

THE SECURITY VETTING ACT

(Consolidated Text¹)

I BASIC PROVISIONS

Article 1

This Act establishes the notion, types and degrees of security vetting, security impediments and the procedures for its implementation.

Article 2

Security vetting, in the sense of this Act, is a procedure whereby the competent authorities establish the existence of security impediments for individuals and legal entities in cases referred to in Article 3 of this Act.

Article 3

- (1) Security impediments in security vetting for access to Classified Information are defined by the Data Secrecy Act.
- (2) In the basic security vetting procedure, security impediments are those facts that indicate misuse or risk from misuse of official position or duty and certain rights and powers at the expense of the national security or interests of the Republic of Croatia.
- (3) In the security vetting procedure for the protection of protected persons and facilities, security impediments are those facts that indicate a risk for the security of protected persons and their families and property, or the security of protected facilities.

Article 4

- (1) The decision on the existence of security impediments shall be made by the competent authority that has requested the security vetting, based on the report on the results of the security vetting submitted by the competent security and intelligence agency.
- (2) If the decision on the existence of security impediments depends solely on the health status of the vetted person, the authority submitting the vetting request may request an expert opinion of the competent healthcare institution.

¹ The consolidated text of the Security Vetting Act includes the Security Vetting Act (Official Gazette 85/08) and the Act on Amendments to the Security Vetting Act (Official Gazette 86/12). The time of their coming into force is stated in both Acts.

Article 5

- (1) Security vetting shall be carried out on the basis of the security vetting questionnaire. Consent for security vetting is an integral part of the security vetting questionnaire.
- (2) The security vetting questionnaire shall be completed personally, and the consent form shall be willingly signed by the person undergoing security vetting.
- (3) The competent security and intelligence agency shall not start the security vetting procedure if the consent for security vetting has not been signed in accordance with the provisions of this Act.
- (4) The consent for security vetting refers to checking and processing information related to the questions from the security questionnaire and to the procedures stipulated by this Act for the performance of security vetting.

Article 6

Security vetting shall be performed by the competent security and intelligence agency.

II TYPES OF SECURITY VETTING

Article 7

The types of security vetting are:

- Security vetting for access to Classified Information,
- Basic security vetting,
- Security vetting for the protection of protected persons and facilities.

II.1. Security vetting for access to Classified Information

Article 8

Security vetting for access to Classified Information is performed for:

- Individuals requiring access to information classified as TOP SECRET, SECRET and CONFIDENTIAL in their scope of work or authority;
- Legal entities concluding contracts classified as TOP SECRET, SECRET and CONFIDENTIAL with state authorities, local and regional self-government bodies and legal entities with public authority.

Article 9

- (1) The request for security vetting of individuals and legal entities for access to Classified Information shall be submitted to the competent security and intelligence agency by the Office of the National Security Council.
- (2) The request referred to in paragraph 1 of this Article shall include:
 - Name and surname of the person for whom the request is submitted;
 - Duties or jobs in the scope of which the person has access to Classified Information;

- Degree of security vetting;
- Completed questionnaire with written consent of the person undergoing security vetting.

(3) The request for legal entities referred to in paragraph 1 of this Article shall include:

- Name, address and registry number of the legal entity;
- Completed questionnaire for legal entity;
- Completed questionnaires for employees and persons in accordance with the provisions of paragraph 2 of this Article.

Security Vetting of Individuals

Article 10

Security vetting of individuals shall be performed within the scope of duties and jobs:

- In state authorities;
- Of legal entities and individuals performing jobs for state authorities;
- On the basis of international agreements and arrangements that the Republic of Croatia has signed with other states and international organizations.

Article 11

Security vetting for access to information classified as TOP SECRET, SECRET and CONFIDENTIAL shall cover the period of life from the age of 18 to the day on which the security vetting procedure is initiated.

Security Vetting of Legal Entities

Article 12

Security vetting of a legal entity shall include:

- Checking the ownership, checking the ownership structure, information on companies in ownership, overall business and financial obligations with regard to possible security risks;
- Security vetting of the owner, director, members of the managing and supervisory board, shareholders and stakeholders that have access to Classified Information by virtue of their positions;
- Security vetting of the person nominated for the position of the security officer at the legal entity and his/her deputy;
- Employees who have access to Classified Information.

II. 2. Basic Security Vetting

Article 13

(1) Basic security vetting shall be performed for:

- Persons who are being appointed or have been appointed to a duty, *at the request of the head of the body concerned*²;
- Persons who are being appointed or have been appointed as managing state officials;
- Persons who are being employed or are employed in the bodies of the security and intelligence system of the Republic of Croatia;
- Persons who are being employed or are employed in bodies specialized in fighting organized crime and corruption;
- Persons who are being employed or are employed in bodies, facilities or plants of special significance for national security and for jobs of physical and technical protection of bodies, facilities or plants of special significance for national security;
- Persons who are being employed or are employed on jobs related to physical and technical protection of protected persons and facilities;
- Responsible persons in legal entities registered for personal protection;
- Heads and employees of diplomatic and consular missions of the Republic of Croatia;
- Persons who are being employed or are employed in organisational units of the *Ministry of Foreign and European Affairs*³ in charge of security issues;
- Foreigners resident in the Republic of Croatia and persons who are to receive Croatian citizenship;
- Members of the Council for the Civilian Oversight of the Security and Intelligence Agencies.

(2) Basic security vetting shall also be performed for other persons determined in accordance with a special Act or Regulation of the Government of the Republic of Croatia.

Article 14

- (1) The request for basic security vetting shall be submitted by the competent authority to the competent security and intelligence agency.
- (2) The request from paragraph 1 of this Article shall include:
 - Name and surname of the person for whom the request is submitted;
 - Duties or jobs for which the security vetting is performed;
 - Type of security vetting;
 - Written consent of the person undergoing security vetting; - Completed questionnaire.

II. 3. Security Vetting for the Protection of Protected Persons and Facilities

Article 15

- (1) Security vetting of persons who have direct access to protected persons and facilities shall be performed on the request of the body competent for security and/or counterintelligence

² Paragraph 1 subparagraph 1 amended with the provision of Article 1 paragraph 1 of the Act on Amendments to the Security Vetting Act (Official Gazette 86/12), in force as of 4 August 2012.

³ Paragraph 1 subparagraph 9 amended with the provision of Article 1 paragraph 2 of the Act on Amendments to the Security Vetting Act (Official Gazette 86/12), in force as of 4 August 2012

protection of protected persons, by applying the procedures stipulated for the security vetting for access to I, II and III degree Classified Information.

- (2) The degree of security vetting referred to in paragraph 1 of this Article shall be decided upon by the competent security and intelligence agency, based on the information provided by the competent authority.
- (3) Security vetting of persons who have direct access to facilities, plants or means of special significance for national security shall be performed on the request of the competent authority by applying procedures stipulated for the security vetting for access to I, II and III degree Classified Information.
- (4) As an exception to Article 5 of this Act, the security questionnaire shall not be completed and the consent of the vetted person shall not be required for the security vetting referred to in paragraph 1 of this Article.

III SECURITY VETTING DEGREES AND PROCEDURE

Article 16

The security vetting degrees are:

- I degree security vetting;
- II degree security vetting;
- III degree security vetting.

Article 17

Depending on the need for access to Classified Information, the following security vetting procedures shall be performed:

- For information classified as TOP SECRET: I degree security vetting;
- For information classified as SECRET: II degree security vetting;
- For information classified as CONFIDENTIAL: III degree security vetting.

Article 18

I degree security vetting shall be performed on the basis of the I degree security vetting questionnaire and by applying the following procedures:

- Consulting public sources, official records and data records of the competent security and intelligence agencies and other state and public authorities;
- Consulting records and personal data records, business and other official documents that legal entities are required to keep pursuant to law;
- Mandatory interview with the person undergoing security vetting;
- Interview with the persons listed in the security questionnaire as persons who can confirm the information stated in the questionnaire (hereinafter referred to as “reference persons”);
- Interviews with other persons, in accordance with the assessment of the competent security and intelligence agency.

Article 19

- (1) I degree security vetting shall also be performed for the spouse or cohabitant who resides abroad with the person who has been sent to work in a civil or military body of an international organization or to a Croatian mission to international organizations, who has access to Classified Information and for whom a TOP SECRET certificate is requested.
- (2) Security vetting of persons referred to in paragraph 1 of this Article shall be performed in accordance with the provisions of this Act.

Article 20

Depending on the security assessment, apart from the procedures set forth in Article 18 of this Act, during the I degree security vetting, the measure of secret information collection stipulated by a separate Act may be applied, and its authorization is under the competence of the director of the security and intelligence agency.

Article 21

II degree security vetting shall be performed on the basis of II degree security vetting questionnaire and by applying the following procedures:

- Insight into public sources, official records and data records of the competent security and intelligence agencies and other state and public authorities;
- Insight into records and personal data records, business and other official documents that legal entities are required to keep pursuant to law;
- Interview with the person undergoing security vetting, based on the assessment of the competent security and intelligence agency;
- Interviews with other persons, in accordance with the assessment of the competent security and intelligence agency.

Article 22

III degree security vetting shall be performed on the basis of the III degree security vetting questionnaire and by applying the following procedures:

- Insight into public sources, official records and data records of the competent security and intelligence agencies and other state and public authorities;
- Insight into records and personal data records, business and other official documents that legal entities are required to keep pursuant to law.

Article 23

- (1) Basic security vetting shall be performed on the basis of the I degree security vetting questionnaire and by applying the procedures stipulated for security vetting for access to the I degree Classified Information.
- (2) *Basic security vetting of persons referred to in Article 13 paragraph 1 subparagraph 1 of this Act shall be performed on the basis of the III degree security vetting questionnaire and*

*by applying the procedures stipulated for security vetting for access to the III degree Classified Information.*⁴

- (3) ⁵As an exception to paragraph 1 of this Article, basic security vetting for foreigners and for persons who are to receive Croatian citizenship shall be performed on the basis of questionnaires (forms) stipulated by a separate Act, i.e. a subordinate act of the competent authority, and by applying the procedures stipulated for security vetting for access to the I or II degree Classified Information.
- (4) The degree of security vetting referred to in paragraph 3⁶ of this Article shall be decided upon by the competent security and intelligence agency, based on an assessment or the information stated in the questionnaire.
- (5) ⁷ Security vetting referred to in Article 13 paragraph 2 of this Act shall be performed by applying the procedures for security vetting for access to II degree Classified Information.

Article 24

During basic security vetting, the competent security and intelligence agency shall decide whether it is necessary to interview the person undergoing security vetting or third persons, the interview is carried out by applying procedures stipulated for security vetting for access to I and II degree Classified Information.

Article 25

- (1) Polygraph testing may be applied during basic security vetting, with the consent of the person undergoing security vetting.
- (2) The decision on applying polygraph testing shall be made by the competent security and intelligence agency.
- (3) During basic security vetting, which is performed upon employment in bodies of the security and intelligence system, measures of secret information collection may also be applied, pursuant to a separate Act.
- (4) Measures of secret information collection that are under the competence of the directors of security and intelligence agencies may be applied in other types of basic security vetting.

⁴ A new paragraph (2) was added after paragraph 1, with the provision of Article 2 paragraph 1 of the Act on Amendments to the Security Vetting Act (Official Gazette 86/12), in force as of 4 August 2012.

⁵ With the provision of Article 2 paragraph 2 of the Act on Amendments to the Security Vetting Act (Official Gazette 86/12); in force as of 4 August 2012, the former paragraph 2 became paragraph 3.

⁶ With the provision of Article 2 paragraph 3 of the Act on Amendments to the Security Vetting Act (Official Gazette 86/12); in force as of 4 August 2012, the former paragraph 3 was amended and became paragraph 4.

⁷ With the provision of Article 2 paragraph 4 of the Act on Amendments to the Security Vetting Act (Official Gazette 86/12); in force as of 4 August 2012, the former paragraph 4 became paragraph 5.

- (5) Polygraph testing shall refer only to the information stated in the questionnaire and may not be the basis for making the final decision on security impediments.

Article 26

- (1) If basic security vetting was performed upon employment, applying the procedures stipulated for security vetting for access to I or II degree Classified Information, and the person concerned is assigned to a position requiring access to Classified Information of a certain degree of secrecy, the competent security and intelligence agency shall, based on the already performed basic security vetting, send a report on the security vetting results to the Office of the National Security Council.
- (2) If necessary, at the request of the Office of the National Security Council, security vetting shall be updated.

Article 27

- (1) If incompatible or unreliable information is found during security vetting, or if there is not enough information to make a sound assessment of security impediments, the competent security and intelligence agency may perform a higher degree security vetting, with the consent of the person undergoing security vetting, and such consent shall be provided in an appropriate security vetting questionnaire.
- (2) The competent security and intelligence agency shall inform the authority that has submitted the request about the procedure referred to in paragraph 1 of this Article.

Article 28

When performing security vetting, the competent security and intelligence agency shall check whether the person undergoing security vetting is in contact with other persons, including close family members, who might pose a security risk or threaten the national security of the Republic of Croatia.

Article 29

Interviews performed under the provisions of this Act shall not be considered interviews as stipulated by the Security and Intelligence System Act (Official Gazette 79/06, 105/06).

Request for Security Vetting and Security Vetting Questionnaire

Article 30

- (1) The questionnaire for security vetting shall include the questions significant for determining the existence of security impediments.
- (2) The content, form, manner of completing and handling the security vetting questionnaire for individuals and legal entities shall be stipulated by a Regulation of the Government of the Republic of Croatia.

Article 31

A completed and signed security vetting Questionnaire shall be classified as RESTRICTED.

IV RENEWAL AND UPDATE OF SECURITY VETTING

Article 32

- (1) Security vetting shall be renewed after the expiry of a five-year period.
- (2) The procedure referred to in paragraph 1 of this Article shall be performed pursuant to the provisions of this Act which regulate the performing of security vetting referred to in Article 7 of this Act.

Article 33

- (1) Security vetting update shall be done even before the expiry of the period set forth in Article 32 of this Act at the request of the state body authorized to submit a request for security vetting.
- (2) Request for security vetting update may be submitted if the report on security vetting is incomplete or if new information is obtained, that was not known during security vetting.
- (3) If the competent security and intelligence agency, in relation to the security vetting performed, gains new information on possible security impediments, it shall immediately inform the authority which submitted the request.

Article 34

- (1) Persons who have been security vetted shall without delay inform the state body or legal entity where they are employed of all the information that differs from that stated in the security vetting questionnaire.
- (2) The state body or legal entity referred to in paragraph 1 of this Article shall without delay inform the Office of the National Security Council of any change of information if security vetting for Certificate issuance was performed.
- (3) The state body or legal entity referred to in paragraph 1 of this Article shall without delay inform the competent security and intelligence agency of any change of the information in case basic security vetting was performed or security vetting for the protection of protected persons and facilities.
- (4) Unjustified failure to report the information referred to in paragraph 1 of this Article shall be taken into consideration when assessing the security impediments stipulated by this Act.
- (5) Failure to act in accordance with paragraphs 2 and 3 of this Article on the part of the competent person in the state body or legal entity referred to in paragraph 1 of this Article shall be considered violation of official duty.

- (6) State bodies or legal entities referred to in paragraph 1 of this Article shall designate the person to whom the employees shall report the changes of information referred to in paragraph 1 of this Article.

V REPORTING ON SECURITY VETTING

Article 35

After security vetting is performed, the competent security and intelligence agency shall submit the report to the authority that submitted the request for security vetting.

Article 36

The competent security and intelligence agency shall state in the report on security vetting the period and/or information that could not be checked.

Article 37

The competent security and intelligence agency shall submit the report on the I degree security vetting to the authority which submitted the request within a period not shorter than 30 days and not longer than 120 days; the report on the II degree security vetting within a period not shorter than 20 days and not longer than 90 days; and the report on the III degree security vetting within a period not shorter than 10 days and not longer than 30 days from the day that the request was received.

Article 38

The competent security and intelligence agency shall submit the report on security vetting of the legal person referred to in Article 12 of this Act to the Office of the National Security Council within 120 days from the day on which the request was received.

Article 39

- (1) The report on security vetting results shall entail the opinion on the existence of security impediments.
- (2) The content and form of the report referred to in paragraph 1 of this Article shall follow the structure of stipulated questionnaires and shall be classified at least as CONFIDENTIAL.

Article 40

The authority which submitted the request for security vetting shall, based on the report on security vetting, make the final assessment on the existence of security impediments.

Article 41

As an exception to Articles 35 and 39 of this Act, when security vetting is performed for foreigners who will reside or reside in the Republic of Croatia or for persons who are to gain Croatian citizenship, the competent security and intelligence agency shall submit only the

opinion on the existence or non-existence of security impediments to the authority which submitted the request.

VI TRANSITIONAL AND FINAL PROVISIONS

Article 42

Security vetting procedures that were initiated before entering into force of this Act shall be completed pursuant to the regulations in force at the time when the request for security vetting was submitted.

Article 43

The Government of the Republic of Croatia shall, upon the proposal of the competent bodies, designate the protected persons and facilities, plants or means of particular interest for national security by Regulation.

Article 44

The Regulations referred to in Articles 30 and 43 of this Act shall be adopted by the Government of the Republic of Croatia within 15 days from the day of entry into force of this Act.

Article 45

Upon the entry into force of this Act, the Regulation on Security Vetting for Classified Information Access (Official Gazette 72/07) shall cease to have effect.

Article 46

This Act shall enter into force 30 days from the day of its publication in the Official Gazette.