

NORMATIVE ASPECTS OF CRIMINOLOGICAL VIOLENCE RESEARCH

VIOLENCE LAB MANUALS
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1. Introduction

This manual analyses common (and less common) normative challenges surrounding criminological or even general empirical violence research. The manual's aim is to provide for a systematic review of principle as well as practical normative questions that arise when designing and conducting criminological violence research within the criminal justice system and all its inherent normative constraints of reality. The manual should serve as kind of a violence-focused translation tool from criminology to criminal law, practically enabling one to keep the focus on the criminological realities of violence, in terms of research questions, subject and scope, while working within the limitations of the criminal justice system and its normative constructs.

The manual provides for an overview of the truly interdisciplinary¹ discussions, which facilitated the identification of challenges in "translating" criminological research ideas into a criminal law environment. These discussions, although held within the framework of the Violence Research Lab's scientific work and related to the project "Croatian Violence Monitor",² are basically a snapshot of long ongoing disputes in and across many disciplines, all of them still struggling with the subject of and approach(es) to violence research, usually within the limitations of single disciplines. Topics covered range from definitional and terminological ones, all the way to highly dogmatic and even nomotechnical ones. From a process perspective the topics are addressed in the context of research design, as well as its operationalisation, but probably most interestingly also in view of expected implications on data gathering, analysis and eventually findings. Obviously, this is not something ground-breaking, as all empirical research projects into violence should deal with the same or similar questions. And most of them do.

However, what appears to be new and rather innovative is, that an attempt is made to translate criminology into criminal law, and not the other way around. Out of necessity or convenience most criminological or empirical violence research related to the criminal justice sector has been doing the opposite, stretching and shrinking the subject and scope of criminological interest until it finally, somehow fit the criminal law constructs and classifications of reality. It seems that the (unconscious) leading research question so far has not been "what is (lethal) violence and how does it present itself in reality?", but much more along the lines of "what normative perceptions of reality might be considered actual (lethal) violence and how can criminological violence-realities best be tailored to fit into normative violence-constructs?".

The manual takes of as a starting point from the Violence Research Lab's consensual definition of violence, a definition that focuses on the realities of violence, rather than on the limited, normatively constructed, perception of violence by the criminal justice system. The idea behind a rather "simple" violence-definition is to keep the research focus on actual violence, a phenomenon

¹ To name just a few of the disciplines covered in the framework of the discussions, besides criminology and criminal law (both substantive and procedural): criminalistics, psychology, sociology, psychiatry, pedagogy, forensic medicine.

² The Violence Research Lab, with its central lab at the University of Zagreb's Faculty of Law and 3 regional labs at the Universities of Split, Rijeka and Osijek, has been established by the Croatian Violence Monitor (Violence Lab), a national competitive research project funded by the Croatian Science Foundation (UIP-2017-05-8876). Violence Lab is a study of the phenomenology, aetiology, and prosecution of delinquent violence with focus on protecting particularly vulnerable groups of victims. For more details visit the Violence Lab's homepage: www.violence-lab.eu.

that can be well captured terminologically if understood primarily outside the normative complexities of concepts such as objective and subjective elements of the offence, criminal responsibility, intent, neglect, guilt, culpability, punitivity, provability etc.

The manual thus provides for actual guidelines on handling the (in) compatibilities of criminological violence-realities and normative violence-constructs. It deals both, with the level of normative perception of real violence as either criminally relevant or irrelevant (hence excluded from further empirical research based on data from the criminal justice system), as well as with the next level that normatively classifies the criminally relevant violence. In principle, there are three normative filters of criminological violence-reality. The first one defines whether an incident of actual violence gets perceived as normatively and therefore criminally relevant by the criminal justice system. The second filter then classifies all normatively perceived violence into different categories and subcategories using as sole criteria for classification the legally protected good/interest/right. So much for the *ideal* normative filters of violence-reality. On a last level, a *practical* normative filter is added, determining if at all, and how, resp. under which normative label, any given criminally relevant violence will be finally and uncontestably eternalised. None of these normative violence filters follow principles of scientific objectivity and it would be a major mistake to use the filters or any of their features for conceptualising or defining the criminological realities of violence. A mistake that seems to be quite common. A mistake that has initially also been made by the Violence Research Lab, when defining the subject of the Violence Lab study as *delinquent* violence, basically focusing criminological and empirical attention only on the criminally relevant violence. A mistake that has been recognised as such and is being dealt with, among other things, through providing and making use of the manual at hands.

Finally, all empirical research is imperfect and flawed. However, the least one should do is to ensure that on the conceptual, definitional and principal level all the relevant issues are set up coherently and addressed consistently, bound by principles of scientific objectivity, preferably flawlessly. Compromises and conveniences on this ground level due to practicalities of normative filters are simply impermissible. The manual strives to strictly follow this leitmotiv. In the long-run only the field work and data analysis with critical review of methodology and findings will prove it either right or wrong. In the short-run, continuous constructive discussions of the challenges in violence research and the manual's proposed solutions should further advance our knowledge and finally equip us with the tools to tackle violence research in a truly scientific way.

2. Dealing with Normative Constructs: Subject-Elasticity & Scope-Flexibility

The actual challenge in terms of normative aspects of violence research is not to come up with a perfect normative definition of violence, that will in one single sentence, though probably extremely long one, unravel centuries of criminal law dogmatics, legal figures, principles and constructs. This does not only seem highly impossible, but also rather pointless, as such a normative violence-definition would be subject to the contexts of its own space and time. The real challenge is to take a criminological violence-definition and "make it work" in a specific normative context. A promising approach to successfully handling normative constructs for the purpose of criminological research might be to work with "subject-elasticity" and "scope-flexibility". Subject-elasticity refers to broadening boundaries (in terms of transitional areas or grey zones), whereas scope-flexibility refers to dissolving boundaries, and while both are quite similar, they are however not the same.

In nature blurred boundaries and continuous transitions are ubiquitous phenomena. This particularly applies to the case of human behaviour and as such to violence. A sharply circumscribed normative definition of violence would certainly not eliminate violence's flowing transitions and blurry boundaries as a phenomenon in nature. Acknowledging this fact, we focus on the criminological 'working definition' of violence and then use "subject-elasticity" and "scope-flexibility" in the process of the normative operationalisation. Basically this means related to subject-elasticity on the level of material/substantive criminal law, that not only those criminal offences or misdemeanours that fully fit the criminological definition will be considered as 'violence' (e.g. murder), but also all those that only partially fit the definition (e.g. attempted murder), as well as those that actually fail to fit the definition (e.g. threat, but which in practice might be (mistakenly) used for normatively handling actual violence (e.g. attempted murder).

In contrast to most of violence research, that usually takes a deliberate narrow subject approach (only what "fully fits"), we deliberately take an extremely broad, an elastic subject approach, in order to make sure we capture all the criminally relevant violence, even at the risk of capturing more than just violence, including the non-violence. The advantage of such subject-elasticity should be obvious - we will surely capture all the border-line cases and even the 'lightest' of the cases from the grey zone. And this is an area that has not only received little if any attention so far, but it is also a society's violent context to the more severe violence that is usually in the focus of criminological research. Similarly to (but not the same as) subject-elasticity, with adopting scope-flexibility at the level of procedural criminal law, we will be able to capture not only those cases that have been normatively proven to fit our criminological violence-definition (e.g. finally adjudicated cases with accused perpetrator found guilty), but also those cases that had 'only' the potential to be normatively proven to fit our definition (e.g. cases dismissed due to lack of evidence or statute of limitation), and even the cases that have been normatively proven not to fit our definition, but might very well still be cases of actual violence (e.g. accused perpetrator wrongfully found not guilty).

Again, we deliberately take a much broader, a flexible approach, in addressing the question of where and when throughout the whole criminal procedure to capture criminally relevant violence. This not only follows the same line of thought as with subject-elasticity, but also matches the

project's aim to tackle the dark figure of violence, as well as the power to normatively define violence by criminal justice actors throughout the whole criminal procedure.

To give an example for subject-elasticity, the study of homicides in a society looks 'only' at homicides, usually defined in accordance with normative concepts of intention, accountability, unlawfulness etc. It limits itself to intentional killings with lethal consequence, but usually disregards infanticides, robberies gone wrong, justified killings, bodily injuries with (unintentional) lethal consequences etc. But without a simultaneous study of this severe violence's violent context, such studies eventually appear as meaningful as if one were to study the most severe cases of aggravated theft in a society, but without any knowledge about that society's property crime. This does not make such studies meaningless per se, 'only' denies their findings to be understood and interpreted in their relevant context. Using the same example to explain scope-flexibility, one would not limit the approach only to those homicide cases that have been finally adjudicated before court with the accused perpetrators found guilty. This is only the tip of the iceberg.

So, as a criminological 'working definition' we eventually decided to define violence, and there for our subject of research interest, as follows:

VIOLENCE IS ANY INTENTIONAL PHYSICAL HARMING OR KILLING OF ANOTHER PERSON

Conducting violence research using data from the criminal justice system (police, prosecution, courts, prisons, probation etc.) makes it unavoidable to work with criminal law concepts and even more general normative constructs. So the idea is to transpose 'a piece of reality' into the criminal justice environment by using normative language. Criminal law and criminology largely overlap in their subject, but have a completely different purpose and goals. While criminal law strives to fairly determine guilt and sentence for perpetrators of certain criminal/misdemeanour offences, criminology aims to detect the phenomenology and aetiology of delinquency. These goals, as we will see later on, very much determine the differentiation in structure, concepts and definitions of a certain appearance. Basically, the subject of interest is not the violent criminal/misdemeanour offence as such, but the actual violence "behind" the offences.

The first step was to look at the Croatian Criminal Code (later on: CCC), as the main source of criminal substantive law. However, the CCC neither contains the definition of violence, nor is there a chapter on "Offences of Violence" which could guide us where to look for violence inside the CCC. The reason for this is simple – the CCC's structure in its special part focuses on a specific legal good/right (primarily) protected with a specific chapter's provisions. For instance, Crimes against humanity and human dignity, Criminal offences against life and limb, Criminal offences against human rights and fundamental freedoms, Criminal offences against labour relations and social insurance etc.

The problem appears when striving to study a certain phenomenon (like violence) and translate it into its normative language.

If violence is defined as physical harming or killing another person, reasonable expectation would suggest to look for it in the CCC chapter of offences against Body or Limb and find there all the violent offences. And although in this chapter of offences against body and limb there is covered violence, this does not mean that the work is done. This chapter contains only a smaller part of all the criminal offences that actually deal with violence. Even though violence means that the perpetrator has obviously taken away the victim's life or hurt his/her body ("against life and limb"), offences with a psychological violence component are speckled all over the CCC and may be found in different chapters. These other chapters are primarily protecting other legal goods, other values, and only indirectly might (sometimes also) protect the body and limb. For example, murder, as obviously the most fatal act of (physical) violence, is situated in chapter "Crime against body and limb". However, the killing of other persons (murder) also appears in chapters like "Crime against humanity and human dignity" (war crimes, terrorism), and also "Criminal offences against a foreign state or international organisation" (murder of an internationally protected person). The logic of this criminal law systematic, which classifies all offences according to the criteria of protected legal good/value makes perfect sense in the criminal law world and its purpose. But in the criminological research of violence it is not applicable, since here the classification criteria is not the protected good/value, but the actual real-world behaviour/act: the violence. It is irrelevant if the victim of a killing is a 'normal person' or an internationally protected one or a person killed in war. That is why the main task for the Violence Lab has been not to ignore, but rather reorganise the offence positioning throughout all the different chapters. Put simple – the Violence Lab has created its own CCC chapter on "Offences of Violence" and within this new chapter collected all the offences with violent elements extracted from all other chapters.

Further challenges of normative operationalisation are the result of the imprecise/general/generic description of the prohibited behaviour in an extremely broad manner or in its potential wrongful qualification in practice. Following are few examples of complexity of this task. Some offences do not differentiate physical violence from other forms of violence, but cover everything in the same paragraph/article. For example, 'Workplace mistreatment' defined in the Article 133. Of CCC. "Whoever insults, humiliates, mistreats or otherwise disturbs another in the workplace or in relation to work and by doing so damages his or her health or violates his or her rights shall be punished...". This normative description obviously covers violence as well as non-violence, but only by looking at the case itself one can determine if a real case under this classification is of interest to the Violence Lab. Another challenge is when the *actus rei* of one offence is already completely covered by another one. In other words, the 'content' of one criminal offence is at the same time also fully part of another criminal offence. E.g. Article 116. 'Female genital mutilation': "Whoever partially or totally removes or permanently alters the external female genitalia, shall be punished..." This act is already prohibited with the incrimination of 'Bodily injury'.

3. Determining the Normative Scope of Criminological Violence Research

Determining which crimes contain a reasonable expectation of violence is not black and white, as dozens of them exist in grey areas. Their classification as violent or nonviolent varies from time to time and is sometimes limited by the natural constraints of nomotechnics. In the following sections this will be further explained by looking at offences and perpetrators.

3.1. Criminal and Misdemeanour Offences

All criminal and misdemeanour offences have been analysed in terms of legal description by studying the CCC and the misdemeanour codes, as well as in terms of practical application by looking at relevant case law. The key question was whether and to what extent the criminologically defined violence is covered by the offences (either legally or practically). Based on this, 3 categories of violence-offences have been created. 1st category includes obviously violent offences that are without a doubt violent crime in the sense of intentionally harming/killing another person. These offences legally as well as practically 100% fit the criminological definition. These kinds of offences are for example: genocide, terrorism, murder, rape etc. The 2nd category includes offences that can be characterised as borderline offences. They do fit the criminological definition, but not 100%. For example, attempted murder. Borderline offences will be included in order to detect their nature, meaning and demarcation in reality. Although the legal definition of the offences in the 2nd category does not 100% fit the criminological definition, the actual incident that might be incriminated by using this offence might very well be a 100% match to the criminological definition. This cannot be decided on the level of normative analysis but has to be seen on a case by case basis looking at the files. In one instance an attempted murder might not be criminologically relevant violence (e.g. A shoots at B and misses). Yet in another instance an attempted murder will 100% fit the criminological definition (e.g. A shoots B who gets injured but does not die). The 3rd category consists of offences that legally do not fit at all – they are actually a misfit when looked at purely normatively. However, in practice actual incidents of violence might be found behind these incriminations. At least the 1st and 2nd category of offences have to be covered by the study in order to really understand violence in its violent context (see Annex 7.1. for complete list of offences within each group).

Similar logic is applied to misdemeanour offences since these are (intended to be) a less severe form of delinquency. The biggest challenge and doubts in practice refer to domestic violence. Domestic violence is incriminated in criminal as well as in misdemeanour law. The recent European Court for Human Rights adjudication *Maresti v. Croatia* again started the public debate about simultaneous criminal and misdemeanour proceedings (violation of the principle *ne bis in idem* – double jeopardy).

According to the dominant opinion, the difference between criminal act and misdemeanour is quantitative and depends on criminal-political will of the legislator, taking into consideration the level of their severity (Horvatić, 1999; Veić & Gluščić, 2009). According to this criteria, criminal law would penalise more severe incidents, which would be meaningful considering criminal law as *ultima ratio*, whereas misdemeanours would include acts that are unlawful and prohibited but attack legal

goods in a less severe way with less severe consequences and therefore sanctions. Good example of legislator's inconsistency in that manner are criminal offences which do not have prescribed prison sentence (like e.g. insult), and most severe misdemeanour offences with criminal sentencing (e.g. boldly and indecent behaviour in public place).

Regardless of such systematisation and its imperfections, domestic violence seems to be the spot of arguing among academic and broader community. If we look at CCC and articles regarding domestic violence, we can recognise an offence which further directs us to another law "Law on protection from domestic violence" which then defines what is considered to be domestic violence as "committed by a family member who gravely breaches regulation on protection of domestic violence (e.g. grave physical and sexual molesting) and by doing that causes victim's feeling of fear for personal safety or safety of another close persons or puts her in humiliating position". Also, it is important to emphasise that with the formulation "and thereby did not commit more severe criminal offence", this offence is defined as a subsidiary criminal act, which means it will be relevant only if a more severe criminal offence is not applicable (e.g. serious bodily injury). But also, if we look at the 'Law on protection from domestic violence', we find misdemeanour offence which includes physical domestic violence and hence creates concurrence between criminal and misdemeanour systems. To conclude, it should be said that domestic violence, since 2015 regulated as an independent offence in the CCC, but also as a misdemeanour act, will both be included in the study. Practical differentiation between the two, sometimes is not based on the right content of the perpetrator's behaviour, but rather on the simplicity and urgency of misdemeanour proceedings contrary to sometimes slow criminal justice apparatus.

Therefore, Violence Lab will study domestic violence and might test whether is the current framework of this offence adequate and its practical implementation.

3.2. Perpetrators (adult/juvenile/legal persons)

Both juvenile and adult perpetrators will be included in Violence Lab research. Ideally, children as perpetrators of violence (if they were criminally liable) should also be included. Not only would this be in line with the criminological definition, but also with the focus on the violence itself, irrespectively of individual attributes of the perpetrator (old, young, insane, male or female).

Taking into consideration that the main research focus is violence, it is clear that legal persons are not typical perpetrators of violent crime, since legal persons themselves are not able to actually display harming/killing acts. This does not mean they cannot be criminally liable for harm or death caused. Since main focus of the project is an interpersonal violence (human to human) and because of the specific nature of its phenomenology, legal persons will not be under the research focus of Violence Lab.

4. Criminological Ground Rules for Dealing with Legal Rules, Institutes and Figures

This chapter deals with general criminal law rules (e.g. attempt, negligence/intent, concurrence etc.), basic institutes of criminal law (e.g. self-defence, insanity etc.) and criminal law figures (e.g. presumption of innocence, finalisation, statute of limitation etc.). The necessity of discussing general criminal law rules, institutes and figures arises from the fact that the violence research is being conducted in a criminal law environment. Although the research itself will not be ruled by these general criminal law rules, institutes and figures, it is still of utmost importance, in fact even crucial, to analyse and understand them in the context of the criminological research at hand. When conducting empirical research using data created by the criminal justice system, one cannot simply adhere to these normative rules, institutes and figures, but has to truly understand them and on that basis create criminological ground rules. Criminological ground rules that will manoeuvre the reality focused research undertaking through the complexity of normative fiction.

Essentially this means that the criminal law figure 'presumption of innocence' (everyone is innocent until proven otherwise), although of prominent importance and with undisputable purpose in the criminal law setting, is completely irrelevant when it comes to the empirical study of violence. The presumption of innocence guarantees that only perpetrators who had a fair trial resulting in a final conviction may be regarded as guilty of a certain offence. This makes perfect sense in the criminal law context. If one were to simply adopt this criminal law figure in researching actual violence, then that would basically mean that only those incidents where perpetrators have been finally convicted may be considered relevant. Only perpetrators found guilty for an offence have actually committed violence. Only violence that has been finally adjudicated by a court (guilty verdict) has actually occurred. Now, that really sounds very wrong, doesn't it? Empirical violence research should be interested in answering questions such as "how many offences of violence have occurred in a certain period?" or "how many persons have become victims of violence?", instead of dealing with data on questions like "how many offences of violence did courts finally adjudicate in a certain period?" or "for how many victims of violence did the criminal courts establish that they 'really' are victims of violence?".

4.1. Almost- & Maybe-Violence: Preparation, Attempt and Endangerment

The process of committing an offence can normatively be divided into 4 consecutive phases: decision (to commit an offence), preparation, attempt, completion. Thus, there is the figure of 'endangerment' offences. Criminal law systems usually incriminate the last phase, the completion of an offence. But in certain cases, out of different reasons of criminal policy, legislators decide to incriminate one or even all of the earlier phases of offence commission (like preparation). The incrimination of preparation acts (as *delicta preparata* or *delicta sui generis*) is reserved for the most severe crimes (like terrorism) where the legislators consider that these offences are, if completed, so dangerous that criminal law should react in the early phase of their commission. The next phase is attempt, which also is not always incriminated. According to the CCC attempts are incriminated only for those offences for which a sentence of 5 or more years of prison is proscribed, or when the

incrimination of attempt is explicitly stated in the statute of the offence (*expressis verbis*). The reasoning behind this is a 'mixed theory', arguing that these acts (of attempt) should be incriminated because of the expression of the perpetrator's criminal will, regardless of the lack of an actual consequence. A last important criminal law figure to mention here is 'endangerment', where in real world no actual consequence, nor an attempt have been caused by the perpetrator, only a risk/potential of a consequence. The justification behind incriminating such endangerment offences (e.g. wanton driving, endangerment to life and property by a generally dangerous act or means etc.) lies along the same lines as incrimination preparation and attempt.

Regarding the normative rules of attempt, preparation and endangerment, something one could term 'almost- & maybe-violence', the criminological ground rule says "yes, if violence has actually occurred!". Since the normative perception of attempt, preparation and endangerment is much broader than the criminological/empirical one, in order to access those cases that are actual violence, one must first look at the total of all such normative cases and then filter out the 'real ones'. For example, A shoots at B, but misses, or A actually shoots B, but B does not die – in both instances, normatively, this is an incriminated attempted murder. Criminologically however, only in the instance where A actually harms B physically, violence has really occurred. When studying violence one would obviously want to include such cases. And although the other (the non-violent) attempts, preparations and endangerments do not fit the criminological violence definition, these group of offences should be analysed in terms of basic characteristics in order to empirically confirm or disprove the idea of a substantial difference between the actually violent and the non-violent group of such offences.

4.2. Criminally Insane Perpetrators

As already mentioned, insane perpetrators cannot be punished for criminal or misdemeanour offences. From a normative – criminal law point of view based on the principle of culpability this kind of rule is reasonable and justified. One cannot be held reliable if they cannot be 'blamed' for their actions, and insane person cannot be 'blamed' since their behaviour is not something they can fully (or at all) control due to their mental illness or disorder. But in practice, insane people also do violent crimes and they indeed act violently regardless of their (mis)interpretation of their own act and/or (im)possibility of appreciating the meaning of their conduct. This is a good example of a differentiation between criminal law focused primarily on perpetrator and criminology focused on an objective appearance freed from subjective concepts hard to test scientifically. That is why, Violence Lab includes insane persons in the research.

4.3. Omission/Commission

Offences can be committed in an omissive (not-acting: letting a baby starve to death) and commissive (acting: throwing the baby off the balcony) way. Omissions might be perceived less severe than commissions which is why the CCC sometimes prescribes the possibility to mitigate the sentence (more lenient sentencing in cases of non-acting). Both, omissions and commissions, fall under the criminological definition of violence. Moreover, since one of the research aims is to measure the severity of violence, the inclusion of omission creates the possibility to test soundness of such more lenient normative attitude towards omissive violence offences. Thus, here appears the possibility to detect 'errors' in the legal qualification of certain omissive offences. E.g. the abandonment of a helpless person ("Whoever leaves a helpless person entrusted to him or her unassisted in circumstances in which his or her life or health are at risk") shows that this act can in reality compete with an attempted (omissive) murder.

Distinguishing those two categories in most cases relies (again) on the perpetrator's intent or to be more precise, on what the perpetrator had in mind when undertaking his action. For example, a 2-year-old child is left alone for 2 hours in an apartment during summer on the 7th floor, whereby there is an open balcony. According to the description of the offence in question, the essence of the offence (*actus reus*) of an abandonment of a helpless person is fulfilled. The perpetrator has been entrusted to take care of the child, the child is definitely a helpless person and the circumstances are dangerous for its life (the open balcony in summer!). However, the perpetrator might be charged for either abandonment of a helpless person or an attempted (omissive) aggravated murder, depending on the provability of intent: did the perpetrator intend to kill the child, or recklessly neglected his/her role of a guarantee who is obliged to take care of the child).

This is a perfect example of how a violence offence can be committed in exactly the same way (same *modus operandi*), with exactly the same volume of criminal energy and quantity of violence. Depending only on provability the same act of violence can normatively be qualified very differently, leading up to sentences ranging from 6 months to 3 years for the abandonment or from 7 years to 40 years³ for the attempted aggravated murder. The difference between the two is enormous and the two alternative qualifications for the exact same behaviour might result in a sentence as lenient as 6 months in one case, and as harsh as 40 years in the other.

³ Actually, the proscribed sentence for aggravated murder is 10 to 40 years, but applying the mitigating rules for attempt, the sentencing framework is pushed downwards.

4.4. Exclusion of Unlawfulness – ‘Justified’ Violence

There are different cases of the exclusion of unlawfulness prescribed in the CCC. The most well-known refers to ‘self-defence’. Besides that, there is also justified violence by police (e.g. police officer kills a terrorist) or necessity (e.g. a lifeguard during rescuing a person from drowning knocks out that person in order to save his/her life). In all these instance the unlawfulness of violence is excluded due to some sort of justification (right to defend oneself from harm, lawful use of force, error/mistake).

Although it is undisputable that the act of a police officer killing a person is a real incident of violence, criminal law does not perceive it as violence (given that the killing was in fact ‘lawful’). The public prosecutor will not initiate criminal proceedings against such a police officer for which it has been established during investigation that he/she acted in line with his/her authority. However, in practice it will very often happen that the reasons for the exclusion of unlawfulness will on such level of certainty be detected only before court. Then the perpetrator would be acquitted. If the criminological research would adhere to this normative principle, then such cases should not be regarded as actual violence (although they obviously are).

4.5. Negligence

The complexity behind differentiation of intent and negligence falls within the core questions of criminal law dogmatic. It is one of the most difficult and disputable concepts of modern law. The differentiation is based on one of the main principles of criminal law – the principle of culpability (guilt). Basically, the difference between an offence been committed intentionally or negligent corresponds to a higher or lower degree of the perpetrators guilty. This differentiation has an impact on the severity of punishment, since the legislator always prescribes a more lenient punishment for negligence.

Notwithstanding the normative meaningfulness of the differentiation between intent and negligence, as well as all their different subcategories (direct intent of first and second degree, indirect intent, advertent and inadvertent negligence), in the real world it makes no difference in terms of the existence of violence if a person kills another with intent (*dolus*) or out of negligence (advertent one/ *luxuria*, or inadvertent one/*negligentia*) – the victim is dead anyway and the act is obviously one of violence. Thus, distinguishing between intent and negligence is more often than not rather fictions, since only the perpetrator really knows his/her intentions, thus sometimes not even they do. Empirical violence research has to focus on all violent acts, regardless of the level of perpetrator awareness/carelessness. So, the criminological ground rule is to look at negligent as well as intentionally committed violence offences. This will thus enable the study of the different qualifications that are a consequence of normative negligence/intent labelling, together with their practical implications (e.g. heavily bodily injury resulting in death vs. murder).

On a last not, and as explained in more detail earlier, the word ‘intentional’ used in the criminological violence definition, only indicates the exclusion of cases like reflex or force majeure (*vis absoluta*), as such cases are in fact no ‘interpersonal violence’.

4.6. Instigation

Instigation is one person's mental impact on another person, whereby his/her goal is to persuade this other person to decide committing a criminal offence, without personally getting involved in actual committing of the offence itself (Novoselec, 2009). Basically, instigation means that one is liable for forming the decision of another person to commit an offence. Criminal law punishes the instigator as if he/she himself/herself has committed the offence. In practice, this may lead to a more severe punishment for the instigator than for the actual perpetrator, potentially even to the situation where the instigator is punished, although the solicited person did neither commit nor attempt to commit the offence.

This last constellation is rather interesting (attempted incitement), because here the instigator could be convicted (and punished) for attempted murder, even though the instigated person has not even attempted to actually commit the murder. The justification behind the same sentencing framework for both instigator and perpetrator is based on the idea of punishing the instigator's criminal will, as he/she is the 'spiritual father' of the offence (Novoselec, 2009). Finally, instigation in essence presents nothing more than a (perhaps) morally questionable influence on the perpetrator. When looking at what actually happened, there occurs no instigator in the violent act. Since the instigator is really very distant from the real act of violence, both in terms of abstract decision making phases, as well as space and time, an empirical investigation of such 'influences' upon the perpetrator does not seem feasible nor justified.

4.7. Insignificant Offences

The figure of 'insignificant offences' demonstrate a lack of the legislator's interest to punish acts that are not severe enough to be dealt with by criminal law. The assessment of insignificance of a certain act is left up to the judges, or might be solved within the criminal proceedings in accordance with the prosecutor's assessment (principle of opportunity). In any event, the Violence Lab aims at detecting cases of insignificant offences, although it is highly unlikely such cases will be detected, since the whole point of 'insignificant offences' is that these are acts falling under the threshold of criminal law attention. Violence offences clearly do not qualify for such a lack of attention. However, this presumption is yet to be tested.

5. Violence Flow Data, Clearance Rates & Drop-Outs

During criminal proceedings, there are many actions to be carried out that might artificially narrow reality and shape it in the line with the rules and principles of criminal law. These actions (according to the purpose of criminal proceedings) should result in a fair trial for the perpetrator, but are not necessarily reflecting the actual appearance.

To put it simple, one might conclude that the criminal procedure law also has its filter points, in which reality is being shaped in accordance to strict rules of criminal proceedings. This appearance has an impact on every criminological scientific research that uses court files/prosecution files as a source of data. That is because in such cases, criminology has to rely on the facts provided within the court/prosecution adjudications/decisions as a base for the research, although they might contain different picture of a certain appearance than the reality that actually occurred. However, if we keep in mind all these filters and barriers, studying violence should be enough precise, holistic and comprehensive to analyse data and make right conclusions.

Some of these filters refer to rule of *In dubio pro reo* (if in doubt, judge will decide in favour of accused person), *Illegal evidence rule* (if a crucial evidence is gathered in illegal way, court cannot use it), *key witness* (when a person obtains a key witness status, his delinquent acts will not be proceeded), no reopening the case after acquittal adjudication (if a person was found innocent – acquittal adjudication- and afterwards some new evidences appear pointing out his guilt, there is no possibility to reopen a case), *agent provocateur* (if a person commits an offence under the status of agent provocateur – an investigator infiltrated in a criminal group in order to collect information about the group and offences they commit within it, these offences will not be a subject to a criminal proceedings)⁴.

⁴ For detailed explanation of criminal proceeding filters please look at Annex 7.3. of this manual.

6. References

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7. Annex

7.1. Classification Scheme of 'Violent Offence Chapter' with Breakdown into 3 Categories

CATEGORY	TITLE Criminal Offences Against	OFFENCE
1	Humanity and Dignity of Person	Genocide
		Crime against Humanity
		War Crime
		Terrorism
		Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
		Slavery
		Trafficking in Human Beings
		Trafficking in Human Body Parts and Human Embryos
	Life and Limb	Murder
		Aggravated Murder
		Manslaughter
		Negligent Homicide
		Participation in Suicide
		Unlawful Termination of Pregnancy
		Female Genital Mutilation
		Bodily Injury
		Serious Bodily Injury
		Particularly Serious Bodily Injury
		Serious Bodily Injury Resulting in Death
		Serious Bodily Injury Caused by Negligence
		Participation in an Affray
		Sexual Freedom
	Rape	
	Serious Criminal Offence against Sexual Freedom	
	Sexual Abuse and Sexual Exploitation of Children	Sexual Abuse of a Child under the Age of Fifteen
		Sexual Abuse of a Child over the Age of Fifteen
		Serious Criminal Offence of Child Sexual abuse and Exploitation

	Health of People	Illicit Removal and Transplantation of Human Body Parts (Para.
		Unauthorised Possession, Manufacture of and Trade in Illicit Drugs and Substances Banned in Sports
		Allowing Consumption of Drugs
		Enabling the Use of Illicit Drugs or Substances Banned in Sports
		Serious Criminal Offences against the Health of People
		Serious Criminal Offences against the Environment
	General Safety	Misuse of Radioactive Substances
	Property	Robbery
		Violent Theft
		Extortion
	Official Duty	Extortion of Testimony
	Judiciary	Coercion against a Judicial Official
	Public Order	Coercion against a Public Official
		Attack on a Public Official
		Illegal Debt Collection
		Violent Behaviour
		Provoking Riots
Committing a Criminal Offence as a Member of a Criminal Association		
Republic of Croatia	Coercion against the Most Senior State Officials of the Republic of Croatia	
Foreign State or International Organisation	Murder of an Internationally Protected Person	
	Attack on an Internationally Protected Person	
2	Attempts	Offences from Category 1
	Humanity and Human Dignity	Crime of Aggression
		Infringement of Inviolability of Parlemtaires
		Cloning and Human Genome Changes
		Prohibition to Mix Human Sex Cells with Animal Sex Cells
Human Rights and Fundamental Freedoms	Violation of the Rights to Assemble and Protest	

	Labour Relations and Social Insurance	Workplace Mistreatment
	Personal Freedom	Unlawful Deprivation of Liberty
		Kidnapping
		Coercion
	Sexual Freedom	Lewd Acts
		Sexual Harassment
		Prostitution
	Sexual Abuse and Sexual Exploitation of Children	Satisfying Lust in the Presence of a Child
		Child Pandering
		Exploitation of Children for Pornography
		Exploitation of Children for Pornographic Performances
	Marriage, Family and Children	Forced Marriage
		Abduction of a Child
		Neglect and Abuse of the Rights of a Child
		Incest
		Domestic violence
	Health of People	Medical Quackery
	Environment	Killing or Torture of Animals
	General Safety	Serious Criminal Offences against General Safety
	Traffic Safety	Attack on an Aircraft, Vessel or Immovable Platform
Endangering Traffic by a Dangerous Act or Dangerous Means		
Endangering Special Types of Traffic		
Wanton Driving in Road Traffic		
Causing a Road Traffic Accident		
Foreign State or International Organisation	Kidnapping of an Internationally Protected Person	
Armed Forces of Republic of Croatia	Failure to Take Measures for the Protection of a Military Unit	
3	Life and Limb	Failure to Render Assistance
		Abandonment of a Helpless Person
	Personal Freedom	Threat
		Stalking

	Privacy	Violation of the Inviolability of the Home and Business Premises
	Sexual Abuse and Sexual Exploitation of Children	Introducing Pornography to Children
	Marriage, Family and Children	Abandonment of a Family Member in a Situation of Distress
		Child Desertion
	the Health of People	Spread and Transmission of Contagious Diseases
		Medical Malpractice
		Failure to Render Medical Aid in Emergencies
	General Safety	Endangerment to Life and Property by a Generally Dangerous Act or Means
Property	Aggravated Theft	
Foreign State or International Organisation	Threat to an Internationally Protected Person	

7.2. Complete List of Violence Offences

CRIMINAL CODE OF REPUBLIC CROATIA

First Group of offences

TITLE NINE (IX.) CRIMES AGAINST HUMANITY AND HUMAN DIGNITY

Genocide

Article 88

(1) Whoever with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

1. kills members of the group;
2. causes serious bodily harm to or severely impairs the health of members of the group;
3. deliberately inflicts on the group conditions of life calculated to bring about its physical destruction in whole or in part;
4. imposes measures intended to prevent births within the group; or
5. forcibly transfers children to another group,

shall be punished by imprisonment for not less than ten years or to long-term imprisonment.

(2) The same punishment as referred to in paragraph 1 of this Article shall be inflicted on whoever orders the commission of genocide.

(3) Whoever directly and publicly incites to the commission of genocide shall be punished by imprisonment from one to ten years.

Crime against Humanity

Article 90

(1) Whoever, in violation of the rules of international law, as part of a widespread or systematic attack directed against any civil population, with knowledge of the attack:

1. kills another person;
2. for the purpose of extermination inflicts on a civilian population conditions of life calculated to bring about the destruction of part of the population;
3. enslaves a person by exercising any or all of the powers attaching to the right of ownership over the person, including the exercise of such power in the course of trafficking in persons;
4. deports or forcibly transfers the persons concerned by expulsion or other coercive acts from the area in which they are lawfully present, without grounds permitted under international law;
5. unlawfully imprisons another person or otherwise unlawfully deprives the person of physical liberty;
6. tortures a person in the custody or under the control of the accused by intentionally inflicting upon the person severe pain or suffering, whether physical or mental, except such pain or suffering arising only from, inherent in or incidental to, lawful sanctions;
7. rapes another person, holds another person in sexual slavery, forces a person into prostitution, unlawfully confines a woman forcibly made pregnant with the intent of affecting the ethnic composition of any population or carrying out other grave violations of international law, without the consent of another person and when this is not justified by medical reasons deprives the person of biological reproductive capability or inflicts on a person any other form of sexual violence of comparable gravity;

8. persecutes any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender or other grounds that are universally recognised as impermissible under international law, and does this in connection with any act described in Articles 88 through 91 of this Code, by intentionally and severely depriving another person of fundamental rights contrary to international law by reason of belonging to a certain group or collectivity;

9. arrests, detains or abducts persons on behalf of or with the authorisation, support or acquiescence of, a state or a political organisation, followed by a refusal to acknowledge that deprivation of liberty or to give information on the fate or whereabouts of those persons, with the intention of removing them from the protection of the law for a prolonged period of time;

10. in the context of an institutionalised regime of systematic oppression and domination by one racial group over any other racial group or groups and with the intention of maintaining that regime commits an inhumane act described in this Article or an act similar to any of these acts (crime of apartheid); or

11. commits other inhumane acts of a similar character intentionally causing great suffering, or serious injury to the body or health shall be punished by imprisonment for not less than five years or to long-term imprisonment.

(2) The same punishment as referred to in paragraph 1 of this Article shall be inflicted on whoever orders any of the criminal offences set out above.

War Crime

Article 91

(1) Whoever, in violation of the rules of international law, in times of war, occupation, international armed conflict or non-international armed conflict commits any of the following grave breaches against persons or property protected under the Geneva Conventions of 12 August 1949:

1. killing;
2. torture or inhuman treatment, including biological experiments;
3. causing great suffering or serious injury to body or health;
4. unlawful deportation or transfer or unlawful confinement of a protected person;
5. compelling a prisoner of war or other protected person to serve in the forces of a hostile power;
6. wilfully depriving a prisoner of war or other protected person of the rights of fair and regular trial;
7. taking of hostages; or
8. extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly

shall be punished by imprisonment for not less than five years or to long-term imprisonment.

(2) Whoever, in violation of the rules of international law, in times of war, occupation, international armed conflict or non-international armed conflict commits other serious violations of the laws and customs applicable in international armed conflict or noninternational armed conflict, within the established framework of international law, namely, any of the following acts:

1. directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities;
2. directing attacks against civilian objects, that is, objects which are not military objectives;

3. directing attacks against persons, installations, material, units or vehicles involved in a humanitarian assistance or peacekeeping mission in accordance with the Charter of the United Nations, as long as they are entitled to the protection given to civilians or civilian objects under the international law of armed conflict;
4. launching an attack in the knowledge that such attack will cause incidental loss of life or injury to civilians or damage to civilian objects or widespread, long-term and severe damage to the natural environment which would be clearly excessive in relation to the concrete and direct overall military advantage anticipated;
5. attacking or bombarding, by whatever means, towns, villages, settlements or buildings which are undefended and which are not military objectives;
6. killing or wounding a combatant who, having laid down his arms or having no longer means of defence, has surrendered at discretion;
7. making improper use of a flag of truce, of the flag or of the military insignia and uniform of the enemy or of the United Nations, as well as of the distinctive emblems of the Geneva Conventions, resulting in death or serious personal injury;
8. the transfer, directly or indirectly, by the occupying power of parts of its own civilian population into the territory it occupies, or the deportation or transfer of all or parts of the population of the occupied territory within or outside this territory;
9. directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, historic monuments and cultural property, hospitals and places where the sick and wounded are collected, provided they are not military objectives;
10. subjecting persons who are in the power of an adverse party to physical mutilation, the taking of tissues or organs for transplantation or to medical or scientific experiments of any kind which are neither justified by the medical, dental or hospital treatment of the person concerned nor are carried out in his or her interest, and which cause death to or seriously endanger the health of such person or persons;
11. killing or wounding treacherously individuals belonging to the hostile nation or army;
12. declaring that no quarter will be given;
13. destroying or seizing the enemy's property unless such destruction or seizure be imperatively demanded by the necessities of war;
14. declaring prohibited, suspended or inadmissible in a court of law the rights and actions of the nationals of the hostile party;
15. compelling the nationals of the hostile party to take part in the operations of war directed against their own country, even if they were in the belligerent's service before the commencement of the war;
16. pillaging a town or place;
17. employing poison or poisoned weapons;
18. employing poisonous, asphyxiating or other gases, and all analogous liquids, materials or devices;
19. employing bullets which expand or flatten easily in the human body;
20. employing weapons, projectiles and material and other methods of warfare which are of a nature to cause superfluous injury or unnecessary suffering or which, in violation of the international law of armed conflict, are incapable of distinguishing between military targets and civilian objects, provided that such weapons, projectiles, material or methods of warfare are the subject of a comprehensive prohibition;
21. committing outrages upon personal dignity, in particular humiliating and degrading treatment, collective punishment;
22. committing rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilisation, or any other form of sexual violence also constituting a grave breach of the Geneva Conventions;

23. utilising the presence of civilians or other protected persons to render certain points, areas or military forces immune from military operations;
 24. directing attacks against buildings, material, medical units and transport, and personnel using the distinctive emblems of the Geneva Conventions in conformity with international law;
 25. intentionally using starvation of civilians as a method of warfare by depriving them of objects indispensable to their survival, including impeding relief supplies as provided for under the Geneva Conventions;
 26. conscripting or enlisting children into the national armed forces or armed groups distinct from the national armed forces or using them to participate actively in hostilities; or
 27. displacing the civilian population for reasons connected with the conflict, unless their security or imperative military reasons so demand shall be punished by imprisonment for not less than three years.
- (3) The same punishment as referred to in paragraph 1 of this Article shall be inflicted on whoever commits any of the offences set out in paragraph 2 of this Article against a large number of persons or in an especially cruel or treacherous way, out of greed or other base motives.
- (4) Whoever orders the commission of an offence set out in paragraphs 1, 2 or 3 of this Article shall be punished as if he himself or she herself has committed it.

Terrorism

Article 97

(1) Whoever, with the aim of seriously intimidating a population, or -compelling a government or an international organisation to perform or abstain from performing any act, or seriously destabilising or destroying the fundamental constitutional, political, economic or social structures of a state or an international organisation, commits any of the following acts which may seriously damage a state or an international organisation:

1. attacks upon a person's life which may cause death;
 2. attacks upon the physical integrity of a person;
 3. kidnapping or hostage taking;
 4. causing destruction to a government or public facility, a transport system, an infrastructure facility, including an information system, a fixed platform located on the continental shelf, a public place or private property, which is likely to endanger human life or result in major economic loss;
 5. seizure of aircraft, ships vessel or other means of public or goods transport;
 6. manufacture, possession, acquisition, transport, supply or use of weapons, explosives, nuclear, biological or chemical weapons as well as research into and development of nuclear, biological or chemical weapons;
 7. release of dangerous substances, or causing fires, explosions or floods, the effect of which is to endanger human life;
 8. interfering with or disrupting the supply of water, electricity or any other fundamental natural resource, the effect of which is to endanger human life; or
 9. possessing or using radioactive substances or manufacturing, possessing or using a device for the activation, dispersal or emission of radioactive material or ionising radiation, using or causing damage to a nuclear facility resulting in the release of radioactive materials or the danger thereof, or requesting, by using force or a threat, radioactive material, a device for activating, dispersing or emitting radioactive material or a nuclear facility,
- shall be punished by imprisonment from three to fifteen years.

(2) Whoever threatens to commit a criminal offence referred to in paragraph 1 of this Article, shall be punished by imprisonment from six months to five years.

(3) If extensive destruction or the death of one or more persons has been caused by the criminal offence referred to in paragraph 1 of this Article, the perpetrator shall be punished by imprisonment for not less than five years.

(4) If, in the course of perpetrating the criminal offence referred to in paragraph 1 of this Article, the perpetrator intentionally kills one or more persons, he or she shall be punished by imprisonment for not less than ten years or to long-term imprisonment.

Torture and Other Cruel, Inhuman or Degrading

Treatment or Punishment

Article 104

A public official or other person who at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity inflicts on another severe pain or suffering, whether physical or mental, for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, shall be punished by imprisonment from one to ten years.

Slavery

Article 105

(1) Whoever, in violation of the rules of international law, puts another in a position of slavery or a similar position or holds him or her in such a position, buys, sells, hands over to another or mediates in the purchase, sale or handing over of such a person, or incites another to sell his or her freedom or the freedom of the person he or she provides for or takes care of, shall be punished by imprisonment from one to ten years.

(2) Whoever transports people who are in a position of slavery or a position similar thereto, shall be punished by imprisonment from six months to five years.

(3) Whoever commits the offence referred to in paragraphs 1 or 2 against a child shall be punished by imprisonment from three to fifteen years.

Trafficking in Human Beings

Article 106

(1) Whoever, by the use of force or threat, of deception, of fraud, of abduction, of abuse of authority or of a situation of hardship or dependence, or of the giving or receiving of payments or other benefits to achieve the consent of a person having control over another person or by any other means recruits, transports, transfers, harbours or receives a person, or exchanges or transfers control over a person for the purpose of exploiting his or her labour by means of forced labour or services, slavery or a relationship similar thereto, or for the purpose of exploitation for prostitution of the person or of other forms of sexual exploitation, including pornography, or of contracting an illicit or forced marriage, or of taking parts of the person's body or of using the person in armed conflicts or of committing an unlawful act, shall be punished by imprisonment from one to ten years.

(2) The same punishment as referred to in paragraph 1 of this Article shall be inflicted on whoever recruits, transports, transfers, harbours or receives a child, or exchanges or transfers control over a child for the purpose of exploiting his or her labour by means of forced labour or services, slavery or a relationship similar thereto, or for the purpose of exploitation for prostitution of the child or of other forms of sexual exploitation, including pornography, or of contracting an illicit or forced marriage, or of illegal adoption, or of taking parts of a child's body, or of using the child in armed conflicts.

(3) If the criminal offence referred to in paragraph 1 of this Article was committed against a child or the criminal offence referred to in paragraphs 1 or 2 of this Article was committed by a public official in the performance of his or her duties, or the said offence was committed against a large number of persons or the life of one or more persons was consciously endangered, the perpetrator shall be punished by imprisonment from three to fifteen years.

(4) The same punishment as referred to in paragraph 1 of this Article shall be inflicted on whoever, knowing that a person is a victim of trafficking in persons, uses the services of that person which are the result of one of the forms of exploitation set forth in paragraphs 1 and 2 of this Article.

(5) Whoever, with the aim of enabling the commission of offences set forth in paragraphs 1, 2 and 3 of this Article retains, seizes or possession, conceals, defaces or destroys another person's travel document or identification document, shall be punished by imprisonment not exceeding three years.

(6) The attempt of the criminal offence referred to in paragraph 5 of this Article shall be punishable.

(7) The consent of a victim of trafficking in human beings to the exploitation shall be irrelevant to the existence of this criminal offence.

Trafficking in Human Body Parts and Human Embryos

Article 107

(1) Whoever, for the purpose of removing body parts referred to in Article 106 of this Code, procures, possesses, transports, transfers, stores, receives or transplants a human organ, tissue, cell, embryo or foetus, provided he or she knew or should and could have known that they originated from a person who was a victim of trafficking in human beings shall be punished by imprisonment from one to ten years.

(2) Whoever, by the use of force or threat, deception, fraud, abduction, abuse of authority or a situation of hardship or dependence, procures, possesses, transports, transfers, stores or receives a human organ, tissue, cell, embryo, foetus or dead body for the purpose of removing body parts shall be punished by imprisonment from one to eight years.

(3) Whoever, by giving of payment or other comparable benefit, procures a human organ, tissue, cell, embryo, foetus or dead body shall be punished by imprisonment from six months to five years.

(4) The same punishment as referred to in paragraph 3 of this Article shall be inflicted on whoever, with a view to financial compensation, induces or helps another to give his or her organ, tissue, cell, embryo or foetus in exchange for payment or another benefit.

(5) Whoever removes or transplants a human organ, tissue, cell, embryo or foetus, where he /she knew or should and could have known that in exchange for it the donor had received payment or another benefit, shall be punished by imprisonment not exceeding three years.

(6) The same punishment as referred to in paragraph 5 of this Article shall be inflicted on whoever advertises the need for or availability of a human organ, tissue, cell, embryo, foetus or dead body for the purpose of offering or requesting payment or another benefit.

TITLE X
CRIMINAL OFFENCES AGAINST LIFE AND LIMB

Murder

Article 110

Whoever kills a person, shall be punished by imprisonment for not less than five years.

Aggravated Murder

Article 111

A punishment by imprisonment for not less than ten years or long-term imprisonment shall be imposed on whoever:

1. murders another in a cruel or treacherous manner;
2. murders a person who is especially vulnerable due to his or her age, a severe physical or mental disorder or pregnancy;
3. murders a family member whom he or she has already abused;
4. murders another out of greed, ruthless revenge, hatred or other base motives;
5. murders another in order to commit or cover up another criminal offence;
6. murders an official person in relation to his or her performance of official duties.

Manslaughter

Article 112

(1) Whoever kills another after being brought, without his or her fault, by that person's attack, serious insults or maltreatment into a state of long-term suffering, severe irritation or fright , ,

shall be punished by imprisonment from one to ten years.

(2) A mother who kills her child under the influence of severe mental strain due to pregnancy or childbirth, shall be punished by imprisonment from six months to five years.

(3) Whoever kills another at the latter's express and earnest request, out of pity provoked by the latter's grave state of health shall be punished by imprisonment not exceeding three years.

Negligent Homicide

Article 113

Whoever causes another person's death by negligence shall be punished by imprisonment from six months to five years.

Participation in Suicide

Article 114

(1) Whoever induces another to commit suicide or out of base motives assists him or her therein and the suicide is committed or attempted shall be punished by imprisonment not exceeding three years.

(2) Whoever commits the offence referred to in paragraph 1 of this Article against a child who has turned fourteen or a person whose capacity to appreciate his or her conduct is substantially diminished, shall be punished by imprisonment from one to eight years.

Unlawful Termination of Pregnancy

Article 115

(1) Whoever, contrary to the regulation on the termination of pregnancy, terminates pregnancy on a pregnant person, or incites a pregnant person to terminate her pregnancy or assists her therein with her consent, shall be punished by imprisonment not exceeding three years.

(2) If, as a result of the criminal offence referred to in paragraph 1 of this Article, a pregnant person has died or her health is severely impaired, the perpetrator shall be punished by imprisonment from one and ten years.

(3) Whoever terminates pregnancy on a pregnant person without her consent shall be punished by imprisonment from one to eight years.

Female Genital Mutilation

Article 116

(1) Whoever partially or totally removes or permanently alters the external female genitalia, shall be punished by imprisonment from six to five years.

(2) Whoever incites a woman to subject herself to procedures referred to in paragraph 1 of this Article or assists therein shall be punished by imprisonment not exceeding three years.

(3) Whoever commits the offence referred to in paragraphs 1 and 2 of this Article out of hatred against a child or family member, shall be punished by imprisonment from one and eight years.

Bodily Injury

Article 117

(1) Whoever inflicts a bodily injury on another or impairs his or her health shall be punished by imprisonment not exceeding one year.

(2) Whoever commits the offence referred to in paragraph 1 out of hatred against a family member or a person especially vulnerable due to his or her age, a severe physical or mental disorder, disability or pregnancy, or in the capacity of a public official performing his or her functions or exercising public authority shall be punished by imprisonment not exceeding three years.

(3) The criminal offence referred to in paragraph 1 shall be prosecuted by private action.

Serious Bodily Injury

Article 118

(1) Whoever inflicts a serious bodily injury on another or severely impairs his or her health, shall be punished by imprisonment from six months to five years.

(2) Whoever commits the offence referred to in paragraph 1 out of hatred against a family member or a person especially vulnerable due to his or her age, a severe physical or mental disorder, disability or pregnancy, or in the capacity of a public official performing his or her functions or exercising public authority, shall be punished by imprisonment from one to eight years.

Particularly Serious Bodily Injury

Article 119

If, as a result of the criminal offence referred to in Article 116, paragraphs 1 and 2, and Article 118, paragraph 1, of this Code, the life of the injured person is endangered, or an important part of his or her body or an important organ is destroyed or permanently and significantly weakened, or the injured person suffers permanent work disability or permanent and severe damage to his or her health or permanent disfigurement or permanent reproductive disability, the perpetrator shall be punished by imprisonment from one to eight years.

Whoever commits the offence referred to in paragraph 1 of this Article out of hatred against a family member or a person especially vulnerable due to his or her age, a severe physical or mental disorder, disability or pregnancy, or in the capacity of a public official performing his or her functions or exercising public authority shall be punished by imprisonment from one to ten years.

Whoever intentionally causes any of the consequences set forth in paragraph 1 of this Article shall be punished by imprisonment from three to twelve years.

Serious Bodily Injury Resulting in Death

Article 120

If the criminal offence referred to in Articles 116, 118 and 119 of this Code results in the death of another person, the perpetrator shall be punished by imprisonment from three to fifteen year.

Serious Bodily Injury Caused by Negligence

Article 121

Whoever commits the offence referred to in Article 118 by negligence shall be punished by imprisonment not exceeding one year.

Whoever commits the offence referred to in Article 119 by negligence shall be punished by imprisonment not exceeding three years.

Participation in an Affray

Article 122

(1) Whoever participates in an affray or an assault by several persons which results in the death or serious bodily injury of one or more persons, for mere participation shall be punished by imprisonment not exceeding three years.

(2) Whoever organises or leads a group of three or more persons who participate in an affray or assault referred to in paragraph 1 of this Article or organises such an assault or affray shall be punished by imprisonment from one to eight years.

(3) There shall be no criminal offence referred to in paragraph 1 of this Article if a person was drawn into an affray without his or her fault or if he or she only defended himself or herself or was separating other participants in the affray.

Violation of the Rights to Assemble and Protest

Article 128

(1) Whoever denies or limits the right of assembly or the right to peaceful protest organised in accordance with the law,

shall be punished by imprisonment not exceeding one year.

(2) The sentence referred to in paragraph 1 of this Article shall be imposed on whoever prevents, renders impossible or significantly obstructs, by force, serious threat or otherwise, public assembly or peaceful protest organised in accordance with the law.

(4) If, as a result of the criminal offence referred to in paragraph 3 of this Article, a pregnant person has died or her health is severely impaired, the perpetrator shall be punished by imprisonment from three to fifteen years.

(5) A perpetrator who attempts to commit the criminal offence referred to in paragraph 1 of this Article shall be punished.

TITLE XVI

CRIMINAL OFFENCES AGAINST SEXUAL FREEDOM

Non-Consensual Sexual Intercourse

Article 152

(1) Whoever engages in sexual intercourse or an equivalent sexual act with another person without this person's consent, or whoever induces another person to engage without his or her consent in sexual intercourse or an equivalent sexual act with a third party or to perform without his or her consent a sexual act equated to sexual intercourse upon himself or herself, shall be punished by imprisonment from six months to five years.

(2) A perpetrator who is avoidably mistaken as to the existence of consent referred to in paragraph 1 of this Article, shall be punished by imprisonment not exceeding three years.

(3) Consent referred to in paragraph 1 of this Article shall exist if the person decided of his or her own free will to engage in sexual intercourse or an equivalent sexual act and was capable of making and expressing such a decision. It shall be deemed that no such consent exists in particular if the sexual intercourse or the equivalent sexual act was performed by the use of force or threat, by fraud, by abusing one's position towards a person who is in a situation of dependence with respect to the perpetrator, by exploiting a person's condition due to which the person was unable to express his or her refusal or if it was performed against a person unlawfully deprived of liberty.

Rape

Article 153

(1) Whoever commits the offence referred to in Article 152, paragraph 1, of this Code by the use of force or by threat of an imminent attack on the life or limb of the raped or other person, shall be punished by imprisonment from one to ten years.

(2) A perpetrator who is avoidably mistaken as to the existence of consent referred to in paragraph 1 of this Article shall be punished by imprisonment from six months to five years.

Serious Criminal Offences against Sexual Freedom

Article 154

(1) The punishment of imprisonment from one to ten years shall be inflicted on whoever commits the offence referred to in Article 152, paragraph 1, of this Code:

1. against a family member;
2. against a victim especially vulnerable due to his or her age, illness, addiction, pregnancy, disability, a severe physical or mental disorder;
3. in an especially cruel or especially humiliating manner;
4. out of hatred;
5. together with one or more perpetrators, with several acts of sexual intercourse or equivalent sexual acts being committed against one and the same person;
6. by using weapons or dangerous instruments;
7. in such a manner that it resulted in serious bodily injury or pregnancy of the raped person.

(2) Whoever commits the offence referred to in Article 153, paragraph 1, of this Code under the circumstances referred to in paragraph 1 of this Article, shall be punished by imprisonment from three to fifteen years.

(3) If the criminal offence referred to in Article 152, paragraph 1, or Article 153, paragraph 1, of this Code, results in the death of the raped person, the perpetrator shall be punished by imprisonment not less than five years.

TITLE XVII
CRIMINAL OFFENCES OF SEXUAL ABUSE
AND SEXUAL EXPLOITATION OF CHILDREN

Sexual Abuse of a Child under the Age of Fifteen

Article 158

(1) Whoever engages in sexual intercourse or an equivalent sexual act with a child under the age of fifteen, or induces a child under the age of fifteen to engage in sexual intercourse or an equivalent sexual act with a third party or to perform upon himself or herself a sexual act equated with sexual intercourse, shall be punished by imprisonment from one to ten years.

(2) Whoever commits a lewd act against a child under the age of fifteen, or induces a child to commit a lewd act with a third party or upon himself or herself shall be punished by imprisonment from six months to five years.

(3) There shall be no criminal offence referred to in paragraphs 1 and 2 of this Article if the age difference between the persons engaging in sexual intercourse or an equivalent sexual act or a lewd act does not exceed three years.

(4) A perpetrator who was avoidably mistaken that the child referred to in paragraph 1 of this Article was at least fifteen years old shall be punished by imprisonment from six months to five years. If he or she was avoidably mistaken that the child referred to in paragraph 2 of this Article was at least fifteen years old, he or she shall be punished by imprisonment not exceeding three years.

(5) Whoever engages in sexual intercourse or performs an equivalent sexual act with a child under the age of fifteen by means of the use of force or threats, deception, fraud, abuse of authority or of a situation of hardship or dependence of the child on him or her,
shall be punished by imprisonment from three to fifteen years.

(6) Whoever under the conditions referred to in paragraph 5 of this Article commits a lewd act against a child under the age of fifteen shall be punished by imprisonment from one to eight years.

Sexual Abuse of a Child over the Age of Fifteen

Article 159

(1) Whoever engages in sexual intercourse or an equivalent sexual act with a child over the age of fifteen with whose upbringing, education, custody, spiritual guidance or care he or she has been entrusted, or whoever induces a child over the age of fifteen with whose upbringing, education, custody, spiritual guidance or care he or she has been entrusted to engage in sexual intercourse or an equivalent sexual act with a third party or to perform upon himself or herself a sexual act equated with sexual intercourse,
shall be punished by imprisonment from six months to five years.

(2) The same punishment as referred to in paragraph 1 of this Article shall be inflicted on a relative by blood in direct line or by adoption, a step-father or step-mother who engages in sexual intercourse or an equivalent sexual act with a child over the age of fifteen or who induces a child over the age of fifteen to engage in sexual intercourse or an equivalent sexual act with a third party or to perform upon himself or herself a sexual act equated with sexual intercourse.

Serious Criminal Offence of Child Sexual

Abuse and Exploitation

Article 166

(1) If as a result of the criminal offence referred to in Article 158, paragraph 1, Article 162, paragraph 1 or 2, Article 163, paragraph 1 or 2, or Article 164, paragraph 1, of this Code a child suffers serious bodily injury or his or her physical or emotional development is compromised or becomes pregnant, where a number of perpetrators participate in the offence, or the offence is committed against an especially vulnerable child, or is committed by a family member or a person the child lives with in a joint household, or is committed in an especially cruel or degrading manner, the perpetrator shall be punished by imprisonment from three to fifteen years.

(2) If as a result of the criminal offence referred to in Article 158, paragraph 5, Article 162, paragraph 3, Article 163, paragraph 3, or Article 164, paragraph 2, of this Code a child suffers severe bodily injury or his or her physical or emotional development is compromised or becomes pregnant, where a number of perpetrators participate in the offence, or the offence is committed against an especially vulnerable child, or is committed by a family member or a person the child lives with in a joint household, or is committed in an especially cruel or degrading manner, the perpetrator shall be punished by imprisonment not less than five years.

(3) If as a result of the criminal offence referred to in Article 158, 162, 163 or 164 of this Code a child dies, the perpetrator shall be punished by imprisonment not less than ten years or long-term imprisonment.

TITLE XIX

CRIMINAL OFFENCES AGAINST THE HEALTH OF PEOPLE

Illicit Removal and Transplantation of

Human Body Parts

Article 182

(1) A doctor of medicine, doctor of dental medicine or other health care worker who without the prescribed consent or for medically unjustified reason removes an organ, tissue, cell, embryo or foetus from a live donor, or transplants them to a recipient, or uses them for the medical fertilisation procedure, shall be punished by imprisonment from one to ten years.

(2) If as a result of the criminal offence referred to in paragraph 1 of this Article a person dies, the perpetrator shall be punished by imprisonment from three and fifteen years.

(3) A doctor of medicine, doctor of dental medicine or other health care worker who for the purpose of transplantation removes a part of a deceased person's body although he or she knows that this person, or his or her legal representative or guardian, gave during his or her life a written statement declining to donate organs, or whoever without the prescribed consent removes for the purpose of transplantation a part of a deceased child's body or a deceased adult incapable to exercise his or her judgment shall be punished by imprisonment not exceeding one year.

**Unauthorised Possession, Manufacture of and Trade in
Illicit Drugs and Substances Banned in Sports**

Article 190

- (1) Whoever without authorisation possesses substances declared by law to be illicit drugs or substances banned from use in sports shall be punished by imprisonment not exceeding six months.
- (2) Whoever without authorisation produces, processes, imports or exports substances referred to in paragraph 1 of this Article shall be punished by imprisonment not exceeding three years.
- (3) Whoever produces, processes, transports, imports or exports, procures or possesses substances referred to in paragraph 1 of this Article, that are intended for unauthorised sale or putting into circulation in some other way, or offers them for sale without authorisation, or sells or transports them, or mediates in their sale or purchase, or markets them in some other way shall be punished by imprisonment from one to ten years.
- (4) Whoever offers for sale, sells or mediates in the sale of substances referred to in paragraph 1 of this Article to a child, or does this in school or at another place providing education to children or at which children engage in sporting or social activities, or in its immediate proximity, or in a penal institution, or whoever in order to commit the offence referred to in paragraph 3 of this Article uses a child, or if a public official does this in relation to his or her function or public authority, shall be punished by imprisonment from three to fifteen years.
- (5) Whoever organises a network of resellers or dealers, shall be punished imprisonment for a term of at least three years.
- (6) Whoever by the criminal offence referred to in paragraph 3, 4 or 5 of this Article causes the death of a person to whom he or she sold the substance referred to in paragraph 1 of this Article or to whom the substance was sold through his or her dealing, shall be punished by imprisonment not less than five years.
- (7) Whoever produces, procures, possesses or gives to another for his or her use equipment, material or substances which can be used in the production of substances referred to in paragraph 1 of this Article, which equipment, material or substances he or she knows are intended for their unauthorised production, shall be punished by imprisonment from six months to five years.
- (8) Drug production shall also mean the cultivation of a plant or mushroom from which a drug can be obtained.
- (9) The substances referred to in paragraph 1 of this Article, the substances which can be used for their production, plants, mushrooms or parts of plants or mushrooms from which the substances referred to in paragraph 1 can be obtained, the means of their production or processing, the means of transport adapted for the purpose of concealing these substances and the paraphernalia for their use shall be confiscated.
- (10) If the perpetrator of the criminal offence referred to in paragraph 1, 2, 3, 4, 5 or 7 of this Article substantially contributes of his or her own free will to the discovery of the offence set out in this Article, the court may remit his or her punishment.

Omogućavanje trošenja droga (Prijevod)

Članak 191.

- (1) Tko navodi drugoga na trošenje tvari iz članka 190. stavka 1. ovoga Zakona, ili mu da ih troši on ili druga osoba, ili stavi drugome na raspolaganje prostor radi njihovog trošenja, ili mu na drugi način omogući njihovo trošenje,
kaznit će se kaznom zatvora od šest mjeseci do pet godina.
- (2) Ako je kazneno djelo iz stavka 1. ovoga članka počinjeno prema djetetu ili osobi s težim duševnim smetnjama ili u školi ili na drugom mjestu koje služi obrazovanju, odgoju, sportskoj ili društvenoj aktivnosti

djece ili u njegovoj neposrednoj blizini ili u kaznenoj ustanovi, prema više osoba ili ako je djelo z stavka 1. ovoga članka počinila službena osoba, zdravstveni radnik, socijalni radnik, nastavnik, odgojitelj ili trener iskorištavajući svoj položaj,

počinitelj će se kazniti kaznom zatvora od jedne do deset godina.

(3) Tko kaznenim djelom iz stavka 1. i 2. ovoga članka prouzroči smrt osobe kojoj je dao tvar iz stavka 1. ovoga članka,

kaznit će se kaznom zatvora od tri do petnaest godina.

(4) Tvari iz stavka 1. ovoga članka i sredstva za njihovo pripravljanje i trošenje će se oduzeti.

(5) Počinitelja kaznenog djela iz stavka 1. i 2. ovoga članka koji je dobrovoljno bitno pridonio otkrivanju kaznenog djela iz članka 190. i članka 191. ovoga Zakona sud može osloboditi kazne.

Enabling the Use of Illicit Drugs or Substances Banned in Sports

Article 191a

(1) Whoever induces another to use the substances referred to in Article 190 paragraph 1, of this Code or gives them to another so that he/her or another person may use it, or makes available to another premises in which to use them, or in some other way enables him or her to use them

shall be punished by imprisonment from six months to five years.

(2) If the criminal offence referred to in paragraph 1 of this Article was committed against a child or a person suffering from a severe mental disorder, or in school or at another place providing education to children or at which children engage in sporting or social activities, or in its immediate proximity, or in a penal institution, or against a number of persons, or if the offence referred to in paragraph 1 of this Article is committed by a public official, health worker, welfare worker, teacher, supervisor or trainer through abuse of his or her position,

the perpetrator shall be punished by imprisonment from one to ten years.

(3) Whoever by the criminal offence referred to in paragraph 1 or 2 of this Article causes the death of a person to whom he or she gave the substance referred to in paragraph 1 of this Article shall be punished by imprisonment from three to fifteen years.

(4) The substances referred to in paragraph 1 of this Article and the paraphernalia for their preparation and use shall be confiscated.

(5) If the perpetrator of the criminal offence referred to in paragraph 1 or 2 of this Article voluntarily substantially contributes to the discovery of the criminal offence set out in Article 190 or Article 191 of this Code, the court may remit his or her punishment.

Serious Criminal Offences against the Health of People

Article 192

(1) If as a result of the criminal offence referred to in Article 180, paragraph 1 or 2, Article 183, Article 185, paragraph 1 or 2, Article 186, paragraph 1, Article 187, paragraph 1, Article 188, paragraph 1, Article 189, paragraph 1, of this Code another person suffers a serious bodily injury or an existing illness considerably deteriorates, the perpetrator shall be punished by imprisonment from six months to five years.

(2) If as a result of the criminal offence referred to in paragraph 1 of this Article another person suffers a particularly serious bodily injury or a person's pregnancy is terminated, the perpetrator shall be punished by imprisonment from one to eight years.

(3) If as a result of the criminal offences referred to in paragraph 1 of this Article one or more persons die, the perpetrator shall be punished by imprisonment from three to twelve years.

(4) If as a result of the criminal offence referred to in Article 180, paragraph 3, Article 186, paragraph 3, Article 187, paragraph 2, Article 188, paragraph 2, or Article 189, paragraph 2, of this Code a serious bodily injury is inflicted on another person or the existing illness is considerably deteriorates,

the perpetrator shall be punished by imprisonment not exceeding three years.

(5) If as a result of the criminal offences referred to in paragraph 4 of this Article another person suffers a particularly serious bodily injury or a person's pregnancy is terminated, the perpetrator shall be punished by imprisonment from six months to five years.

(6) If as a result of the criminal offences referred to in paragraph 4 of this Article one or more persons die, the perpetrator shall be punished by imprisonment from one to eight years.

Serious Criminal Offences against the Environment

Article 214

(1) If as a result of the criminal offence referred to in Article 193, paragraph 1 or 2, Article 194, paragraph 1 or 2, Article 196, paragraph 1 or 2, Article 197, paragraph 1, Article 198, paragraph 1, or Article 199 of this Code one or more persons suffer serious bodily injuries, or changes brought about by pollution cannot be eliminated for a considerable period of time, or a major disaster occurs, the perpetrator shall be punished by imprisonment from one to ten years.

(2) If the criminal offences referred to in paragraph 1 of this Article result in the death of one or more persons, the perpetrator shall be punished by imprisonment from three to fifteen years.

(3) If as a result of the criminal offence referred to in Article 193, paragraph 3, Article 194, paragraph 3, Article 196, paragraph 3, Article 197, paragraph 2, or Article 198, paragraph 2, of this Code a number of persons suffer serious bodily injuries, or changes brought about by pollution cannot be undone for a considerable period of time, or a major disaster occurs, the perpetrator shall be punished by imprisonment from six months to five years.

(4) If as a result of the criminal offences referred to in paragraph 3 of this Article one or more persons die, the perpetrator shall be punished by imprisonment from one to eight years.

(5) If as a result of the criminal offence referred to in Article 200, paragraph 1 or 2, Article 201, paragraph 1, 2 or 3, or Article 202, paragraph 1 or 2, of this Code considerable damage is caused, the perpetrator shall be punished by imprisonment from one to eight years.

(6) If as a result of the criminal offence referred to in Article 206, paragraph 1, Article 207, paragraph 1, or Article 208 of this Code considerable damage is caused, the perpetrator shall be punished by imprisonment from six months to five years.

(7) If as a result of the criminal offence referred to in Article 200, paragraph 3, Article 201, paragraph 4, Article 202, paragraph 3, Article 206, paragraph 2, or Article 207, paragraph 2, of this Code considerable damage is caused, the perpetrator shall be punished by imprisonment not exceeding three years.

TITLE XXI CRIMINAL OFFENCES AGAINST GENERAL SAFETY

Misuse of Radioactive Substances

Article 219

(1) Whoever with the aim of killing or inflicting a serious bodily injury on another person or of causing considerable damage to another person's property or the environment produces, processes, procures, possesses, stocks, transports, imports, exports, gives to another or enables another to acquire without authorisation radioactive substances or a device for activating, dispersing or emitting radioactive substances,

shall be punished by imprisonment from six months to five years.

(2) The same punishment as referred to in paragraph 1 of this Article shall be inflicted on whoever with the aim of killing or inflicting a severe bodily injury on another person or of causing considerable damage to another person's property or the environment uses radioactive substances or a device for activating, dispersing or emitting radioactive substances, or uses or damages a nuclear facility, thereby causes danger the radioactive substances being released.

(3) The same punishment as referred to in paragraph 1 of this Article shall be inflicted on whoever by the use or threats of use of force demands without authorisation the handing over of a nuclear facility or of radioactive substances or of a device for activating, dispersing or emitting radioactive substances.

Robbery

Article 230

(1) Whoever, by the use of force against a person or by threat of imminent attack on his or her life or limb, takes away another's movable property with the aim of unlawfully appropriating it, shall be punished by imprisonment from one to ten years.

(2) If as a result of the criminal offence referred to in paragraph 1 of this Article a considerable material gain is obtained or if during its commission a weapon or a dangerous instrument is used, the perpetrator shall be punished by imprisonment from three to twelve years.

(3) If as a result of the criminal offence referred to in paragraph 1 or 2 of this Article a person dies, the perpetrator shall be punished by imprisonment for not less than least five years.

Violent Theft

Article 231

(1) Whoever being caught in the act of committing theft uses force against a person or threats of imminent attack on his or her life or limb with the aim of retaining stolen property, shall be punished by imprisonment from one to ten years.

(2) If during the commission of the criminal offence referred to in paragraph 1 of this Article a weapon or a dangerous instrument is used, the perpetrator shall be punished by imprisonment from three to twelve years.

(3) If as a result of the criminal offence referred to in paragraph 1 or 2 of this Article a person dies, the perpetrator shall be punished by imprisonment for not less than five years.

Extortion

Article 243

(1) Whoever, with the aim of procuring for himself or herself or a third party an unlawful material gain by the use of force or by serious threat, coerces another to do, refrain from doing or suffer something to the detriment of his or her or another's property, shall be punished by imprisonment from six months to five years.

(2) If as a result of the criminal offence referred to in paragraph 1 of this Article a considerable material gain is obtained or considerable damage caused, the perpetrator shall be punished by imprisonment from one to eight years.

(3) If in committing the criminal offence referred to in paragraph 1 of this Article the perpetrator used force against a person or threatened to directly attack the life or limb of a person, he or she shall be punished by imprisonment from one to ten years.

(4) If during the commission of the criminal offence referred to in paragraph 3 of this Article a weapon or other dangerous instrument is used or if by its commission a considerable material gain is obtained or considerable damage caused, the perpetrator shall be punished by imprisonment from three to twelve years.

(5) If during the commission of the criminal offence referred to in paragraph 1 or 3 of this Article the perpetrator threatened to directly attack the life or limb of a larger number of persons or to severely damage facilities of great social significance, he or she shall be punished by imprisonment from three to fifteen years.

(6) If as a result of the criminal offence referred to in paragraph 1 or 3 of this Article a person dies, the perpetrator shall be punished by imprisonment for not less than five years.

TITLE XXVIII

CRIMINAL OFFENCES AGAINST OFFICIAL DUTY

Extortion of Testimony

Article 297

(1) A public official who during authorised interrogation uses force, threats or any other prohibited means with the aim that another person give or refrain from giving a testimony or other statement shall be punished by imprisonment from six months to five years.

(2) If as a result of the commission of the criminal offence referred to in paragraph 1 of this Article the suspect, defendant and the indicted person in criminal proceedings suffers especially severe consequences, the perpetrator shall be punished by imprisonment from one to eight years.

TITLE XXIX

CRIMINAL OFFENCES AGAINST THE JUDICIARY

Coercion against a Judicial Official

Article 312

Whoever by the use of force or by threat of any kind of evil prevents a judge, state attorney, notary public or other judicial official from taking an action or making a decision within the limits of his or her authority or coerces him or her to take an action or make a decision within or beyond the limits of his or her authority, shall be punished by imprisonment from six months to five years

TITLE XXX
CRIMINAL OFFENCES AGAINST PUBLIC ORDER
Coercion against a Public Official

Article 314

(1) Whoever by the use of force or threat of immediate use of force prevents a public official from performing an official act falling within the limits of his or her authority or coerces him or her to perform an official act within or beyond the limits of his or her authority,

shall be punished by imprisonment from six months and five years.

(2) If as a result of the criminal offence referred to in paragraph 1 of this Article the life or limb of a public official is endangered or a public official is inflicted a bodily injury or if during its commission a weapon or other dangerous instrument is used, the perpetrator shall be punished by imprisonment from one to eight years.

(3) Whoever commits the criminal offence referred to in paragraph 1 or 2 of this Article against a person assisting, with authorisation, a public official in the performance of an official act,

shall be punished as if he or she committed the offence against a public official.

(4) If the perpetrator of any of the criminal offences referred to in paragraphs 1, 2 and 3 of this Article is provoked by unlawful, inconsiderate or rude treatment on the part of a public official or a person authorised to assist the public official, his or her punishment may be remitted.

Attack on a Public Official

Article 315

(1) Whoever by the use of force or threat of use of force, in cases not falling under Articles 312 and 314 of this Code, attacks a military person, police official, authorised public official of the Military Police, public official entrusted to guard persons who, under the law, have been deprived of liberty, in the performance of their official duties shall be punished by imprisonment from six months to five years.

(2) The same punishment as referred to in paragraph 1 of this Article shall be inflicted on whoever by the use of force or threat of use of force puts up resistance to a public official in the performance of an official act or implementation of a lawful decision or measure of a state body.

(3) Whoever commits the criminal offence referred to in paragraph 1 or 2 of this Article against a person assisting, with authorisation, a public official in the performance of an official act shall be punished as if he or she committed the offence against a public official.

(4) If as a result of the criminal offence referred to in paragraph 1, 2 or 3 of this Article the life or limb of a public official or a person assisting the public official in the performance of an official act is endangered or a bodily injury is inflicted on him or her or if during the commission of the offence a weapon or other dangerous instrument is used, the perpetrator shall be punished by imprisonment from one to eight years. (5) If the perpetrator of any of the criminal offences referred to in paragraphs 1, 2 and 3 of this Article is provoked by unlawful, inconsiderate or rude treatment on the part of a public official or a person authorised to assist the public official, his or her punishment may be remitted.

Illegal Debt Collection

Article 323

(1) Whoever by the use of force or serious threat collects a claim from another that is owed to him or her or a third party by this person, shall be punished by imprisonment from six months to five years.

(2) If during the commission of the criminal offence referred to in paragraph 1 of this Article the perpetrator uses force or threat of immediate attack on the life or limb of the debtor or another person, shall be punished by imprisonment from one to eight years.

(3) If during the commission of the criminal offence referred to in paragraph 2 of this Article a weapon or other dangerous instrument is used, the perpetrator shall be punished by imprisonment from one to ten years.

Violent behaviour

Article 323.a

"Who by acts of violence, molesting or another type of specially insolent behaviour on public place puts another person in humiliating position, and no more severe act was committed,

Shall be punished by imprisonment not exceeding three years.

Provoking Riots

Article 324

(1) Whoever participates in a crowd that by the use of violence against other persons or property, or by use of threats of committing violence is jeopardising public order, or whoever incites the crowd to violence, shall be punished by imprisonment not exceeding three years.

(2) If the criminal offence referred to in paragraph 1 of this Article is committed out of hatred, against a larger number of persons, by the use of weapons or dangerous instruments, or the life or limb of another person is thereby put at risk, or considerable material damage is thereby caused, the perpetrator shall be punished by imprisonment from six months to five years.

(3) The perpetrator referred to in paragraph 1 or 2 of this Article who moves away at the request of an official person before he or she himself or herself commits violence shall not be punished for the criminal offences referred to in paragraphs 1 and 2 of this Article.

Committing a Criminal Offence as a Member of a Criminal Association

Article 329

(1) Whoever, knowing about the aim of a criminal association or its criminal activities, commits a criminal offence as a member of such an association or incites another to commit a criminal offence as a member of such an association shall be punished by: 1. imprisonment from six months to five years in the case of a criminal offence for which a maximum penalty of three years is prescribed; 2. imprisonment from one to ten years in the case of a criminal offence for which a maximum penalty of five years is prescribed; 3. imprisonment from three to twelve years in the case of a criminal offence for which a maximum penalty of eight years is prescribed; 4. imprisonment from three to fifteen years in the case of a criminal offence for which a maximum penalty of ten or twelve years is prescribed; 5. imprisonment from five to twenty years in the case of a criminal offence for which a maximum penalty of fifteen years is prescribed; 6. imprisonment for a term not less than ten years or to long-term imprisonment in the case of a criminal offence for which a maximum penalty of twenty years is prescribed. (

2) Whoever, knowing about the goal of a criminal association or its criminal activity, assists another to commit a criminal offence as a member of such an association shall be punished by imprisonment prescribed in paragraph 1 of this Article or his or her punishment may be mitigated.

(3) If the perpetrator referred to in paragraph 1 or 2 of this Article substantially contributes to the discovery of a criminal association, his or her punishment may be mitigated.

TITLE XXXII

CRIMINAL OFFENCES AGAINST THE REPUBLIC OF CROATIA

Coercion against the Most Senior State Officials of the Republic of Croatia

Article 346

(1) Whoever, in cases not falling under Article 97 of this Code, by the use of force or by threat of immediate use of force prevents the President of the Republic of Croatia, the President of the Parliament or a member of the Croatian Parliament, the Prime Minister or a member of the Government of the Republic of Croatia, the president or a judge of the Constitutional Court of the Republic of Croatia from performing their duties or forces them to perform their duties in a certain manner, shall be punished by imprisonment from one to eight years.

(2) If as a result of the criminal offence referred to in paragraph 1 of this Article the life or limb of a person referred to in paragraph 1 of this Article is endangered or he or she is inflicted a bodily injury, or if during the commission of the said offence weapons or other dangerous instruments are used, the perpetrator shall be punished by imprisonment from three to twelve years.

TITLE XXXIII

CRIMINAL OFFENCES AGAINST A FOREIGN STATE OR INTERNATIONAL ORGANISATION

Murder of an Internationally Protected Person

Article 352

(1) Whoever kills an internationally protected person shall be punished by imprisonment for not less than ten years or to long-term imprisonment.

(2) An internationally protected person shall mean a head of state, head of Government or minister for foreign affairs, whenever any such person is in a foreign state, and any official agent of an internationally recognised organisation, as well as members of their families accompanying them when they, their official premises, private accommodation or means of transport can easily be recognised as enjoying special protection under international law.

Attack on an Internationally Protected Person

Article 354

(1) Whoever commits violence against an internationally protected person or attacks his or her official premises, private accommodation or means of transport shall be punished by imprisonment from one to eight years.

(2) If as a result of the commission of the criminal offence referred to in paragraph 1 of this Article the person referred to in paragraph 1 of this Article dies, the perpetrator shall be punished by imprisonment from three to twelve years.

Second Group of offences

TITLE NINE (IX.) CRIMES AGAINST HUMANITY AND HUMAN DIGNITY

Crime of Aggression

Article 89

(1) Whoever, being in a position effectively to exercise control over or to direct the political or military action of a state, uses the armed forces of one state against the sovereignty, territorial integrity or political independence of another state, or in any other manner inconsistent with the Charter of the United Nations executes an act of aggression which, by its character, gravity and scale, constitutes a violation of the Charter of the United Nations shall be punished by imprisonment for not less than five years or to long-term imprisonment.

(2) Whoever takes part in the operations of the armed forces referred to in paragraph 1 of this Article shall be punished by imprisonment from three to fifteen years.

(3) Whoever directly and publicly incites to the crime of aggression shall be punished by imprisonment from one to ten years.

(4) Any of the following acts, regardless of a declaration of war, shall qualify as an act of aggression referred to in paragraph 1 of this Article:

1. The invasion or attack by the armed forces of a state on the territory of another state, or any military occupation, however temporary, resulting from such invasion or attack, or any annexation by the use of force of the territory of another state or part thereof;

2. bombardment by the armed forces of a state against the territory of another state or the use of any weapons by a state against the territory of another state;

3. the blockade of the ports or coasts of a state by the armed forces of another state;

4. an attack by the armed forces of a state on the land, sea or air forces, or marine and air fleets of another state;

5. the use of armed forces of one state which are within the territory of another state with the agreement of the receiving state, in contravention of the conditions provided for in the agreement or any extension of their presence in such territory beyond the termination of the agreement;

6. the action of a state in allowing its territory, which it has placed at the disposal of another state, to be used by that other state for perpetrating an act of aggression against a third state; or

7. the sending by or on behalf of a state of armed bands, groups, irregulars or mercenaries, which carry out acts of armed force against another state of such gravity as to amount to the acts listed above, or its substantial involvement therein.

Infringement of Inviolability of Parlemtaires

Article 92

Whoever, in violation of the rules of international law, in times of war or armed conflict, insults, abuses or retains unduly a parlementaire or the persons accompanying him or her or prevents their return, or otherwise infringes on their inviolability shall be punished by imprisonment from six months to five years.

Cloning and Human Genome Changes

Article 108

(1) Whoever acts with the aim of creating a human being which shares with another live or dead human being the same nuclear genes set, shall be punished by imprisonment from one to ten years.

(2) Whoever carries out an intervention seeking to modify the human genome for purposes other than preventive, diagnostic or therapeutic, or does so for preventive, diagnostic or therapeutic purposes, but with the aim of introducing modifications in the genome of a patient's descendent shall be punished by imprisonment from six months to five years.

Prohibition to Mix Human Sex Cells with Animal Sex Cells

Article 109

Whoever fertilises a woman's egg cell with a sperm cell of any species other than the sperm cell of a man or an animal egg cell with a human sperm cell, modifies the human embryo by transplanting animal embryos or introduces human sex cells or the human embryo into an animal, or animal sex cells or the animal embryo into a woman shall be punished by imprisonment from one to ten years.

TITLE XI

CRIMINAL OFFENCES AGAINST HUMAN RIGHTS

AND FUNDAMENTAL FREEDOMS

Violation of the Rights to Assemble and Protest

Article 128

(1) Whoever denies or limits the right of assembly or the right to peaceful protest organised in accordance with the law shall be punished by imprisonment not exceeding one year.

(2) The sentence referred to in paragraph 1 of this Article shall be imposed on whoever prevents, renders impossible or significantly obstructs, by force, serious threat or otherwise, public assembly or peaceful protest organised in accordance with the law.

TITLE XII

CRIMINAL OFFENCES AGAINST LABOUR RELATIONS

AND SOCIAL INSURANCE

Workplace Mistreatment

Article 133

(1) Whoever insults, humiliates, mistreats or otherwise disturbs another in the workplace or in relation to work and by doing so damages his or her health or violates his or her rights, shall be punished by imprisonment not exceeding two years.

(2) The criminal offence referred to in paragraph 1 of this Article shall be prosecuted upon request.

TITLE XIII
CRIMINAL OFFENCES AGAINST PERSONAL FREEDOM
Unlawful Deprivation of Liberty

Article 136

(1) Whoever unlawfully detains another, keeps detained or in some other manner deprives another person of the freedom of movement or restricts it, shall be punished by imprisonment not exceeding three years.

(2) Whoever unlawfully deprives another of liberty with the aim to force him or her to do or omit to do something or to suffer, shall be punished by imprisonment from six months to five years.

(3) If the criminal offences referred to in paragraphs 1 and 2 of this Article were committed against a child or unlawful deprivation of liberty lasted longer than fifteen days or was carried out in a cruel way, or if the person unlawfully deprived of liberty

suffered a severe bodily injury, or if unlawful deprivation of liberty was committed by a public official in the performance of his or her functions or the exercise of public authority, the perpetrator shall be punished by imprisonment from one to ten years.

(4) If the criminal offences referred to in paragraphs 1, 2 and 3 of this Article caused the death of a person who was unlawfully deprived of liberty, the perpetrator shall be punished by imprisonment from three to fifteen years.

(5) A perpetrator who of his or her free will releases a person who was unlawfully deprived of liberty before he or she achieves the goal referred to in paragraph 2 of this Article may be exempted from punishment.

(6) A perpetrator who attempts to commit the criminal offence referred to in paragraph 1 of this Article shall be punished.

Kidnapping

Article 137

(1) Whoever unlawfully deprives another of liberty with the aim of forcing a third party to do or omit to do something or to suffer, shall be punished by imprisonment from six months to five years.

(2) If the criminal offence referred to in paragraph 1 of this Article was committed under threat that the abducted person would be killed or was committed in a cruel way or the abducted person suffered a severe bodily injury or the said criminal offence was committed against a child or a disabled person,

the perpetrator shall be punished by imprisonment from one to ten years.

(3) If criminal offence referred to in paragraph 1 of this Article results in death of the abducted person, the perpetrator shall be punished by imprisonment from three to fifteen years.

(4) A perpetrator who of his or her free will releases an abducted person before achieving the aim referred to in paragraphs 1 and 2 of this Article may be exempted from punishment.

Coercion

Article 138

(1) Whoever by the use of force or serious threat coerces another to do or omit to do something or to suffer shall be punished by imprisonment not exceeding three years.

(2) The criminal offence referred to in paragraph 1 of this Article shall be prosecuted by private action, unless it was committed out of hatred, against a child, a disabled person or a family member.

TITLE XVI

CRIMINAL OFFENCES AGAINST SEXUAL FREEDOM

Lewd Acts

Article 155

(1) Whoever, under the conditions set forth in Article 152 of this Act when the criminal offence in question has not even been attempted, commits a lewd act

shall be sentenced to imprisonment for a term of up to one year.

(2) Whoever, under the conditions set forth in Article 153 or Article 154 of this Act when the criminal offences in question have not even been attempted, commits a lewd act

shall be sentenced to imprisonment for a term of up to three years.

Sexual Harassment

Article 156

(1) Whoever sexually harasses another person who is his/her subordinate or who is in a situation of dependence with respect to him/her or who is especially vulnerable due to his/her age, illness, disability, addiction, pregnancy, a severe physical or mental disability

shall be sentenced to imprisonment for a term of up to one year.

(2) Sexual harassment shall mean any form of unwanted verbal, non-verbal or physical conduct of a sexual nature which aims at or effectively constitutes a violation of the dignity of a person, which creates an intimidating, hostile, degrading or offensive environment.

(3) The criminal offence referred to in paragraph 1 of this Article shall be prosecuted upon request.

Prostitution

Article 157

(1) Whoever for the purpose of making a profit or gaining some other benefit entices, solicits or incites another person to provide sexual services, or organises or enables another person to provide sexual services,

shall be punished by imprisonment from six months to five years.

(2) Whoever for the purpose of making a profit coerces or induces another person, by the use of force or threat, deception, fraud, abuse of authority or of a situation of hardship or dependence, to provide sexual services, or uses the sexual services of such a person in exchange for payment, where he or she knew or should and could have known about the above circumstances,

shall be punished by imprisonment from one to ten years.

(3) Whoever advertises prostitution via the media and other similar means,

shall be punished by imprisonment not exceeding three years.

(4) Whether the person being enticed, recruited, incited or used for prostitution has consented to it and whether he or she has already engaged in such activity shall be of no relevance to the existence of the criminal offence referred to in this Article.

TITLE XVII
CRIMINAL OFFENCES OF SEXUAL ABUSE
AND SEXUAL EXPLOITATION OF CHILDREN

**Satisfying Lust in the Presence of a Child
under the Age of Fifteen**

Article 160

- (1) Whoever in the presence of a child under the age of fifteen commits sexual acts intended to satisfy his or her own or another person's lust shall be punished by imprisonment not exceeding one year.
- (2) Whoever in the presence of a child under the age of fifteen commits any of the criminal offences referred to in Articles 152 through 155, Articles 158 and 159 of this Code shall be punished by imprisonment not exceeding three years.
- (3) The attempt of the criminal offence referred to in paragraph 1 or 2 of this Article shall be punishable.

Child Pandering

Article 162

- (1) Whoever for profit or gaining some other benefit entices, recruits or incites a child to provide sexual services, or organises or makes possible the provision of child sexual services, where he or she knows or should and could have known that the person in question was a child, shall be punished by imprisonment from one to ten years.
- (2) Whoever uses the sexual services of a child who has attained the age of fifteen years in exchange for any form of remuneration or consideration, where he or she knows or should and could have known that the person in question is a child, shall be punished by imprisonment from six months to five years.
- (3) Whoever for the purpose of making a profit coerces or induces by means of the use of force or threats, deception, fraud, abuse of authority or of a situation of hardship or dependence a person he or she knows, or could and should have known, is a child, to provide sexual services, or uses the sexual services of this child in exchange for payment, where he or she knows or should and could have known about the said circumstances, shall be punished by imprisonment from three to fifteen years.
- (4) Whoever advertises the exploitation of sexual services of a child, shall be punished by imprisonment from six months to five years.

Exploitation of Children for Pornography

Article 163

- (1) Whoever entices, recruits or incites a child to participate in the child pornography or whoever organises or makes possible producing child pornography shall be punished by imprisonment from one and eight years.
- (2) The same punishment as referred to in paragraph 1 of this Article shall be inflicted on whoever films child pornography or produces, offers, makes available, distributes, transmits, imports, exports, procures for himself or herself or for another person, sells, gives, presents or possesses child pornography or knowingly obtains access, through information and communication technologies, to child pornography.
- (3) Whoever by means of the use of force or threats, deception, fraud, abuse of authority or of a situation of hardship or dependence coerces or induces a child to participate in child pornography shall be punished by imprisonment from three and twelve years.

(4) Special devices, means, computer programmes or data intended for, adapted to or used for committing or facilitating the commission of the criminal offences referred to in paragraphs 1, 2 and 3 of this Article shall be confiscated, while the pornographic material which was created by the commission of the criminal offences referred to in paragraphs 1, 2 and 3 of this Article shall be destroyed.

(5) A child shall not be punished for producing and possessing pornographic material depicting him or her alone or him or her and another child, where this material is produced and possessed by them with their consent and solely for their own private use.

(6) Child pornography shall mean any material that visually or otherwise depicts a real child or a realistic image of a non-existent child or a person appearing to be a child, involved or engaged in real or simulated sexually explicit conduct, or any depiction of a child's sexual organs for sexual purposes. For the purpose of this Article, any material that is artistic, medical, scientific, informative or similar in character shall not be deemed pornography.

Exploitation of Children for Pornographic Performances

Article 164

(1) Whoever entices, recruits or incites a child to participate in pornographic performances shall be sentenced to imprisonment for a term of between one and eight years.

(2) Whoever profits from pornographic performances involving the participation of a child or otherwise exploits a child for pornographic performances shall be sentenced to imprisonment for a term of between one and ten years.

(3) Whoever by means of the use of force or threats, of deception, of fraud, of abuse of authority or of a situation of hardship or dependence coerces or induces a child to participate in a pornographic performance shall be sentenced to imprisonment for a term of between three and twelve years.

(4) The sentence of imprisonment referred to in paragraph 1 of this Article shall be imposed on whoever watches a pornographic performance that is transmitted live or via communication means, where he/she knows or should and could have known that it involved the participation of a child.

(5) Special devices, means, computer programmes or data intended, adapted or used for committing or facilitating the commission of the criminal offences referred to in paragraphs 1, 2 and 3 of this Article shall be seized, while the pornographic material which was created by the commission of the criminal offences referred to in paragraphs 1 and 2 of this Article shall also be destroyed.

TITLE XVIII

CRIMINAL OFFENCES AGAINST MARRIAGE,

FAMILY AND CHILDREN

Forced Marriage

Article 169

(1) Whoever forces another person to contract a marriage, shall be punished by imprisonment from six months to five years.

(2) Whoever entices a person to a country in which that person does not have permanent residence in order to force him or her to contract a marriage there, shall be punished by imprisonment not exceeding three years.

Abduction of a Child

Article 174

(1) Whoever takes a child away from his or her parent, adopter, guardian, another person or institution entrusted with his or her care, unlawfully keeps him or her or prevents him or her from living with the person or at the institution to whose care he or she has been entrusted, shall be punished by imprisonment from six months to five years.

(2) If the criminal offence referred to in paragraph 1 of this Article is committed by a parent or adopter, he or she shall be punished by imprisonment not exceeding three years.

(3) Whoever commits the criminal offence referred to in paragraph 1 of this Article with the aim of permanently keeping a child, or if as a result of the criminal offence referred to in paragraph 1 of this Article the child has left the territory of the Republic of Croatia, or the child's state of health, upbringing or education has been seriously jeopardised or the child's welfare has in some other way been seriously jeopardised shall be punished by imprisonment from one to ten years.

(4) A parent or adopter who commits the criminal offence referred to in paragraph 1 of this Article with the aim of permanently keeping a child or in such a way that the child leaves the territory of the Republic of Croatia, shall be punished by imprisonment from six months to five years.

(5) If as a result of the criminal offence referred to in paragraph 1, 2, 3 or 4 of this Article a child dies, the perpetrator shall be punished by imprisonment from three to fifteen years.

(6) The attempt of the criminal offence referred to in paragraph 2 of this Article shall be punishable.

(7) If the perpetrator returns the child before the institution of criminal proceedings, his or her sentence may be remitted.

Neglect and Abuse of the Rights of a Child

Article 177

(1) A parent, adopter, guardian or another person who seriously neglects his or her duties of raising, upbringing and educating a child, shall be punished by imprisonment not exceeding three years.

(2) Whoever coerces a child to work excessively or to carry out tasks that are inappropriate to his or her age, or to beg, or whoever encourages a child to exhibit other forms of behaviour that are detrimental to his or her development or in some other way grossly abuses a child's rights, shall be punished by imprisonment from six months to five years.

(3) If as a result of the criminal offence referred to in paragraph 1 or 2 of this Article a child takes to begging, prostitution or other forms of socially unacceptable behaviour, or if a child suffers a serious bodily injury, the perpetrator shall be punished by imprisonment from one to eight years.

(4) If as a result of the criminal offence referred to in paragraph 1 or 2 of this Article a child dies, the perpetrator shall be punished by imprisonment from three to fifteen years.

Incest

Article 179

(1) Whoever engages in sexual intercourse or an equivalent sexual act with a relative by blood in direct line, a brother, sister, half-brother or half-sister, by blood or by adoption, shall be punished by imprisonment not exceeding one year.

(2) A person who at the time of commission of the act referred to in paragraph 1 of this Article was a child shall not be punished.

Domestic violence

Article 179.a

Who gravely breaches regulations on protection against family violence and therefore causes fear for safety of the family member or another close person, or who puts such person in humiliating position, if no more severe criminal act has been committed, shall be punished by imprisonment not exceeding three years.

TITLE XIX

CRIMINAL OFFENCES AGAINST THE HEALTH OF PEOPLE

Medical Quackery

Article 184

(1) Whoever, lacking the prescribed professional qualifications, engages in medical treatment or rendering other medical aid shall be punished by imprisonment not exceeding one year.

(2) If the offence referred to in paragraph 1 of this Article leads to considerable deterioration of illness or impairment of the health of another person, the perpetrator shall be punished by imprisonment from six months to five years.

(3) If the offence referred to in paragraph 1 of this Article causes serious bodily injury to another person or pregnancy termination, the perpetrator shall be punished by imprisonment from one to ten years.

(4) If the offence referred to in paragraph 1 of this Article results in the death of one or more persons, the perpetrator shall be punished by imprisonment from three to fifteen years.

(5) The means used for medical treatment referred to in paragraphs 1 and 2 of this Article shall be confiscated.

TITLE XX

CRIMINAL OFFENCES AGAINST THE ENVIRONMENT

Killing or Torture of Animals

Article 205

(1) Whoever kills an animal without a justified reason or severely maltreats it, inflicts unnecessary pain on it or puts it through unnecessary suffering, shall be punished by imprisonment not exceeding one year.

(2) Whoever commits the criminal offence referred to in paragraph 1 of this Article out of greed, shall be punished by imprisonment not exceeding two years.

(3) Whoever by negligence exposes an animal to conditions of hardship over a longer period of time by depriving an animal of food or water or in another manner, shall be punished by imprisonment not exceeding six months.

(4) The animal referred to in this Article shall be confiscated.

TITLE XXI

CRIMINAL OFFENCES AGAINST GENERAL SAFETY

Serious Criminal Offences against General Safety

Article 222

(1) If as a result of the criminal offence referred to in Article 215, paragraph 1 or 2, Article 216, paragraph 1, 2 or 3, Article 217, paragraph 1, Article 219, or Article 221, paragraph 1, of this Code a serious bodily injury is inflicted on a person or extensive material damage to property is caused, the perpetrator shall be punished by imprisonment from one to ten years.

(2) If as a result of the criminal offence referred to in paragraph 1 of this Article one or more persons die, the perpetrator shall be punished by imprisonment from three and fifteen years.

(3) If as a result of the criminal offence referred to in Article 215, paragraph 3, Article 216, paragraph 4, Article 217, paragraph 2, or Article 221, paragraph 2, of this Code a serious bodily injury is inflicted on a person or extensive material damage is caused, the perpetrator shall be punished by imprisonment from six months to five years.

(4) If as a result of the criminal offence referred to in paragraph 3 of this Article one or more persons die, the perpetrator shall be punished by imprisonment from one to eight years.

TITLE XXII

CRIMINAL OFFENCES AGAINST TRAFFIC SAFETY

Attack on an Aircraft, Vessel or Immovable Platform

Article 223

(1) Whoever uses force or serious threat with the aim of assuming control over a civil aircraft in flight, a civil vessel at sea or an immovable platform shall be punished by imprisonment from three to fifteen years.

(2) Whoever uses force or serious threat in a civil aircraft in flight, on a civil vessel at sea or an immovable platform or plants on a civil aircraft, vessel or immovable platform a device or substances which can destroy or cause damage to them, if such an act can jeopardise the safety of flight or voyage, shall be punished by imprisonment from one to ten years.

(3) Whoever with the aim of destroying or damaging a civil aircraft in flight, a civil vessel at sea or its cargo or an immovable platform uses firearms or causes an explosion or starts a fire, shall be punished by imprisonment from three to fifteen years.

(4) Whoever with the aim of bringing to a halt airport operations or endangering the safety of air traffic commits violence against a person employed at an international airport or severely damages or destroys airport equipment or damages an aircraft taken out of service, shall be punished by imprisonment from one to ten years.

(5) If as a result of the criminal offence referred to in paragraph 1, 2, 3 or 4 of this Article one or more persons die or an aircraft or vessel is destroyed or other extensive material damage is caused, the perpetrator shall be punished by imprisonment for not less than five years.

(6) If in committing the criminal offence referred to in paragraph 1, 2, 3 or 4 of this Article a perpetrator intentionally kills one or more persons, he or she shall be punished by imprisonment for not less than ten years or by long-term imprisonment.

(7) An aircraft shall be deemed in flight from the moment when, after the completion of boarding, all outer doors are closed to the moment when one of these doors are opened for disembarkment. In the case of

forced landing, a flight shall be deemed to last until the competent body takes charge of the aircraft, persons and property on board the aircraft.

Endangering Traffic by a Dangerous Act or Dangerous Means

Article 224

(1) Whoever destroys, damages, removes or otherwise makes unusable or unnoticeable a sign or device ensuring the safety of rail, sea, inland water or air traffic, shall be punished by imprisonment not exceeding one year.

(2) Whoever destroys, damages, removes or otherwise makes unusable or unnoticeable a sign, device or traffic mechanism ensuring the safety of any type of traffic, or erects obstructions, gives false information, signs or signals or otherwise endangers traffic and thereby endangers the life or limb of people or property of significant value, shall be punished by imprisonment from six months to five years.

(3) Whoever commits the criminal offence referred to in paragraph 2 of this Article by negligence, shall be punished by imprisonment not exceeding three years.

(4) If as a result of the criminal offence referred to in paragraph 2 of this Article a person suffers an injury or extensive material damage is caused, the perpetrator shall be punished by imprisonment from between one to ten years.

(5) If as a result of the criminal offence referred to in paragraph 2 of this Article one or more persons die, the perpetrator shall be punished by imprisonment from three to fifteen years.

(6) If as a result of the criminal offence referred to in paragraph 3 of this Article a person suffers a serious bodily injury or extensive material damage is caused, the perpetrator shall be punished by imprisonment from one to eight years.

(7) If as a result of the criminal offence referred to in paragraph 3 of this Article one or more persons die, the perpetrator shall be punished by imprisonment from one to ten years.

Endangering Special Types of Traffic

Article 225

(1) A participant in air, ship or rail traffic or funicular railway traffic who by violating traffic safety regulations jeopardises traffic safety in a manner that endangers the lives of people or property of s significant value shall be punished by imprisonment from six months to five years.

(2) Whoever commits the criminal offence referred to in paragraph 1 of this Article by negligence, shall be punished by imprisonment not exceeding three years.

(3) If as a result of the criminal offence referred to in paragraph 1 of this Article a person suffers a serious bodily injury or extensive material damage is caused, the perpetrator shall be punished by imprisonment from one to ten years.

(4) If as a result of the criminal offence referred to in paragraph 1 of this Article one or more persons die, the perpetrator shall be punished by imprisonment from three to fifteen years.

(5) If as a result of the criminal offence referred to in paragraph 2 of this Article a person suffers a serious bodily injury or extensive material damage is caused, the perpetrator shall be punished by imprisonment from one to eight years.

(6) If as a result of the criminal offence referred to in paragraph 2 of this Article one or more persons die, the perpetrator shall be punished by imprisonment from one to ten years.

Wanton Driving in Road Traffic

Article 226

A road traffic participant who out of wantonness seriously violates traffic safety regulations by driving in a state of inability to drive caused by alcohol consumption characterised by a blood alcohol content of at least 1.50 g/kg, or by drug or psychoactive drug consumption, or by driving in a prohibited direction or by overpassing a column of vehicles in a place where the road is not sufficiently clear ahead, or by exceeding the speed limit by fifty km/h when driving through a populated place or area where the speed limit is indicated, endangers the life or limb of people,

shall be punished by imprisonment not exceeding three years.

Causing a Road Traffic Accident

Article 227

(1) A road traffic participant who by violating traffic safety regulations endangers the life or limb of people or property of significant value and therefore inflicts on another person a serious bodily injury or causes extensive material damage, shall be punished by imprisonment from six months to five years.

(2) If the criminal offence referred to in paragraph 1 of this Article is committed by negligence, the perpetrator shall be punished by imprisonment not exceeding three years.

(3) If as a result of the criminal offence referred to in paragraph 1 of this Article another person suffers an particularly serious bodily injury, the perpetrator shall be punished by imprisonment from one to eight years.

(4) If as a result of the criminal offence referred to in paragraph 3 of this Article one or more persons die, the perpetrator shall be punished by imprisonment from six months to five years.

(5) If as a result of the criminal offence referred to in paragraph 1 of this Article one or more persons die, the perpetrator shall be punished by imprisonment from three to twelve years.

(6) If as a result of the criminal offence referred to in paragraph 5 of this Article one or more persons die, the perpetrator shall be punished by imprisonment from one to eight years.

TITLE XXXIII

CRIMINAL OFFENCES AGAINST A FOREIGN STATE OR INTERNATIONAL ORGANISATION

Kidnapping of an Internationally Protected Person

Article 353

(1) Whoever kidnaps an internationally protected person, shall be punished by imprisonment from three to twelve years.

(2) If as a result of the commission of the criminal offence referred to in paragraph 1 of this Article the kidnapped person dies, the perpetrator shall be punished by imprisonment for not less than five years.

TITLE XXXIV

CRIMINAL OFFENCES AGAINST THE ARMED FORCES OF THE REPUBLIC OF CROATIA

Failure to Take Measures for the Protection of a Military Unit

Article 365

(1) A member of the armed forces who fails to take the prescribed, ordered or other obviously necessary measures for protecting the life and health of persons entrusted to him or her, securing and keeping in good repair facilities, objects or means ensuring combat readiness, ensuring regular supply of food, equipment and materials to the unit entrusted to him or her, keeping and caring for official animals, or timely and proper performance of security works or securing of facilities entrusted to him or her and thereby endangers the life or limb of people shall be punished by imprisonment not exceeding three years.

(2) If as a result of the criminal offence referred to in paragraph 1 of this Article a serious bodily injury of a person or considerable material damage is caused, the perpetrator shall be punished by imprisonment from one to eight years.

(3) If the criminal offence referred to in paragraph 1 or 2 of this Article is committed in a state of war or imminent threat to the independence and unity of the Republic of Croatia, the perpetrator shall be punished by imprisonment from three to fifteen years.

(4) If the criminal offence referred to in paragraph 2 of this Article is committed by negligence, the perpetrator shall be punished by imprisonment not exceeding three years and if the criminal offence referred to in paragraph 3 of this Article is committed by negligence, the perpetrator shall be punished by imprisonment from one to eight years

Third Group of offences

TITLE X

CRIMINAL OFFENCES AGAINST LIFE AND LIMB

Failure to Render Assistance

Article 123

(1) Whoever fails to render assistance to a person in mortal danger, although he or she could have done so without exposing himself or herself or another to serious danger, shall be punished by imprisonment not exceeding one year.

(2) Whoever does not render assistance to a person in danger which he or she himself or herself has caused, unless doing so would expose him or her or another to serious danger, shall be punished by imprisonment not exceeding three years.

Abandonment of a Helpless Person

Article 124

Whoever leaves a helpless person entrusted to him or her unassisted in circumstances in which his or her life or health are at risk, shall be punished by imprisonment not exceeding three years.

TITLE XIII

CRIMINAL OFFENCES AGAINST PERSONAL FREEDOM

Threat

Article 139

(1) Whoever seriously threatens another with some evil in order to intimidate or disturb him or her, shall be punished by imprisonment not exceeding one year.

(2) Whoever seriously threatens to kill, inflict severe bodily injury on, abduct or deprive of liberty another or a person close to another or to inflict evil by arson, explosion, ionising radiation, weapons, dangerous tools or other dangerous means, or to destroy the social status or material means of subsistence, shall be punished by imprisonment not exceeding three years.

(3) If the criminal offence referred to in paragraphs 1 and 2 was committed against a public official or responsible person in connection with his or her job or position or against a journalist in connection with his or her job, or against many persons, or if it has significantly disturbed the population or the person threatened was put in a difficult position over a long period of time, the perpetrator shall be punished by imprisonment from six months to five years.

(4) The criminal offence referred to in paragraph 1 of this Article shall be prosecuted by private action, while the criminal offence referred to in paragraph 2 of this Article shall be prosecuted upon request, unless the criminal offences referred to in paragraphs 1 and 2 were committed out of hatred, against a child, a disabled person or a family member.

Stalking

Article 140

(1) Whoever persistently and over a long period of time follows or spies on another, or establishes or seeks to establish unwanted contact with another, or intimidates another in some other way and by doing so provokes anxiety in him or her or causes him or her to fear for his or her safety or the safety of persons close to him or her shall be punished by imprisonment not exceeding one year.

(2) If the offence referred to in paragraph 1 of this Article is committed against the current or former spouse or cohabitant or same-sex partner, a person with whom the perpetrator was in an intimate relationship or a child, the perpetrator shall be punished to imprisonment not exceeding three years.

(3) Unless it was committed against a child, the criminal offence referred to in paragraphs 1 and 2 of this Article shall be prosecuted upon request.

TITLE XIV

CRIMINAL OFFENCES AGAINST PRIVACY

Violation of the Inviolability of the Home and Business Premises

Article 141

(1) Whoever enters without authorisation another person's home or business premises, or a closed or fenced-in space belonging to that home or business premises, or fails to leave the same at the request of an authorised person, shall be punished by imprisonment not exceeding one year.

(2) If the criminal offence referred to in paragraph 1 of this Article is committed by a public official in the performance of his or her functions or the exercise of public authority, he or she shall be punished by imprisonment not exceeding three years.

(3) The criminal offence referred to in paragraph 1 of this Article shall be prosecuted upon request.

TITLE XVII

CRIMINAL OFFENCES OF SEXUAL ABUSE AND SEXUAL EXPLOITATION OF CHILDREN

Introducing Pornography to Children

Article 165

(1) Whoever to a child under the age of fifteen sells, gives a gift, presents or publicly displays, by means of a computer system, network or media for the storage of computer data or in some other way makes accessible the files, pictures, audio-visual content or other objects of pornographic content or shows him or her a pornographic performance shall be punished by imprisonment not exceeding three years.

(2) Objects, special devices, means, computer programmes or data intended for, adapted to or used for committing or facilitating the commission of a criminal offence referred to in paragraph 1 of this Article shall be confiscated, while the pornographic material shall also be destroyed.

(3) For the purpose of this Article, pornography shall mean any material that visually or otherwise depicts a person in real or simulated sexually explicit conduct or any depiction of a person's sexual organs for sexual purposes. For the purpose of this Article, any material that is artistic, medical, or scientific in character shall not be deemed pornography.

TITLE XVIII

CRIMINAL OFFENCES AGAINST MARRIAGE, FAMILY AND CHILDREN

Abandonment of a Family Member in a Situation of Distress

Article 171

Whoever in violation of his or her statutory family obligations abandons a family member unable to take care of himself or herself in a situation of distress, shall be punished by imprisonment not exceeding three years.

Child Desertion

Article 176

Whoever deserts his or her child with the aim of permanently getting rid of him or her, shall be punished by imprisonment not exceeding three years.

TITLE XIX

CRIMINAL OFFENCES AGAINST THE HEALTH OF PEOPLE

Spread and Transmission of Contagious Diseases

Article 180

(1) Whoever fails to comply with regulations or orders of the competent state authority ordering check-ups, disinfection, disinsectisation, deratisation, quarantining of patients or another measure for the prevention and suppression of infectious diseases among people or the prevention and suppression of infectious animal diseases that can also be contracted by people and where consequently the danger of spreading an infectious disease among people or the transmission of the infectious disease from animals onto humans occurs shall be punished by imprisonment not exceeding two years.

(2) Whoever by not complying with the measures of protection infects another person with a dangerous infectious disease shall be punished by imprisonment not exceeding three years.

(3) If the criminal offence referred to in paragraph 1 or 2 of this Article is committed by negligence, the perpetrator shall be punished by imprisonment not exceeding one year.

(4) The criminal offence referred to in paragraph 2 of this Article, where it concerns a sexually transmitted disease, shall be prosecuted at the injured party's request, unless the criminal offence was committed against a child.

Medical Malpractice

Article 181

(1) A doctor of medicine, doctor of dental medicine or other health care worker who in rendering health care services applies an obviously inadequate means or method of medical treatment or in some other way obviously fails to follow the rules of the health care profession or obviously acts carelessly, thereby causing the deterioration of an illness or the impairment of the health of another person shall be punished by imprisonment not exceeding one year.

(2) If as a result of the criminal offence referred to in paragraph 1 of this Article another person suffers a serious bodily injury or the existing illness is considerably deteriorated, the perpetrator shall be punished by imprisonment not exceeding three years.

(3) If as a result of the criminal offence referred to in paragraph 1 of this Article another person suffers an particularly serious bodily injury or a person's pregnancy is terminated, the perpetrator shall be punished by imprisonment from six months and five years.

(4) If as a result of the criminal offence referred to in paragraph 1 of this Article one or more persons die, the perpetrator shall be punished by imprisonment from three to twelve years.

(5) If the criminal offence referred to in paragraph 1 of this Article is committed by negligence, the perpetrator shall be punished by imprisonment not exceeding six months.

(6) If the criminal offence referred to in paragraph 2 of this Article is committed by negligence, the perpetrator shall be punished by imprisonment not exceeding one year.

(7) If the criminal offence referred to in paragraph 3 of this Article is committed by negligence, the perpetrator shall be punished by imprisonment not exceeding three years.

(8) If the criminal offence referred to in paragraph 4 of this Article is committed by negligence, the perpetrator shall be punished by imprisonment from one to eight years.

Failure to Render Medical Aid in Emergencies

Article 183

A doctor of medicine, doctor of dental medicine or other health care worker who does not immediately render medical aid to a person in need of such aid because of the risk that he or she would suffer permanent harmful consequence on his or her health or life shall be punished by imprisonment not exceeding three years.

TITLE XXI

CRIMINAL OFFENCES AGAINST GENERAL SAFETY

Endangerment to Life and Property by a Generally Dangerous Act or Means

Article 215

(1) Whoever endangers the life or limb or property of substantial value by fire, flood, explosive, poison or poisonous gas, ionising radiation, mechanical force, electricity or other energy or by some generally dangerous act or generally dangerous means shall be punished by imprisonment from six months to five years.

(2) The sentence referred to in paragraph 1 of this Article shall be imposed on whoever fails to install the prescribed devices for protection against fire, explosion, flood, poison, poisonous gases, nuclear energy, ionising radiation or intended to protect the health and safety at work, or fails to maintain these devices in working order, or where necessary fails to activate them, or altogether fails to comply with the regulations or technical rules on protective measures and thereby endangers the life or limb of people or property of substantial value.

(3) Whoever commits the criminal offence referred to in paragraph 1 or 2 of this Article by negligence shall be punished by imprisonment not exceeding three years.

TITLE XXIII
CRIMINAL OFFENCES AGAINST PROPERTY

Aggravated Theft

Article 229

(1) A punishment of imprisonment from one to eight years shall be inflicted on whoever commits theft referred to in Article 228, paragraph 1, of this Code:

1. by picking a lock, breaking in or overcoming considerable obstacles in order to gain access to property in closed buildings, rooms, cash registers, cabinets or other enclosed premises or space;
2. in a particularly dangerous or brazen manner;
3. by taking advantage of a condition caused by fire, flood, earthquake or other calamity;
4. by exploiting another person's helplessness or other particularly adverse circumstance afflicting the person;
5. if stolen property is of high value;
6. if weapons, ammunition, missiles, explosive ordnances, combat resources or part of combat resources serving the needs of the army are stolen;
7. if stolen property is used for religious purposes or is stolen from a church or other building or room used for religious services;
8. if an item of cultural property or an object of scientific, artistic, historical or technical significance is stolen or stolen property is part of a public collection, protected private collection or is publicly displayed;
9. if the perpetrator carried a weapon or a dangerous instrument for the purpose of attacking or defending himself or herself;
10. in the capacity of a public official performing his or her functions or exercising public authority.

(2) If the elements of aggravated theft referred to in paragraph 1, items 1 through 4 and items 6 and 7, of this Article are realised but the value of stolen property is small and the perpetrator acted with the aim of appropriating property of such value, he or she shall be punished for theft referred to in Article 228, paragraph 1, of this Code.

TITLE XXXIII
CRIMINAL OFFENCES AGAINST A FOREIGN STATE OR INTERNATIONAL ORGANISATION

Threat to an Internationally Protected Person

Article 355

Whoever jeopardises the safety of an internationally protected person by a serious threat of committing against the said person any of the criminal offences referred to in Articles 352 through 354 of this Code, shall be punished by imprisonment from six months to five years.

7.3. Overview of Violent Offences' Flow through the Criminal Proceedings

What happens during criminal proceeding after a certain act happens? One might imagine it goes like this:



Violent act took place (person A hit person B in the head with his feet several times).



Witness calls the police and reports what he saw.



Police arrives, victim is lying on the floor with severe pain, while the offender has run off.



Police writes down criminal report and forwards it to State attorney (SA). SA checks criminal report and decides whether to further investigate.



Investigation – finding evidence, finding offender, examining witnesses, suspects, etc...



SA submits indictment when he has enough evidence.



Indictment has to be verified by indictment division.



Criminal proceeding starts.



Adjudication

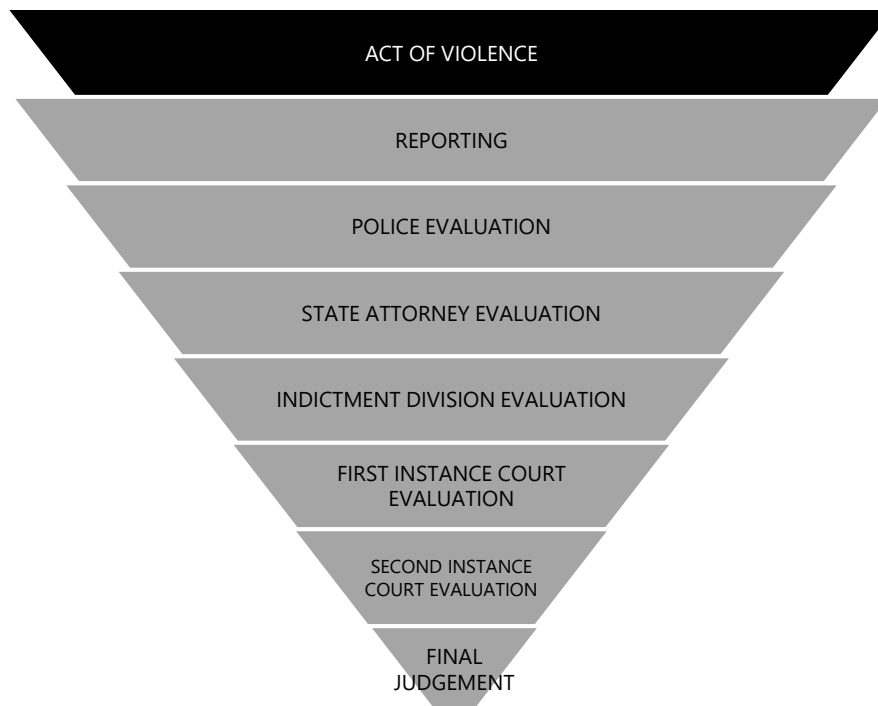
Yet it is not that simple. During criminal proceedings, there are many actions to be carried out that might artificially narrow reality and shape it according to the criminal law. We already mentioned filters of substantive criminal law that make reality sort of distorted in order to fit normative framework. Likewise, criminal procedure law also has its filter points, where reality is being shaped in accordance to strict rules of criminal proceedings. This appearance has an impact on every criminological scientific research that uses court files/prosecution files as a source of data. That is because criminology has to rely on normative structures and concepts that sometimes result in different picture of reality than the reality that actually occurred. Criminal law is not scientific based in the sense of using scientific methods and principles, its purpose is not to observe human behaviour. That is why studying phenomenon like violence through the glasses of criminal law, may seem misleading or distorted. However, if we keep in mind all these filters and barriers, studying violence should be enough precise, holistic and comprehensive to analyse data and make true conclusions. Main goal of the following chapter will be to present these filters integrated into criminal proceedings that might potentially distort real appearance of violence. Let us take a look of how this 'shaping of the reality' could look like.

It might happen that from the point when something happened in reality, during the procedure, some facts about this act simply drop out (e.g. not enough evidence about a certain fact) or stay officially undetected which in criminal law language means non exististent (e.g. illegal evidence). It is fair to say that facts stated in the final judgment present usually a reduced version of an act from the beginning of the story. Reason for such shaping reality may be found in substantive criminal law (legal qualifications of certain acts), but also in the procedure criminal law. In the following chapter, we will explain this shaping through criminal proceedings to see where are the possible milestones in which we lose reality mainly at the expense of (contradictory) main principle in criminal procedure law – requirement for a fair trial.

We will see then that the main purpose of criminal proceedings is not to detect reality as criminology would have wanted. Criminal procedure is not replicating reality as such, in order to find the absolute truth (if there is any) because of two things: first thing includes **definition points** – phases through which different subjects have the power to estimate/evaluate relevant facts and define something as an offense (qualify). This kind of evaluation relativize an act due to the multiple subjectification through the criminal proceedings. This only shows that different subjects have the power to define: 1. Is a certain act criminally relevant? and 2. Is a certain act a violent act?. The more

severe the offense is, the more the gravity of this evaluation shifts from 1. to 2. It is obvious that this process might blur our perception of an appearance (e.g. if a policeman mistakenly qualifies an injury as light bodily injury instead of heavily bodily injury and does not file a criminal report- an offense might stay undetected by criminal justice system, but it happened and it certainly is violent).

Stages of Definition Points – phases in criminal proceeding where a certain act is being subjected to qualification as criminally relevant and violent?



The second part of 'shaping the reality' refers to the principles of criminal procedure, where finding the truth is sometimes ignored at the expense of offender's rights and protection (we can call them **breaking points**). Through these breaking points, we clearly see that what states in the final judgment is not always jibe to the facts and that some acts of violence actually stay under the radar of criminal law as violent offenses while hidden behind different qualifications set by following subjects (e.g. State attorney qualifies something as a traffic accident, while in reality the act was attempted homicide).

Breaking points

A. Initiative for criminal procedure – **BREAKING POINT 1.**



When we look at subjects that have power to initiate criminal procedure, we see that not only state (state attorney) has initiative but also private persons. At first glance, one might overthink whether the old definition that criminal procedure and punishment as an expression of power/authority of the state, still stands. Sometimes the state will not have any power on action if a criminal offense that occurred is subject to the private charge (e.g. insult or even light bodily injury). Looking at criminal law as subsidiary, fragmented and *ultima ratio*, it is interesting to notice that even when the legislator estimates that certain acts deserve criminal judgment, sometimes an individual should be the one to initiate it.

This raises further question regarding already mentioned and frequently underlined purpose of criminal law itself - criminal law as *ultima ratio*. If an act is so severe that it deserves criminal punishment, and if punishment should express the exclusive power of certain state to punish, should there be place for private actions within it. The question is especially interesting when looking from the aspect of violence (e.g. light bodily injury). Does any act of violence (understood as physical force directed to another human being that causes harm), no matter how light it is, deserve a categorisation as an offense subject to the private charge? And how does that possibility impacts on 'dark figure' of violence? This phase is our first breakingpoint, because considering the initiators of criminal proceeding, some acts might stay undetected by criminal justice system.

B. *In dubio pro reo* – **BREAKING POINT 2.**



Another breakingpoint takes place when having doubt regarding existence of relevant facts. Article 3. Of CPA prescribes:

Doubt regarding the existence of the facts which constitute the elements of the definition of the criminal offence, or which are conditions for the implementation of a certain provision of the criminal law, shall be decided in favour of the defendant.

This principle may lead to 'drop-out' cases if a fact cannot be proven on demanding level of probability. This again means that some elements of reality do not always fit to the facts we finally have before court because if we doubt the existence of a certain fact, rule says we must conclude in offender's favor (which may be in a conflict with the reality).

C. Illegal evidence – **BREAKING POINT 3.**



Constraint of illegal evidence is not new in criminal law, but it certainly got gravity in the past decade where human rights [sic!] have raised a scale of their protection. Through following provision, we see that protection of human rights is placed before finding the truth in criminal proceeding. (e.g., offender gives a confession that he murdered a girl, but does it in front of police without his lawyer. His confession presents an illegal evidence and has to be extracted from court case file so the final

judgment might result in an acquittal if no further evidence is found). Article 10 of CPA states the following:

The court's decisions in criminal proceedings may not be founded on evidence obtained in an illegal way (illegal evidence).

Again, final adjudication would have to ignore evidence that might be crucial and 'pretend' that certain fact does not exist.

D. No reopening the case for acquittal adjudication – **BREAKINGPOINT 4.**



Criminal proceedings against a person who was acquitted by a final court's decision may not be reopened (Art. 12. Par. 2. CPA) (in case a certain offender has been acquitted for rape, and after few years' new evidence shows that he is without a doubt an actual offender, criminal proceedings against him cannot be reopened).

The principle of ensuring legal certainty demands such a rule, so once someone is being finally acquitted, no one can ever question it and/or change it, disregard to revelation of new facts.

That actually means that looking at convictions, we might be looking at some hidden perpetrators that have committed offence in reality, however, criminal justice system will not initiate criminal proceeding in order to ensure and protect legal certainty.

E. Key witness – **BREAKING POINT 5.**



Article 206.e. prescribes that the Chief State Attorney can reject the criminal report or drop the charges against a person, if it is, in proportion to the severness of committed offenses and relevance of his testimony, important for revealing and proving offenses or members of a criminal organization. This again shows a practicality position of criminal justice system. It presents a deal between state and the offender – “I will not punish you if you help me punish somebody else”. This kind of practical solution makes sense in criminal procedure law, when in constant clash of interests, justice system should duly balance the predominance of one interest in each situation. However, for criminology this kind of convenience again means that some acts might stay unrevealed.

F. *Agent provocateur* – **BREAKING POINT 4.**



Agent provocateur is French for "inciting agent" and refers to a person used by law enforcement officials to bait another into committing a crime or as an undercover official integrate into a criminal group as one of them. To what extent will criminal law system tolerate committing crimes (and what crimes?!) in order for an agent to be successfully incorporated into criminal groups? Without further

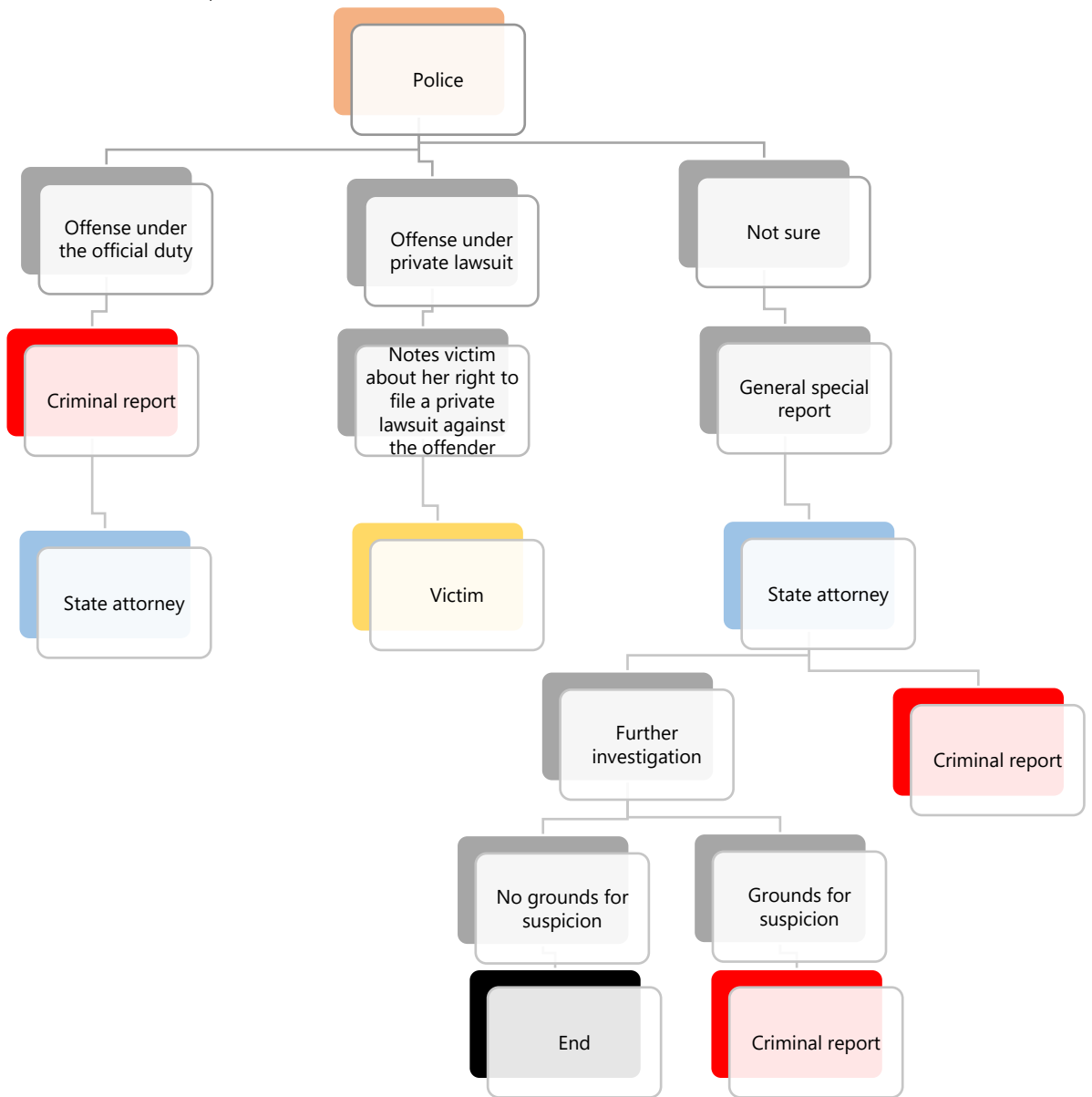
discussion on dilemmas of this institute, we point out that sometimes, due to this institute, some violent acts might be hidden behind this procedural concept.

Simplified display of criminal proceedings

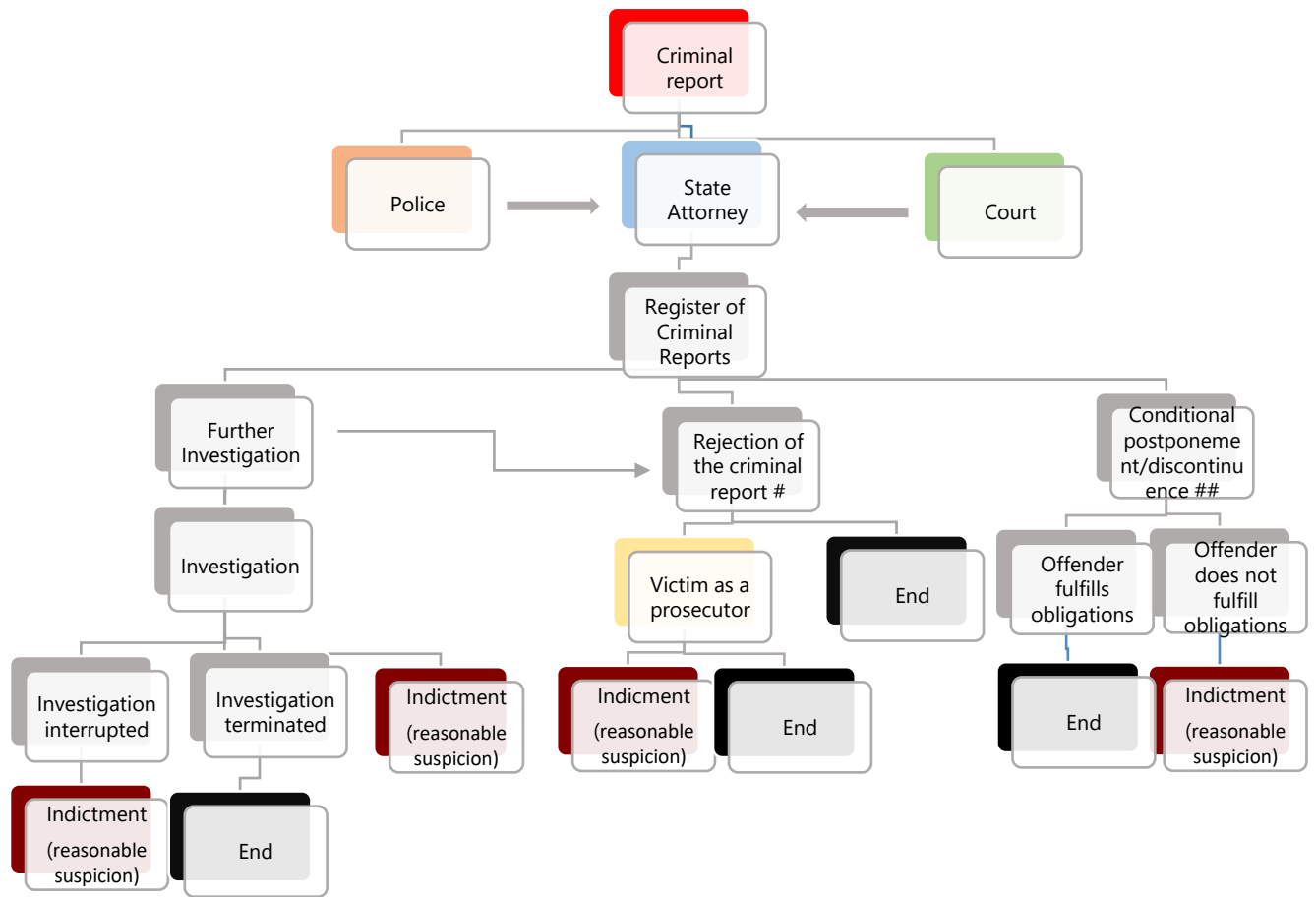
In the following graphic we will show the main steps in criminal procedure against adult offenders⁵ important for understanding milestones in which some act may 'drop out'. Steps do not include any possible situation and/or exceptions due to the request for simplicity and transparency of the manual. This graphic is not a representation of Croatian Criminal Procedure Act, but a simplified version of or criminal proceedings for the purpose of understanding main phases through it.

⁵ Juvenile perpetrators have (in some aspects) different rulings and actions. This differentiation is based upon the need for protection of young delinquents.

A. From police to criminal report



B. From criminal report to indictment



Reasons for rejection of criminal report:

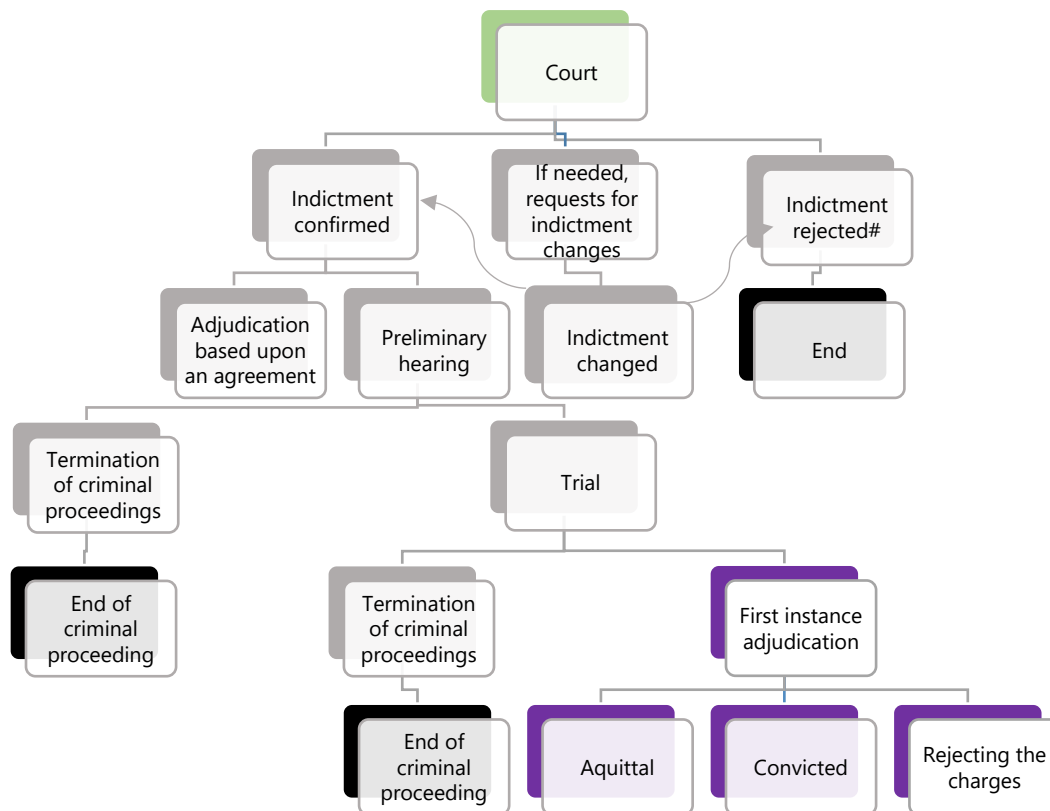
- Not criminal offense
- Not criminal offense proceeded under the official duty
- Offense under statute of limitation, amnesty, pardoned
- Res iudicata
- No guilt
- No grounds for suspicion
- Report is not valid
- *Principle of opportunity*

Key witness

Note! The victim can take over the criminal proceedings except in last two cases where the criminal report has been rejected due to the principle of opportunity or "key witness" case. In these cases, the proceeding stops and the victim has no right to take over criminal proceedings.

Conditional postponement/discontinuance of criminal proceedings, where the state attorney, with the consent of the victim, decides to postpone the criminal proceedings and demands some obligations to the offender. If the offender fulfils his obligations, the proceedings stops, if not, he initiates the proceedings with submitting the indictment.

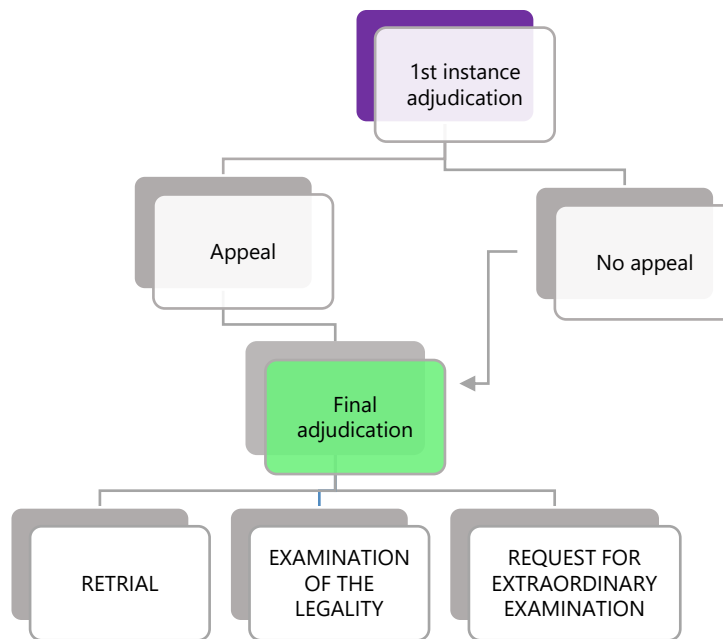
C. From indictment to the first instance adjudication



Reasons for rejection of the indictment:

- Not criminal offense
- Not criminal offense proceeded under the official duty
- No guilt/No grounds for reasonable suspicion

D. From first instance adjudication to final adjudication





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