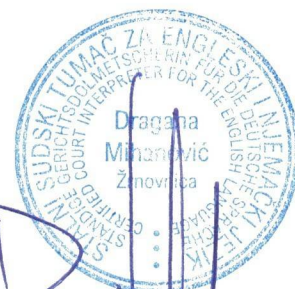


*This translation consists of
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CERTIFIED TRANSLATION FROM THE CROATIAN LANGUAGE

(County Court in Split_Decision_Case No. Kžzd-9/2026-5)





Republic of Croatia
County Court in Split
Split, Gundulićeva 29a

Case No.: Kžzd-9/2026-5

REPUBLIC OF CROATIA
COURT DECISION

The County Court in Split, sitting as a Juvenile Panel composed of judges of that court, Damir Romac, as President of the Panel, Maria Majić and Ivona Rupiće, as members of the Panel, with the participation of Senior Court Adviser Ana Papić, as the court reporter, in the criminal case against the defendant Harish Rajagopal, for the criminal offense under Article 163, paragraph 2 of the Criminal Code ("Official Gazette" /Narodne novine/ No. 125/11, 144/12, 56/15, 61/15, 101/17, 118/18, 126/19, 84/21, 114/22, 114/23, 36/24 – hereinafter: KZ/11), deciding on the defendant's appeal submitted against the decision of the Municipal Court in Split, Case No. Kovm-47/2024-20 of October 7, 2025, in the session held on July 7, 2026.

has resolved as follows:

The appeal lodged by the defendant Harisha Rajagopala is dismissed as unfounded.

Statement of Reasons

1. By the contested resolution, the Municipal Court in Split dismissed as unfounded the motion to exclude from the case file, as illegal evidence, the mobile device search report of the Crime Police Division, Criminal Intelligence Service dated March 19, 2024 as well as the DVD media labeled "Harish Rajagopal" containing a video recording of sexual intercourse between an adult male person and a male child.
2. Against the said decision, the defendant Harisha Rajagopal, through defense counsel Darko Stanić, attorney-at-law in Split, filed an appeal on the grounds of a substantial breach of the provisions of criminal procedure, erroneously established facts, and breach of the criminal law, proposing that the contested decision be revoked and the case be remitted to the first-instance court for a retrial, or modified in such a manner that the mobile device search report of the Crime Police Division, Criminal Intelligence Service dated

Case No.: Kžzd-9/2026-5

March 19, 2024 as well as the DVD media labeled "Harish Rajagopal" containing a video recording of sexual intercourse between an adult male person and a male child.

3. Prior to holding the panel session, pursuant to Article 474, paragraph 1 in conjunction with Article 495 of the Criminal Procedure Act ("Official Gazette" No. 152/08, 76/09, 80/11, 91/12 - Constitutional Court Decision No. 143/12, 56/13, 145/13, 152/14, 70/17, 126/19, 80/22, 36/24, 72/25, and 13/26 – hereinafter: ZKP/08), the case file was submitted to the County State Attorney's Office in Split, which returned it to this court for further proceedings upon review.

4. The appeal of the defendant Harish Rajagopal is unfounded.

5. The appeal grounds raised by the defendant asserting that the contested decision is affected by a substantial breach of the provisions of criminal procedure under Article 468, paragraph 1, point 11 of the ZKP/08 are unfounded, as the operative part of the contested decision is clear and understandable, is not self-contradictory nor inconsistent with the reasoning of the decision, and the statement of reasons contains sufficient and clear grounds regarding all decisive facts, with no significant contradiction regarding the decisive facts between the contents of those documents and statements given in the proceedings and the documents and statements themselves, thereby allowing the contested decision to be reviewed.

6. In challenging the correctness of the factual findings established by the first-instance court, the defendant proceeds from the erroneous conclusion that the disputed evidence is illegal because no video content corresponding to the factual description of the criminal offense from the indictment was found during the search of the mobile device, but rather entirely different video content that the State Attorney's Office considers to constitute child pornography.

6.1. By such appellate arguments, however, the appellant equates the issue of the lawfulness of obtaining evidence with the issue of its evidentiary value and connection to the subject matter of the indictment, even though these are two entirely different legal issues. Namely, the lawfulness of evidence is assessed based on whether the evidence was obtained in the manner prescribed by law, i.e., whether the evidentiary action was conducted in compliance with the procedural prerequisites prescribed by the ZKP/08, whereas the question of whether the recovered content relates to the criminal offense that is the subject of the indictment and what its evidentiary weight is constitutes an issue of evaluation of evidence and the merits of the indictment, which the court will decide upon in the further course of the proceedings, and not in the proceedings deciding on the motion to exclude illegal evidence.

6.3. It follows from the case file that the search of the mobile device was conducted on the basis of a order of the Investigating Judge of the County Court in Split, No.

Kir-t-114/2024 of March 18, 2024, i.e., the previously issued order Kir-t-108/2024 of March 14, 2024, issued pursuant to Article 242, paragraph 1 of the ZKP/08. These orders mandated the search of an iPhone 13 mobile phone with a SIM card, as well as all user accounts on social networks and other online data storage services associated with the device in question, for the purpose of finding evidence of the criminal offense for which reasonable suspicion existed.

6.4. Furthermore, it follows from the record of the search of movable property dated March 19, 2024, that the evidentiary action was conducted precisely within the scope of the aforementioned court order, whereas the mobile device search report indicates that the digital forensic processing of the device was carried out using the standard forensic tool UFED TOUCH, whereby data was extracted from the mobile device and the corresponding SIM card, and user accounts associated with the device in question were identified. The report further confirms that no damage occurred to the device during the execution of the evidentiary action and that the search was performed within the framework of the court order and in compliance with the rules of digital forensic processing of electronic data.

6.5. Therefore, the appellant groundlessly claims that police officers reviewed content that was not covered by the court order or acted beyond the scope of the authorized search. On the contrary, it follows from the content of the order itself that the subject of the search was the entire mobile device along with all user accounts and services associated with it; thus, reviewing the content stored on the device constituted an integral part of a lawfully ordered and executed evidentiary action.

6.6. In this regard, it is not decisive that content expected by the State Attorney's Office was not found during the lawfully executed search, but rather other video content that the State Attorney's Office deemed evidentiary relevant. Namely, the fact that the result of a lawfully executed search did not match the initial expectations of the prosecution body does not call into question the lawfulness of the evidentiary action itself, nor does it render illegal the evidence lawfully discovered during such a search.

6.7. To no avail does the appellant assert that the recovered video content relates to another person and another event, and therefore cannot constitute lawful evidence. Such arguments pertain exclusively to the issue of the evidentiary value of the recovered content and its eventual connection to the factual description of the criminal offense in the indictment, rather than to the issue of the lawfulness of its acquisition. Indeed, the evaluation of whether the recovered video content constitutes evidence of the criminal offense with which the defendant is charged, or whether reasonable suspicion or criminal liability of the defendant exists based on all collected evidence, will be the subject of further criminal proceedings, but is not the subject of determination in these proceedings.

7. Since the defendant has not called into question the lawfulness of the court order or the lawfulness of the conducted search, nor pointed out any specific breach of the provisions of the ZKP/08 governing the evidentiary action of searching movable property, but rather exclusively disputes the evidentiary significance of the recovered

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video content, the first-instance court correctly concluded that the prerequisites for excluding the mobile device search report and the DVD media from the case file as illegal evidence have not been met.

8. Consequently, as the review of the contested decision revealed no breaches that this court examines ex officio pursuant to Article 494, paragraph 4 of the ZKP/08, the defendant's appeal was to be dismissed as unfounded pursuant to Article 494, paragraph 3, point 2 of the ZKP/08.

Split, July 7, 2026.

President of the Juvenile Panel
Damir Romac

DAMIR ROMAC



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County Court in Split



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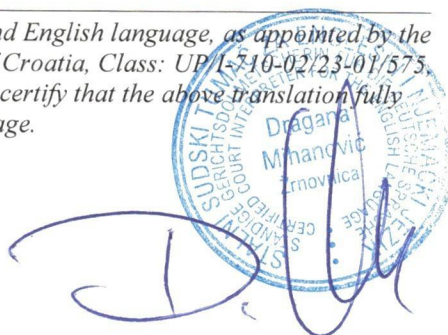
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I, Dragana Mihanović, certified court interpreter for the German and English language, as appointed by the Decree of the Minister in charge of justice affairs in the Republic of Croatia, Class: UP/1-710-02/23-01/575, Reg. No.: 514-03-03-03/01-24-15 of 27th February 2024 do hereby certify that the above translation fully corresponds to the original document written in the Croatian language.

Certification number: 443/2026

Date: 09.09.2026





Republika Hrvatska
Županijski sud u Splitu
Split, Gundulićeva 29a

Poslovni broj: Kžzd-9/2026-5

REPUBLIKA HRVATSKA

RJEŠENJE

Županijski sud u Splitu, u vijeću za mladež sastavljenom od sudaca toga suda Damira Romca, kao predsjednika vijeća, Marie Majić i Ivone Rupić, kao članica vijeća, uz sudjelovanje više sudske savjetnice Ane Papić, kao zapisničarke, u kaznenom predmetu protiv okrivljenog Harisha Rajagopala, zbog kaznenog djela iz članka 163. stavka 2. Kaznenog zakona ("Narodne novine" broj: 125/11, 144/12, 56/15, 61/15, 101/17, 118/18, 126/19, 84/21, 114/22, 114/23, 36/24 – dalje u tekstu: KZ/11), odlučujući o žalbi okrivljenika podnesenoj protiv rješenja Općinskog suda u Splitu poslovnog broja Kovm-47/2024-20 od 7. listopada 2025., u sjednici održanoj 7. srpnja 2026.,

r i j e š i o j e

Odbija se žalba okrivljenog Harisha Rajagopala kao neosnovana.

Obrazloženje

1. Općinski sud u Splitu pobijanim rješenjem odbio je da se, kao nezakoniti dokazi, iz spisa izdvoji izvješće o pretrazi mobilnog uređaja Sektora kriminalističke policije, Kriminalističko obavještajne službe od 19. ožujka 2024. te DVD medija s natpisom „Harish Rajagopal“ s videosnimkom spolnog odnosa odrasle muške osobe i muškog djeteta, kao neosnovan
2. Protiv tog rješenja žalbu je podnio okrivljeni Harisha Rajagopal, po branitelju Darku Staniću, odvjetniku u Splitu, zbog bitne povrede odredaba kaznenog postupka, pogrešno utvrđenog činjeničnog stanja i povrede kaznenog zakona, s prijedlogom da se ukine pobijano rješenje i predmet uputi prvostupanjskom sudu na ponovno odlučivanje, ili preinači na način da se iz spisa izdvoji izvješće o pretrazi mobilnog uređaja Sektora kriminalističke policije, Kriminalističko obavještajne službe od 19.

ožujka 2024. te DVD medija s natpisom „Harish Rajagopal“ s videosnimkom spolnog odnosa odrasle muške osobe i muškog djeteta.

3. Prije održavanja sjednice vijeća, u suglasju s člankom 474. stavkom 1. u svezi s člankom 495. Zakona o kaznenom postupku ("Narodne novine" br. 152/08, 76/09, 80/11, 91/12 - odluka Ustavnog suda broj 143/12, 56/13, 145/13, 152/14, 70/17, 126/19, 80/22 i 36/24, 72/25 i 13/26– dalje u tekstu: ZKP/08), spis je dostavljen Županijskom državnom odvjetništvu u Splitu, koje ga je po obavljenom razmatranju vratilo ovom sudu na daljnje postupanje.

4. Žalba okrivljenog Harisha Rajagopala nije osnovana.

5. Nisu osnovani žalbeni navodi kojima okrivljenik ističe da je pobijano rješenje zahvaćeno bitnom povredom odredaba kaznenog postupka iz članka 468. stavka 1. točke 11. ZKP/08 jer je izreka pobijanog rješenja jasna i razumljiva, nije proturječna sama sebi niti razlozima rješenja, a obrazloženje sadrži dostatne i jasne razloge o svim odlučnim činjenicama, a o odlučnim činjenicama ne postoji znatno proturječje o sadržaju tih isprava i iskaza danih u postupku i samih tih isprava i iskaza, zbog čega se pobijano rješenje može ispitati.

6. Pobijajući pravilnost činjeničnog stanja utvrđenog po prvostupanjskom sudu okrivljenik polazi od pogrešnog zaključka kako je sporni dokaz nezakonit zato što tijekom pretrage mobilnog uređaja nije pronađen video sadržaj koji bi odgovarao činjeničnom opisu kaznenog djela iz optužnice, nego sasvim drugi video sadržaj za koji državno odvjetništvo smatra da predstavlja dječju pornografiju.

6.1. Takvim žalbenim navodima, međutim, žalitelj poistovjećuje pitanje zakonitosti pribavljanja dokaza s pitanjem njegove dokazne vrijednosti i povezanosti s predmetom optužbe, premda se radi o dva pravno potpuno različita pitanja. Naime, zakonitost dokaza ocjenjuje se prema tome je li dokaz pribavljen na način propisan zakonom, odnosno je li dokazna radnja provedena uz poštivanje procesnih pretpostavki propisanih ZKP/08, dok pitanje odnosi li se pronađeni sadržaj na kazneno djelo koje je predmet optužbe te kolika je njegova dokazna snaga predstavlja pitanje ocjene dokaza i osnovanosti optužbe, o kojem će sud odlučivati u daljnjem tijeku postupka, a ne u postupku odlučivanja o prijedlogu za izdvajanje nezakonitih dokaza.

6.2. Naime, člankom 250. ZKP/08 izričito je propisano u kojim situacijama zapisnik o pretrazi i dokazi pribavljeni pretragom se ne mogu uporabiti kao dokaz u postupku, i to ako je pretraga obavljena bez pisanog naloga, ako je pretraga poduzeta protivno odredbama članka 246. stavaka 1. do 3. toga Zakona, ako je provedena bez osoba koje moraju prisustvovati pretrazi ili ako je provedena protivno odredbama članka 251. stavaka 3. i 4. ZKP/08. Budući da je u konkretnom slučaju pretraga pokretne stvari okrivljenika obavljena na temelju naloga suca istrage Županijskog suda u Splitu, u kojem je jasno naznačen predmet pretrage i tijelo koje će je provesti, ne može se prihvatiti tvrdnja žalitelja da je pretraga provedena nezakonito niti da su dokazi pribavljeni tom pretragom nezakoniti.

6.3. Iz spisa proizlazi da je pretraga mobilnog uređaja provedena na temelju naloga suca istrage Županijskog suda u Splitu broj Kir-t-114/2024 od 18. ožujka 2024.,

odnosno prethodno izdanog naloga Kir-t-108/2024 od 14. ožujka 2024., donesenih na temelju članka 242. stavka 1. ZKP/08. Tim je naložima određena pretraga mobilnog telefona marke iPhone 13 sa SIM karticom te svih korisničkih računa na društvenim mrežama i drugim servisima za online pohranu podataka povezanim s predmetnim uređajem radi pronalaženja dokaza kaznenog djela za koje je postojala osnovana sumnja.

6.4. Nadalje, iz zapisnika o pretrazi pokretne stvari od 19. ožujka 2024. proizlazi da je dokazna radnja provedena upravo u granicama navedenog sudskog naloga, dok iz izvješća o pretrazi mobilnog uređaja proizlazi da je digitalno forenzička obrada uređaja provedena uporabom standardnog forenzičkog alata UFED TOUCH, pri čemu su izdvojeni podaci s mobilnog uređaja i pripadajuće SIM kartice te identificirani korisnički računi povezani s predmetnim uređajem. Izvješće nadalje potvrđuje da tijekom provedbe dokazne radnje nisu nastala nikakva oštećenja uređaja te da je pretraga provedena u okviru sudskog naloga i u skladu s pravilima digitalno-forenzičke obrade elektroničkih podataka.

6.5. Stoga žalitelj neosnovano tvrdi da su policijski službenici pregledavali sadržaje koji nisu bili obuhvaćeni sudskim nalogom ili da su postupali izvan granica odobrene pretrage. Naprotiv, iz sadržaja samog naloga proizlazi da je predmet pretrage bio cjelokupan mobilni uređaj zajedno sa svim korisničkim računima i servisima povezanim s njim, pa je pregled sadržaja pohranjenih na uređaju predstavljao sastavni dio zakonito određene i provedene dokazne radnje.

6.6. Pri tome nije odlučno što tijekom zakonito provedene pretrage nije pronađen sadržaj koji je državno odvjetništvo očekivalo pronaći, nego drugi video sadržaj koji je državno odvjetništvo ocijenilo dokazno relevantnim. Naime, činjenica da rezultat zakonito provedene pretrage nije odgovarao prvotnim očekivanjima tijela progona ne dovodi u pitanje zakonitost same dokazne radnje niti čini nezakonitim dokaz koji je tijekom takve pretrage zakonito pronađen.

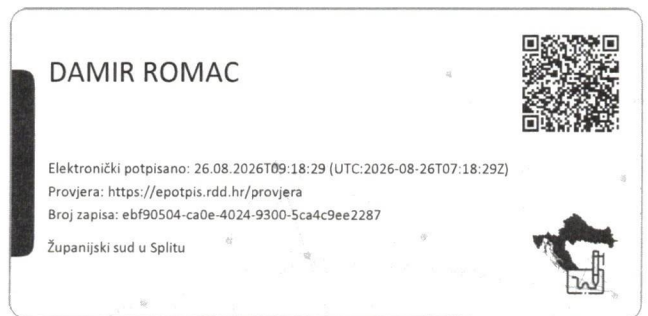
6.7. Bez uspjeha žalitelj ističe kako se pronađeni video sadržaj odnosi na drugu osobu i drugi događaj te da zbog toga ne može predstavljati zakonit dokaz. Takvi navodi odnose se isključivo na pitanje dokazne vrijednosti pronađenog sadržaja i njegove eventualne povezanosti s činjeničnim opisom kaznenog djela iz optužnice, a ne na pitanje zakonitosti njegova pribavljanja. Upravo će ocjena predstavljati li pronađeni video sadržaj dokaz kaznenog djela koje se okrivljeniku stavlja na teret, odnosno postoji li na temelju svih prikupljenih dokaza osnovana sumnja ili kaznena odgovornost okrivljenika, biti predmet daljnjeg kaznenog postupka, ali nije predmet odlučivanja u ovom postupku.

7. Budući da okrivljenik nije doveo u sumnju zakonitost sudskog naloga, zakonitost provedene pretrage niti je ukazao na bilo kakvu konkretnu povredu odredaba ZKP/08 kojima je uređena dokazna radnja pretrage pokretnih stvari, već isključivo osporava dokazni značaj pronađenog video sadržaja, pravilno je prvostupanjski sud zaključio da nisu ostvarene pretpostavke za izdvajanje izvješća o pretrazi mobilnog uređaja i DVD medija iz spisa predmeta kao nezakonitih dokaza.

8. Slijedom navedenog, a kako ispitivanjem pobijanog rješenja nisu utvrđene niti povrede na koje ovaj sud pazi po službenoj dužnosti na temelju članka 494. stavka 4. ZKP/0, tako je žalbu okrivljenika trebalo, na temelju članka 494. stavka 3. točke 2. ZKP/08, odbiti kao neosnovanu.

Split, 7. srpnja 2026.

Predsjednik vijeća za mladež
Damir Romac



Broj zapisa: **9-3088b-93484**

Kontrolni broj: **0856d-89c52-5ea27**

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