of the subject of supervision within 15 days from the day of receiving the objection.

(7) The responsible person of the subject of supervision does not have the right to comment on the supplementary record from paragraph 5 of this article.

[371] **Članak 147 Zapisnik o obavljenom proračunskom nadzoru**

(1) O obavljenom proračunskom nadzoru inspektor proračunskog nadzora dužan je sastaviti zapisnik.

(2) Zapisnik iz stavka 1. ovoga članka dostavlja se odgovornoj osobi subjekta nadzora.

(3) Na zapisnik o obavljenom proračunskom nadzoru odgovorna osoba subjekta nadzora ima pravo uložiti primjedbe u pisanom obliku u roku od 15 dana računajući od dana primitka zapisnika.

(4) Ako primjedbe subjekta nadzora iz stavka 3. ovoga članka nisu prihvaćene, inspektor proračunskog nadzora dužan je u roku od 15 dana od dana primitka primjedbi dostaviti pisani odgovor na primjedbe odgovornoj osobi subjekta nadzora.

(5) Ako su u pisanim primjedbama iznesene nove činjenice i materijalni dokazi zbog kojih bi trebalo promijeniti činjenično stanje utvrđeno u zapisniku, inspektor proračunskog nadzora će o takvim činjenicama i materijalnim dokazima sastaviti dopunski zapisnik.

(6) Dopunski zapisnik iz stavka 5. ovoga članka inspektor proračunskog nadzora dužan je u roku od 15 dana od dana primitka primjedbi dostaviti odgovornoj osobi subjekta nadzora.

(7) Odgovorna osoba subjekta nadzora na dopunski zapisnik iz stavka 5. ovoga članka nema pravo uložiti primjedbe.

(5) Support to the inspectors (Customs Code, General Tax Code)

The Budget Act asks the economic operators to support inspectors: **87**

Article 152[372] **Obligation of the subject of supervision to participate in the supervision procedure**

(1) The responsible person of the subject of supervision or a person authorized by him is obliged to participate in the supervision procedure and, at the request of the budgetary supervision inspector, provide all necessary documentation for inspection.

(2) The person in charge of the subject of supervision is obliged to facilitate the unhindered performance of budget supervision while ensuring appropriate working conditions.

The facilitation, which is an **aspect of support** to someone is requested as well by the Croatian General Act on Administrative Procedure: **88**

Article 69 The duty to facilitate the implementation of the investigation[373] **89**

(1) The owner, that is, the possessor of things on which an inspection needs to be carried out, is obliged to allow the inspection to be carried out. The damage caused by the inspection is included in the total costs of the procedure.

(2) If the owner or possessor of the item, that is, another person, prevents the inspection without justifiable reason, the official may, by decision, fine them in the amount of up to 50% of the average annual gross salary earned in the Republic of Croatia in the previous year, and they can be used to carry out the inspection and other appropriate measures that will enable its implementation, including direct coercion with the help of the police. An appeal against a decision on a fine does not delay the execution of the decision.

[372] **Članak 152 Obveza sudjelovanja subjekta nadzora u postupku nadzora**

(1) Odgovorna osoba subjekta nadzora ili od nje ovlaštena osoba dužna je sudjelovati u postupku nadzora i na zahtjev inspektora proračunskog nadzora dati na uvid svu potrebnu dokumentaciju.

(2) Odgovorna osoba subjekta nadzora dužna je omogućiti nesmetano obavljanje proračunskog nadzora uz osiguranje odgovarajućih uvjeta rada.

[373] Dužnost omogućivanja provedbe očevida

Članak 69

(1) Vlasnik, odnosno posjednik stvari na kojima je potrebno obaviti očevid dužni su dopustiti da se očevid provede. Šteta koja nastane provedbom očevida uračunava se u ukupne troškove postupka.

(2) Ako vlasnik ili posjednik stvari, odnosno druga osoba bez opravdanog razloga onemogući obavljanje očevida, službena osoba može ih rješenjem novčano kazniti u iznosu do 50% prosječne godišnje bruto plaće ostvarene u Republici Hrvatskoj u prethodnoj godini, a za provedbu očevida mogu se upotrijebiti i druge prikladne mjere koje će omogućiti njegovu provedbu, uključujući i neposrednu prisilu uz pomoć policije. Žalba na rješenje o novčanoj kazni ne odgađa izvršenje rješenja.

(3) Službena osoba zatražit će u pisanom obliku pomoć policije ako se očevid nije mogao obaviti zbog neopravdanog protivljenja vlasnika, posjednika ili drugih osoba ili kad se pri obavljanju očevida opravdano očekuje pružanje otpora.

(4) Nadležno policijsko tijelo dužno je pružiti zatraženu pomoć pri očevidu, sukladno propisima o postupanju policije.

(3) An official will request in writing the assistance of the police if the investigation could not be carried out due to unjustified opposition from the owner, possessor or other persons or when resistance is reasonably expected during the investigation.
(4) The competent police body is obliged to provide the requested assistance during the investigation, in accordance with the regulations on police conduct.

(6) General Rules on Securing Evidence

90 In the administrative procedure it might be necessary to secure evidence (e.g. documents, things etc.). The General Administrative Procedure Act contains provisions, which relate to this matter:

91

Chapter III.
PROVING AND RULES ON EVIDENCE
Article 58 Evidence[374]
(1) The official person in the procedure determines the factual situation by all means suitable for proof, and for this purpose can obtain documents, hear witnesses, obtain the findings and opinion of an expert and conduct an investigation.
(2) It is not necessary to prove facts about which public law bodies keep official records, commonly known facts, facts known to an official, or facts assumed by the regulation, but it is allowed to prove the non-existence of these facts.

Article 59 Securing evidence[375]
(1) Securing evidence is carried out by an official person ex officio or at the request of a party.
(2) When the procedure is initiated ex officio, and there is a justified suspicion that a particular piece of evidence will not be able to be presented later in the course of the procedure or that its presentation will be difficult, in order to secure the evidence, that

[374] Glava III.
DOKAZIVANJE
Dokazi
Članak 58
(1) Službena osoba u postupku utvrđuje činjenično stanje svim sredstvima prikladnim za dokazivanje te u tu svrhu može pribaviti isprave, saslušati svjedoke, pribaviti nalaz i mišljenje vještaka i obaviti očevid.
(2) Nije potrebno dokazivati činjenice o kojima javnopravna tijela vode službenu evidenciju, općepoznate činjenice, činjenice koje su poznate službenoj osobi ni činjenice koje propis pretpostavlja, ali je dopušteno dokazivati nepostojanje tih činjenica.
[375] Osiguranje dokaza
Članak 59
(1) Osiguranje dokaza provodi službena osoba po službenoj dužnosti ili na prijedlog stranke.
(2) Kad se postupak pokreće po službenoj dužnosti, a postoji opravdana sumnja da se pojedini dokaz neće moći izvesti kasnije u tijeku postupka ili da će njegovo izvođenje biti otežano, radi osiguranja dokaza taj se dokaz može izvesti u tijeku cijelog postupka i prije nego što je postupak pokrenut.
(3) Za osiguranje dokaza prije pokretanja postupka nadležno je tijelo državne uprave prvog stupnja nadležno za poslove opće uprave na području kojeg se nalazi stvar koju treba razgledati ili na kojem borave osobe koje treba saslušati, odnosno drugo javnopravno tijelo zamoljeno za pravnu pomoć, ako nije drukčije propisano.
(4) O osiguranju dokaza donosi se rješenje koje ne prekida tijek postupka.

piece of evidence can be presented during the entire procedure and before the procedure has been initiated.
(3) In order to secure evidence before starting the procedure, the first-level state administration body responsible for general administration in the area where the matter to be examined is located or where the persons to be heard reside, i.e. another public law body requested for legal assistance, if not otherwise prescribed.
(4) A decision shall be made on securing evidence that does not interrupt the course of the proceedings.

Article 60 Documents[376]
(1) Evidence shall be provided by public or private documents. The document can also be in electronic form.
(2) Public documents in the sense of this Act are considered to be documents issued by competent courts or public law bodies within the limits of their jurisdiction and in the prescribed form. Public documents prove what they establish or confirm.
(3) If there is any doubt about the authenticity of a document, an official will check the authenticity of such a document ex officio or at the request of a party with the court or public law body that issued such a document.

Article 61 Obtaining documents[377]
(1) The party or other person who has the document required as evidence in the proceedings is obliged to provide access to the document at the request of an official.
(2) If the natural person with whom the document is located, refuses to give the document to an official for inspection without justifiable reason, the decision will result in a fine of up to 50% of the average annual gross salary earned in the Republic of Croatia in the previous year. If the legal entity with which the document is located refuses to give the document to an official for inspection without justifiable reason, the decision

[376] Isprave
Članak 60
(1) Dokazivanje se izvodi javnim ili privatnim ispravama. Isprava može biti i u elektroničkom obliku.
(2) Pod javnim ispravama u smislu ovoga Zakona smatraju se isprave koje su izdali nadležni sudovi ili javnopravna tijela u granicama svoje nadležnosti i u propisanom obliku. Javne isprave dokazuju ono što se njima utvrđuje ili potvrđuje.
(3) Ako postoji sumnja u vjerodostojnost isprave, službena osoba provjerit će po službenoj dužnosti ili na zahtjev stranke vjerodostojnost takve isprave kod suda, odnosno javnopravnog tijela koji su takvu ispravu izdali.
[377] Pribavljanje isprava
Članak 61
(1) Stranka ili druga osoba kod koje se nalazi isprava potrebna kao dokaz u postupku dužna je omogućiti uvid u ispravu na zahtjev službene osobe.
(2) Ako fizička osoba kod koje se nalazi isprava, bez opravdanog razloga odbije dati ispravu na uvid službenoj osobi, rješenjem će se novčano kazniti u iznosu do 50% prosječne godišnje bruto plaće ostvarene u Republici Hrvatskoj u prethodnoj godini. Ako pravna osoba kod koje se nalazi isprava bez opravdanog razloga odbije dati ispravu na uvid službenoj osobi, rješenjem će se novčano kazniti odgovorna osoba te pravne osobe u iznosu do tri prosječne godišnje bruto plaće ostvarene u Republici Hrvatskoj u prethodnoj godini. Žalba na rješenje o novčanoj kazni ne odgađa izvršenje rješenja.

will fine the responsible person of that legal entity in the amount of up to three average annual gross salaries earned in the Republic of Croatia in the previous year. An appeal against a decision on a fine does not delay the execution of the decision.

g) Single measures

92 It is important to take a closer look at single measures as the thresholds for Investigations stem from the details in the law.

aa. Interviewing/Questioning of "persons concerned" (in relation to suspects/ defendants)

93 Persons concerned may be interviewed if they are informed about their status and their rights according to the Croatian Constitution and the relevant Acts, such as the Administrative Procedure Code, the Tax Code, the Customs Code, and the relevant Acts from the area of budget spending (Budget Act, Structural Funds Acts established according to the EU Regulations):

bb. The taking of statements from Economic Operators

94 In the area of customs controls:

95

3. Verification of identity of persons
Article 33 Law on Customs Service
(1) An authorized customs official may, when performing supervision, check the identity of persons.
(2) Verification of a person's identity is carried out by inspecting their identity card, travel document or other public document with a photo.
(3) As an exception to paragraph 2 of this article, the verification of identity may be carried out on the basis of the testimony of the person whose identity has been verified.
(4) When verifying the identity of a person, the authorized customs officer is obliged to inform the person of the reason for verifying his identity.
(5) An authorized customs officer may withhold notification of the real reason for identity verification and of his capacity if this could jeopardize the achievement of the control objective.
(6) If the identity of the person referred to in paragraph 1 of this article cannot be verified based on the available data, the determination of identity will be requested from the competent police department.

cc. Interviewing/Questioning of witnesses

General provisions on witnesses and hearing them can be found mainly in the General Act on Administrative Procedure: **96**

Article 62 Witnesses[378] **97**

(1) A witness can be any person who is considered to have knowledge of certain facts and who can communicate his knowledge.
(2) The summons shall be delivered to the witness in writing eight days before the day of the testimony.

Article 63 Obligation to testify[379]

(1) Every person summoned as a witness is obliged to testify.
(2) The witness will be instructed that he has the right to withhold testimony, i.e. answers to certain questions that would incriminate himself, his relatives in the direct line, and in the collateral line up to the third degree of consanguinity inclusive, his spouse or in-law relatives up to the second degree of consanguinity inclusive, so and then, when the marriage ended, and exposed the guardian and wards, i.e. the adopter and the adopted, to criminal prosecution, severe shame or considerable material damage.
(3) The witness will be instructed that he has the right to withhold answers to certain questions that he could not answer without violating the secrecy established by the regulations, and in particular to questions about what the party entrusted to him as his proxy or confessed as a religious confessor.
(4) A witness may not, due to the risk of property damage, withhold testimony about legal affairs in which he was present as a witness, recorder or mediator, i.e. about actions

[378] Svjedoci Članak 62
(1) Svjedok može biti svaka osoba za koju se smatra da ima saznanja o određenim činjenicama i koja svoja saznanja može priopćiti.
(2) Svjedoku se poziv dostavlja u pisanom obliku osam dana prije dana svjedočenja.
[379] Obveza svjedočenja Članak 63
(1) Svaka osoba pozvana kao svjedok dužna je svjedočiti.
(2) Svjedoka će se poučiti da ima pravo uskratiti svjedočenje, odnosno odgovore na pojedina pitanja kojima bi sebe, svoje srodnike u ravnoj liniji, a u pobočnoj liniji do trećeg stupnja srodstva zaključno, bračnog druga ili srodnike po tazbini do drugog stupnja srodstva zaključno, pa i onda kad je brak prestao, te skrbnika i štićenika, odnosno posvojitelja i posvojenika izložio kaznenom progonu, teškoj sramoti ili znatnoj materijalnoj šteti.
(3) Svjedoka će se poučiti da ima pravo uskratiti odgovore i na pojedina pitanja na koja ne bi mogao odgovoriti, a da ne povrijedi propisima utvrđenu tajnu, a posebice na pitanja o onome što mu je stranka povjerila kao svojem opunomoćeniku ili ispovjedila kao vjerskom ispovjedniku.
(4) Svjedok ne može, zbog opasnosti od imovinske štete, uskratiti svjedočenje o pravnim poslovima kojima je bio nazočan kao svjedok, zapisničar ili posrednik odnosno o radnjama koje je poduzeo u vezi sa spornim odnosom kao pravni prednik ili zastupnik jedne od stranaka te o drugim radnjama o kojima je na temelju propisa dužan podnijeti prijavu ili dati izjavu.
(5) Kad to službena osoba ocijeni potrebnim, svjedok mora učiniti vjerojatnima razloge uskrate svjedočenja, odnosno odgovora na pojedina pitanja.

he undertook in connection with the disputed relationship as a legal ancestor or representative of one of the parties, and about other actions about which, based on the regulations, he is obliged to submit a report or make a statement.
(5) When the official deems it necessary, the witness must make plausible the reasons for refusing to testify, that is, to answer certain questions.

Article 64 Witness hearing[380]
(1) The witness will be heard without the presence of other witnesses. When several witnesses are called, the witness who has been questioned may not leave the official premises of the public law body or the place of investigation without permission, before hearing the other witnesses. The witness who has been questioned can be heard again, that is, confronted with other witnesses if their statements do not match.
(2) A witness who cannot respond to a summons due to illness or another justified reason may be questioned in his apartment or in another suitable place.
(3) When the witness does not know the language in which the proceedings are conducted, he will be heard through an interpreter. A witness who is deaf will be asked questions in written form, and if he is mute, he will answer in written form. When the hearing of the witness cannot be done in this way, a person who can communicate with the witness will be called as an interpreter.
(4) The following personal information will be taken from the witness: personal name, date and place of birth, occupation and place of residence, or place of residence if he does not have a residence in the territory of the Republic of Croatia, and his relationship with the parties.
(5) If an official suspects that there are certain reasons that cast doubt on the objectivity of the witness, the witness will be questioned about those circumstances as well.

[380] Saslušanje svjedoka Članak 64
(1) Svjedoka će se saslušati bez nazočnosti ostalih svjedoka. Kad je pozvano više svjedoka, svjedok koji je ispitan ne smije napustiti službene prostorije javnopravnog tijela ili mjesto očevida bez dopuštenja, prije saslušanja ostalih svjedoka. Svjedok koji je ispitan može se ponovo saslušati, odnosno suočiti s ostalim svjedocima ako se njihovi iskazi ne podudaraju.
(2) Svjedok koji se zbog bolesti ili drugog opravdanog razloga ne može odazvati pozivu može se ispitati u svojem stanu ili na drugom prikladnom mjestu.
(3) Kad svjedok ne zna jezik na kojem se vodi postupak, saslušat će se preko prevoditelja. Svjedoku koji je gluh pitanja će se postavljati u pisanom obliku, a ako je nijem, odgovarat će u pisanom obliku. Kad se saslušanje svjedoka ne može obaviti na taj način, kao tumač pozvat će se osoba koja se sa svjedokom može sporazumjeti.
(4) Od svjedoka će se uzeti sljedeći osobni podaci: osobno ime, datum i mjesto rođenja, zanimanje i mjesto prebivališta, odnosno boravišta ako nema prebivalište na području Republike Hrvatske te srodstvo, odnosno u kakvom je odnosu sa strankama.
(5) Ako službena osoba posumnja da postoje određeni razlozi koji dovode u sumnju objektivnost svjedoka, svjedoka će se ispitati i o tim okolnostima.
(6) Svjedoka će se prethodno upozoriti da je dužan govoriti istinu i da ne smije ništa prešutjeti. Svjedoku će se predočiti posljedice davanja lažnog iskaza.
(7) Svjedoku će se postavljati samo pitanja o upravnoj stvari koja je predmet postupka i pozvat će se da iznese sve ono što mu je o tome poznato. Nije dopušteno postavljati pitanja na način kojim bi se svjedoka uputilo kako odgovoriti.
(8) Kad je svjedok maloljetna osoba saslušat će se uz prisutnost zakonskog zastupnika.

(6) The witness will be warned in advance that he is obliged to tell the truth and that he must not keep anything silent. The witness will be presented with the consequences of giving a false testimony.
(7) The witness will only be asked questions about the administrative matter that is the subject of the procedure and will be invited to state everything he knows about it. It is not allowed to ask questions in a way that would instruct the witness how to answer.
(8) When the witness is a minor, he will be heard in the presence of a legal representative.

The Law on Customs Service, a specific law with specifications on the administrative procedure in this area, provides for the following provisions: **98**

99

5. Summoning
Article 35
(1) Unless otherwise prescribed by a special law, a person who is likely to have information useful for conducting surveillance may be invited to an interview for the purpose of gathering information.
(2) The summons must indicate the name, place and address of the organizational unit of the Customs Administration, the reason, place and time of the summons.
(3) A person who responded to a summons and refuses to give notice may not be summoned again for the same reason.

Article 36
(1) Persons referred to in Article 35 of this Act may be summoned between the hours of 06:00 and 22:00.
(2) If there is a risk of delay in collecting information from Article 35 of this Act, the authorized customs officer may summon the person from whom information is requested outside the time prescribed in paragraph 1 of this Article.

Article 37
(1) An authorized customs officer summons a person in writing, orally or by using an appropriate communication device, and is obliged to inform him of the reason for the summons. With the consent of the person, he can also transport him to the official premises.
(2) In exceptional cases, a person may be summoned by means of public communication when it is absolutely necessary due to the risk of delay, the security of proceedings or when the summons is addressed to a large number of persons.
(3) At the request of the invited person who joined on the basis of the invitation, a certificate of accession will be issued.

dd. Inspections

100 Inspections are very important tools within an on-the-spot check. They are allowed by the relevant Acts in the area of the most prominent frauds, such as tax and customs frauds to the detriment of the Union's budget:

101

[Excerpt Tax Administration Act]
Article 13
(1) Tax Administration officials shall be authorised to carry out procedures and actions in accordance with the provisions of this Act, the General Tax Act, act governing individual types of taxes, contributions and other public dues and other regulations relating to taxation and fiscalization in cash transactions.
(2) Officials carrying out tax audit, other than the powers referred to in paragraph 1 of this Article, shall also be authorized to:
1. temporarily confiscate objects, domestic or foreign means of payment, securities and documentation that may be used as evidence in a misdemeanour or criminal procedures
2. temporarily ban business operations by sealing plants, equipment or premises in which business activity is performed, in accordance with special laws
(3) Officials carrying out collection and enforced collection, other than the powers referred to in paragraph 1 of this Article, shall be authorized to:
1. take indicative declaration and indicative list of property
2. verify business books and records of taxpayers and verify the authenticity and integrity of documents
3. access the land and premises in which the taxpayer performs their activity and inspect them
4. establish the identity of persons
5. issue warnings and orders
6. carry out enforced collection by listing, confiscating, evaluating and selling movable assets, claims and other property rights.
(4) Officials working *ex officio* on fighting tax frauds and the officials of Independent Division for Financial Investigations are the investigators in tax procedure having the powers of collecting and using evidence in tax procedure, collected via law enforcement authorities. In view of preventing, detecting and investigating tax frauds, other than the powers referred to in paragraphs 1 and 2 of this Article, they shall be authorised to:
1. in proceedings, apply accordingly the provisions of Criminal Procedures Act
2. undertake other actions and procedures stipulated under special laws, with the purpose of collecting data and evidence that may serve for prevention, detection and investigation of tax frauds

3. establish international cooperation and cooperation with bodies governed by public law for the purpose of fighting tax frauds.
(5) Powers for carrying out tax audit, collection, fighting tax frauds and internal supervision shall be proven by an official identification card and badge.
(6) Powers for carrying out activities referred to in Article 9, paragraph 1, item 11 of this Act, and powers for carrying out verification procedures by the official of a local office of the Tax Administration shall be proved by official identification card.
(7) Minister of Finance shall prescribe the content and form of the official identification card and badge by virtue of ordinance.
(8) Minister of Finance shall prescribe the handling of temporarily confiscated objects, domestic and foreign means of payment, securities and documentation by virtue of an ordinance.

Article 14
(1) Authorised official of the Tax Administration appointed as investigator by the State Attorney's Office of the Republic of Croatia shall conduct inquiry entrusted on him by competent state attorney in accordance with the provisions of the Criminal Procedures Act and regulations from the competency of the Tax Administration
(2) State Attorney's Office of the Republic of Croatia may appoint the authorised officials referred to in paragraph 1 of this Article upon the proposal of the Director General.

See as well → Article 14 Law on Customs Service for the inspections in the customs area. The Law on Customs Service contains more provisions – e.g., provisions that relate to means of transport etc.: **102**

10. Monitoring, stopping, inspection and search of means of transport **103**
Article 48
(1) An authorized customs officer may monitor, stop, inspect and search means of transport during supervision.
(2) Persons who operate means of transport subject to the authority referred to in paragraph 1 of this article are obliged to stop at the control point designated by the authorized customs officer by giving the signs prescribed by the ordinance from paragraph 7 of this article and, upon request of the authorized customs officer, must provide all necessary information and show him the goods they are transporting or transporting.
(3) The inspection of the means of transport means the inspection of the space and all the things in it.
(4) If, during the inspection of the means of transport, grounds for suspicion of a violation of the regulations under the jurisdiction of the Customs Administration are determined, the authorized customs officer has the right to search all parts of the means of transport, including things in them, and using technical aids has the right to disassemble

individual parts of the means of transport. If necessary, an expert will be called to provide professional assistance.
(5) If, after the search and disassembly of the means of transport, it is established that there was no violation of regulations, the means of transport shall be returned to its original condition.
(6) The authorized customs officer will draw up a record of the performed search and disassembly of the means of transport.
(7) The manner of action of authorized customs officers when stopping means of transport shall be prescribed by the ordinance of the Minister of Finance.

ee. Searches and seizures and coercive powers

104 In the area of customs investigations the Law on the Customs Service applies. In the area of budgetary controls the Budget Act applies. In normal administrative proceedings the Administrative Law applies and in expenditure proceedings relating to funds the Budget Law applies, too.

105 **Article 14 Law on Customs Service**[381]
(1) The customs authorities' powers prescribed by this Law are:
1 collection, assessment, recording, processing and use of data and information,
2 review of documentation and verification of the authenticity and veracity of documents,
3 verification of identity of persons,
4 checking the status and properties of the goods,
5 calling,
6 giving warnings and orders,
7 temporary restriction of freedom of movement,
8 examination of persons,
9 goods review,
10 tracking, stopping, inspection and search of means of transport,

[381] Članak 14
(1) Carinske ovlasti propisane ovim Zakonom su:
1. prikupljanje, procjena, evidentiranje, obrada i korištenje podataka i obavijesti,
2. pregled dokumentacije te provjere vjerodostojnosti i istinitosti isprava,
3. provjera istovjetnosti osoba,
4. provjera statusa i svojstva robe,
5. pozivanje,
6. davanje upozorenja i naredbi,
7. privremeno ograničenje slobode kretanja,
8. pregled osoba,
9. pregled robe,
10. praćenje, zaustavljanje, pregled i pretraga prometnih sredstava,
11. ulazak, pregled i pretraga poslovnih prostorija, prostora i objekata,
12. privremeno oduzimanje robe i isprava,
13. uporaba sredstava prisile.
(2) Pojedine carinske ovlasti mogu se propisati i drugim zakonom.

11 entry, inspection and search of business premises, premises and facilities,
12 temporary confiscation of goods and documents,
13 use of coercive means.
(2) Certain customs powers may be prescribed by another law.

11. Entry, inspection and search of business premises, premises and facilities
Article 49[382]
(1) In order to carry out supervision, an authorized customs officer may enter, inspect and search business premises, premises, land and facilities.
(2) Commercial premises in the sense of paragraph 1 of this Article shall also be considered residential premises designated as the headquarters of a legal or natural person performing an activity or if it is used as a commercial premises.
(3) Before entry and the inspection referred to in paragraph 1 of this article, the authorized customs officer shall inform the responsible person and ask him to attend the inspection. Exceptionally, if special circumstances require it, the authorized customs officer can give the notification even after entering and starting the inspection. The reason for entering and starting the examination without prior notification of the responsible person will be explained separately in the minutes from paragraph 5 of this article.
(4) Inspection and search of other premises and spaces can only be done based on the approval of the judicial authority.
(5) The authorized customs officer shall draw up a record of the actions referred to in this Article.

[382] 11. Ulazak, pregled i pretraga poslovnih prostorija, prostora i objekata
Članak 49
(1) Ovlašteni carinski službenik radi provođenja nadzora može ući, pregledati i pretražiti poslovne prostorije, prostore, zemljišta i objekte.
(2) Poslovnim prostorom u smislu stavka 1. ovoga članka smatra se i stambeni prostor naznačen kao sjedište pravne ili fizičke osobe koja obavlja djelatnost ili ako se koristi kao poslovni prostor.
(3) Ovlašteni carinski službenik će prije ulaska i pregleda iz stavka 1. ovoga članka izvijestiti odgovornu osobu i zatražiti da prisustvuje pregledu. Iznimno, ako to nalažu posebne okolnosti, ovlašteni carinski službenik obavijest može dati i nakon ulaska i otpočinjanja pregleda. Razlog ulaska i otpočinjanja pregleda bez prethodnog obavještavanja odgovorne osobe posebno će se obrazložiti u zapisniku iz stavka 5. ovoga članka.
(4) Pregled i pretragu ostalih prostorija i prostora moguće je obaviti samo na temelju odobrenja tijela sudbene vlasti.
(5) Ovlašteni carinski službenik o radnjama iz ovoga članka sastavlja zapisnik.

12. Temporary confiscation of goods and documents

Article 50 Law on Customs Service[383]

(1) An authorized customs officer, when performing supervision, will temporarily confiscate goods whose circulation is prohibited or restricted or for which a mandatory measure of confiscation of goods is prescribed.

(2) An authorized customs officer may temporarily seize other goods that are the subject of illegal handling while performing supervision, for the purpose of handling according to special regulations.

(3) Unless otherwise prescribed by a separate law, the goods referred to in paragraph 2 of this article may be temporarily seized also for the purpose of ensuring the collection of public duties arising as a result of illegal handling of the goods.

Article 51 Law on Customs Service[384]

An authorized customs officer may temporarily confiscate domestic or foreign means of payment in accordance with foreign exchange and other regulations during supervision.

Article 52 Law on Customs Service[385]

(1) An authorized customs officer may temporarily confiscate or prohibit the disposal of documents and data holders from Article 32 of this Act for a period of no longer than 15 days while performing supervision.

(2) When it is necessary for the purpose of securing evidence, establishing irregularities, or if the supervised person used the documents and data holders from paragraph 1 of

[383] 12. Privremeno oduzimanje robe i isprava
Članak 50
(1) Ovlašteni carinski službenik pri obavljanju nadzora privremeno će oduzeti robu čiji je promet zabranjen ili ograničen ili za koju je propisana obvezatna mjera oduzimanja robe.
(2) Ovlašteni carinski službenik može pri obavljanju nadzora privremeno oduzeti i drugu robu koja je predmet nezakonitog postupanja, a radi postupanja po posebnim propisima.
(3) Ako drugačije nije propisano posebnim Zakonom, roba iz stavka 2. ovoga članka može se privremeno oduzeti i radi osiguranja naplate javnih davanja nastalih kao posljedica nezakonitog postupanja s robom.

[384] Članak 51
Ovlašteni carinski službenik može pri obavljanju nadzora privremeno oduzeti domaća ili strana sredstva plaćanja u skladu s deviznim i drugim propisima.

[385] Članak 52
(1) Ovlašteni carinski službenik može pri obavljanju nadzora privremeno oduzeti ili zabraniti raspolaganje ispravama i nositeljima podataka iz članka 32. ovoga Zakona za razdoblje ne dulje od 15 dana.
(2) Kada je to potrebno radi osiguranja dokaza, utvrđivanja nepravilnosti ili ako je nadzirana osoba isprave i nositelje podataka iz stavka 1. ovoga članka koristila za kršenje propisa iz nadležnosti Carinske uprave, odnosno ako je do njih došla kršenjem tih propisa isti se mogu zadržati do okončanja postupka.
(3) Osoba čije su isprave privremeno oduzete može zahtijevati da joj se isprave i nositelji podataka vrate i prije isteka roka zabrane raspolaganja, odnosno privremenog oduzimanja ako dokaže da su joj nužne u poslovanju.
(4) O zahtjevu iz stavka 3. ovoga članka odlučuje se rješenjem u roku od tri dana od dana podnošenja.

this article to violate the regulations under the jurisdiction of the Customs Administration, or if he obtained them by violating those regulations, they may be retained until the end of the procedure.
(3) A person whose documents have been temporarily confiscated may demand that the documents and data holders be returned to him even before the expiration of the period of prohibition of disposal, i.e. temporary confiscation, if he proves that they are necessary for his business.
(4) The request referred to in paragraph 3 of this Article shall be decided by decision within three days from the date of submission.

Article 53 Law on Customs Service[386]
(1) A certificate is issued for the temporary confiscation of goods, domestic and foreign means of payment, documents and data holders.
(2) The certificate must contain the basic features of the temporarily confiscated goods, domestic and foreign means of payment, documents and data holders by which they can be identified, and information about the person from whom they were confiscated.
(3) After issuing the certificate of temporary confiscation of goods referred to in Article 50, paragraph 3 of this Act, the competent organizational unit of the Customs Administration shall issue a decision within 30 days determining the period of retention of the goods until the completion of the procedure for calculation and collection of due public duties. If an appropriate instrument is submitted to secure payment in the amount of the corresponding debt, temporarily confiscated goods will be returned to the person from whom they were confiscated. A debt security instrument can also be filed by another person.

[386] Članak 53
(1) O privremenom oduzimanju robe, domaćih i stranih sredstava plaćanja, isprava te nositelja podataka izdaje se potvrda.
(2) Potvrda mora sadržavati osnovne značajke privremeno oduzete robe, domaćih i stranih sredstava plaćanja, isprava te nositelja podataka po kojima ih se može identificirati te podatke o osobi od koje su oduzeti.
(3) Nakon izdavanja potvrde o privremenom oduzimanju robe iz članka 50. stavka 3. ovoga Zakona nadležna ustrojstvena jedinica Carinske uprave u roku od 30 dana donosi rješenje kojim se određuje rok zadržavanja robe do okončanja postupka obračuna i naplate dužnih javnih davanja. Ako se podnese primjereni instrument osiguranja plaćanja u visini pripadajućeg duga, privremeno oduzeta roba vratit će se osobi od koje je oduzeta. Instrument osiguranja duga može podnijeti i druga osoba.

13. Use of coercive means

Article 54 Law on Customs Service[387]

(1) An authorized customs official may use means of coercion when performing supervision only if he is assigned to a position designated as such by the Ordinance on Internal Order of the Ministry of Finance and if he has passed an exam in accordance with the prescribed training program.

(2) The training program for authorized customs officers referred to in paragraph 1 of this article shall be prescribed by the ordinance of the Minister of Finance.

Article 55 Law on Customs Service

(1) An authorized customs official from Article 54, paragraph 1 of this Act may use coercive means under the conditions provided for in this Act.

(2) Means of coercion in the sense of this Act are physical force, a sprayer with an irritating substance, means of binding and firearms.

(3) The authorized customs officer from Article 54, paragraph 1 of this Act will always use the mildest means of coercion that guarantees success.

(4) The authorized customs officer shall stop using the means of coercion immediately after the end of the reasons for which the means of coercion were used.

(5) Means of coercion are used after prior warning, unless it is likely that prior warning would jeopardize the achievement of the goal.

(6) The manner of using means of coercion shall be prescribed by the ordinance of the Minister of Finance.

Article 56 Law on Customs Service

The use of physical force in the sense of this Act is considered the use of various martial arts interventions or similar procedures on the body of another person whose goal is to repel an attack or overcome a person's resistance while causing the least harmful consequences.

Article 57 Law on Customs Service

An authorized customs official may use a sprayer with an irritating substance when the conditions for the use of physical force are met, except in cases of overcoming passive resistance.

[387] 13. Uporaba sredstava prisile
Članak 54
(1) Ovlašteni carinski službenik pri obavljanju nadzora može uporabiti sredstva prisile samo ako je raspoređen na radno mjesto koje je takvim određeno Pravilnikom o unutarnjem redu Ministarstva financija i ako je položio ispit sukladno propisanom programu obuke.
(2) Program obuke za ovlaštene carinske službenike iz stavka 1. ovoga članka pravilnikom propisuje ministar financija.

Article 58 Law on Customs Service
Binding agents are allowed to be used to prevent:
1. a person's resistance or rejection of an attack aimed at an authorized customs officer,
2. escape of person,
3. self-injury or injuring another person.

Article 59 Law on Customs Service
(1) An authorized customs official from Article 54, paragraph 1 of this Act is authorized to carry firearms and ammunition throughout the entire territory of the Republic of Croatia.
(2) An authorized customs official from Article 54, paragraph 1 of this Act is authorized to carry firearms and ammunition while performing duties in uniform, and exceptionally in civilian clothes.
(3) An authorized customs official from Article 54, paragraph 1 of this Act is authorized to use firearms when he cannot protect his life or the lives of other persons in any other way.
(4) Before using a firearm, an authorized customs officer must issue a verbal order to the person against whom he will use a firearm by exclaiming: "STOP, CUSTOMS!", followed by a warning and command: "STOP, I WILL SHOOT!", and immediately before using a firearm, if the circumstances allow it, must warn the person about the intention to use a firearm as a means of coercion by shooting in the air.
(5) An authorized customs officer shall not issue a warning and order from paragraph 4 of this article if his life or the life of other persons is threatened due to a probable attack or the execution of official duties would be called into question.
(6) When the conditions for the use of firearms from this article are met, shooting in the air for the purpose of warning, as well as for the purpose of seeking help, is not considered the use of a firearm as a means of coercion in the sense of this Act.
(7) The use of firearms is not permitted when it endangers the lives of other persons, unless the use of firearms is the only means of defence against a direct attack or danger.
(8) The use of firearms is not permitted against children or minors, except when the use of firearms is the only way to defend against an attack or to eliminate danger.
(9) The manner of carrying and using firearms shall be prescribed by the ordinance of the Minister of Finance.
(10) The type of firearms and ammunition used by authorized customs officers from Article 54, paragraph 1 of this Act shall be prescribed by the Government of the Republic of Croatia.

ff. The seizure of digital forensic evidence including bank account information

106 The seizure of digital forensic evidence including bank account information becomes more and more important. The recent changes of the OLAF Regulation No 883/2013 (as amended 2020/2223) codified that OLAF shall under the same conditions that apply to national competent authorities have access to bank account information. The relevant national law shall be enumerated: Under Article 263 of the ZKP, the Croatian Criminal Procedure Act, law enforcement authorities can seize documents, electronic data, and other records if they are considered relevant for proving the commission of a crime. Art. 264 allows the seizure of digital data stored in computer systems. As the banking laws require that banks maintain the confidentiality of client information. However, in administrative penalty investigations, particularly those involving financial crimes such as tax evasion or money laundering, law enforcement agencies may demand the disclosure of bank account information through judicial means. Art. 114 of the General Tax Code relates to obligations of banks in relation to taxation matters.

107 Any investigation may be triggered by an internal audit, a complaint, or a report of irregularities to the relevant Croatian authorities (e.g., the Agency for the Audit of EU Programmes Implementation System or the State Audit Office). The access to bank account information requires either the consent of the natural person or legal entity (in cases, in which beneficiaries say that they have nothing to hide) or an administrative order requested by a formal letter to the bank providing access to banking records. If an agreement e.g. a funding or grant agreement includes a clause for access to banking information, this might be another solution to obtain information. The General Tax Code and the GDPR apply in relation to confidential information.

gg. Digital forensic operations within inspections or on-the-spot checks

108 Digital forensic operations within inspections or on-the-spot checks became more and more important in the last decade already. Bulgaria, which has included a special paragraph in the State Investigations Office Act, Article 31a makes a direct reference to Article 7 of the applicable provision of Regulation 2185/96 and is therefore a role model with regard to Digital forensic operations within inspections or on-the-spot checks of OLAF.

hh. Investigative missions in third countries

The customs officials of the Croatian Customs Service may operate abroad e.g. in Malaysia and join the customs authorities in this country if investigating a huge customs duties fraud case: **109**

Article 21[388] **110**

(1) According to the invitations of international organizations or on the basis of obligations arising from international agreements or other regulations, officers of the Customs Administration may participate in the performance of official tasks abroad.
(2) The Minister of Finance decides on the participation and performance of official tasks from paragraph 1 of this Article and on the appointment of an authorized customs officer upon the proposal of the director.
(3) The Minister of Finance issues written authorizations that determine the scope and duration of authorizations, as well as the tasks that can be performed by customs officials of other countries or international organizations when they operate in the Republic of Croatia on the basis of international agreements or other regulations.
(4) An authorized customs official may be sent to work abroad on the basis of established rules on international cooperation and special regulations.
(5) The rights and obligations of the authorized customs officer referred to in paragraph 4 of this article, as well as the procedure and conditions for assignment to work abroad, shall be prescribed by the Minister of Finance.
(6) Authorized customs officers at the invitation of international institutions, foreign customs and other administrations and professional organizations may participate in the work of projects as experts.
(7) The manner and conditions of participation in the work of the projects referred to in paragraph 6 of this article shall be prescribed by the ordinance of the Minister of Finance.

[388] Članak 21
(1) Prema pozivima međunarodnih organizacija ili na osnovi obveza koje proistječu iz međunarodnih ugovora ili drugih propisa službenici Carinske uprave mogu sudjelovati u obavljanju službenih zadaća u inozemstvu.
(2) O sudjelovanju i obavljanju službenih zadaća iz stavka 1. ovoga članka te o imenovanju ovlaštenog carinskog službenika odlučuje ministar financija na prijedlog ravnatelja.
(3) Ministar financija izdaje pisane ovlasti kojima određuje opseg i trajanje ovlasti, kao i zadatke koje mogu provoditi carinski službenici druge države ili međunarodne organizacije kada na osnovi međunarodnih ugovora ili drugih propisa djeluju u Republici Hrvatskoj.
(4) Ovlašteni carinski službenik može se uputiti na rad u inozemstvo na temelju utvrđenih pravila o međunarodnoj suradnji i posebnih propisa.
(5) Prava i obveze ovlaštenog carinskog službenika iz stavka 4. ovoga članka te postupak i uvjete upućivanja na rad u inozemstvo pravilnikom propisuje ministar financija.
(6) Ovlašteni carinski službenici na poziv međunarodnih institucija, stranih carinskih i drugih administracija i stručnih organizacija mogu sudjelovati u radu projekata kao stručnjaci.
(7) Način i uvjete sudjelovanja u radu projekata iz stavka 6. ovoga članka pravilnikom propisuje ministar financija.

h) National procedural rules for "checks and inspections" by the assisting national authority

111 Article 13 et seq. Tax Administration Act indicates that the General Tax Act and the Value Added Tax Act apply. Another example for national procedural rules for "checks and inspections" is Article 15 Law on Customs Service for Croatia:

Article 15 Law on Customs Service for Croatia[389]

(1) An authorized customs official, when exercising the powers prescribed by this Act and other regulations, is obliged to respect the dignity, reputation and honour of every person to whom the action taken relates, taking into account the protection of human rights and fundamental freedoms guaranteed by the Constitution of the Republic of Croatia and the law, and to comply with the provisions of the Code of Professional Ethics.

(2) The authorized customs officer treats children, minors, elderly and infirm persons and persons with disabilities with special consideration, taking into account their specific characteristics that can be observed.

(3) Customs authority against minors is applied in the presence of parents or guardians, unless this is not possible due to circumstances.

(4) The application of customs powers must be proportionate to the need for which they are undertaken.

(5) The application of customs powers must not cause more harmful consequences than those that would occur if customs powers were not applied.

(6) Among several customs powers, the authorized customs officer will apply the one that achieves its goal with the least harmful consequences and in the shortest time.

[389] Članak 15

(1) Ovlašteni carinski službenik kada primjenjuje ovlasti propisane ovim Zakonom i drugim propisima dužan je poštivati dostojanstvo, ugled i čast svake osobe na koju se poduzeta radnja odnosi, vodeći računa o zaštiti Ustavom Republike Hrvatske i zakonom zajamčenih ljudskih prava i temeljnih sloboda te poštivati odredbe Kodeksa profesionalne etike.

(2) Posebno obzirno ovlašteni carinski službenik postupa prema djeci, maloljetnim, starim i nemoćnim osobama te osobama s invaliditetom, uzimajući u obzir njihove specifične karakteristike koje se mogu opaziti.

(3) Carinska ovlast prema maloljetnoj osobi primjenjuje se u nazočnosti roditelja ili skrbnika, osim ako to zbog okolnosti nije moguće.

(4) Primjene carinskih ovlasti moraju biti razmjerne potrebi zbog kojih se poduzimaju.

(5) Primjena carinskih ovlasti ne smije izazvati veće štetne posljedice od onih koje bi nastupile da carinske ovlasti nisu primijenjene.

(6) Između više carinskih ovlasti ovlašteni carinski službenik primijenit će onu kojom se s najmanje štetnih posljedica i u najkraćem vremenu postiže njezin cilj.

Article 18 Law on Customs Service for Croatia[390]
(1) An authorized customs officer who performs customs duties in civilian clothes is obliged to introduce himself by showing an official badge and an official identity card before starting the application of customs authority.
(2) An authorized customs officer who performs customs duties in uniform is obliged to present himself at the request of the person against whom he will exercise customs authority by showing his official badge and official identity card.
(3) Exceptionally, the authorized customs officer shall not present himself in the manner specified in paragraphs 1 and 2 of this Article if the circumstances of the application of the customs authority indicate that this could jeopardize the achievement of its goal. Upon the termination of the aforementioned circumstances, the authorized customs officer shall present himself in the manner specified in paragraphs 1 and 2 of this article.
(4) It is considered that the circumstances referred to in paragraph 3 of this article exist in any case when the authorized customs officer, in the course of direct supervision, determines the essential elements of the execution of the required (prescribed) action or act by the subject of the supervision who directly performs these actions or acts in relation to authorized customs officer.

Article 19[391]
(1) In relation to a person with immunity, the authorized customs official acts in accordance with the international agreement and special regulation.
(2) The authorized customs officer immediately informs the superior management officer about the treatment in relation to the person with immunity.

[390] Članak 18
(1) Ovlašteni carinski službenik koji poslove carinske službe obavlja u civilnoj odjeći dužan je prije početka primjene carinske ovlasti predstaviti se pokazivanjem službene značke i službene iskaznice.
(2) Ovlašteni carinski službenik koji poslove carinske službe obavlja u odori dužan je na zahtjev osobe prema kojoj će primijeniti carinsku ovlast predstaviti se pokazivanjem službene značke i službene iskaznice.
(3) Iznimno, ovlašteni carinski službenik neće se predstaviti na način određen u stavku 1. i 2. ovoga članka ako okolnosti primjene carinske ovlasti ukazuju da bi to moglo ugroziti postizanje njezinog cilja. Po prestanku navedenih okolnosti ovlašteni carinski službenik će se predstaviti na način određen stavkom 1. i 2. ovoga članka.
(4) Smatra se da okolnosti iz stavka 3. ovoga članka u svakom slučaju postoje kada ovlašteni carinski službenik u provedbi neposrednog nadzora utvrđuje bitne elemente izvršenja dužne (propisane) radnje ili činidbe od strane subjekta nadzora koji te radnje ili činidbe izravno izvršava u odnosu prema ovlaštenom carinskom službeniku.
[391] Članak 19
(1) U odnosu na osobu s imunitetom, ovlašteni carinski službenik postupa u skladu s međunarodnim ugovorom i posebnim propisom.
(2) O postupanju u odnosu na osobu s imunitetom, ovlašteni carinski službenik odmah obavještava nadređenog rukovodećeg službenika.

Article 20[392] State and other bodies with public powers are obliged to provide expert and other assistance to the Customs Administration in the implementation of the duties of the customs service.

i) Cooperation with other state bodies and mutual assistance agreements

112 The Tax Administration Act requires the cooperation and mutual assistance of all authorities in this area:

113 **Article 15 Tax Administration Act**[393]
All bodies governed by public law shall be obliged to provide professional and other assistance to the Tax Administration in carrying out activities from its scope.

PART NINE – COOPERATION WITH OTHER BODIES
Article 27[394]
(1) Tax Administration shall cooperate with all bodies governed by public law, judicial authorities and other bodies exercising public authority and carrying out the assessment, collection and supervision of public dues.
(2) For the purpose of monitoring the regularity of assessing tax base and collection of tax liabilities, the Tax Administration shall cooperate and exchange data with domestic and foreign bodies governed by public law keeping official records on persons, business activities, receipts and on assets (real-estates, motor vehicles, vessels, airplanes, securities, accounts and other assets).
(3)[395] Domestic bodies governed by public law referred to in paragraph 2 of this Article shall enable the Tax Administration the exchange and timely availability of data from

[392] Članak 20
Državna i druga tijela s javnim ovlastima dužna su pružiti stručnu i drugu pomoć Carinskoj upravi pri provedbi poslova carinske službe.
[393] Članak 15. ZAKON O POREZNOJ UPRAVI
Sva javnopravna tijela dužna su pružati stručnu i drugu pomoć Poreznoj upravi u obavljanju poslova iz njezina djelokruga.
[394] DIO DEVETI SURADNJA S DRUGIM TIJELIMA
Članak 27 ZAKON O POREZNOJ UPRAVI
(1) Porezna uprava surađuje sa svim javnopravnim tijelima, tijelima sudbene vlasti i drugim tijelima koja imaju javne ovlasti i rade na utvrđivanju, naplati i nadzoru javnih davanja.
(2) Radi praćenja pravilnosti utvrđivanja porezne osnovice i naplate poreznih obveza Porezna uprava surađuje i razmjenjuje podatke s domaćim i inozemnim javnopravnim tijelima koja vode službene evidencije o osobama, djelatnostima, primicima i vlasništvu imovine (nekretnina, motornih vozila, plovila, zrakoplova, vrijednosnih papira, računa te ostale imovine).
[395] (3) Domaća javnopravna tijela iz stavka 2. ovoga članka omogućit će Poreznoj upravi razmjenu te pravodobnu dostupnost podataka iz službenih evidencija uspostavljanjem sustava elektroničkog pristupa podacima, razmjenom u realnom vremenu.
(4) Javnopravnim tijelima, kojima je u zakonom utvrđenom djelokrugu za provedbu postupaka nužno saznanje o vlasništvu imovine osoba, Porezna uprava kao koordinacijsko tijelo omogućit će korištenje uspostavljenog sustava elektroničkog pristupa podacima o imovini, a kao koordinacijsko tijelo ne odgovara za točnost te korištenje razmijenjenih podataka.

official records by establishing the system of electronic access to data and real-time exchange.
(4) Tax Administration, as a **coordinating body**, shall enable the bodies governed by public law to access the data on assets through an installed system of electronic access where such bodies require insight into the assets of persons within their legally established scope of procedures, and as a coordinating body, the Tax Administration shall not be responsible for the accuracy and use of the exchanged data.
(5) Tax Administration shall enable the availability of data contained in the Personal Identification Number Registry to bodies governed by public law and other bodies when this is stipulated by special regulations for the purpose of performing activities in their scope. Tax Administration shall enable other bodies governed by public law the use of personal identification data from the Personal Identification Number Registry, upon acquiring the consent from the competent body governed by public law which submits the requested data in the said record.
(6) In order to realise the cooperation and exchange of data with bodies referred to in paragraphs 2, 4 and 5 of this Article, the Tax Administration shall conclude cooperation agreements and data exchange protocols, on the installed system of electronic access to data.

Another Law, which should be considered in this area is the Law on Administrative Cooperation in the Tax Area (Official Gazette, No. 115/16). **114**

The provisions of the Tax Administration Act allow OLAF to collaborate with Croatian authorities by accessing tax data and monitoring irregularities. Croatian authorities are legally obligated to provide support and data exchange under their domestic cooperation framework, ensuring OLAF's anti-fraud efforts align with national tax oversight. **115**

Cooperation extends to domestic and foreign public bodies for exchanging data on individuals, business activities, and assets (real estate, vehicles, accounts, etc.), ensuring proper tax assessment and collection. Data sharing and cooperation agreements between the Tax Administration and other bodies ensure smooth electronic data exchange. **116**

(5) Porezna uprava omogućit će dostupnost podataka sadržanih u evidenciji o osobnim identifikacijskim brojevima javnopravnim tijelima i drugim tijelima kada je to propisano posebnim propisima radi obavljanja poslova iz njihova djelokruga. Porezna uprava omogućit će i ostalim javnopravnim tijelima korištenje identifikacijskih podataka o osobama iz evidencije o osobnim identifikacijskim brojevima, po dobivanju suglasnosti nadležnog javnopravnog tijela koje tražene podatke dostavlja u navedenu evidenciju.
(6) Radi ostvarivanja suradnje i razmjene podataka s tijelima iz stavka 2., 4. i 5. ovoga članka Porezna uprava sklapa sporazume o suradnji i protokole o razmjeni podataka, na uspostavljenim sustavima elektroničkog pristupa podacima.

4. Article 4 Internal investigations

1. Investigations within the institutions, bodies, offices and agencies in the areas referred to in Article 1 shall be conducted in accordance with this Regulation and with the decisions adopted by the relevant institution, body, office or agency ('internal investigations').
8. Without prejudice to Article 12c(1), where, before a decision has been taken whether or not to open an internal investigation, the Office handles information which suggests that there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union, it may inform the institution, body, office or agency concerned. Upon request, the institution, body, office or agency concerned shall inform the Office of any action taken and of its findings on the basis of such information.
Where necessary, the Office shall also inform the ***competent authorities of the Member State concerned***. In this case, the procedural requirements laid down in the second and third subparagraphs of Article 9(4) shall apply. If the competent authorities decide to ***take any action on the basis of the information transmitted to them, in accordance with national law***, they shall, upon request, inform the Office thereof.

1 Internal investigations of OLAF can lead to **repercussions at national level** i.e. the level of the authorities that cooperate with OLAF and which e.g. employed the economic operator, managed his funds etc. or who are responsible for disciplinary actions for officials that work at Union level or as a national expert for OLAF (corruption cases).

a) References to national law, Para. 8

2 In Para. 8 of Article 4 OLAF Regulation the references to national law are made in order to enable the authorities to take steps towards the recovery of money, the exclusion from a certain job, the withdrawal of rights, bans from profession, the cancellation of pension entitlements, etc.

b) Competent authorities

3 The competent authorities, which must be informed by OLAF, if an internal investigation is ongoing might include the authorities, from the civil servant, which is *seconded* to a Union IBOA. It is common practice that IBOAs are stuffed with national experts, e.g. civil servants from a Ministry of the Republic of Croatia. If they then act on behalf of the Union but e.g. their remuneration is still paid from the national budget, the Croatian authorities have a huge interest to be informed about the facts of an investigation of OLAF into any irregularity (after the selection procedure). The authorities might thus include the Croatian Ministries. And see furthermore above → Institutions.

5. Article 5 Opening of investigations

[…] 5. If the Director-General decides not to open an investigation, he or she may without delay send any relevant information, as appropriate, to the ***competent authorities of the Member State concerned*** for appropriate ***action to be taken in accordance with Union and national law*** or to the institution, body, office or agency concerned for appropriate action to be taken in accordance with the rules applicable to that institution, body, office or agency. The Office shall agree with that institution, body, office or agency, if appropriate, on suitable measures to protect the confidentiality of the source of that information and shall, if necessary, ask to be informed of the action taken.

a) Competent authorities

- Tax Administration **4**
  - Central office: Department 6.3 Anti-fraud (within the Audit Dept. 6)
  - Branch offices, e.g. Zagreb: Dept. 2 VAT Audit, Dept. 5 Anti-fraude etc.
- Customs Administration
- State Inspectorate (e.g. Agricultural inspection)
- Payments Agency

b) National Rules

An example of national rules, which apply, if the Director General sends information to competent authorities of the Member State concerned for appropriate action can be found in the General Tax Law: **5**

General Tax Law **6**
Section 6. ESTABLISHMENT OF FACTS IN TAX PROCEDURE
Production and evaluation of evidence

Article 77[396]
The tax authority uses **all evidentiary means** necessary to establish facts important for taxation, and in particular:
[…]
3. collects information from the taxpayer, other participants in the tax procedure and other persons

[396] Odjeljak 6.
UTVRĐIVANJE ČINJENICA U POREZNOM POSTUPKU
Izvođenje i ocjena dokaza
Članak 77
Porezno tijelo koristi sva dokazna sredstva potrebna za utvrđivanje činjenica bitnih za oporezivanje, a osobito:
1. prikuplja obavijesti od poreznog obveznika, drugog sudionika poreznog postupka i drugih osoba
2. određuje vještake
3. pribavlja isprave i spise
4. izlazi na očevid.

4. appoints expert
5. obtains documents and files
6. goes out for inspection.

Section 10. TAX SUPERVISION
The concept of tax supervision
Article 115[397] (OG **106/18**)
(1) Tax supervision within the meaning of this Act is part of the tax-legal relationship in which the Tax Administration and the Customs Administration and other tax authorities carry out procedures for the purpose of checking and establishing facts important for the taxation of taxpayers and other persons.
(2) Tax authorities carry out tax supervision in accordance with the law regulating a particular type of tax.

Authorized persons for tax supervision
Article 116[398]
(1) Tax supervision is performed by tax auditors, tax inspectors and other civil servants authorized to carry out tax supervision.
(2) In addition to the persons referred to in paragraph 1 of this article, the head of the tax authority may also authorize other professionally trained persons to perform certain tasks related to tax supervision.

Admissibility of tax supervision
Article 117[399]
(1) Tax supervision can be performed with all taxpayers and other persons who have facts and evidence essential for taxation.

[397] Odjeljak 10.
POREZNI NADZOR
Pojam poreznog nadzora
Članak 115
(1) Porezni nadzor u smislu ovoga Zakona je dio porezno-pravnog odnosa u kojem porezno tijelo provodi postupak radi provjere i utvrđivanja činjenica bitnih za oporezivanje poreznih obveznika i drugih osoba.
(2) Porezna tijela provode porezni nadzor sukladno zakonu kojim se uređuje pojedina vrsta poreza.
[398] Ovlaštene osobe za porezni nadzor
Članak 116
(1) Porezni nadzor obavljaju porezni revizori, porezni inspektori i drugi državni službenici ovlašteni za provedbu poreznog nadzora.
(2) Osim osoba iz stavka 1. ovoga članka, za obavljanje pojedinih zadataka u vezi s poreznim nadzorom čelnik poreznog tijela može ovlastiti i druge stručno osposobljene osobe.
[399] Dopustivost poreznog nadzora
Članak 117
(1) Porezni nadzor može se obavljati kod svih poreznih obveznika i drugih osoba koje raspolažu činjenicama i dokazima bitnima za oporezivanje.
(2) Porezni nadzor se može obavljati u roku od tri godine od početka tijeka zastare prava na utvrđivanje porezne obveze.

(2)[400] Tax supervision can be performed within three years from the beginning of the statute of limitations for the determination of tax liability.
(3) As an exception to paragraph 2 of this article, tax supervision may be performed for the period for which the statute of limitations for the determination of tax liability has not occurred:
1. in case of abuse of rights from Article 172 of this Act
2. in the procedures for determining the difference between the acquired property and the proven means for acquiring that property according to the income tax regulations
3. in tax fraud suppression procedures
4. in procedures initiated by order of other bodies.

Subject of tax supervision
Article 118[401]
(1) Tax supervision includes verification of one or more types of taxes and all facts relevant to taxation, accounting documents and records, business events and all other data, records and documents relevant to taxation.
(2) If the entrepreneur is a natural person, the supervision may include those facts that are not related to his economic activity.
(3) Tax supervision of capital companies or companies of persons also includes the verification of relationships essential for taxation between a member of the company and the company itself.

[400] (3) Iznimno od stavka 2. ovoga članka porezni nadzor se može obavljati za razdoblje za koje nije nastupila zastara prava na utvrđivanje porezne obveze:
1. u slučaju zlouporabe prava iz članka 172. ovoga Zakona
2. u postupcima utvrđivanja razlike između stečene imovine i dokazanih sredstava za stjecanje te imovine prema propisima o porezu na dohodak
3. u postupcima suzbijanja poreznih prijevara
4. u postupcima pokrenutim po nalogu drugih tijela.

[401] Predmet poreznog nadzora
Članak 118
(1) Porezni nadzor obuhvaća provjeru jedne ili više vrsta poreza te svih činjenica bitnih za oporezivanje, knjigovodstvenih isprava i evidencija, poslovnih događaja i svih drugih podataka, evidencija i isprava bitnih za oporezivanje.
(2) Ako je poduzetnik fizička osoba, nadzor može obuhvaćati i one činjenice koje nisu u vezi s njegovom gospodarskom djelatnošću.
(3) Porezni nadzor društava kapitala ili društava osoba obuhvaća i provjeru odnosa bitnih za oporezivanje između člana društva i samog društva.

The principle of selecting taxpayers for tax supervision
Article 119[402] **(OG 121/19)**
(1) The tax authority decides with which taxpayer it will carry out tax supervision, taking into account the tax liability of the taxpayer and objective criteria based on risk assessment, whereby priority is given to large entrepreneurs from Article 5 of the Accounting Act ("Official Gazette", no. 78/15, 134/15, 120/16 and 116/18) and taxpayers from Articles 12 and 49 of this Act.
(2) The taxpayer cannot influence the decision of the tax authority on the selection of taxpayers to be tax audited.

Notice on tax supervision
Article 120[403] **(OG 106/18)**
(1) The notice on tax supervision must be delivered to the taxpayer no later than eight days before the start of tax supervision. The notification on tax supervision is delivered to the taxpayer or a person appointed by the taxpayer.
(2) Exceptionally, paragraph 1 of this Article shall not be applied if the purpose of tax supervision would thereby be jeopardized.
(3) The notice referred to in paragraph 1 of this article must be issued in writing and must contain:
1. name of the tax authority, number and date of the tax act
2. first and last name, or the name of the taxpayer to whom it is addressed
3. legal and factual basis
4. the subject of tax supervision or other actions that will be carried out in tax supervision

[402] Načelo odabira poreznih obveznika za porezni nadzor
Članak 119
(1) Porezno tijelo odlučuje kod kojeg će poreznog obveznika provoditi porezni nadzor, vodeći računa o poreznoj snazi poreznog obveznika i objektivnim kriterijima na temelju procjene rizika, pri čemu prioritet imaju veliki poduzetnici iz Zakona o računovodstvu i porezni obveznici iz članka 49. stavka 2. ovoga Zakona.
(2) Porezni obveznik ne može utjecati na odluku poreznog tijela o odabiru poreznih obveznika kod kojih će se provoditi porezni nadzor.
[403] Obavijest o poreznom nadzoru
Članak 120
(1) Obavijest o poreznom nadzoru mora biti dostavljena poreznom obvezniku najkasnije osam dana prije početka poreznog nadzora. Obavijest o poreznom nadzoru dostavlja se poreznom obvezniku ili osobi koja je imenovana od strane poreznog obveznika.
(2) Iznimno, stavak 1. ovoga članka ne primjenjuje se ako bi se time ugrozila svrha poreznog nadzora.
(3) Obavijest iz stavka 1. ovoga članka mora se izdati u pisanom obliku te mora sadržavati:
1. naziv poreznog tijela, broj i datum poreznog akta
2. ime i prezime, odnosno naziv poreznog obveznika kome se upućuje
3. pravni i činjenični temelj
4. predmet poreznog nadzora ili druge radnje koje će se provesti u poreznom nadzoru
5. razdoblje koje je predmet poreznog nadzora
6. datum početka poreznog nadzora
7. obvezu sudjelovanja poreznog obveznika u postupku i pravne posljedice zbog ometanja ili odbijanja poreznog nadzora
8. potpis ovlaštene osobe.

5. the period that is subject to tax supervision 6. date of commencement of tax supervision 7. the obligation of the taxpayer to participate in the procedure and legal consequences due to obstruction or refusal of tax supervision 3. signature of an authorized person or electronic signature or electronic seal of the tax authority.	
The course of tax supervision **Article 121**[404] (1) Before the start of the tax audit, the person authorized for its implementation must present himself to the taxpayer by presenting an official ID card. (2) Tax supervision should be performed with equal attention regarding all important facts, both those that are detrimental to the taxpayer and those in his favour. (3) Tax supervision should be focused on important facts that can ultimately increase or decrease the tax liability, and its duration should be limited to the necessary measure. (4) The taxpayer must, at his request, enable the person authorized to carry out tax supervision to carry out supervision at the taxpayer's headquarters and in other places where the taxpayer or another person according to his authority performs activities and tasks in connection with which tax supervision is performed. For this purpose, the taxpayer must make available a suitable place to work and the necessary aids.	**7**

[404] Tijek poreznog nadzora
Članak 121
(1) Prije početka poreznog nadzora osoba ovlaštena za njegovu provedbu mora se predstaviti poreznom obvezniku predočenjem službene iskaznice.
(2) Porezni nadzor treba obavljati jednakom pozornošću u pogledu svih bitnih činjenica, kako onih koje idu na štetu poreznog obveznika tako i onih u njegovu korist.
(3) Porezni nadzor treba usmjeriti na bitne činjenice koje mogu konačno povećati ili smanjiti poreznu obvezu te njegovo trajanje ograničiti na nužnu mjeru.
(4) Porezni obveznik mora ovlaštenoj osobi za provođenje poreznog nadzora, na njezin zahtjev, omogućiti obavljanje nadzora u sjedištu poreznog obveznika i na ostalim mjestima na kojima porezni obveznik ili druga osoba prema njegovoj ovlasti obavlja djelatnosti i poslove u vezi s kojima se obavlja porezni nadzor. Porezni obveznik u tu svrhu mora staviti na raspolaganje odgovarajuće mjesto za rad i potrebna pomagala.
(5) Ako ne postoji poslovni prostor pogodan za obavljanje poreznog nadzora, porezni nadzor se obavlja u službenim prostorijama poreznog tijela. Ako se porezni nadzor ne obavlja u poslovnim prostorijama, osoba ovlaštena za njegovu provedbu dužna je poslovne prostorije razgledati i to navesti u zapisniku o obavljenom nadzoru.
(6) Ovlaštena osoba za porezni nadzor ima pravo stupiti na zemljište i u poslovne prostorije u kojima porezni obveznik obavlja djelatnost te ih pregledati. Poreznom obvezniku ili njegovu opunomoćeniku ili zastupniku mora omogućiti nazočnost pri pregledavanju poslovnih prostorija.
(7) Porezni nadzor obavlja se tijekom uobičajenoga radnog vremena. Obavljanje poreznog nadzora izvan tog vremena dopustivo je ako porezni obveznik na to pristane ili ako to bezuvjetno nalaže svrha poreznog nadzora.
(8) Ako se započeta radnja u postupku poreznog nadzora ne može završiti tijekom radnog vremena poreznog obveznika, a porezni obveznik ne pristane na nastavak obavljanja poreznog nadzora nakon redovitoga radnog vremena, porezno tijelo može izvršiti privremeno pečaćenje poslovnog ili skladišnog prostora.
(9) Mjera privremenog pečaćenja iz stavka 8. ovoga članka može trajati najdulje do početka radnog vremena poreznog obveznika prvoga idućeg radnog dana.
(10) O privremenoj mjeri iz stavka 8. ovoga članka donosi se zaključak protiv kojeg nije dopuštena žalba.

(5) If there is no business premises suitable for carrying out tax supervision, tax supervision is carried out in the official premises of the tax authority. If the tax inspection is not performed in the business premises, the person authorized to carry it out is obliged to inspect the business premises and state this in the record of the performed inspection.
(6) The authorized person for tax supervision has the right to enter the land and business premises where the taxpayer performs his activities and to inspect them. The taxpayer or his authorized representative must be allowed to be present when inspecting the business premises.
(7) Tax supervision is performed during normal working hours. Conducting tax audits outside of that time is permissible if the taxpayer agrees to it or if the purpose of the tax audit unconditionally dictates it.
(8) If the action started in the tax audit procedure cannot be completed during the working hours of the taxpayer, and the taxpayer does not agree to the continuation of the tax audit after regular working hours, the tax authority may temporarily seal the business or warehouse space.
(9) The measure of temporary sealing referred to in paragraph 8 of this Article may last until the beginning of the taxpayer's working hours on the first of the next working day.
(10) On the temporary measure referred to in paragraph 8 of this article, a conclusion is drawn against which no appeal is allowed.

Taxpayer's obligation to participate in the implementation of tax supervision
Article 122[405]
(1) The taxpayer is obliged to participate in the determination of the factual situation important for taxation by giving notices, presenting records, business books, business documentation and other documents or appointing a person who will do this on his behalf, of which he is obliged to inform the tax authority no later than the date of the start of the tax audit determined in the notification from Article 120 of this Act.
(2) If the notifications of the taxpayer or the appointed person are not sufficient, the authorized person for tax supervision may ask the taxpayer to nominate other persons to provide the notification. The person authorized for tax supervision may request information from other employees of the taxpayer or from third parties.

[405] Obveza sudjelovanja poreznog obveznika u provedbi poreznog nadzora
Članak 122
(1) Porezni obveznik dužan je sudjelovati u utvrđivanju činjeničnog stanja bitnog za oporezivanje na način da daje obavijesti, predočava evidencije, poslovne knjige, poslovnu dokumentaciju i druge isprave ili imenuje osobu koja će to raditi u njegovo ime, o čemu je dužan obavijestiti porezno tijelo najkasnije do datuma početka poreznog nadzora utvrđenog u obavijesti iz članka 120. ovoga Zakona.
(2) Ako obavijesti poreznog obveznika ili imenovane osobe nisu dovoljne, ovlaštena osoba za porezni nadzor može zatražiti od poreznog obveznika da imenuje i druge osobe za davanje obavijesti. Ovlaštena osoba za porezni nadzor može zatražiti obavijesti od drugih zaposlenika poreznog obveznika ili od trećih osoba.
(3) Osobe iz stavka 2. ovoga članka koje daju obavijesti u postupku poreznog nadzora dužne su dati obavijesti ovlaštenoj osobi za porezni nadzor, bez pisanog zahtjeva.

(3) The persons referred to in paragraph 2 of this article who give notices in the tax supervision procedure are obliged to give notices to the authorized person for tax supervision, without a written request.

Procedure in case of suspected tax crime and misdemeanour
Article 123[406]
If, during the tax inspection, a suspicion arises that the taxpayer has committed a criminal offense or a misdemeanour, the tax authority is obliged to submit a report to the competent authority.

Imposition of administrative measures
Article 124[407] **(OG 106/18)**
(1) In order to prevent further illegal behaviour and the proper regulation of the tax-legal relationship, the tax authority may issue a decision prohibiting the taxpayer from further work when:
1. does not issue invoices according to Article 62, paragraphs 1 and 5 of this Act
2. does not report the delivery of goods and services via a payment device according to Article 62, Paragraph 4 of this Act
3. does not keep business books and records for the purpose of taxation according to the regulations applied in the Republic of Croatia according to Article 62, Paragraph 5 of this Act
4. refuses to participate in the tax procedure according to Article 69 and Article 71 of this Act
5. when he does not respond to the call of the tax authority according to Article 78 of this Act and when he does not allow tax supervision to be carried out according to Article 117, paragraph 1 of this Act.
(2) The work ban can last from 15 days to six months.

[406] Postupak u slučaju sumnje na porezno kazneno djelo i prekršaj
Članak 123
Ako se tijekom poreznog nadzora pojavi sumnja da je porezni obveznik počinio kazneno djelo ili prekršaj, porezno tijelo obvezno je podnijeti prijavu nadležnom tijelu.
[407] Izricanje upravnih mjera
Članak 124
(1) Porezno tijelo može rješenjem zabraniti daljnji rad poreznom obvezniku kada ne izdaje račune prema članku 62. stavku 1. i 5. ovog Zakona, kada ne iskazuje isporuke dobara i usluga preko naplatnog uređaja prema članku 62. stavku 4. ovog Zakona, kada ne vodi poslovne knjige i evidencije radi oporezivanja prema propisima koji se primjenjuju u Republici Hrvatskoj prema članku 62. stavku 5. ovog Zakona, kada odbija sudjelovati u poreznom postupku prema članku 69. i članku 71. ovog Zakona, kada se ne odazove na poziv poreznog tijela prema članku 78. ovog Zakona i kada ne dopusti obavljanje poreznog nadzora prema članku 117. stavku 1. ovog Zakona.
(2) Zabrana rada može trajati od 15 dana do šest mjeseci.
(3) Žalba izjavljena protiv rješenja iz stavka 1. ovoga članka ne zadržava izvršenje rješenja.
(4) Zabrana iz stavka 2. ovoga članka izvršava se pečaćenjem poslovnih prostorija u kojima porezni obveznik obavlja djelatnost, kao i pečaćenjem opreme i sredstava koja mu služe za rad.

(3) An appeal filed against the decision from paragraph 1 of this article does not delay the execution of the decision.
(4) The prohibition from paragraph 2 of this article is enforced by sealing the business premises where the taxpayer carries out his activity, as well as by sealing the equipment and means used for his work. The business premises remain sealed within the period set, regardless of changes in the legal personality of the taxpayer who performs activities in that business premises.

The taxpayer's right to notification of the outcome of the tax audit
Article 125[408] **(OG 106/18)**
(1) Regarding the outcome of the tax audit, before drawing up the minutes, a final interview should be held with the taxpayer or a person appointed by the taxpayer, and disputed facts, legal assessments, conclusions and their effects on the determination of tax liability should be discussed and a note should be made about it.
(2) As an exception to paragraph 1 of this article, the final interview will not be held:
1. if no irregularities were found during the tax inspection or
2. if the taxpayer avoids or refuses the interview
3. in supervision of fiscalization and games of chance.

[408] Pravo poreznog obveznika na obavijest o ishodu poreznog nadzora
Članak 125
(1) O ishodu poreznog nadzora, prije sastavljanja zapisnika, treba obaviti zaključni razgovor s poreznim obveznikom ili s osobom koju je imenovao porezni obveznik te raspraviti sporne činjenice, pravne ocjene, zaključke i njihove učinke na utvrđivanje porezne obveze te o tome sačiniti zabilješku.
(2) Iznimno od stavka 1. ovoga članka, zaključni razgovor neće se obaviti:
1. ako tijekom poreznog nadzora nisu utvrđene nepravilnosti ili
2. ako porezni obveznik razgovor izbjegava ili odbija.

Record of tax supervision
Article 126[409] **(OG 106/18)**
(1) A record shall be drawn up on tax supervision.
(2) The minutes should contain:
1. name of the tax authority, number and date of the tax act
2. first and last name, or name of the taxpayer
3. legal and factual basis
4. Place of implementation and duration of supervision
5. names of authorized persons who conducted the supervision
6. types of taxes and period covered by supervision
7. description of the actions, facts and evidence conducted in the procedure by which irregularities were determined.
(3) The record must be kept in an orderly manner, nothing may be added or changed in it, the crossed-out spaces must remain legible, and if the record has more than one page, each page must be numbered and signed.
(4) The taxpayer has the right to submit an objection to the record of tax supervision within a period that cannot be shorter than five days, nor longer than 20 days, counting from the date of receipt of the record. The taxpayer can waive the right to object.

[409] Zapisnik o poreznom nadzoru
Članak 126
(1) O poreznom nadzoru sastavlja se zapisnik.
(2) Zapisnik treba sadržavati:
1. naziv poreznog tijela, broj i datum poreznog akta
2. ime i prezime, odnosno naziv poreznog obveznika
3. pravni i činjenični temelj
4. mjesto provođenja i vrijeme trajanja nadzora
5. imena ovlaštenih osoba koje su nadzor provele
6. vrste poreza i razdoblje obuhvaćeno nadzorom
7. opis radnja, činjenica i dokaza provedenih u postupku po kojima su utvrđene nepravilnosti.
Zapisnik se mora voditi uredno, u njemu se ništa ne smije dodati ili mijenjati, prekrižena mjesta moraju ostati čitljiva, a ako zapisnik ima više listova, svaka stranica mora biti označena rednim brojem i potpisana.
(3) Na zapisnik o poreznom nadzoru porezni obveznik ima pravo podnijeti prigovor u roku koji ne može biti kraći od pet dana, a niti dulji od dvadeset dana, računajući od dana primitka zapisnika.
(4) Porezno tijelo dužno je razmotriti prigovor na zapisnik, te ako prigovor ne usvoji, razloge neusvajanja treba navesti u obrazloženju poreznog rješenja.
(5) Ako su prigovorom iznesene nove činjenice i materijalni dokazi zbog kojih bi trebalo promijeniti činjenično stanje utvrđeno u zapisniku ili izmijeniti prijašnje pravne ocjene, porezno tijelo će o takvim činjenicama i materijalnim dokazima ili novim pravnim ocjenama sastaviti dopunski zapisnik. Na dopunski zapisnik ne može se podnijeti prigovor.
(6) Na temelju činjenica navedenih u zapisniku i u dopunskom zapisniku o poreznom nadzoru donosi se porezno rješenje.
(7) Rješenje iz stavka 6. ovoga članka donosi se najkasnije u roku od šezdeset dana od dana isteka roka za prigovor na zapisnik, odnosno od dana uručenja dopunskog zapisnika poreznom nadzoru.
(8) Ako ovlaštene osobe tijekom poreznog nadzora utvrde činjenice značajne za oporezivanje drugih osoba, tada će o tome obavijestiti nadležno porezno tijelo.
Odjeljak 11.

(5) The tax authority is obliged to consider the objection to the record and if it does not accept the objection, the reasons for the non-acceptance should be stated in the explanation of the tax decision.
(6) If new facts and material evidence were presented in the complaint, which should change the factual situation established in the record or change previous legal assessments, the tax authority will draw up a supplemental record on such facts and material evidence or new legal assessments. No objection can be submitted to the supplementary minutes.
(7) On the basis of the facts stated in the record and in the supplementary record on tax supervision, a tax ruling is issued.
(8) The decision referred to in paragraph 7 of this article shall be made no later than 60 days from the date of expiry of the deadline for objection to the record, or from the date of delivery of the supplementary record to the tax supervision.
(9) Exceptionally from paragraph 8 of this article, tax rulings are not issued in the supervision of fiscalization and supervision of games of chance.
(10) In the case of application of paragraph 9 of this article, the reasons for not accepting the objection should be stated in the explanation of the misdemeanour order and indictment in the sense of the law regulating the misdemeanour procedure.
(11) If the authorized persons during the tax inspection establish facts significant for the taxation of other persons, then they shall inform the competent tax authority thereof.

Budget Act
XII. BUDGET CONTROL
Article 146[410] Method of budget control
(1) Budget control is carried out based on petitions from citizens, requests from state administration bodies, local and regional (regional) self-government units and other legal entities, from which suspicion of irregularity or fraud arises, and by order of the Minister of Finance.
(2) The decision on budget supervision is made by the Minister of Finance.
(3) Budgetary supervision is performed by direct supervision of the subject of supervision, i.e. by analysing its financial and accounting documentation.

[410] **Članak 146 Način obavljanja proračunskog nadzora**
(1) Proračunski nadzor obavlja se po predstavkama građana, zahtjevima tijela državne uprave, jedinica lokalne i područne (regionalne) samouprave i drugih pravnih osoba, iz kojih proizlazi sumnja na nepravilnost ili prijevaru, te po nalogu ministra financija.
(2) Odluku o obavljanju proračunskog nadzora donosi ministar financija.
(3) Proračunski nadzor obavlja se izravnim nadzorom kod subjekta nadzora odnosno analizom njegove financijsko-računovodstvene dokumentacije.

Law of Customs Service
PART IV. CUSTOMS AUTHORITIES
CHAPTER I. GENERAL PROVISIONS
Article 13[411]
(1) When performing duties of the customs service, the authorized customs officer has the powers prescribed by this and other laws.
(2) The authorized customs officer shall also take the necessary actions outside the office to prevent any illegal behaviour that is within the competence of the Customs Administration.

Article 14[412]
(1) The customs authorities prescribed by this Law are:
1. collection, assessment, recording, processing and use of data and information,
2. review of documentation and verification of credibility and authenticity of documents,
3. verification of identity of persons,
4. checking the status and properties of the goods,
5. calling,
6. giving warnings and orders,
7. temporary restriction of freedom of movement,
8. examination of persons,
9. inspection of the goods,
10. tracking, stopping, inspection and search of means of transport,
11. entry, inspection and search of business premises, premises and facilities,
12. temporary confiscation of goods and documents,
13. use of coercive means.

[411] DIO IV. CARINSKE OVLASTI GLAVA I. OPĆE ODREDBE
Članak 13 (1) Prilikom obavljanja poslova carinske službe ovlašteni carinski službenik ima ovlasti propisane ovim i drugim zakonima.
(2) Ovlašteni carinski službenik će i izvan službe poduzeti nužne radnje za sprječavanje bilo kojeg nezakonitog postupanja koje je u nadležnosti Carinske uprave.
[412] Članak 14
(1) Carinske ovlasti propisane ovim Zakonom su:
1. prikupljanje, procjena, evidentiranje, obrada i korištenje podataka i obavijesti,
2. pregled dokumentacije te provjere vjerodostojnosti i istinitosti isprava,
3. provjera istovjetnosti osoba,
4. provjera statusa i svojstva robe,
5. pozivanje,
6. davanje upozorenja i naredbi,
7. privremeno ograničenje slobode kretanja,
8. pregled osoba,
9. pregled robe,
10. praćenje, zaustavljanje, pregled i pretraga prometnih sredstava,
11. ulazak, pregled i pretraga poslovnih prostorija, prostora i objekata,
12. privremeno oduzimanje robe i isprava,
13. uporaba sredstava prisile.
(2) Pojedine carinske ovlasti mogu se propisati i drugim zakonom.

(2) Certain customs powers may be prescribed by another law.

Article 16[413]
An authorized customs officer exercises authority ex officio or by order of a superior. The superior person's order can be oral or written.

Article 23[414] **(OG 115/16)**
For misdemeanours prescribed by this Act and misdemeanours prescribed by special laws under the jurisdiction of the Customs Administration, the authorized customs officer is authorized, under the conditions prescribed by the law regulating misdemeanour proceedings, as an authorized prosecutor to issue a misdemeanour order before starting misdemeanour proceedings.

Law on Wine/*Zakon o vinu*

CHAPTER II. SUPERVISION

Administrative supervision

Article 86[415]
Administrative supervision over the implementation of this Act and the regulations adopted on the basis of this Act, as well as over the work of the Agency and the Agency for Payments in the state administration tasks entrusted to them, is performed by the Ministry.

[413] Članak 16
Ovlašteni carinski službenik primjenjuje ovlasti po službenoj dužnosti ili po nalogu nadređene osobe. Nalog nadređene osobe može biti usmeni ili pisani.
[414] Članak 23 (NN 115/16)
Za prekršaje propisane ovim Zakonom i prekršaje propisane posebnim zakonima u nadležnosti Carinske uprave ovlašteni carinski službenik je ovlašten, pod uvjetima propisanim zakonom kojim se uređuje prekršajni postupak, kao ovlašteni tužitelj izdati prekršajni nalog prije pokretanja prekršajnog postupka.
[415] POGLAVLJE II. NADZOR
Upravni nadzor
Članak 86
Upravni nadzor nad provedbom ovoga Zakona i propisa donesenih na temelju ovoga Zakona te nad radom Agencije i Agencije za plaćanja u povjerenim im poslovima državne uprave obavlja Ministarstvo.
Inspekcijski nadzor /službene kontrole

Administrative measures
Article 90[416]
(1) If the competent inspector determines in the process of inspection that this Act or a regulation adopted on the basis of it has been violated, he shall:
- to order that identified deficiencies or irregularities, in the application of this Act as well as the regulations adopted on its basis, be eliminated within a certain period
- prohibit the production of wine products, fruit wines and flavoured wine products if the prescribed conditions prescribed by this Act and the regulations adopted on its basis are not met
- prohibit the placing on the market of products from Article 57 of this Act and/or
- prohibit and order the withdrawal from the market of adulterated, diseased or defective products.
(2) The competent inspector in the implementation of inspection supervision according to the provisions of this Act and the regulations adopted on its basis conducts the procedure and makes decisions determined by this Act and the regulations adopted on its basis.
(3) An appeal cannot be filed against the decision of the competent inspector, but an administrative dispute can be initiated.

The Law Regarding the Market of Agricultural Products/
ZAKONA O UREĐENJU TRŽIŠTA POLJOPRIVREDNIH PROIZVODA

Monitoring and submission of data on import and export
Article 25[417]
The Customs Administration monitors and supervises the realization of import and export of products according to the permits issued in accordance with the provisions of

[416] Upravne mjere
Članak 90
(1) Ako nadležni inspektor u postupku inspekcijskog nadzora utvrdi da je povrijeđen ovaj Zakon ili propis donesen na temelju njega rješenjem će:
– narediti da se utvrđeni nedostaci ili nepravilnosti, u primjeni ovoga Zakona kao i propisa donesenih na temelju njega, otklone u određenom roku
– zabraniti proizvodnju vinskih proizvoda, voćnih vina i aromatiziranih proizvoda od vina ako nisu ispunjeni propisani uvjeti propisani ovim Zakonom i propisima donesenim na temelju njega
– zabraniti stavljanje na tržište proizvoda iz članka 57. ovoga Zakona i/ili
– zabraniti i narediti povlačenje s tržišta patvorenog, bolesnog ili proizvoda s manom.
(2) Nadležni inspektor u provedbi inspekcijskog nadzora po odredbama ovoga Zakona i propisa donesenih na temelju njega vodi postupak i donosi rješenja određena ovim Zakonom i propisima donesenim na temelju njega.
(3) Protiv rješenja nadležnog inspektora ne može se izjaviti žalba već se može pokrenuti upravni spor.
[417] Praćenje i dostavljanje podatka o uvozu i izvozu
Članak 25
Carinska uprava prati i nadzire ostvarenje uvoza i izvoza proizvoda po dozvolama izdanim u skladu s odredbama članka 21., 22., 23. i 24. ovoga Zakona te o tome dostavlja podatke Ministarstvu i Agenciji za plaćanje.

Articles 21, 22, 23 and 24 of this Act and submits data on this to the Ministry and the Payment Agency.

6. ADMINISTRATIVE CONTROL AND CONTROL ON THE FIELD

Article 28[418]

(1) The Payments Agency is responsible for the implementation of administrative and on-site controls for all market regulation measures prescribed on the basis of this Act and regulations adopted on the basis of it.

(2) Administrative control of requests for individual market regulation measures includes control of compliance of all submitted requests with legal and sub-legal regulations.

(3) The sample on which the on-site control of the submitted requests will be carried out is selected on the basis of the risk analysis and elements of representativeness that the Payments Agency brings for each year.

(4) Based on the results of the controls, the Payments Agency will evaluate the effectiveness of the parameters used in the risk analysis in the previous year and, if necessary, improve the risk analysis methods that will be used for the next year.

(5) On the basis of written documents, the Agency for Payments may entrust the implementation of on-site control referred to in paragraph 1 of this Article to other bodies and control houses and laboratories.

[Article 6 Access to information in databases prior to the opening of an investigation]

[418] 6. ADMINISTRATIVNA KONTROLA I KONTROLA NA TERENU

Članak 28

(1) Agencija za plaćanja odgovorna je za provedbu administrativnih kontrola i kontrola na terenu koje se provode za sve mjere uređenja tržišta propisane na temelju ovoga Zakona i propisa donesenih na temelju njega.

(2) Administrativna kontrola zahtjeva za pojedine mjere uređenja tržišta obuhvaća kontrolu usklađenosti svih podnesenih zahtjeva sa zakonskim i podzakonskim propisima.

(3) Uzorak na kojem će biti provedena kontrola na terenu podnesenih zahtjeva odabire se na podlozi analize rizika i elemenata reprezentativnosti koje za svaku godinu donosi Agencija za plaćanja.

(4) Agencija za plaćanja će na temelju rezultata provedenih kontrola za svaku godinu ocijeniti učinkovitost parametara koji su korišteni pri analizi rizika u prethodnoj godini te prema potrebi unaprijediti metode analize rizika koje će biti korištene za iduću godinu.

(5) Agencija za plaćanja može na temelju pisanih akata povjeriti provedbu kontrole na terenu iz stavka 1. ovoga članka drugim tijelima te kontrolnim kućama i laboratorijima.

6. Article 7 Investigations procedure

[…] 3. The competent authorities of Member States shall give the necessary assistance to enable the staff of the Office to fulfil their tasks in accordance with this Regulation effectively and without undue delay. When providing such assistance, the ***competent authorities of Member States*** shall ***act in accordance with any national procedural rules applicable to them***.

3a. At the request of the Office, which shall be explained in writing, in relation to matters under investigation, the relevant competent authorities of the Member States shall***, under the same conditions as those that apply to the national competent authorities***, provide the Office with the following:

(a) information available in the centralised automated mechanisms referred to in Article 32a(3) of Directive (EU) 2015/849 of the European Parliament and of the Council (4);

(b) where strictly necessary for the purposes of the investigation, the record of transactions.

The request of the Office shall include a justification of the appropriateness and proportionality of the measure with regard to the nature and gravity of the matters under investigation. Such request shall refer only to information referred to in points (a) and (b) of the first subparagraph.

Member States shall notify to the Commission the relevant competent authorities for the purposes of points (a) and (b) of the first subparagraph.

6. Where investigations show that it might be appropriate to take precautionary administrative measures to protect the financial interests of the Union, the Office shall without delay inform the institution, body, office or agency concerned of the investigation in progress. The information supplied shall include the following:

(a) the identity of the official, other servant, member of an institution or body, head of office or agency, or staff member concerned and a summary of the facts in question;

(b) any information that could assist the institution, body, office or agency concerned in deciding on the appropriate precautionary administrative measures to be taken in order to protect the financial interests of the Union;

(c) any special measures of confidentiality recommended, in particular in cases entailing the use of investigative measures falling within the competence of a national judicial authority or, in the case of an external investigation, within the competence of a national authority, ***in accordance with the national rules applicable to investigations***.

The institution, body, office or agency concerned may at any time consult the Office with a view to taking, in close cooperation with the Office, any appropriate precautionary measures, including measures for the safeguarding of evidence. The institution, body, office or agency concerned shall inform the Office without delay about any precautionary measures taken.

7. Where necessary, it shall be for the ***competent authorities of the Member States,*** at the Office's request, to take the ***appropriate precautionary measures under their national law***, in particular measures for the safeguarding of evidence.

a) References to national law

8 *Sources & national sections 3 Art, 7 OLAF Regulation*

Para. 3	Para. 3 of Article 7 OLAF Regulation provides for a limitation of the assistance of Croatian authorities to OLAF`s Units- especially the Investigations Units (see OLAF Organigramme). OLAF has separated its tasks due to the structure of the EU budget (revenue vs. expenditure related irregularities and potential fraud) and the most prominent threats to the EU budget. The national procedural rules determine the scope of limitation of the assistance. The competent authorities (→ see above Article 3 OLAF Regulation "Competent authorities") need to stick to the rules applicable in the area of their competence, such as e.g. - See → Article 3 OLAF Regulation, Rules on the Protection of information, References to National law in the OLAF Regulation (Articles 9–17 OLAF Regulation) - References to National law in the OLAF Regulation (Articles 9–17 OLAF Regulation) - Rules on witnesses - Proportionality provisions - Formal Rules for Investigation Measures - Substantive Rules for Investigation Measures - Rights of Suspects of an Irregularity or potential fraud and the main rules such as the Croatian Constitution, the Union CFR.
Para. 3a (a) (b)	**General Tax Law Accounting documents and records** **Article 66**[419] **(OG 106/18)** (1) Postings and other records should be done completely, accurately, in a timely manner and in an orderly manner. Receipts and disbursements of the treasury (cash

[419] Knjigovodstvene isprave i evidencije Članak 66 (NN 106/18)
(1) Knjiženja i druga evidentiranja treba obavljati potpuno, točno, pravodobno i uredno. Primitke i izdatke blagajne (gotovinski promet) treba bilježiti slijedom njihova nastanka svakodnevno.
(2) Bilježenje podataka u poslovne knjige mora se temeljiti na urednim i vjerodostojnim knjigovodstvenim ispravama.

	turnover) should be recorded in the order of their occurrence on a daily basis. (2) Recording of data in business books must be based on orderly and credible accounting documents.

(3) Knjigovodstvene isprave koje su izrađene na papiru mogu se pretvoriti u elektronički zapis ako se osigura vjerodostojnost podrijetla, cjelovitost sadržaja i čitljivost od trenutka pretvorbe do kraja razdoblja propisanog za čuvanje knjigovodstvene isprave.
(4) Smatra se da je isprava za knjiženje uredna kad se iz nje nedvosmisleno može utvrditi mjesto i vrijeme njezina sastavljanja i njezin materijalni sadržaj, što znači narav, vrijednost i vrijeme nastanka poslovne promjene povodom koje je sastavljena. Vjerodostojna je isprava ona koja potpuno i istinito odražava nastali poslovni događaj.
(5) Knjiženja i druga evidentiranja ne smiju se mijenjati na način da se prvotni sadržaj više ne može utvrditi. Ne smiju se obaviti ni izmjene takvog značaja da je neizvjesno jesu li provedene odmah ili naknadno.
(6) Evidencije o dnevnom gotovinskom prometu moraju se voditi na mjestu na kojem se ti primici ostvaruju i u svakom trenutku moraju biti dostupne poreznom tijelu u postupku poreznog nadzora.
(7) Smatra se da se poslovne knjige, osim evidencija o dnevnom gotovinskom prometu, vode pravodobno ako se njima osiguravaju podaci bitni za pravodobno utvrđivanje i prijavljivanje (izvješćivanje) te plaćanje poreznih obveza.
(8) Poslovne knjige i druge evidencije moraju se voditi u skladu s načinom oporezivanja poreznog obveznika i prema temeljnim načelima urednog knjigovodstva. Obveznici poreza na dohodak vode jednostavno knjigovodstvo, a obveznici poreza na dobit dvojno knjigovodstvo.
(9) Poslovne knjige i druge evidencije mogu se voditi i u elektroničkom obliku ako ti oblici knjigovodstva, zajedno s pritom primijenjenim postupcima, odgovaraju temeljnim načelima urednoga knjigovodstva. Kod evidencija koje se vode samo prema poreznim propisima način vođenja mora odgovarati svrsi koju evidencije trebaju ispuniti za oporezivanje. Pri vođenju poslovnih knjiga i drugih evidencija u elektroničkom obliku mora se osigurati da podaci u roku čuvanja budu raspoloživi i da se u svako doba unutar primjerenog roka mogu učiniti čitljivima. Tijek postupka mora se zajedno sa svim promjenama dokazati pomoću sustavne dokumentacije.
(10) Poslovne knjige i druge evidencije s pripadajućom dokumentacijom moraju se voditi i čuvati na način da su dostupne poreznim tijelima, i to:
1. u poslovnim prostorijama ili ako nema poslovnih prostorija, u stanu poreznog obveznika ili
2. kod opunomoćenika ili
3. kod osobe koja za poreznog obveznika vodi poslovne knjige.
(11) Ako za stalne poslovne jedinice u inozemstvu, prema inozemnim propisima, postoji obveza vođenja knjigovodstva koju porezni obveznik ispunjava, poslovne se knjige i druge evidencije ne moraju voditi i čuvati u tuzemstvu. U tom se slučaju stanja i poslovni rezultati iz knjigovodstva u inozemstvu moraju preuzeti u knjigovodstvo tuzemnoga poreznog obveznika ako su bitni za oporezivanje, uz naznaku i obrazloženje određenih prilagodbi tuzemnim poreznim propisima.
(12) Ako porezni obveznik vodi knjige i druge evidencije koje nisu zakonom propisane kao obvezne, a koristi ih za utvrđivanje porezne obveze, dužan ih je voditi u skladu s odredbama ovoga članka.
(13) Ako se za knjiženja ili druga evidentiranja koristi jezik i pismo koji nisu u službenoj uporabi, porezno tijelo zatražit će ovjereni prijevod na hrvatski jezik i latinično pismo. Ako se koriste kratice, brojke, slova ili simboli, onda njihovo značenje mora biti jednoznačno utvrđeno.
(14) Na početku poslovanja porezni obveznik mora popisati svu imovinu i obveze te navesti njihove pojedinačne vrijednosti. Takav se popis mora sastaviti i krajem svake poslovne godine kao godišnji popis.
(15) Osim godišnjeg popisa, porezni obveznik mora popisati imovinu i obveze i u drugim slučajevima, a posebno po nalogu poreznog tijela u postupku poreznog nadzora, pri promjenama cijena dobara ili poreznih stopa ako je to bitno za oporezivanje isporuka tih dobara, kod statusnih promjena i kod otvaranja postupka stečaja ili postupka likvidacije ili prestanka obavljanja djelatnosti.
(16) Kod promjene cijena dobara iz stavka 14. ovog članka nije nužan popis imovine ako se u knjigovodstvenim evidencijama mogu osigurati podaci o vrijednosti robe na zalihi.
(17) Popisne liste smatraju se knjigovodstvenim ispravama.
(18) Evidencije i isprave o dnevnom gotovinskom prometu, poslovne knjige i knjigovodstvene isprave te druge evidencije čuvaju se deset godina od početka tijeka zastare, ako posebnim propisom nisu propisani dulji rokovi.
(19) Ministar financija pravilnikom će propisati način osiguranja vjerodostojnosti podrijetla, cjelovitosti sadržaja i čitljivosti knjigovodstvene isprave pretvorene u elektronički zapis za porezne potrebe.

	(3) Accounting documents made on paper can be converted into an electronic record if the authenticity of the origin, completeness of content and readability are ensured from the moment of conversion until the end of the period prescribed for keeping the accounting document. (4) A recording document is considered to be in order when the place and time of its preparation and its material content can be clearly determined from it, which means the nature, value and time of occurrence of the business change on the occasion of which it was prepared. A credible document is one that fully and truthfully reflects the business event that occurred. (5) Postings and other records may not be changed in such a way that the original content can no longer be determined. Changes of such significance that it is uncertain whether they were carried out immediately or subsequently must not be made either. (6) Records on daily cash transactions must be kept at the place where these receipts are made and must be available to the tax authority at all times during the tax supervision process. (7) Business books, apart from records of daily cash transactions, are considered to be kept in a timely manner if they provide information essential for timely determination and reporting (reporting) and payment of tax obligations. (8) Business books and other records must be kept in accordance with the method of taxation of the taxpayer and according to the basic principles of proper bookkeeping. Income tax payers keep simple bookkeeping, and profit tax payers double bookkeeping. (9) Business books and other records may be kept in electronic form if these forms of bookkeeping, together with the procedures applied, correspond to the basic principles of proper bookkeeping. In the case of records that are kept only according to tax regulations, the method of keeping them must correspond to the purpose that the records should fulfil for taxation. When keeping business books and other records in electronic form, it must be ensured that the data are available within the retention period and that they can be made readable at any time within the appropriate period. The course of the procedure must be proven together with all changes using systematic documentation.

(10) Business books and other records with associated documentation must be kept and kept in such a way that they are accessible to tax authorities, namely:
1. in business premises or if there are no business premises, in the taxpayer's apartment or
2. at the proxy or
3. with the person who keeps business books for the taxpayer.
(11) If, according to foreign regulations, there is an obligation to keep bookkeeping for permanent business units abroad, which the taxpayer fulfils, business books and other records do not have to be kept and kept in the country. In this case, balances and business results from bookkeeping abroad must be transferred to the bookkeeping of the domestic taxpayer if they are important for taxation, along with an indication and explanation of certain adjustments to domestic tax regulations.
(12) If the taxpayer keeps books and other records that are not prescribed by law as mandatory, and uses them to determine the tax liability, he is obliged to keep them in accordance with the provisions of this article.
(13) If a language and script that are not in official use are used for entries or other records, the tax authority will request a certified translation into the Croatian language and the Latin script. If abbreviations, numbers, letters or symbols are used, then their meaning must be unambiguously established.
(14) At the beginning of business, the taxpayer must list all assets and liabilities and state their individual values. Such a list must also be compiled at the end of each business year as an annual list.
(15) In addition to the annual list, the taxpayer must list assets and liabilities in other cases, especially by order of the tax authority in the tax supervision procedure, when there are changes in the prices of goods or tax rates if this is essential for the taxation of the delivery of these goods, in case of status changes and when opening bankruptcy proceedings or liquidation proceedings or ceasing to perform activities.
(16) When changing the prices of goods referred to in paragraph 14 of this article, a list of assets is not necessary if the accounting records can provide data on the value of the goods in stock.
(17) Census lists are considered accounting documents.

	(18) Records and documents on daily cash transactions, business books and accounting documents and other records shall be kept for ten years from the beginning of the statute of limitations, unless longer terms are prescribed by a special regulation. (19) The Minister of Finance shall, by ordinance, prescribe the method of ensuring the credibility of the origin, the integrity of the content and the readability of the accounting document converted into an electronic record for tax purposes. **Electronic data processing** **Article 67**[420] (1) Taxpayers and persons who keep business books for the taxpayer and who keep data in electronic form must, at the request of the tax authority:

[420] Elektronička obrada podataka
Članak 67
(1) Porezni obveznici i osobe koje za poreznog obveznika vode poslovne knjige, a koji vode podatke u elektroničkom obliku moraju na zahtjev poreznog tijela:
1.uručiti u elektroničkom obliku poslovne knjige, evidencije, izvješća i druge podatke koji izravno ili neizravno utječu na utvrđivanje porezne osnovice, a koji su vođeni i organizirani u računalnim datotekama u standardnom obliku, omogućujući jednostavnu daljnju elektroničku obradu podataka
2. omogućiti pristup i nadzor podataka elektronički vođenih poslovnih knjiga, evidencija i izvješća
3. omogućiti pristup drugim podacima koji izravno ili neizravno utječu na utvrđivanje porezne osnovice, kao što su mrežni podaci, podaci na internetu te pohranjeni računalni podaci, bez obzira gdje se nalaze
4. omogućiti pristup i nadzor softveru i hardveru i bazama podataka koji se koriste kao dio sustava za elektronički vođene poslovne knjige, evidencije, izvješća i druge podatke koji izravno ili neizravno utječu na utvrđivanje porezne osnovice te provjeru primjerenosti elektroničkih programa i elektroničke obrade podataka.
(2) Podaci iz stavka 1. ovoga članka moraju biti osigurani na jedan od sljedećih načina:
1. putem elektroničkih medija
2. korištenjem modernih telekomunikacijskih usluga
3. izravnim spajanjem poreznog tijela na sustav poreznog obveznika (lokalna veza) ili
4. neizravnim spajanjem poreznog tijela na sustav poreznog obveznika preko telekomunikacijskih linija (daljinska veza).
(3) Porezno tijelo može poduzimati mjere radi osiguranja dokaza kao što su popisivanje ili zaplijena računala i druge opreme na kojoj se nalaze podaci, kao i kopiranje mrežnih podataka, podataka na internetu i podataka s računala i druge opreme.
(4) U slučajevima iz stavka 2. ovoga članka mora biti osigurana odgovarajuća zaštita, tajnost i cjelovitost podataka.
(5) Porezni obveznici koji poslovne knjige, evidencije, izvješća i druge podatke koji izravno ili neizravno utječu na utvrđivanje porezne osnovice vode u elektroničkom obliku za svrhe oporezivanja moraju:
1. čuvati podatke u elektroničkom obliku
2. dopustiti pristup tim podacima u elektroničkom obliku
3. osigurati čitljivost izvornih podataka bez obzira na okolnosti promjene opreme korištenih sustava ili programa
4. osigurati pravilno spremanje i čuvanje podataka za propisano razdoblje u skladu sa člankom 66. stavkom 17. ovoga Zakona
5. omogućiti pristup elektronički vođenim poslovnim knjigama, evidencijama, izvješćima i drugim podacima koji izravno ili neizravno utječu na utvrđivanje porezne osnovice i u slučajevima kada se čuvaju u elektroničkom obliku kod drugih osoba ili u drugim zemljama
6. pohraniti i čuvati podatke u obliku koji dopušta nadzor u razumnom vremenu
7. omogućiti kopiranje podataka s mrežnih podataka, podataka na internetu i podataka s računala i druge opreme.
(6) Ako porezni obveznici obavljaju svoje poslovanje elektroničkim putem, moraju osigurati izvornost primljenih i izdanih isprava i drugih podataka te cjelovitost njihova sadržaja.

	1. deliver in electronic form business books, records, reports and other data that directly or indirectly affect the determination of the tax base, which are managed and organized in computer files in a standard form, enabling simple further electronic data processing 2. enable access and data monitoring of electronically managed business books, records and reports 3. enable access to other data that directly or indirectly affect the determination of the tax base, such as network data, data on the Internet and stored computer data, regardless of where they are located 4. enable access to and monitoring of software and hardware and databases used as part of the system for electronically managed business books, records, reports and other data that directly or indirectly affect the determination of the tax base and verification of the adequacy of electronic programs and electronic data processing. (2) The data from paragraph 1 of this article must be provided in one of the following ways: 1. via electronic media 2. using modern telecommunication services 3. by directly connecting the tax authority to the taxpayer's system (local connection) or 4. by indirectly connecting the tax authority to the taxpayer's system via telecommunication lines (remote connection). (3) The tax authority may take measures to secure evidence, such as listing or confiscating computers and other equipment containing data, as well as copying network data, data on the Internet, and data from computers and other equipment.

(7) Na zahtjev poreznog tijela porezni obveznici moraju staviti na raspolaganje dokumentaciju o elektroničkom sustavu korištenom za vođenje poslovnih knjiga, evidencija, izvješća i druge podatke koji izravno ili neizravno utječu na utvrđivanje porezne osnovice.
Dokumentacija mora sadržavati opis:
1. elektroničkog sustava (dizajn, konstrukcija i rad) 2. podsustava i datoteka (sadržaj, struktura, linije za komunikaciju) 3. funkcionalnih procedura koje su dio elektroničkog sustava 4.kontrole koja osigurava točnost i pouzdanost postupaka i funkcioniranja elektroničkoga sustava 5.kontrole koja sprječava neovlaštene dopune, izmjene ili brisanja elektronički pohranjenih podataka. (8) Svaka izmjena u elektroničkom sustavu (elektronički programi, procedure i datoteke) mora biti dokumentirana u vremenskom redoslijedu izmjena, s datumom izmjene i obrazloženjem razloga, tipa i posljedica izmjene. (9) Porezni obveznik i osobe koje za poreznog obveznika vode poslovne knjige ne mogu ni u kojem slučaju dostaviti podatke u papirnatom obliku. (10) Podaci moraju biti dostavljeni u formatu prilagođenom standardima koji se objavljuju na mrežnim stranicama Ministarstva financija – Porezne uprave. (11) Ministar financija pravilnikom će propisati oblik, sadržaj, rok i način dostave poslovnih knjiga, evidencija, izvješća i druge podatke koji izravno ili neizravno utječu na utvrđivanje porezne osnovice koji se čuvaju u elektroničkom obliku.

(4) In the cases referred to in paragraph 2 of this article, adequate protection, confidentiality and completeness of data must be ensured.
(5) Taxpayers who keep business books, records, reports and other data that directly or indirectly affect the determination of the tax base in electronic form for taxation purposes must:
1. store data in electronic form
2. allow access to this data in electronic form
3. to ensure the readability of the original data regardless of the circumstances of changing the equipment of the used systems or programs
4. ensure proper storage and preservation of data for the prescribed period in accordance with Article 66, Paragraph 17 of this Act
5. enable access to electronically managed business books, records, reports and other data that directly or indirectly affect the determination of the tax base, even in cases where they are kept in electronic form by other persons or in other countries
6. to store and preserve data in a form that allows monitoring in a reasonable time
7. enable copying of data from network data, data on the Internet and data from computers and other equipment.
(6) If taxpayers conduct their business electronically, they must ensure the authenticity of received and issued documents and other data and the integrity of their content.
(7) At the request of the tax authority, taxpayers must make available documentation on the electronic system used for keeping business books, records, reports and other data that directly or indirectly affect the determination of the tax base.
The documentation must contain a description of:
1. electronic system (design, construction and operation)
2. subsystem and file (content, structure, communication lines)
3. functional procedures that are part of the electronic system
4. control that ensures the accuracy and reliability of the procedures and functioning of the electronic system
5. controls that prevent unauthorized additions, changes or deletions of electronically stored data.
(8) Every change in the electronic system (electronic programs, procedures and files) must be documented in the chronological

order of the changes, with the date of the change and an explanation of the reason, type and consequences of the change.
(9) The taxpayer and the persons who keep business books for the taxpayer cannot under any circumstances submit data in paper form.
(10) Data must be submitted in a format adapted to the standards published on the website of the Ministry of Finance - Tax Administration.
(11) The Minister of Finance shall by ordinance prescribe the form, content, term and method of delivery of business books, records, reports and other data that directly or indirectly affect the determination of the tax base, which are kept in electronic form.

Obligations of banks
Article 114[421] (OG 106/18)
(1) In order to monitor facts important for taxation, banks are obliged to submit to the Ministry of Finance data on the turnover of all kuna and foreign currency accounts of legal entities, natural persons performing registered trades and freelance activities and citizens, including data on the turnover of current accounts and savings deposits.
(2) Banks are obliged to submit data from paragraph 1 of this article through available information technologies monthly or quarterly, cumulatively for the period from January 1 to the last day of the reporting period.
(3) At the special request of the Ministry of Finance, banks are obliged to submit data from paragraph 1 of this article for certain persons within other deadlines than those prescribed in paragraph 2 of this article, as well as data on transactions of all other accounts.

[421] Obveze banaka
Članak 114 (NN 106/18)
(1) Radi praćenja činjenica bitnih za oporezivanje banke su dužne Ministarstvu financija dostavljati podatke o prometu svih kunskih i deviznih računa pravnih osoba, fizičkih osoba koje obavljaju registriranu djelatnost obrta i slobodnih zanimanja i građana, uključujući i podatke o prometu tekućih računa i štednih uloga.
(2) Podatke iz stavka 1. ovoga članka banke su dužne dostavljati putem raspoloživih informacijskih tehnologija mjesečno ili tromjesečno, kumulativno za razdoblje od 1. siječnja do posljednjeg dana izvještajnog razdoblja.
(3) Na poseban zahtjev Ministarstva financija banke su dužne za pojedine osobe podatke iz stavka 1. ovoga članka dostaviti i u drugim rokovima osim onih propisanih stavkom 2. ovoga članka te podatke o prometima svih ostalih računa.
(4) Troškovi davanja podataka poreznom tijelu ne zaračunavaju se.

	(4) The costs of providing data to the tax authority are not charged.
Para. 6 (b, c)	Whether a notification of the competent authorities to the Commission was made is unclear – at least information about this fact have never been published. Para. 6 c of Article 7 OLAF Regulation requests the authorities to act "in accordance with the national rules applicable to investigations". Those authorities can be found in the following laws: - Misdemeanour law/Prekršajni zakon - Law on the Implementation of Customs Legislation of the European Union, Law on the Customs Service - Law on the Financial Inspectorate of the Republic of Croatia the purified text of the law NN 85/08, 55/11, 25/12 in force from 28.02.2012/Zakon o financijskom inspektoratu Republike Hrvatske pročišćeni tekst zakona NN 85/08, 55/11, 25/12 na snazi od 28.02.2012. - Law on the Execution of the State Budget of the Republic of Croatia for 2018 - NN 124/17, 108/18/Zakon o izvršavanju Državnog proračuna Republike Hrvatske za 2018. Godinu NN 124/17, 108/18. - Budget Law NN 144/21 in force from 01.01.2022./Zakon o proračun NN 144/21 na snazi od 01.01.2022. - Law on Public Procurement/Zakon o javnoj nabavi NN 120/16, 114/22 na snazi od 11.10.2022. do 31.12.2022.
Para. 7	Para. 7 OLAF Regulation asks the authorities to consider "appropriate precautionary measures under their national law". The measures, which have a precautionary effect are most likely those, which safeguard the evidence of an investigation, such as search and seizure, inspections on premises, looking into bank accounts and digital data. This is pre-guessed by the legislator and therefore mentioned in the second sentence of Para. 7 of Article 7 OLAF Regulation *expressis verbis*. The rules on the safeguarding of evidence during external investigations can be found above (see → Investigation reports (Customs Code, Budget Act, General Tax Code) and Support to the inspectors (Customs Code, General Tax Code)).

Source: The authors

b) References to national authorities

The Croatian authorities, which are addressed in Article 7 Para. 3, 4, 5, 6 and 7 OLAF Regulation are those, which can be a partner to OLAF during external investigations (→ see above → Article 3 OLAF Regulation "Competent authorities"). **9**

7. Article 8 Duty to inform the Office

[…] 2. The institutions, bodies, offices and agencies and, unless ***prevented by national law***, the ***competent authorities of the Member States*** shall, at the request of the Office or on their own initiative, transmit without delay to the Office any document or information they hold which relates to an ongoing investigation by the Office. […]
3. The institutions, bodies, offices and agencies and, unless ***prevented by national law***, the ***competent authorities of Member States*** shall transmit without delay to the Office, at the request of the Office or on their own initiative, any other information, documents or data considered pertinent which they hold, relating to the fight against fraud, corruption and any other illegal activity affecting the financial interests of the Union.

A report obligation can at least be determined from the **principle of sincere cooperation with Union bodies**, cf. Article 4 Para. 3 TEU. This principle applies in all areas of potential irregularities and frauds (for the typology of EU frauds see → the EU Fraud Commentary and see above → Article 26 EPPO-RG, where the material scope of the EPPO is determined). Additionally, Article 12a in combination with Article 8 para 2 and 3 OLAF Regulation 883/2013 obliges the AFCOS of the present Member State to report to OLAF any of the requested material. The obligations exist throughout the different areas of irregularities (tax revenue related, customs revenue related; tax expenditure related i.e. structural funds area, direct grants etc.) and are therefore enshrined in different national laws. The competent authorities of the Member States are either the same that can conduct external investigations (in cases of resistance, *Sigma Orionis*[422], see above → A. II. Institutions and Art. 3 OLAF, e)) or those that must be informed by the Director General if he/she decides not open a case according to Article 5 para 5 OLAF Regulation No 883/2013 as amended 2020/2223.

[422] See → Article 3 OLAF Regulation above in this Chapter.

II. References to National law in the OLAF Regulation (Articles 9–17 OLAF Regulation)

The next part explores references to the national laws in Articles 9–17 of the OLAF Regulation, whereby the focus will be on the procedural guarantees and individual rights.

1. Article 9 Procedural guarantees

[…] 3. As soon as an investigation reveals that an official, other servant, member of an institution or body, head of office or agency, or staff member may be a person concerned, that official, other servant, member of an institution or body, head of office or agency, or staff member shall be informed to that effect, provided that this does not prejudice the conduct of the investigation or of any investigative proceedings ***falling within the remit of a national judicial authority.***
4. […] In duly justified cases where necessary to preserve the confidentiality of the investigation or an ongoing or future criminal investigation by the EPPO or a national judicial authority, the Director-General may, where appropriate after consulting the EPPO or ***the national judicial authority concerned***, decide to defer the fulfilment of the obligation to invite the person concerned to comment. […]

1 It should be noted again that OLAF has **investigative** powers, not judicial ones. National courts hold the primary remit for criminal or administrative prosecutions based on OLAF's findings (see → Art. 11 OLAF Regulation). Cooperation between OLAF and national judicial authorities is crucial for effective action against fraud.

a) Article 9 para 3 – remit of a national judicial authority

2 The "**remit**" of the judicial authorities, which are competent to decide in matters of the Union budget (either revenue or expenditure related irregularities) are meant by Article 9 para. 3 OLAF Regulation. Article 9 para. 3 OLAF Regulation refers to "any investigative proceedings". This limits the scope of national authorities, which fall under the scope of Article 9 para. 3 OLAF Regulation. The main authorities, which can carry out administrative investigations or investigations of a non-criminal nature are the Customs Office, the General Financial Inspectorate, the Tax Offices and the Payment Offices designed or empowered to manage the area of structural funds. And last but not least the Office for the Suppression of Corruption and Organized Crime (USKOK) has a special position. It can investigate in corruption cases and starts an operation if a civil servant of the Republic is involved in a suspicion.

3 The next question concerning Art. 9 para 3 is, if these authorities are judicial authorities. The aforementioned authorities are not comparable to authorities from the branch of the judiciary but they are all related to the executive branch. The conclusion leads to the question, if judicial authorities do as well encompass investigation authorities.

The judiciary branch includes authorities, such as e.g. **4**

- The Administrative Court
- The Criminal Court
- The Appeal Courts

These authorities are usually not tasked with investigative proceedings, but carry out the control (limited *ex-post-facto* controls) of these proceedings. This means judicial review and appeals provide a form of oversight after a decision is made. Thus it remains questionable, which authorities are finally meant by Article 9 para. 3 OLAF Regulation. **5**

Due to the interpretation above, it seems clear that Article 9 para. 3 OLAF Regulation can encompass such authorities from the national branch of the judiciary, which have the possibility to carry out own investigations, such as investigations on behalf of a court, which is the competent court to judge a case in a proceeding with the real investigation authorities from the executive branch. **6**

This interpretation is supported by the fact, that this would include criminal courts and national authorities, which can act in criminal courts. Article 9 para. 4 refers to the EPPO and future criminal investigations as well. National courts of EU member states retain primary responsibility for criminal prosecutions (principle of subsidiarity, *argumentum e contrario* Art. 5 para 3 TFU). Croation courts then decide whether to pursue charges based on their national laws and procedures (see above → Part A and B). **7**

b) Article 9 para 4 – national judicial authorities

The national judicial authorities, which are mentioned in both paras of Article 9 OLAF Regulation are *de facto* the same authorities. Article 9 para. 4 refers just to the authorities, whereby Article 9 para. 4 refers as well to the "remit" of this particular judicial authority. This is the main difference of the reference to national authorities in both paragraphs of the same article. **8**

Summarizing the interpretation it can be conclude that in the context of the OLAF Regulation and the EU judicial system, "remit" refers to the broad concept and scope of authority or responsibility of a particular national entity such as another investigation authority or a Croatian court. **9**

2. Article 10 (Confidentiality and data protection)

[…] 3. The institutions, bodies, offices or agencies concerned shall ensure that the confidentiality of the investigations conducted by the Office is respected, together with the legitimate rights of the persons concerned, and, where judicial proceedings have been initiated, that ***all national rules applicable to such proceedings*** have been adhered to. […]

a) National rules applicable to judicial proceedings in the MS

1 National rules applicable to judicial proceedings in Croatia are regulated in various Acts:

- Croatian Constitution
- Law on General Administrative Procedure (Official Gazette, No. 53/91, 103/96 and 47/09)
- Budget Act (Official Gazette, No. 144/21)
- Ordinance on budget supervision (Official Gazette, no. 71/13 and 57/15)
- Law on Fiscal Responsibility (Official Gazette, No. 111/18)
- General Tax Law (Official Gazette, No. 115/16)
- Value Added Tax Act (Official Gazette, No. 73/13, 148/13, 143/14 and 115/16)
- Accounting Act (Official Gazette, no. 78/15 and 134/15)
- Law on excise duties (Official Gazette, no. 22/13, 32/13, 100/15, 120/15 and 115/16)
- Law on Administrative Cooperation in the Tax Area (Official Gazette, No. 115/16)
- Tax Administration Act (Official Gazette, No. 115/16)
- Law on Customs Supervision

b) Specifications

2 Rules on confidentiality can be found above in the section on external investigations (see → Article 3 OLAF “Protection of information”).

3. Article 11 (Investigation report and action to be taken following investigations)

[…] 2. In drawing up the reports and recommendations referred to in paragraph 1, account shall be taken of the relevant provisions of Union law and, in so far as it is applicable, ***of the national law of the Member State concerned***.
Reports drawn up on the basis of the first subparagraph, together with all evidence in support and annexed thereto, shall constitute admissible evidence:
(a) in judicial proceedings of a non-criminal nature before national courts and in administrative proceedings in the Member States;
(b) in ***criminal proceedings of the Member State*** in which their use proves necessary in the ***same way and under the same conditions*** as administrative reports drawn up by ***national administrative inspectors*** and shall be subject to the ***same evaluation rules as those applicable to administrative reports drawn up by national administrative inspectors*** and shall have the same evidentiary value as such reports;
(c) in judicial proceedings before the CJEU and in administrative proceedings in the institutions, bodies, offices and agencies.
Member States shall notify to the Office ***any rules of national law relevant*** for the purposes of point (b) of the second subparagraph.
With regard to point (b) of the second subparagraph, Member States shall, upon request of the Office, send to the Office the ***final decision of the national courts*** once the ***relevant judicial proceedings*** have been finally ***determined*** and the final court decision has become ***public***.
The power of the CJEU and national courts and competent bodies ***in administrative and criminal proceedings to freely assess the evidential value*** of the reports drawn up by the Office shall not be affected by this Regulation. […]
3. Reports and recommendations drawn up following an external investigation and any relevant related documents shall be sent to the ***competent authorities of the Member States*** concerned in accordance with the rules relating to external investigations and, if necessary, to the institution, body, office or agency concerned. The ***competent authorities of the Member State*** concerned and, if applicable, the institution, body, office or agency **shall take such action as the results of the external investigation warrant** and shall report thereon to the Office within a time limit laid down in the recommendations accompanying the report and, in addition, at the request of the Office. Member States may notify to the Office the **relevant national authorities** competent to deal with such reports, recommendations and documents.

If we imagine as an introduction to Art. 11 OLAF RG a case of fraud in the civil servant sector, it might be that OLAF discovers suspicions, irregularities etc., opens and investigates the information as a new case. If the investigations lead to results and OLAF sees **1**

an option for national judicial proceedings, it will refer the information in the form of a report to the competent national authority (see above → Art. 3, Mn. 5 et seq.).

2 Croatian authorities can initiate legal proceedings in cases where there is suspicion of fraud, misappropriation, or irregular use of EU funds. Beneficiaries found to have violated funding rules may face fines, penalties, or legal actions.

3 If irregularities are found, **national authorities can suspend payments** to beneficiaries or issue recovery orders, requiring the return of funds. In some cases, the EU itself can demand repayment of funds or impose penalties for non-compliance.

4 An action, which warrants the results of the external investigation, may as well, if irregularities are detected during audits or inspections, require **corrective actions** from the beneficiary, such as **revising the project plan**, **improving financial management**, or terminating the project.

Taking again the example of a **fraud case by a civil servant** e.g. in the agriculture sector, the administrative authority would analyse the report and initiate further national action, e.g. disciplinary proceedings.

5 Croatia has a **two-pronged approach** to disciplining civil servants involved in fraud: Administrative disciplinary proceedings are initiated by the relevant government body where the civil servant works and cannot lead to criminal charges. If criminal charges are potential outcome of OLAF's findings a national prosecutor will be involved or[423], OLAF will need to follow **Art. 12e OLAF RG** and support the EPPO with information if the case leads to a more complex suspicion and reveals e.g. details of a "**grand case**", e.g. a case, which falls into the remit and scope of the EPPO RG and does not stay below the thresholds (*de minimis* rule in Art. 24, 25 EPPO RG). OLAF will need to act on the

[423] OLAF needs to follow the rule that its action shall not lead to a duplication of investigations with the EPPO (non-duplication of investigations). The Supervisory Committee monitoring the implementation by the OLAF of its investigative function has taken a closer look at the Working Arrangement of OLAF and the EPPO in 2021, Opinion 2/2021 Working Arrangements between OLAF and EPPO, https://supervisory-committee-olaf.europa.eu/document/download/2d90f9ac-6556-41c7-bb55-483ccd192d8d_en. Accessed 31 July 2024. It differentiates between three stages. In the first assessment stage "OLAF will thus be required to carry out a preliminary assessment of the information received in order to be able to comply with the obligation to inform the EPPO. (footnote 18: A preliminary evaluation of the facts will be necessary to determine the presence of suspicions of an offence within the competence of the EPPO, and consequently transfer the information to the EPPO.)" In the second stage, the investigation stage it might happen that the EPPO refers a case to OLAF, e.g. "This situation can occur, for instance, when information is referred to the EPPO, but when the latter decides to refrain from exercising its competence because there are no reasonable grounds to believe that an offence within its competence has been committed; or the level of damage is below the de minimis threshold provided for in the Regulation; or in other circumstances according to Article 25 of the EPPO Regulation. Similarly, after initiating an investigation, if the EPPO decides to dismiss a case, notably because of a lack of evidence, it can then refer it to OLAF for recovery or other administrative follow-up according to Article 39(4) of the EPPO Regulation." In the last stage OLAF and the EPPO are in a constant exchange of information. A very special case might happen if OLAF needs to investigate cases of fraud related to the EPPO itself, this is possible see Supervisory Committee, Opinion 2/2021 Working Arrangements between OLAF and EPPO, https://supervisory-committee-olaf.europa.eu/document/download/2d90f9ac-6556-41c7-bb55-483ccd192d8d_en, p. 8. Accessed 31 July 2024.

basis of its Agreements with the EPPO and the national authorities will need to follow Art. 24–25 EPPO Regulation to enable OLAF to evoke a case (see above → Art. 27 EPPO Regulation). In all of these cases OLAF and its staff as well as national authorities and its staff, AFCOS and the EPPO will need to interpret the Union texts and address the national authority, follow the relevant national law to bring an investigation to success. The next table is far from exhaustive, but helps to understand the concept behind the legal framework of Art.11 OLAF RG and its numerous refences to national law(s):

a) References to national law

Sources & national sections 4 Art. 11 OLAF Regulation **6**

Para. 2	In drawing up the reports and recommendations referred to in paragraph 1, account shall be taken of the relevant provisions of Union law and, in so far as it is applicable, of the national law of the Member State concerned: Croatian law contains, especially if it comes to external investigations, obligations of the relevant competent authorities to gather and safeguard evidence. Recommendations from OLAF must be in accordance with the principles of Croatian law e.g. a measure will require the lawful thresholds according to national laws. The administrative provisions, which are applicable in the areas of revenue and expenditure have been listed above (see → C.I.3.bb Special administrative powers and provisions in certain areas of revenue and expenditure). The wording of the OLAF Regulation, especially the small part of the sentence in Article 11 para 2 "in so far it is applicable" requires the Units of OLAF to determine and assess whether a national - thus in this chapter Croatian - provision contains such a certain threshold, which needs to be fulfilled in order to make the measure, which shall be recommended to the competent national authorities is lawful. The main Acts, which can be considered as the "national law of the Member State concerned" (here: Croatia) are those, which include provisions that enable the authorities to issue administrative sanctions, bans from procurement, blacklisting of economic operators for certain funds, transfer of money, recovery of unduly paid sums, etc.: - Misdemeanour law/Prekršajni zakon - Law on the Implementation of Customs Legislation of the European Union - Law on the Financial Inspectorate of the Republic of Croatia the purified text of the law NN 85/08, 55/11, 25/12 in force from

	28.02.2012/Zakon o financijskom inspektoratu Republike Hrvatske pročišćeni tekst zakona NN 85/08, 55/11, 25/12 na snazi od 28.02.2012. - Law on the Execution of the State Budget of the Republic of Croatia for 2018 - NN 124/17, 108/18/Zakon o izvršavanju Državnog proračuna Republike Hrvatske za 2018. Godinu NN 124/17, 108/18. - Budget Law NN 144/21 in force from 01.01.2022./Zakon o proračun NN 144/21 na snazi od 01.01.2022. - Law on Public Procurement/Zakon o javnoj nabavi NN 120/16, 114/22 na snazi od 11.10.2022. due 31.12.2022.
Para. 2 (a)	Judicial proceedings of a non-criminal nature before national courts - Misdemeanour law/Prekršajni zakon - A non-criminal nature is ensured as well in proceedings, which include blacklisting, recovery, and damage recovery provisions: Procurement Code, Administrative proceedings in the Member States: - See e.g. in the Croatian Budget Law, Law on Customs Service, Law on the Implementation of Customs Legislation of the European Union. - And see all other Croatian administrative laws, which include a special proceeding to act against a fraudster or a person, who has committed an irregularity in any section of revenue or expenditure.
Para. 2 (b)	The rules on such administrative reports, which shall form the basis for the use of reports of OLAF in national criminal proceedings can be determined by the rules on the reports drawn in the final phase of an external investigation: See above → Article 3 OLAF Regulation C. (4) Investigation reports (Customs Code, Budget Act, General Tax Code). Administrative reports can e.g. be used in a court proceeding if the respective procedure Act e.g. the administrative procedure Code allows the use of documents from experts in the proceeding. The same must therefore apply for OLAF Reports and it must be allowed according to the Union law to use them as evidence within a criminal procedure equivalent to the use of administrative reports in the respective proceedings.

Para. 2 (c)	If OLAF has been informed according to the reporting obligation of national authorities in Article 11 para 2c OLAF Regulation could not be verified by us – despite the fact that a request for an answer on this matter was sent to OLAF in April 2022 and to the Croatian AFCOS in late 2022. Thus, either an information exists and it shall not be made publicly available anywhere or an information has never been sent to OLAF. Comparing the situation to an equal provision in Article 117 of the EPPO-RG, it can be said that nearly all Member States sent information for this particular information obligation to the EPPO and these information lists were publicised later on the EPPO's Website. OLAF should think about such an option, in order to enable the relevant authorities to find the information quickly.

Source: The authors.

b) National authority, Para. 3 and "action, which the external investigation, warrants"

In a Procurement procedure the relevant authority may take the following action as an "action, which the external investigation (see above Article 3 OLAF Regulation) warrants": an **annulment of the Participation in the Public Procurement Process**. In Croatia this task is fulfilled by the Croatian State Commission for the Supervision of Public Procurement Procedures.[424] This is just one example of such a possible follow-up action, which should then as well be reported back to the competent OLAF Unit. **7**

The Tax Administration bodies may report to OLAF and inform it of measures taken, i.e. administrative fine proceedings or tax supervision proceedings: **8**

Article 124 Imposing Administrative Measures **9**
(1) For the purpose of preventing further unlawful acts and for proper regulation of relationship regulated by tax legislation, the tax authority may prohibit by virtue of a decision the further operation of a taxpayer:
1. when the taxpayer does not issue invoices according to Article 62, paragraphs 1 and 5 of this Act
2. when the taxpayer does not record the deliveries of goods and services through the payment device according to Article 62, paragraph 4 of this Act
3. when the taxpayer does not keep financial and other records for the purpose of taxation according to the regulations applied in the Republic of Croatia pursuant to Article 62, paragraph 5 of this Act

[424] See e.g. https://www.eppo.europa.eu/en/news/former-minister-and-3-others-arrested-suspected-fraud-croatian-ministry-regional-development. Accessed 31 July 2024. See EU Commission 2017 for further information on red flags concerning public procurement fraud(s).

4. when the taxpayer rejects to participate in the tax procedure according to Article 69 and Article 71 of this Ac.
5. when the taxpayer does not respond to the invitation of the tax authority according to Article 78 of this Act and when the taxpayer does not permit the performance of tax supervision according to Article 117, paragraph 1 of this Act.
(2) The ban on operation may last from 15 days to six months.
(3) An appeal lodged against the decision from paragraph 1 of this Article does not put the execution of the decision on hold.
(4) The ban referred to in paragraph 2 of this Article is performed by sealing the business premises in which the taxpayer performs its activity and by sealing the equipment and means of work. The business premises shall remain sealed within the specified deadline regardless of the changes in legal personality of the taxpayer who performs its activity in this business premises.

Article 125 Right of the Taxpayer to be Informed on the Outcome of the Tax Supervision Procedure
(1) The outcome of the tax supervision procedure, prior to the issuance of minutes, shall be discussed during a final interview with the taxpayer or a person appointed by the taxpayer, reviewing all disputable facts, legal assessments, conclusions and their effects on the assessment of tax liability and make a note for the file thereof.
(2) As an exception to paragraph 1 of this Article, the final interview shall not take place if
1. during the tax supervision procedure no irregularities were identified or
2. the taxpayer avoids the interview or refuses to participate in it
3. during the tax supervision of fiscalisation and games of chance.

Article 128 Order of Payment (1) If a taxpayer owes tax, interest and enforcement expenses from the paid amount, interest and enforcement expenses are collected first, and after that the main tax debt of the same type of tax. The same rule also applies when a taxpayer has the right to a tax refund.
(2) If a taxpayer is entitled to a tax refund and interest, the paid amount shall be used to settle the interest first, followed by the tax.
(3) In case that a tax authority, based on the implemented procedure prescribed by law regulating administrative cooperation in the field of tax, received the information that the claim of a tax authority was entirely collected according to the regulations of a member country that received the request, the amount of principal and interest for which the collection was requested is settled from the collected amount first. Any possible difference between the charged interest after submitting the request and interest collected according to the regulations of the country to which the collection request was delivered

or any difference created due to the application of different exchange rates in which the debt is collected shall be written off.
(4) If a taxpayer owes several types of tax and the paid amount is not sufficient for the payment of the total amount of tax debt, then the individual types of tax are paid according to the order in which they become due.
(5) In case of amounts that are due at the same time, the order of collection is decided upon by the tax authority.
(6) After the taxpayer has made a payment in respect to which it was indicated what type of liability was being paid, the tax authority shall act in the manner stipulated in paragraphs 1 to 3 of this Article, if there are any previous outstanding liabilities.
(7) Exceptionally, if the payment was made in respect to the settlement of debt guaranteed by security or mortgage, the payment shall be used to settle the interests and principal of the debt to which the security or mortgage pertain. If the amount paid is not sufficient to pay all kinds of taxes under the security or mortgage, some of the taxes shall be charged in accordance with paragraphs 2 and 3 of this Article.

In the area of budgetary controls the issuing of the recovery of sums unduly spent or paid will be a typical result of an OLAF investigation. **10**

Article 148[425] **A solution in the budgetary control procedure** **11**
(1) If the budget control determines that the state budget funds were used contrary to the law or the budget, the budget control inspector issues a decision on the return of funds to the state budget.
(2) If it is determined by budget supervision that the funds, for which the obligation to pay into the state budget is established by a special regulation, have not been paid into the state budget or have been paid in a smaller amount than prescribed, the inspector of budget supervision issues a decision ordering their payment into the state budget.
(3) An appeal against the decision from paragraphs 1 and 2 of this article is not allowed, but an administrative dispute can be initiated.
(4) The provisions of the law governing the general administrative procedure are applied to the budgetary supervision procedure.

[425] **Članak 148 Rješenje u postupku proračunskog nadzora**
(1) Ako se proračunskim nadzorom utvrdi da su sredstva državnog proračuna korištena suprotno zakonu ili proračunu, inspektor proračunskog nadzora donosi rješenje o povratu sredstava u državni proračun.
(2) Ako se proračunskim nadzorom utvrdi da sredstva, za koja je posebnim propisom utvrđena obveza uplate u državni proračun, nisu uplaćena u državni proračun ili su uplaćena u manjem iznosu od propisanog, inspektor proračunskog nadzora donosi rješenje kojim se nalaže njihova uplata u državni proračun.
(3) Protiv rješenja iz stavaka 1. i 2. ovoga članka žalba nije dopuštena, ali se može pokrenuti upravni spor.
(4) Na postupak proračunskog nadzora primjenjuju se odredbe zakona kojim je uređen opći upravni postupak.

Article 149[426] **Compiling the indictment**
(1) The budget supervision inspector who, in the course of the supervision procedure, has determined actions that have the characteristics of a misdemeanour, draws up an indictment against the perpetrator of the misdemeanour on behalf of the Ministry of Finance and submits it to the competent regional office of the Tax Administration.
(2) Misdemeanour proceedings for misdemeanours prescribed by this Act are conducted in the first instance by the locally competent regional office of the Tax Administration.

Article 150[427] **Management of misdemeanour proceedings**
(1) The provisions of the law regulating the misdemeanour procedure are applied to the rules for conducting misdemeanour proceedings, appeals proceedings and extraordinary legal remedies.
(2) The provisions of the law regulating the general tax procedure shall be applied with regard to the forced collection of legally imposed fines in misdemeanour proceedings.

12 In the area of customs controls the **Law on the Customs Service** contains provisions that may apply in relation to **recommendations**:

13
6. Giving warnings and orders
Article 38
An authorized customs officer, when performing supervision, will warn a person who, by his behaviour, action or omission of a certain action, may endanger his safety or the safety of another person, or when he reasonably expects that this person could commit or cause another person to commit a punishable act.

Article 39
(1) An authorized customs official issues an order:
1. when, during supervision, he eliminates danger to life and goods,
2. in order to prevent the commission of a punishable act or to prevent the resistance or escape of the person who is being monitored,
3. in order to prevent the destruction of evidence and traces that can serve as evidence,

[426] **Članak 149 Sastavljanje optužnog prijedloga**
(1) Inspektor proračunskog nadzora koji je u postupku nadzora utvrdio radnje koje imaju obilježja prekršaja, sastavlja u ime Ministarstva financija optužni prijedlog protiv počinitelja prekršaja i podnosi ga nadležnom područnom uredu Porezne uprave.
(2) Prekršajni postupak za prekršaje propisane ovim Zakonom u prvom stupnju vodi mjesno nadležni područni ured Porezne uprave.
[427] **Članak 150 Vođenje prekršajnog postupka**
(1) Na pravila vođenja prekršajnog postupka, žalbeni postupak i izvanredne pravne lijekove primjenjuju se odredbe zakona kojim se uređuje prekršajni postupak.
(2) U pogledu prisilne naplate pravomoćno izrečene novčane kazne u prekršajnom postupku primjenjuju se odredbe zakona kojim se uređuje opći porezni postupak.

4. for the purpose of unhindered inspection of persons, goods, means of transport and business premises, spaces and objects that are subject to supervision,
5. in other cases in accordance with special regulations.
(2) The order from paragraph 1 of this article may be issued to a larger number of persons.

Article 40
(1) In addition to the orders from Article 39 of this Act, when the circumstances of the case require it, in order to prevent further illegal actions, an order may temporarily limit or temporarily prohibit the performance of activities by sealing business premises, warehouses, plants, part of plants, plants, equipment or other premises and by preventing the use of plants, devices and other equipment for work, or in another convenient way.
(2) An authorized customs officer may, by order, determine measures to prevent and prevent illegal behaviour in places designated as markets, places where trade can be conducted (fairs, exhibitions, events, etc.) and in other places. In accordance with the order, among others, natural and legal persons who manage the business of markets and who organize appropriate trading, as well as competent bodies of local and regional self-government units, are obliged to act.
(3) The measures referred to in paragraph 2 of this article may consist of marking and physically fencing off or preventing access to the area, placing signs warning of illegal behaviour and other actions that achieve the purpose of preventing and preventing illegal behaviour.
(4) The order from this article lasts until the reason for which it was issued is removed, and for a maximum of 15 days from the day it was issued, after which a decision is made on the conditions for the legal performance of the activity or the implementation of further measures to properly manage the case. An appeal filed against the aforementioned decision does not delay its execution.

Article 40.a (1) An authorized customs officer may, when the circumstances of the case so require, in order to prevent further illegal actions by a natural or legal person who orders, mediates or publishes an advertisement in the press, via television, radio, internet and other media (advertising organization) or advertising notices in some other way that is available to the public, by a written order to temporarily limit or prohibit the public publication of advertisements and all activities aimed at the public publication of advertisements.
(2) In the sense of this article, performing or participating in the performance of an unregistered activity in the sense of regulations governing the prohibition and prevention of the performance of an unregistered activity, as well as advertising the sale or other disposal of goods contrary to the conditions, prohibitions or restrictions provided for in special regulations, is considered illegal.

(3) The order referred to in paragraph 1 of this article is executed by appropriate application of Article 40 of this Act and other appropriate actions in a manner that is proportionate to the purpose of preventing and preventing illegal behaviour.
(4) An appeal may be filed against the order referred to in paragraph 1 of this article, which does not delay its execution.
(5) The order from paragraph 1 of this article lasts until the removal of the reason for which it was issued, and for a maximum of 15 days from the day it was issued, after which the decision shall be taken to decide on the conditions for the lawful performance of activities, handling of goods or the implementation of further measures in order to properly resolve the case arranged. An appeal filed against the aforementioned decision does not delay its execution.

Article 40.b
(1) If the authorized customs officer determines that the provisions of special laws and regulations adopted on their basis have been violated, apart from issuing orders from Articles 39, 40 and 40a of this Act and depending on the circumstances of the case, he may by written order:
1. to order that the identified irregularities, i.e. deficiencies, be eliminated within a certain period,
2. to order the return of illegally obtained funds,
3. prohibit the implementation of actions that are contrary to this Law and other regulations,
4. undertake other measures, i.e. perform other actions for which he is authorized by this Act and/or special laws.
(2) The authorized customs official shall pass the order from paragraph 1 of this article without delay, and no later than within 15 days from the day of the end of the inspection.
(3) An appeal may be filed against the order referred to in paragraph 1 of this article, which does not delay its execution.

Article 40.c (1) If the person to whom the order was issued does not act according to the order from Article 40, 40 and 40 b of this Act, he will be fined for the execution of the order.
(2) A fine by which a natural person is forced to perform is imposed by a decision in the amount of up to two average annual gross wages earned in the Republic of Croatia in the previous year. A fine by which a legal person is forced to perform is imposed by a decision on the responsible person of that legal person in the amount of up to ten average annual gross salaries earned in the Republic of Croatia in the previous year.
(3) In case of further failure to comply with the order from paragraph 1 of this article, a second, larger fine within the established range will be imposed. If necessary, the fine can be imposed more than once.

(4) The deadline for payment of the fine is eight days from the date of delivery of the decision. If the fine is not paid within the deadline, it will be collected compulsorily according to the regulations for the compulsory collection of public duties.
(5) An appeal may be filed against the decision from this article, which does not delay its execution.

Article 41
(1) Warnings and orders are given orally, in writing or in another appropriate way (light and sound signals, signs, hand and other means).
(2) The Minister of Finance prescribes the terms and methods of issuing and implementing warnings and orders by ordinance.

Another consequence might be the **initiation of disciplinary actions**: **14**

PART VIII. **15**
RESPONSIBILITY FOR VIOLATIONS OF OFFICIAL DUTIES
Article 100
(1) Customs officers are liable for breach of official duties in accordance with the provisions of this Act and the Act on Civil Servants.
(2) Violations of official duties can be light or serious.
(3) The provisions of the law governing the general administrative procedure shall be applied to proceedings for breach of official duty.

Article 101
In addition to violations prescribed by the Law on Civil Servants, improper treatment of co-workers and parties during work is considered a minor violation of official duty.

Article 102
(1) Serious violations of official duty, in addition to violations prescribed by the Law on Civil Servants, are also considered to be:
1. performing tasks incompatible with the duties of a Customs Administration officer,
2. preventing and preventing authorized customs officers from performing their official duties,
3. misuse of uniforms, insignia and weapons when performing or in connection with the performance of official duties,
4. falsification, alteration, introduction or verification of untrue content in official documents,
5. refusal of a written order for an alcohol test or refusal of a written order for an expert examination that determines the presence of alcohol or narcotics in the body,
6. an action that has the characteristics of a misdemeanour under the jurisdiction of the Customs Administration,

7. non-observance, i.e. violation of the rules on the internal order of the customs service or the Code of Professional Ethics of the employees of the Ministry of Finance, the Customs Administration, except for the violations specified in Article 101 of this Act,
8. failure to comply with the instructions and work instructions issued by the Central Office on the application of regulations from the scope of work of the customs service,
9. unauthorized use or use for unofficial purposes of data and information collected by the Customs Administration for the purpose of carrying out tasks established by law and other regulations under its jurisdiction,
10. not taking the necessary actions in connection with the procedure for determining the responsibility of the customs officer and concealing committed violations of official duties,
11. misconduct in service or outside of service, which results in damage to the reputation of the service,
12. publicly stating untruths about the service, which results in damage to the reputation of the service.
(2) The presence of alcohol or narcotics is determined by a Breathalyzer test or a medical examination.
(3) Internal supervision and control officers, a superior officer, an occupational safety expert and another officer who is trained and authorized to perform these tasks are authorized to perform the Breathalyzer test.
(4) Officials referred to in paragraph 3 of this article must be trained to conduct alcohol testing by a health institution.

Article 103

(1) The First Instance Disciplinary Court of the Customs Administration is established at the headquarters of the Central Office of the Customs Administration in Zagreb to decide on serious violations of official duty for all customs officials in the first instance and light violations of official duty in the second instance.
(2) The Second Instance Disciplinary Court of the Customs Administration with its headquarters in the Central Office of the Customs Administration in Zagreb shall be established to decide on serious violations of the official duties of customs officials in the second instance.

Article 104

The President and members of the First Instance Disciplinary Court of the Customs Administration and the Second Instance Disciplinary Court of the Customs Administration are customs officials.

Article 105
(1) The first-instance disciplinary court of the Customs Administration consists of a president and at least ten members with a university degree, of which the president and at least five members are lawyers.
(2) The President and members of the First Instance Disciplinary Court of the Customs Administration are appointed by decision of the Minister of Finance on the proposal of the director, for a period of two years.
(3) The First Instance Disciplinary Court of the Customs Administration decides in a Council of three members, one of whom is the President of the Council, and they are appointed by the President of the First Instance Disciplinary Court of the Customs Administration for each individual case.

Article 106
(1) The second-instance disciplinary court of the Customs Administration consists of the president and at least six members with a university degree, of which the president and at least three members are lawyers.
(2) The President and members of the Second Instance Disciplinary Court of the Customs Administration are appointed by decision of the Minister of Finance on the proposal of the director, for a period of two years.
(3) The Second Instance Disciplinary Court of the Customs Administration decides in a Council of three members, one of whom is the President of the Council, and they are appointed by the President of the Second Instance Disciplinary Court of the Customs Administration for each individual case.
Article 107
(1) The Secretary of the First-instance Disciplinary Court of the Customs Administration and the Second-instance Disciplinary Court of the Customs Administration is appointed by decision of the director, for a period of two years.
(2) The secretary of the First and Second Instance Disciplinary Court is a customs officer with a university degree.
(3) The recorders of the First Instance Disciplinary Court of the Customs Administration and the Second Instance Disciplinary Court of the Customs Administration are appointed by the Director.

Article 108
(1) Presidents, members, secretaries and recorders of the First Instance Disciplinary Court of the Customs Administration and the Second Instance Disciplinary Court of the Customs Administration have the right to monetary compensation for their work.
(2) The fee is determined according to the completed case, especially for the president of the council, and especially for the members of the council and the secretary of the

First Instance Disciplinary Court of the Customs Administration and the Second Instance Disciplinary Court of the Customs Administration, as well as recorders.
(3) The amount of monetary compensation referred to in paragraphs 1 and 2 of this article and the award criteria shall be prescribed by the ordinance of the Minister of Finance.

Article 109
(1) Proceedings due to minor violation of official duties are initiated by a conclusion by the director or a customs officer authorized by him, on his own initiative or on the written proposal of a superior officer.
(2) For light violations of official duty, the procedure is led and the decision is made by the director or a customs officer authorized by him.

Article 110
(1) Proceedings due to serious breach of official duty shall be initiated by the director or a customs officer authorized by him for this purpose, on the day of submission of the request for initiation of proceedings to the competent First Instance Disciplinary Court.
(2) For serious violations of official duty, the disciplinary procedure is conducted and the decision is made by the Disciplinary Court of First Instance.

Article 111
(1) The heading of the act of the First Instance Disciplinary Court of the Customs Administration and the Second Instance Disciplinary Court of the Customs Administration contains: the coat of arms of the Republic of Croatia, the name "Republic of Croatia, Ministry of Finance, Customs Administration, First Instance Disciplinary Court of the Customs Administration", i.e. "Second Instance Disciplinary Court of the Customs Administration", numerical subject designation, place and date of creation of the document.
(2) The seal of the First-instance Disciplinary Court of the Customs Administration and the Second-instance Disciplinary Court of the Customs Administration referred to in paragraph 1 of this article is 38 mm in diameter and contains the coat of arms of the Republic of Croatia in the middle, and around it the name "Republic of Croatia, Ministry of Finance, Customs Administration" and the name "First-instance Disciplinary Court of the Customs Administration", i.e. "Second-instance Disciplinary Court of the Customs Administration".

Article 112
(1) The customs officer against whom the proceedings are being conducted and the superior officer who submitted the proposal have the right to appeal to the First Instance Disciplinary Court of the Customs Administration within 15 days from the date of receipt of the decision.

(2) The decision on the appeal referred to in paragraph 1 of this article is enforceable on the day of delivery.

Article 113

(1) Against the decision of the First Instance Disciplinary Court of the Customs Administration in proceedings for serious breach of official duty, the customs officer against whom the proceedings are being conducted, the director or a person authorized by him to do so have the right to appeal to the Second Instance Disciplinary Court of the Customs Administration within 15 days from the day of receipt decisions.
(2) The decision on the appeal referred to in paragraph 1 of this article is enforceable on the day of delivery.
(3) No appeal is allowed against the second-instance decision in the procedure for violation of official duty, but an administrative dispute can be initiated.

Article 114

(1) A customs official may be removed from service by decision if criminal proceedings or proceedings before the First Instance Disciplinary Court of the Customs Administration have been initiated against him due to a serious breach of official duty, and the breach is of such a nature that remaining in service while the proceedings are ongoing could harm the interests of the service.
(2) The director is obliged to remove from office a customs officer against whom criminal proceedings or proceedings have been initiated due to a serious breach of official duty due to an act with characteristics of corruption.
(3) It is considered that a customs official is removed from service while he is in pretrial detention, on which a decision is made.
(4) Removal from service may last until the end of the criminal proceedings or the proceedings due to a serious breach of official duty, and in the case referred to in paragraph 3 of this article, until the end of pre-trial detention.

Article 115

(1) Exceptionally, a customs official may be removed from service even before proceedings have been initiated against him before the First Instance Disciplinary Court of the Customs Administration for serious breach of official duty in case of justified suspicion that he has committed serious breach of official duty with features of corruption.
(2) In the case referred to in paragraph 1 of this article, the request for initiation of proceedings due to serious breach of official duty shall be submitted to the competent First Instance Disciplinary Court of the Customs Administration within eight days from the day of removal, otherwise all legal consequences of removal from service shall cease.

(3) A decision shall be made on the termination of the legal consequences of removal from the service referred to in paragraph 2 of this Article. The decision produces legal effects from the occurrence of the circumstances referred to in paragraph 2 of this article.
(4) In the event of the termination of the circumstances that conditioned the removal from service, the decision referred to in paragraph 3 of this Article may be made even before the expiration of the term referred to in paragraph 2 of this Article.

Article 116
(1) The decision on removal from service is made by the director.
(2) Within 15 days from the date of delivery of the decision, a customs officer may file an appeal with the First Instance Disciplinary Court of the Customs Administration against the decision on removal from service.
(3) The appeal does not delay the execution of the decision.
(4) The first-instance disciplinary court of the Customs Administration is obliged to decide on the appeal no later than within 15 days from the day of receipt.
(5) An appeal is not allowed against the decision of the First Instance Disciplinary Court of the Customs Administration, but an administrative dispute can be initiated.

Article 117
(1) A customs official who is removed from service shall be deprived of his official badge and identity card, weapons and other means entrusted to him for the performance of his work, and for the duration of his removal he shall be prohibited from wearing a uniform.
(2) The decision from paragraph 1 of this article is made by the director.

Nota bene: Last but not least, it should be mentioned that since the new OLAF Regulation has been adopted in 2020, there is a clearer, one can say fix **time-limit for recipients of recommendations to report on follow-up**. This concerns national courts, member states, AFCOS and other institutions and shall ensure a **steady flow of information** towards officials and investigators working for OLAF.

4. Article 12 (Exchange of information between the Office and the competent authorities of the Member States)

Without prejudice to Articles 10 and 11 of this Regulation and to the provisions of Regulation (Euratom, EC) No 2185/96, the Office may transmit to the competent authorities of the Member States concerned information obtained in the course of external investigations in due time to enable them to take appropriate action ***in accordance with their national law***. It may also transmit such information to the institution, body, office or agency concerned.
2. Without prejudice to Articles 10 and 11, the Director-General shall transmit to the ***judicial authorities of the Member State concerned*** information obtained by the Office, in the course of internal investigations, concerning facts which fall within the ***jurisdiction of a national judicial authority***. […]
3. The ***competent authorities of the Member State concerned*** shall, unless ***prevented by national law***, inform the Office without delay, and in any event within 12 months of receipt of the information transmitted to them in accordance with this Article, of the action taken on the basis of that information.
4. The Office may ***provide evidence*** in proceedings before national courts and tribunals ***in conformity with national law*** and the Staff Regulations. […]

a) Article 12 Para. 1 OLAF Regulation (competent authorities & appropriate action in accordance with their national law)

- State Attorney's Office **1**
- Police
- Ministry of Finance
  - Tax Administration,
  - Customs,
  - Budgetary Control,
  - Anti-Money Laundering Office

b) Article 12 Para. 2 OLAF Regulation (judicial authorities of the Member State concerned)

- State Attorney's Office **2**
- County court

For corruption offences (in case of a criminal investigation) **3**

According to Article 11e of the Law on Police duties and powers:

"*(3) In the case referred to in paragraphs 1 and 2 of this article, the criminal investigation will be carried out by the organizational unit of the Ministry designated by the director general or a person authorized by him.*

(4) When there is a basis for suspecting that a criminal offense has been committed by a leading police officer of the Police Directorate, the State Attorney's Office of the Republic of Croatia shall be notified without delay, which will decide on taking over the investigation of the criminal offense."

4 **Bodies operating in the special areas of corruption prevention:**[428]
Commissioner for Information
Committee for deciding on conflict of interest
Ombudsman
State Audit Office
State Commission for Control of Public Procurement Procedures
State Election Commission

5 **Bodies in the area of strategic policy determination against corruption:**[429]

Croatian Parliament
Croatian Government
Ministry of Justice
Advice for preventing corruption

c) Article 12 Para. 3 OLAF Regulation (Information to the Office by competent authorities of the Member State concerned)

6 Article 12 para 3 OLAF Regulation speaks, even if it does not clearly mention it within the wording of its paragraphs, mainly of external investigations on the territory of the respective Member State. This manual chapter deals with the Republic of Croatia. In Croatia the competent authorities during on-the-spot-checks are nowhere regulated within one single national law, but, as in many other EU Member States, referred to in various, different laws, which stem from the two main areas of EU revenue and EU expenditure. For the competent authorities, we can refer to the enumeration above (→ see above Article 3 OLAF Regulation "Competent authorities").

7 The rules, which prevent these national authorities to report information to OLAF have been mentioned partly as well already above.

8 See → Article 3 OLAF Regulation (3) Protection of information.

9 See → Article 8 OLAF Regulation Article 8 Duty to inform the Office.

[428] Official website of the Ministry of Justice and Public Administration, see https://mpu.gov.hr/istaknute-teme/borba-protiv-korupcije/institucionalni-okvir-u-podrucju-borbe-protiv-korupcije/tijela-koja-djeluju-u-posebnim-podrucjima-prevencije-korupcije-prevencija/21529. Accessed 31 July 2024.
[429] Ibid.

d) Article 12 Para. 4 OLAF Regulation (Providing evidence in court proceedings before national courts and tribunals in conformity with national law)

OLAF and its special Units itself might be a reliable and useful source of evidence in a national (court) proceeding. If OLAF can provide evidence within the court proceedings, will depend on the rules of the Croatians Acts, that deal with the procedures, which OLAF can recommend according to Article 11 OLAF Regulation to the competent authorities (see → above Article 3 OLAF Regulation "Competent authorities"). If these Acts include provisions that deal with experts, allow the court to heard experts etc. then OLAF as a Union body might be considered an expert to the proceedings. If the provisions do allow only to present documents as evidence, the OLAF Report may play a vital role instead. It includes all information, which the Office has gathered and includes an assessment of the evidence collected including a recommendation to the authority what to do to safeguard the Union budget. **10**

Interpreting Article 12 para 4, it speaks of the Office presenting evidence before the court, which can be seen as a clear argument for the hearing of persons of the office and not only of a written report. To hear a person of the OLAF Units in court, enables the judiciary to question the person as witness probably. This can help the judges more that to read out aloud a written report as they can question the person. A written report will not answer to specific question immediately. **11**

5. Article 12a (Anti-fraud coordination services)

1. Each Member State shall, for the purposes of this Regulation, designate a service (the 'anti-fraud coordination service') to facilitate effective cooperation and exchange of information, including information of an operational nature, with the Office. Where appropriate, ***in accordance with national law***, the anti-fraud coordination service may be regarded as a competent authority for the purposes of this Regulation. […]

a) General remarks

aa. Definition and history

Cooperation, coordination and facilitation are buzz words in anti-fraud literature.[430] Anti-fraud coordination services are known worldwide and exist in many international **1**

[430] Kuhl 2019, 135 (160 et seq.); Wells 2014; Spink 2019; Saporta and Maraney 2022, FCPA 2012; ECA 2022; Malan 2022, 135–139; focusing on the customs area Van der Paal and Nurk 2019; de Vries 2022, 401–463; House of Lords 2013, 32 et seq.

organizations and cooperate with nation states.[431] In the EU the term "AFCOS" has a *very special meaning* as it means the *Anti-fraud coordination services created on behalf of the European Anti-fraud Office* for the facilitation of interactions with the national Member States of the EU (see recitals below).[432] The obligation to designate these services runs and derives from primary Union law. Article 325 TFEU (ex-Article 280 TEC) requests the Union *and* the Member States to fight fraud (together). The history of these services, adapted to the financial and budgetary law sector and set-up in the Member States' internal justice and financial systems dates back to the early 2000s.[433] Historically, the coordinating bodies emerged primarily in the new Member States that were awaiting accession. The European Parliament has already in 2010 called for the AFCOS to be set up as independent bodies in the MS. Today one could not be further from this idea than ever, since the AFCOS are mostly subordinated deep in the structure of a Financial or Treasury Department/Ministry, Financial Inspections Services of the Treasury Department/Ministry, the Department of Commerce or the Ministry/Department of the Interior. The simplicity of the coordination from within a ministry and the size of the administrative apparatus certainly speak in favour of this, but the interconnectedness is also problematic from the point of view of efficiency (states with political goodwill coordinate very easily and others are politically manoeuvrable):

> "**Friday 24 April 2009 Protection of the Communities' financial interests and the fight against fraud - Annual Report 2007 P6_TA(2009)0315 European Parliament resolution of 24 April 2009 on the protection of the Communities' financial interests and the fight against fraud - Annual Report 2007 (2008/2242(INI)) 2010/C 184 E/14 The European Parliament,"**
>
> 68. points out that the Anti-Fraud Coordination Units (AFCOS) set up for OLAF in the Member States that joined the European Union after 2004 are very important sources of information and contact points for OLAF; points out, however, **that the functional added value of these offices (in particular in terms of reporting irregularities to the Commission) is minimal as long as they are not independent from national administrations**; therefore calls on the Commission to submit a proposal to Parliament's competent committee on how the work of these offices could be made more useful and considers it necessary to improve cooperation with the candidate countries." [434]

[431] Bartsiotas and Achamkulangare 2016; See World Customs Organization, http://www.wcoomd.org/en/about-us/partners/international_organizations.aspx; see UNDOC, https://www.unodc.org/unodc/en/corruption/COSP/session9-resolutions.html, focusing on the designation of anti-corruption bodies. Accessed 31 July 2024.
[432] Kuhl 2019, 135 (164).
[433] Quirke 2015, 232 (236 et seq.).
[434] See OJ, 8.7.2010, CE 184/72 Freitag, 24. April 2009 Schutz der finanziellen Interessen der Gemeinschaften und Betrugsbekämpfung - Jahresbericht 2007 P6_TA(2009)0315 Entschließung des Europäischen Parlaments vom 24. April 2009 zu dem Schutz der finanziellen Interessen der Gemeinschaften und der Betrugsbekämpfung – Jahresbericht 2007 (2008/2242(INI)) 2010/C 184 E/14 Das Europäische Parlament.

At least there is legal and technical oversight of the areas of administration in most states and nowadays the AFCOS are implemented at the highest level.[435] **2**

However, the existing Member States are also aware of weaknesses in the fight against fraud. Only since 2010 and in the last decade has more attention been paid to these coordination points. They have become a *sine qua non* in the EU's fight against fraud and it seems that they are becoming more and more the "eyes and ears" of OLAF in the Member States. They only have their own investigative skills, which would make them an "extended arm" of OLAF in the member states, if at all, e.g. in Bulgaria or Italy. On the other hand, in Germany and France, they are more active in the background and do not appear too clearly. Activity reports may also have to be requested by the Commission, i.e. the responsible departments of OLAF. **3**

bb. Legislative developments

The Commission has evaluated the impact of the AFCOS in the past decade.[436] Recent changes at the beginning of the 2020s have enlarged the competences of the AFCOS. These are now even allowed to cooperate with each other and not only with OLAF in Brussels alone, which was the case prior to the amendments of the Regulation (EU) 2020/2223. **4**

The recent changes describe the role of the AFCOS in the recitals. Thus by reading them the task and role of these bodies becomes vivid: **5**

(23) The Office is able, under Regulation (EU, Euratom) No 883/2013, to enter into administrative arrangements with ***competent authorities of Member States***, such as anti-fraud coordination services, and institutions, bodies, offices and agencies, in order to specify the arrangements for their cooperation under that Regulation, in particular ***concerning the transmission of information, the conduct of investigations and any follow-up action***. **6**

(30) Due to the large diversity of national institutional frameworks, Member States should, on the basis of the principle of sincere cooperation, ***have the possibility to notify to the Office the authorities that are competent to take actions upon recommendations of the Office***, as well as the authorities that need to be informed, such as for financial, statistical or monitoring purposes, for the performance of their relevant duties. Such

[435] Byrne 2018, p. 13.

[436] COMMISSION STAFF WORKING DOCUMENT EVALUATION of the application of Regulation (EU, EURATOM) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 Accompanying the document Commission report to the European Parliament and the Council., p. 3, 12, 72.
The Commission document was accompanied by a Report (called ICF Report 2017), which resulted from an external study: European Commission, European Anti-Fraud Office, Evaluation of the application of Regulation No 883/2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF): Final report, Publications Office, 2017, https://data.europa.eu/doi/10.2784/281658. Accessed 31 July 2024.

authorities ***may include national anti-fraud coordination services***. In accordance with the settled case-law of the CJEU, the Office recommendations included in its reports have no binding legal effects on such authorities of Member States or on institutions, bodies, offices and agencies.

(37) The anti-fraud coordination services of Member States were introduced by Regulation (EU, Euratom) No 883/2013 to facilitate an effective cooperation and exchange of information, including information of an operational nature, between the Office and Member States. The Commission evaluation report concluded that they have contributed positively to the work of the Office. The Commission evaluation report also identified the ***need to further clarify the role of those anti-fraud coordination services*** in order to ensure that the Office is provided with the necessary assistance to ensure that its investigations are effective, while leaving the organisation and powers of the anti-fraud coordination services to each Member State. In that regard, the anti-fraud coordination services should be able to provide or coordinate the ***necessary assistance*** to the Office ***to carry out its tasks effectively, before, during or at the end of an external or internal investigation***.

(40) It should be possible for the anti-fraud coordination services in the context of coordination activities to provide assistance to the Office, as well as for the anti-fraud coordination services ***to cooperate among themselves***, in order to further reinforce the available mechanisms for cooperation in the fight against fraud.

cc. Visualization

7 The visualization concerns two situations 1) the situation prior to 2020 and 2) the new situation (since 2020) cooperation and role of the AFCOS

Figure 8 Visualization of the old cooperation by virtue of Regulation No. 883/2013

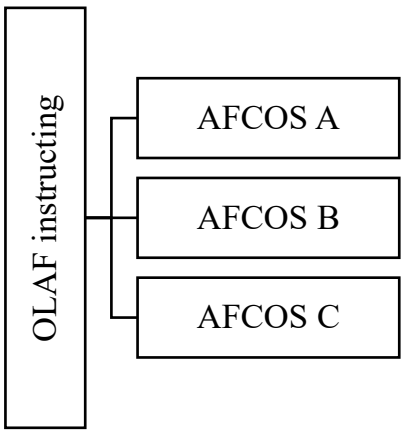
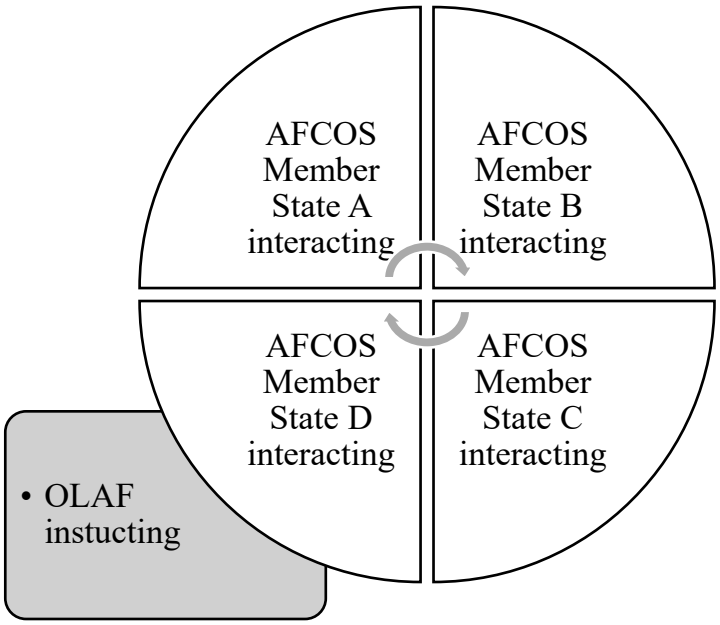


Figure 9 Visualization of the new cooperation by virtue of Regulation No. 883/2013 (as amended 2020/2223)



b) A closer look at the relevant AFCOS in the present Member State

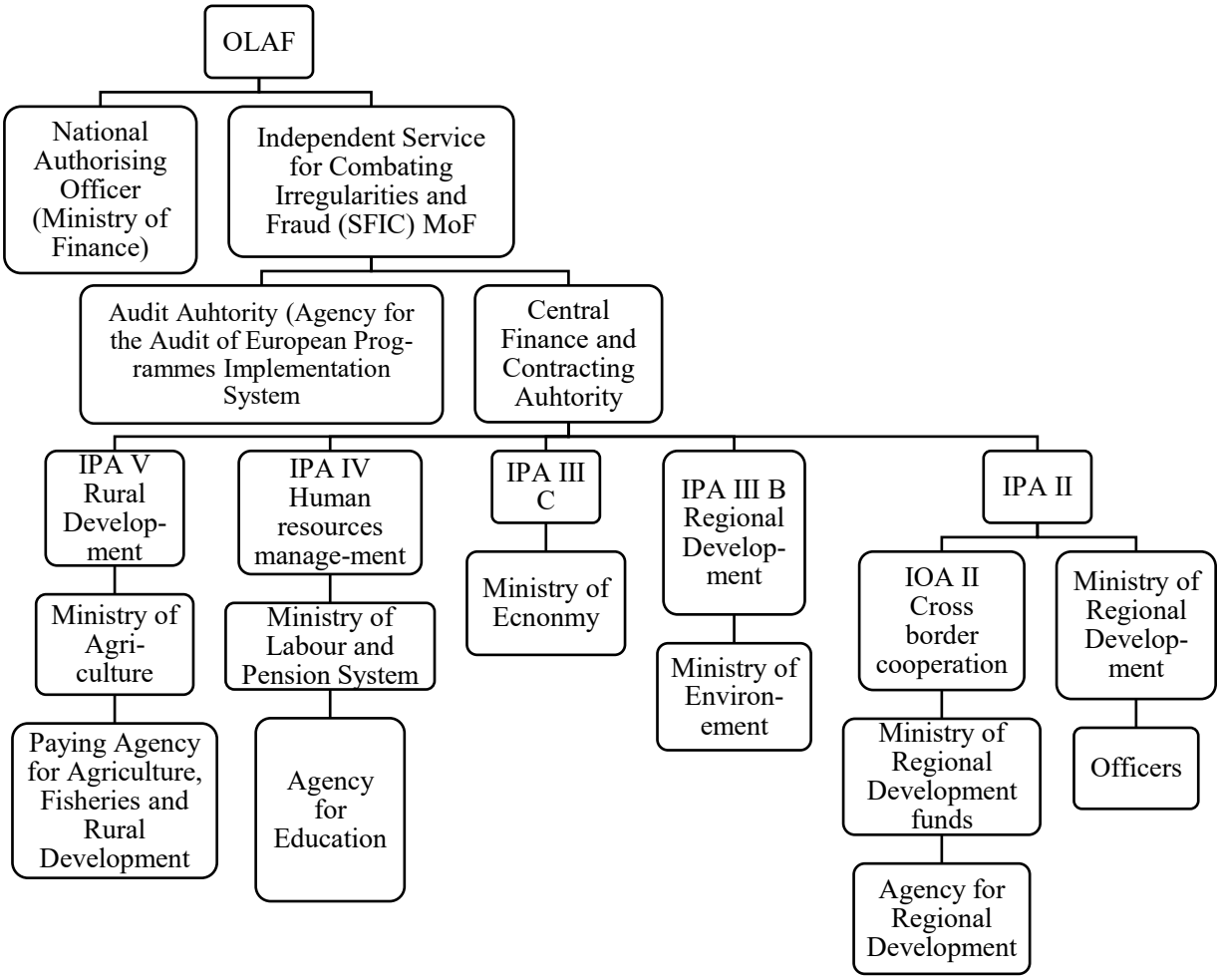
The competent AFCOS authority in Croatia is the

- Service for Combating Irregularities and Fraud - Directorate for Financial Management, Internal Audit and Supervision of the Ministry of Finance.

During Hercule II the coordination was researched by the Ministry of Finance and a valuable graphic was designed to explain the complicated structure of control in Croatia:[437] **8**

[437] See Juric, AFCOS systemiin the Republliic of Croatia, Independent Service for Combating Irregularities and Fraud (ISCIF), Ministry of Finance, Presentation.
See again recently Juric, The Players in the Protection of the EU's Financial Interests, European Cooperation between Authorities Conducting Administrative Investigations, and those Conducting Criminal Investigations, eucrim 2022, 214–222.

Figure 10 AFCOS in Croatia



Source: Croatian Ministry of Finance.

[Article 12b–12d omitted]

6. Article 12e (The Office's support to the EPPO)

1. In the course of an investigation by the EPPO, and at the request of the EPPO in accordance with Article 101(3) of Regulation (EU) 2017/1939, the Office shall, in accordance with its mandate, support or complement the EPPO's activity, in particular by:
(a) providing information, analyses (including forensic analyses), expertise and operational support;
(b) facilitating coordination of specific actions of ***the competent national administrative authorities*** and bodies of the Union; […]

The authorities, which can be mentioned here as Croatian administrative authorities are:
- Ministry of Finance
- Tax Administration Offices,
- Customs Offices,
- Budgetary Control (Offices and Servants),
- Anti-Money Laundering Office
- Service for Combating Irregularities and Fraud - Directorate for Financial Management, Internal Audit and Supervision

[Article 12f–g omitted]

7. Article 13 (Cooperation of the Office with Eurojust and Europol)

1. […] Where this may support and strengthen coordination and cooperation between ***national investigating and prosecuting authorities,*** or where the Office has forwarded to the competent authorities of the Member States information giving grounds for suspecting the existence of fraud, corruption or any other illegal activity affecting the financial interests of the Union in the form of serious crime, it shall transmit relevant information to Eurojust, within the mandate of Eurojust. […]

The following national authorities are competent to cooperate with the Office. They can profit from any cooperation that the Office has with Eurojust and Europol: **1**

- County State Attorney's Office (regional) **2**
- Police
- Ministry of Finance
  - Tax Administration,
  - Customs,
  - Budgetary Control,
  - Anti-Money Laundering Office
- County Court (Regional)

[Article 14–16 omitted]

8. Article 17 (Director-General)

4. The Director-General shall report regularly, and at least annually, to the European Parliament, to the Council, to the Commission and to the Court of Auditors on the findings of investigations carried out by the Office, the action taken and the problems encountered, whilst respecting the confidentiality of the investigations, the legitimate rights of the persons concerned and of informants, and, where appropriate***, national law applicable to judicial proceedings***. Those reports shall also include an assessment of the actions taken by the ***competent authorities of Member States*** and the institutions, bodies, offices and agencies, following reports and recommendations drawn up by the Office.

7. The Director-General shall put in place an internal advisory and control procedure, including a legality check, relating, inter alia, to the respect of procedural guarantees and fundamental rights of the persons concerned and ***of the national law of the Member States concerned***, with particular reference to Article 11(2). The legality check shall be carried out by Office staff who are experts in law and investigative procedures. Their opinion shall be annexed to the final investigation report.

a) National law applicable to judicial proceedings

1 The Court Acts of the Republic of Croatia contain national law applicable to judicial proceedings. They regulate the administrative court procedure, which is relevant for the follow-up on OLAF's Reports. In a case, which shall lead to a recovery of sums from a beneficiary in the area of structural funds e.g. OLAF will, if it assessed an irregularity detrimental to the Union budget within its final report, **recommend to the competent national authority** to initiate the recovery process. Judicial proceedings are e.g. governed by the CPC, which outlines the procedures for investigating and prosecuting criminal cases. Other legislative frameworks include above all the Law on Courts and the Law on the State Attorney's Office (DORH). These laws regulate how investigations are conducted, the roles of judges, prosecutors, and defence attorneys, and ensure that proceedings are compliant with national and EU legal standards.

2 This process might involve the **initiation of a court proceedings**. In this case the Director will report the recovery process as action taken and will annex to his/her report a list of problems encountered e.g. problems during the court proceedings. If a **person's rights are infringed** during the court proceedings or if the court comes to the conclusion that the rights of the persons have been infringed during the investigation procedure (e.g. on-the-spot checks according to Article 3 OLAF) then the Director General will need to **report such an incidence** to the relevant legislative organs of the EU as mentioned in para. 4 of Article 17 OLAF Regulation.

Thus it can be concluded that the Director General needs a source e.g. an expert from where he gets information about the relevant national system that he/she deals with in the respective case. **3**

b) Internal advisory and control procedure: Legality check involving national law

The national laws of Croatia in relation to respect of **procedural guarantees and fundamental rights** of the persons concerned and of the national law of the Member States concerned, with particular reference to Article 11 para 2 are thus part of an **internal advisory and control procedure including the check**. A special part of the assessment pays attention to the fact that OLAF's investigative actions need to be conducted lawfully and respect the rights of the individuals and entities involved. **4**

Especially before conducting on-the-spot checks at the premises of a Croatian economic operator etc. or initiating investigations in a surrounding, OLAF must ensure that the legal grounds for the investigation are present. This includes verifying compliance with procedural requirements under both EU law and national laws, such as those in Croatia, which may involve ensuring that searches, document requests, or interviews are done in accordance with the administrative, tax, customs or even CPC. **5**

The Office needs to carry out a **legality check**. It ensures compliance with the **Charter of Fundamental Rights of the EU**, protecting individuals from unlawful administrative-law related searches, seizures, and other intrusive measures. Measures taken need to be lawful. This involves again the interpretation of national law, in this case Croatian laws, which have been mentioned in the assessment on Article 3 OLAF Regulation above. **6**

In summary the legality check is an internal measure, but still persons concerned by an OLAF measure, can contact or lodge an appeal against a measure by contacting an **independent controller of procedural guarantees** (see above → Art. 9).[438] **7**

[Article 18–21]

[438] See https://supervisory-committee-olaf.europa.eu/controller-procedural-guarantees_en for a web-based complaints submission center. Accessed 31 October 2024. It is highly important to consider that there are conditions and grounds for exclusion (incidentally, such a procedure does not yet exist at the EPPO now) it is like a "dispute settlement" and aims to resolve conflicts without state or supranational justice, in a traditional way directly with the institution and is an alternative. The information on the webpage says: "You [must] submit your complaint within one month of becoming aware of the relevant facts that constitute the alleged infringement and, in any event, no more than one month after the investigation has been closed. The matter you complain about [should not be] is not subject to legal proceedings before either an EU or a national court."

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* For reasons of brevity, the European Commission is abbreviated to EU Commission in the footnotes.

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This **Croatian EPPO/OLAF volume** discusses the Croatian laws relevant to European Public Prosecutor's Office (EPPO) investigations of EU fraud in Croatia. It covers EPPO procedures in Croatia, practical examples, EU fraud typologies, criminological findings and relevant case law. The volume also introduces criminal financial law in fraud cases and discusses the key defenses that must be protected in EPPO proceedings. The second part summarizes the provisions governing OLAF investigations in Croatia, with a focus on external investigations under Regulation 2020/2223. Prof. Dr. Lucija Sokanović acted as national expert for this publication.

While written in English, the volume includes footnotes that reproduce the original Croatian legislation in Croatian. Easily navigable with the help of visual symbols, it is designed as a quick reference tool for academics, students, practitioners and other interested readers.

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