

CROATIAN PARLIAMENT

1562

On the basis of Article 89 of the Constitution of the Republic of Croatia, I adopt

THE DECISION

ON THE PROCLAMATION OF THE LAW ON AMENDMENTS AND AMENDMENTS TO THE CRIMINAL LAW

I am promulgating the Law on Amendments to the Criminal Code, which was adopted by the Croatian Parliament at its session on July 15, 2021.

Class: 011-01/21-01/53

Registration number: 71-10-01/1-21-2

Zagreb, July 16, 2021.

President
of the Republic of Croatia
Zoran Milanović, vr

LAW

ON AMENDMENTS AND AMENDMENTS TO THE CRIMINAL LAW

Article 1.

In the Criminal Code ("Official Gazette", no. 125/11, 144/12, 56/15, 61/15 - correction, 101/17, 118/18 and 126/19) in article 45, paragraph 2, the number: "7" is replaced by the number: "8".

Article 2.

In Article 56, paragraph 4, after the word: "Law", the period is deleted and the words: "or an obligation imposed by a security measure" are added.

Article 3.

In Article 70, paragraph 1, the word: "can" is replaced by the word: "shall".

Article 4.

In Article 71, paragraph 3, the word: "may" is replaced by the word: "shall", and after the word: "and activities", the words are added: "if there is a danger that by abusing that duty or activity, they will commit those criminal acts again."

Article 5.

In Article 74, paragraph 1, the word: "can" is replaced by the word: "shall".

Article 6.

Article 76 is amended to read:

"(1) The court will impose a security measure of protective supervision upon the full execution of the prison sentence to the offender if he has been sentenced to imprisonment for five or more years for an intentional criminal offense or for two or more years for an intentional criminal offense characterized by violence or a prison

sentence for another criminal offense from Chapter XVI or XVII. of this Act under the condition that the sentence is fully served because the convict was not granted parole.

(2) Immediately after release from prison, the offender will be subject to protective supervision in accordance with Article 64 of this Act and special obligations from Article 62, paragraph 2, points 6 to 9, if they were imposed on him in addition to protective supervision.

(3) When rendering a verdict, the court may order that protective supervision is not carried out if there is reason to believe that the person will not commit the criminal offense referred to in paragraph 1 of this article again even without it being carried out.

(4) The verification period lasts from one to three years, unless the criminal offense referred to in paragraph 1 of this article was committed to the detriment of a child, when the verification period lasts from one to five years. The court may extend the probationary period before its expiration at the proposal of the competent probation authority for another year if, without protective supervision, there would be a risk of re-committing one of the criminal offenses specified in paragraph 1 of this article.

(5) After the first year has passed since the beginning of protective supervision, and thereafter at least once a year, the enforcement court will review the need for its further implementation and issue a decision. At the proposal of the competent probation authority or the convict, this review can be done earlier, but not before six months have passed since the last review. The court can suspend the implementation of protective supervision if it has reason to believe that the convict will not commit the criminal offense referred to in paragraph 1 of this article again, even without its further implementation.

Article 7.

In Article 81, paragraph 2, after the word: "Article 166, paragraph" the number and word are added: "2. and".

Article 8.

In Article 82, paragraph 3, after the word: "Article 166, paragraph 1," the word and number: "and 2." are deleted.

Article 9.

In Article 83, paragraph 2, after the word: "Article 166, paragraph" the number and word are added: "2. and".

Article 10.

In Article 87, paragraph 9, after the words: "informal life partner," the words: "current or former partner in an intimate relationship" are added.

After paragraph 30, paragraph 31 is added, which reads:

"(31) A non-cash payment instrument is a movable thing, a document and computer data, i.e. a program, a protected device, an object or a record or their combination, except for legal means of payment, which is or is not in physical form, and which enables the bearer or user, independently or in connection with a procedure or a series of procedures, to transfer money or monetary value using digital means of exchange. Digital means of exchange means any electronic money and virtual currencies.«.

Article 11.

In Article 91, paragraph 2, after point 18, a new point 19 is added, which reads:

»19. the use of weapons that use microbiological or other biological agents or poisons, regardless of their origin or method of production,".

After the current point 19, which becomes point 20, new points 21 and 22 are added, which read:

»21. the use of weapons intended for wounding with fragments that cannot be detected in the human body by X-rays,

22. the use of a specially made laser weapon whose sole or one purpose is to cause permanent blindness,«.

The previous points 20 to 27 become points 23 to 30.

Article 12.

In Article 97, paragraph 1, item 10 is amended to read:

»10. disrupting the operation of a computer system when a significant number of computer systems are affected by the use of devices intended or adapted for that purpose or when this causes significant damage or when it is committed in relation to a critical infrastructure computer system or damage to computer data when it is committed in relation to a critical infrastructure computer system."

Article 13.

After Article 144, Article 144.a is added with the title above it, which reads:

»Misuse of recordings of sexually explicit content

Article 144.a

(1) Whoever abuses a relationship of trust and without the consent of the recorded person makes available to a third person a recording of sexually explicit content that was recorded with that person's consent for personal use and thus violates that person's privacy, shall be punished by imprisonment for up to one year.

(2) The punishment referred to in paragraph 1 of this article shall be imposed on anyone who uses a computer system or otherwise creates a new or modifies an existing recording of sexually explicit content and uses that recording as a real one, thereby infringing the privacy of the person on that recording.

(3) Whoever commits the criminal offense referred to in paragraphs 1 and 2 of this article through a computer system or network or in another way, due to which the recording has become available to a large number of persons, shall be punished by a prison sentence of up to three years.

(4) The criminal offense referred to in paragraphs 1, 2 and 3 of this article shall be prosecuted upon motion.

(5) Recordings and special devices used to commit the criminal offense referred to in this article shall be confiscated.

Article 14.

The heading above Article 148a is changed to read: *"Exclusion of illegality for the criminal offense of insult"*.

Article 15.

In Article 156, paragraph 3 is deleted.

Article 16.

In Article 160, paragraph 2, the number: »152.« is replaced by the number: »153.«.

Article 17

The heading above Article 173 is changed to read: *»Failure to implement a decision to protect the welfare of children and other vulnerable groups or act contrary to the rules of the profession«*.

Article 173 is amended to read:

»(1) Whoever does not implement, prevents or prevents the implementation of a decision to protect the welfare of a child and other vulnerable persons due to their age, severe physical or mental disability or pregnancy, which was determined by a court, a social welfare center or a state body, will be punished by imprisonment for up to one year.

(2) An official working in an institution or a state body or a responsible person in the exercise of public authority who does not implement the decisions of the court or state bodies for the protection of children and other vulnerable persons due to their age, severe physical or mental disability or pregnancy, and as a result the health or development of the child, i.e. the health and well-being of a vulnerable person is endangered, shall be punished by a prison sentence of up to three years.

(3) An official working in an institution or state body or a responsible person in the exercise of public authority who does not fulfill legal obligations in a timely manner or clearly does not act according to the rules of the profession in the protection of children and other vulnerable persons due to their age, severe physical or mental disability or pregnancy, and as a result the health or development of the child, i.e. the health and well-being of a vulnerable person is endangered, shall be punished by imprisonment for up to three years.

(4) If the criminal offense referred to in paragraphs 2 and 3 of this article was committed due to negligence, the perpetrator shall be sentenced to imprisonment for up to one year.

(5) An offender who enables the implementation of the decision referred to in paragraph 1 of this article before the initiation of criminal proceedings may be exempted from punishment.

Article 18

After Article 244, Article 244.a is added with the title above it, which reads:

»Illegal possession of a non-cash payment instrument

Article 244.a

Anyone who possesses a stolen or otherwise illegally appropriated or forged non-cash payment instrument for the purpose of using it with the aim of obtaining an illegal financial benefit for himself or others shall be sentenced to imprisonment for up to three years."

Article 19

In Article 271, paragraph 1 is amended to read:

"(1) Whoever, with the aim of obtaining an illegal property benefit for himself or another, enters, transfers, changes, deletes, conceals, damages, renders computer data unusable or inaccessible, or interferes with or prevents the operation of a computer system and thereby causes damage to another, shall be punished by a prison sentence of six months to five years."

Article 20.

In Article 278, paragraph 1, after the word: "as right", the comma is deleted and the words are added: "or otherwise make it available to others for use."

In paragraph 3, after the word: "cards", the words: "or other non-cash payment instrument" are added.

Article 21

After Article 331, Article 331.a is added with the title above it, which reads:

»Creating, procuring, owning, selling or making available funds for the misuse of non-cash payment instruments

Article 331.a

(1) Whoever makes, receives, imports, exports, transports, distributes, acquires, owns, sells or makes available for use devices, objects, computer programs and computer data and other means made or adapted for illegal appropriation, forgery or fraud regarding a non-cash payment instrument, shall be punished by imprisonment for up to three years.

(2) The funds from paragraph 1 of this article will be confiscated.«.

Article 22.

In Article 386, after point 13, new points 14 and 15 are added, which read:

»14. Directive (EU) 2018/1673 of the European Parliament and the Council of October 23, 2018 on the fight against money laundering by means of criminal law (OJ L 284, 12 November 2018),

15. Directive (EU) 2019/713 of the European Parliament and of the Council of April 17, 2019 on combating fraud and counterfeiting in connection with non-cash means of payment and replacing Council Framework Decision 2001/413/PUP (OJ L 123, 10/05/2019)."

The previous points 14 to 18 become points 16 to 20.

In the previous point 19, which becomes point 21, the comma is deleted at the end of the sentence and a period is inserted.

The previous points 20, 21 and 22 are deleted.

Article 23.

This Law enters into force on the eighth day from the day of its publication in the "Narodne novine".

Class: 022-03/21-01/44

Zagreb, July 15, 2021.

CROATIAN PARLIAMENT

President
of the Croatian Parliament
Gordan Jandroković, vr

