

LAW ON FORFEITURE OF PROCEEDS OF CRIMINAL OFFENCES

I –INTRODUCTORY PROVISIONS

Article 1

- (1) This Law shall prescribe conditions and the procedure on forfeiture of proceeds of criminal offences in the Federation of Bosnia and Herzegovina, the management of temporary and permanently forfeited assets and establishing a competent body to manage forfeited assets in the Federation of Bosnia and Herzegovina.
- (2) Within the meaning of paragraph 1 of this Article, the procedure refers to:
 - (a) procedure on identifying proceeds of criminal offences,
 - (b) procedure on securing the forfeiture of proceeds of criminal offences, and
 - (c) procedure on execution of decisions on forfeiture of proceeds of criminal offences.
- (3) Provisions of other laws which prescribe identification, securing of forfeiture, execution of decisions on forfeiture of proceeds of criminal offences and management of forfeited criminal proceeds shall apply unless otherwise regulated under this Law.

Article 2

- (1) No one shall keep the proceeds of a criminal offence.
- (2) All assets which have been permanently forfeited pursuant to the provisions of this Law shall become the property of the Federation of BiH.
- (3) While proceeding in accordance with provisions of this Law, all relevant institutions, throughout the entire procedure on forfeiture of proceeds of criminal offences, shall be mindful of the attainment of rights of persons affected by the perpetration of a criminal offence, and ensure the protection of rights of third persons.
- (4) Provisions of the Criminal Procedure Code of the Federation of Bosnia and Herzegovina (Official Gazette of the Federation of Bosnia and Herzegovina, No. 35/03, 37/03, 56/03, 78/04, 28/05, 55/06, 27/07, 53/07, 9/09, 12/10 and 8/13, hereinafter: CPC of FBiH) and the Criminal Code of the Federation of Bosnia and Herzegovina (Official Gazette of the Federation of Bosnia and Herzegovina, No. 36/03, 37/03, 21/04, 69/04, 18/05, 42/10 and 42/11, hereinafter: CC of FBiH) pertaining to submitted property-legal claim which excludes the forfeiture of proceeds of criminal offences, shall be applied in its entirety in actions of relevant institutions pursuant to this Law.
- (5) Actions in accordance with this Law shall be taken based on the prosecutors' motion.
- (6) In case when, within the proceedings initiated in accordance with this Law, the prosecutor fails to submit the motion for forfeiture of criminal proceeds, the court shall *ex officio* render a decision on forfeiture of such proceeds.

Article 3

The provisions of this Law shall be applied in proceedings on forfeiture of proceeds gained from perpetration of criminal offences as prescribed under the CC of FBiH punishable by imprisonment of three years or longer.

II – MEANING OF TERMS AS USED IN THIS LAW

Article 4

- (1) Some of the terms as used in this Law shall mean the following:
- a) Assets shall be deemed items and rights acquired by the perpetrator of the criminal offence or an associated person, to include all items and rights which may be the subject of execution, and particularly movables and immovables, claims, business shares, securities, currency, works of art, precious metals and stones, owned, possessed or under the control of the perpetrator of the criminal offence or associated person.
 - b) Pecuniary gain acquired from commission of the criminal offence, in accordance with this or other laws, shall be deemed any increase or prevention of decrease in assets generated from the criminal offence.
 - c) An owner shall be deemed the perpetrator of the criminal offence or an associated person.
 - d) An associated person shall be understood as an instigator or aider and abettor in the criminal offence; legal successor of the perpetrator and accomplice in the criminal offence, or other physical or legal entities whom, as determined by the court, items or rights which represent criminal proceeds have been transferred to without the transfer being done in good faith.
 - e) A third person shall be the person who claims to have the right over assets that are the subject of proceedings in accordance with this Law, which right prevents the application of this Law and therefore seeks that securing of assets and its execution be declared impermissible.
 - f) A proponent of security shall refer to the prosecutor in charge.
 - g) An opponent to security shall refer to the defendant and associated persons.
 - h) Forfeiture shall refer to temporary or permanent forfeiture of proceeds of criminal offences.
 - i) The Agency shall refer to the FBiH Agency for Management of Forfeited Criminal Proceeds.
 - j) Special proceedings for forfeiture of criminal proceeds shall be described under Articles 5, 6 and 7 of this Law, and shall be conducted in exceptional cases as prescribed under this Law.
 - k) The prosecutor and the owner shall be deemed parties to the proceedings for forfeiture of criminal proceeds in procedural situations wherein special proceedings are conducted according to this Law.
 - l) Other terms as used in this Law have been defined under the Criminal Procedure Code of the Federation of BiH, the Civil Procedure Code (Official Gazette of the Federation of BiH, No. 53/03, 73/05 and 19/06), the Law on Bankruptcy Procedure (Official Gazette of the Federation of BiH, No. 29/03, 32/04 and 42/06), and the Law on Enforcement Procedure (Official Gazette of the Federation of BiH, No. 32/03, 52/03, 33/06, 39/06, 30/09 and 35/12).

III – PROCEDURE ON FORFEITURE OF CRIMINAL PROCEEDS

A. Initiating Special Proceedings for Forfeiture of Criminal Proceeds

Article 5

- (1) Special proceedings for forfeiture of criminal proceeds according to this Law shall be conducted where there is grounded suspicion that pecuniary gain was acquired from the commission of the criminal offence yet conditions to conduct criminal proceedings have not been met due to:
 - a) death of the suspect or defendant or
 - b) absconding suspect or defendant whilst there is a threat of statute of limitations to apply to the criminal offence.
- (2) In cases referred to in paragraph (1) of this Article, the prosecutor shall file a motion with the competent court to initiate special proceedings for forfeiture of criminal proceeds.
- (3) The motion referred to in paragraph (2) of this Article shall provide reasoning for the existence of procedural impediments of such nature that they prevent conduct of regular proceedings for forfeiture of criminal proceeds.
- (4) The court that would be competent to try in criminal proceeding for the criminal offence which involves acquiring of proceeds shall decide upon the prosecutor's motion referred to in paragraph (2) of this Article.
- (5) Parties shall have the right to appeal from the decision referred to in paragraph (4) of this Article as rendered by the panel of the same court comprising three judges.
- (6) The prosecutor shall move the court to forfeit property gain once the decision referred to in paragraph (4) of this Article becomes legally binding.
- (7) The motion referred to in paragraph (6) of the Article shall read the data on the person from whom pecuniary gain is to be forfeited, information on or description of the assets to be forfeited, evidence of assets subject to forfeiture as collected in the course of financial investigations, proof of legitimate income of this person, circumstances indicative of the evident discrepancy between assets and revenues of the person and reasons justifying the need for permanent forfeiture of assets. A motion against an associated person shall contain evidence that the criminal proceeds were transferred free of charge or for a fee that does not correspond to the actual value so as to prevent any forfeiture.
- (8) Unless otherwise prescribed under this Law, in special proceedings referred to in paragraph (1) of this Article the court shall apply the CPC of FBiH.
- (9) In case the suspect or defendant who had absconded should become available prior to a legally binding decision in special proceedings instigated against him as referred to under paragraph (1) of this Article, the court conducting such proceedings shall summon him or her to take the stand and move evidence in his favour.

Article 6

- (1) Following the legally binding decision referred to in Article 5 (4) of this Law to conduct a special procedure for forfeiture of proceeds of crime, and upon being filed the motion

referred to in Article 5 (7) hereof, the court may hold a pre-trial hearing to consider issues relevant to the main hearing for forfeiture of criminal proceeds pursuant to this Law.

- (2) At the main hearing of the special proceedings, the court shall adduce evidence and, if necessary, hear the associated person to find whether the proceeds were acquired from the commission of the criminal offence and what constitutes property gain. Having closed the evidentiary hearing, the court shall:
 - a) render a judgment to find that the proceeds were acquired from the commission of a an unlawful act, with underlying elements of criminal offence,
 - b) determine the composition, or the value of the proceeds, or more precisely which property and rights constitute property gain acquired by unlawful acts and their monetary equivalent,
 - c) ensure that such property or rights will become the property or assets of the Federation of Bosnia and Herzegovina
 - d) order the associated person to immediately surrender to the Federation of Bosnia and Herzegovina certain things, or transfer certain rights if these had not already been passed to the Federation of Bosnia and Herzegovina, or pay its monetary amount proportionate to the acquired property gain within 15 days from the finality of the judgment ,
 - e) order to register property rights in favour of the Federation of Bosnia and Herzegovina in public records or register kept by the competent authorities.
- (3) Proceedings according to paragraphs (1) and (2) of this Article shall be conducted under the relevant rules of criminal procedure. Judgment referred to in paragraph 2 of this Article shall be an exclusive competence of the court of jurisdiction for criminal proceedings for the crime through which property gain was acquired.
- (4) If the suspect or defendant under paragraph (2) of this Article, or an associated person does not hire a counsel, the court will appoint a counsel *ex officio* or determine a guardian of property in case of death of the suspect or defendant.
- (5) If the court finds that the suspect or defendant has committed an unlawful act and derived property gain or if property gain is included in the awarded property claim, the court shall proceed in accordance with Article (2) and (3) of this Law.
- (6) The parties may appeal the judgment referred to in paragraph 2 of this Article directly to the higher court.
- (7) After the judgment referred to in paragraph 2 of this Article becomes legally binding, the court shall submit it to the Agency for further proceedings.

Article 7

- (1) The motion of the prosecutor to instigate special proceedings referred to in Article 5 (3) of this Law shall not be subject to the statute of limitations.
- (2) In case of suspension or termination before the confirmation of the indictment or in the course of criminal proceedings due to death or absconding of the suspect or defendant, where there is grounded suspicion of pecuniary gain derived from the commission of the criminal offence, special proceedings for forfeiture of such proceeds according to this Law shall continue at the motion of the prosecutor.

- (3) The prosecutor shall submit the motion referred to in paragraph 2 of this Article, and collect evidence and examine circumstances of importance for determining the pecuniary gain.
- (4) The motion filed to initiate proceedings according to this Law shall terminate the statute of limitations.

B. Financial Investigation

Article 8

- (1) Authorised prosecutor may issue the order for conducting of financial investigation if so necessary for a comprehensive identification of the actual source, value and the structure of criminal proceeds for which there is a grounded suspicion to have been acquired from the commission of the criminal offence.
- (2) Unless prescribed otherwise by this Law, the provisions of the Criminal Procedure Code on conditions and methods on conducting certain actions which in its nature and contents represent the actions of the financial investigation shall be applied.
- (3) All authorities and institutions in the Federation of BiH, particularly cantonal ministries of interior and the FBiH Ministry of Interior, the Financial Police of the FBiH, the FBiH Tax Administration, the Securities Commission of the FBiH, and the FBiH Register of Securities shall, within their jurisdiction, proceed in accordance with instructions of the prosecutor who made the order to conduct financial investigation pursuant to this Law.

Article 9

- (1) The objective of financial investigation is to gather all evidence indicative of the volume, amount, type, actual value and other circumstances in relation to the legal income of the suspect or defendant, and associated person, their living expenses and realistic possibilities to lawfully acquire assets for which there are grounds for suspicion that it was gained from the commission of the criminal offence.
- (2) Institution tasked by the prosecutor's order as referred to in paragraph (1) of this Article shall prepare a report on results of conducted measures and actions which shall include all data and information gathered in the course of financial investigation. All gathered evidence, documents, official notes and other material which may serve as the source of information to the prosecutor shall be attached to the report.
- (3) The report referred to in paragraph (2) of this Article shall be forwarded to the prosecutor who made the order as referred to in Article 8 of this Law no later than three months after the order was issued. The collegium of the prosecutor's office shall take the necessary measures to finalise the investigation in case the financial investigation is not completed within six months from the issuing of the order to conduct financial investigation.
- (4) Relevant provisions of the Criminal Procedure Code shall be applied in case that proving actions need to be taken to carry out the order for conducting of financial investigation.
- (5) Authorised prosecutor may use all evidence gathered during financial investigation in the course of regular or special proceeding on forfeiture of criminal proceeds.

- (6) The prosecutor shall issue the order for termination of financial investigation if it has been established that there is no sufficient evidence that the suspect or defendant, or associated person, have acquired proceeds from perpetration of the criminal offence.
- (7) Decision of the prosecutor referred to in the preceding paragraph may be appealed with the office of the chief prosecutor.
- (8) The prosecutor may re-open financial investigation if new facts or circumstances received are indicative of the existence of the grounds for suspicion that the suspect or defendant, or associated persons, have acquired proceeds from perpetration of the criminal offence.
- (9) The prosecutor shall terminate financial investigation once it has been determined that the circumstances have been sufficiently clarified to file a motion for forfeiture of criminal proceeds in accordance with provisions of this Law.

C. Court Procedures In Regular Proceedings for Forfeiture of Criminal Proceeds

Article 10

- (1) The proceeds of the criminal offence shall be determined by the Court in its verdict wherein the defendant was found guilty.
- (2) The verdict as referred to in paragraph 1 of this Article shall be passed based on the motion for forfeiture of criminal proceeds as lodged by the prosecutor in charge in issuing the indictment.
- (3) The motion as referred to in paragraph 2 of this Article shall contain: information on the person from whom the criminal proceeds are to be forfeited, description and legal term of the criminal offence, information or description of assets to be forfeited, the evidence on assets which is the subject of forfeiture and which has been obtained in financial investigation, the evidence on legal income of the person, circumstances indicative of the existence of the obvious disproportion between the income and assets of the person. The motion against the associated person shall contain evidence that s/he has inherited the property gained from the commission of the criminal offence, while the motion against the third person shall contain the evidence that the assets gained from perpetrating the criminal offence have been transferred free of charge or with a fee that did not correspond to the actual value for the purpose of preventing the forfeiture.
- (4) In its verdict as referred to in paragraph 1 of this Article, the court shall forfeit proceeds of the criminal offence for which the prosecutor offers sufficient evidence to reasonably believe that such proceeds were gained from the commission of the criminal offence, and the defendant failed to offer evidence that the proceeds were acquired lawfully.
- (5) The operative part of the verdict as referred to in paragraph 1 of this Article which pertains to identification and forfeiture of criminal proceeds shall be reasoned.
- (6) The verdict as referred to in paragraph 1 of this Article may be appealed by all parties directly to the higher court.
- (7) Upon the validity of the verdict referred to in item 1 of this Article, the court shall forward the valid verdict to the Agency for further actions.

Article 11

- (1) The verdict finding the defendant guilty shall also establish the following:
 - a) Items or rights which represent the proceeds of the criminal offence and their monetary equivalent,
 - b) That such items and rights are to become the possession, that is, the assets of the Federation of BiH,
 - c) That defendant or associated persons must immediately turn over specific items to the Federation of BiH, and/or transfer specific rights to the Federation of BiH, in case they had not been turned over or transferred already, or pay the monetary amount equivalent to the acquired proceeds within the deadline of fifteen (15) days from the day of the validity of the verdict,
 - d) To register the rights to the benefit of the Federation of BiH in public records or registers maintained with the authorised institutions.
- (2) In case where the court refuses the motion of the prosecutor for forfeiture of criminal proceeds, data from the file shall be forwarded to the FBiH Tax Administration for further action.
- (3) In case where defendant has not been acquitted, and the property-legal claim has been adjudged, then the relevant provisions of the CPC of FBiH and the CC of FBiH shall be applied.

Article 12

- (1) In case of legal consequences requiring the initiation of bankruptcy proceeding, that shall not affect the provisions of this Law.
- (2) The Federation of BiH is:
 - a) A secured creditor in terms of realising monetary claims from decisions made in accordance with provisions of this Law which were secured in accordance with provisions of this Law, if such insurance was determined over items or rights registered in public records or register,
 - b) An unsecured creditor in terms of items which represent the property of the Federation of BiH in accordance with provisions of this Law.

Article 13

- (1) In the course of proceedings on forfeiture of criminal proceeds in accordance with this Law, the court may order state bodies, banks, financial institutions and other natural and legal persons to forward information and data required to render decisions based on this Law.
- (2) If deemed necessary, the court may order the natural and legal persons as referred to in paragraph 1 of this Article, to forward reports in relation to establishing facts required to render decisions based on this Law.
- (3) All natural and legal persons which have been ordered to proceed by the court's order as referred to in paragraph 1 of this Article shall proceed in a particularly urgent manner.

- (4) In the order for submission of data and information as referred to in paragraph 1 of this Article, the court shall specify the deadline for executing the order, which shall not exceed one month.
- (5) In case of failure to execute the order as referred to in paragraph 1 of this Article within the prescribed deadline or in case of incomplete execution of the order, the court may in its decision sanction the legal person with the fine up to BAM 200,000.00, and the natural person and the responsible person in the legal entity or state body with the fine ranging from BAM 2,000.00 to BAM 50,000.00. If the natural person and the responsible person in the legal entity after being imposed such fine fail to proceed in accordance with the court order, such person may be punished by term in prison until the execution of the order, but no longer than three months.
- (6) Decision as referred to in paragraph 5 of this Article may be appealed with the higher court, which shall not stay its execution.
- (7) The suspect and defendant cannot be sanctioned for a failure to execute the order of the court as referred to in paragraph 1 of this Article.

Article 14

- (1) If during the course of proceedings conducted in accordance with provisions of this Law the court finds that items were gained from perpetration of the criminal offence and must be forfeited according to the CC of FBiH, it shall issue a decision on forfeiture of such items.
- (2) Unless prescribed otherwise by this Law, the decision as referred to in paragraph 1 of this Article shall be made by the court that was in charge of proceedings, after proceedings were completed or terminated. This decision may be appealed to be ruled on directly by the higher court.

Article 15

While rendering the verdict on forfeiture of criminal proceeds based on this Law, the court shall not recognise as expenses the costs which were invested in preparation, perpetration, complicity or concealment of the criminal offence.

D. SECURING FORFEITURE OF CRIMINAL PROCEEDS

Article 16

- (1) The procedure on securing through a temporary measure in accordance with this Law shall imply the existence of risk that claims of the Federation of BiH in terms of the forfeiture of criminal proceeds may not be executed, or that its execution shall be hampered unless the temporary measure be issued.
- (2) The security as referred to in paragraph 1 of this Article may also be issued prior to allowing the suspect, defendant of associated person to be heard in relation to the prosecutors' motion for issuing temporary security measures.

Article 17

- (1) For the purpose of securing proceeds suspected of being gained from the commission of the criminal offence, the prosecutor may, during or after the completion of criminal proceedings, or when requirements had not been met to conduct criminal proceedings due to circumstances as referred to in Article 5 of this Law, move for securing through any of the temporary measures that will most effectively meet the purpose of securing as such.
- (2) The securing of the proceeds as referred to in paragraph 1 of this Article may be ordered as follows:
 - a) prohibiting the alienation or encumbering the real-estate or the actual rights entered on the real-estate, along with pre-recording the prohibition in land registry records, to forfeit the real-estate, and entrust the Agency with such real-estate for the purpose of safe-keeping and management,
 - b) prohibiting the suspect, defendant or associated person from alienating, concealing, encumbering or disposing of movable assets, by forfeiture and entrusting the Agency with such items for the purpose of safe-keeping,
 - c) forfeiture of cash and securities, and its handover to the Agency,
 - d) prohibiting the debtor of the suspect, defendant or associated person to voluntarily fulfil its liability, and prohibiting the suspect, defendant or associated person from receiving the fulfilment of such liability, and/or disposing of their claims,
 - e) through the order to the bank or other legal entity to deny the suspect, defendant or associated person, based on their payment orders, any withdrawal of money from their accounts in the amount for which the temporary measure has been issued,
 - f) prohibiting alienation or encumbering the stocks, securities, fund shares, shares or business shares with entry of prohibition with the Registry of Securities of the Federation of BiH, the Registry of Business Companies; to prohibit the use or disposal of rights as per such stocks, securities, funds shares, shares or business shares; to entrust the Agency with their management or to appoint the temporary management in the company,
 - g) prohibiting the debtor of the suspect, defendant or associated person to hand over items to them, to transfer rights or to conduct other financial transactions.
- (3) The court that would have been authorised to conduct a trial in criminal proceedings for the criminal offence from which the proceeds, subject to security measures, were gained, shall decide upon the motion of the prosecutor for issuing temporary measures as referred to in paragraph 1 of this Article. This decision must also contain the exact time for which the temporary measure was determined, after which, depending on the outcome of the criminal proceedings or special proceedings for forfeiture of criminal proceeds, the court shall issue a decision on extension of temporary measure or a decision on termination of temporary measure.
- (4) The decision on security measures until the issuance of an indictment shall be made by the preliminary proceedings judge, upon the issuance of an indictment pending its confirmation by the preliminary hearing judge, and upon the confirmation of an indictment by the sole judge or the chamber of the criminal division of the court in accordance with the Criminal Procedure Code of FBiH, no later than seven working days from the day when the prosecutor's motion referred to in paragraph (1) of this Article was filed.

- (5) The motion for securing the forfeiture of criminal proceeds which is filed within the special proceedings as referred to in Article 5 of this Law shall be decided by the court which would have been authorised for a trial in criminal proceedings for the criminal offence from which proceeds were gained.
- (6) The decision as referred to in paragraph (3) of this Article may be appealed with the higher court no later than three days after the decision has been forwarded. An appeal shall not stay the execution of the decision.
- (7) Execution of the decision as referred to in paragraph (3) of this Article shall be conducted by the court, the Agency or other authority as specified under the Law.
- (8) The decision as referred to in paragraph (3) of this Article shall be immediately forwarded to the Court, the Agency or other authority authorised for its execution and no later than the following working day after it has been issued.
- (9) The procedure on execution of the decision as referred to in paragraph (3) of this Article shall be deemed urgent.

Article 18

- 1) If deemed necessary to enter the temporary measure into public records or registries, the decision of the court shall also contain the order for entry of a temporary measure in public records or registries.
- 2) If deemed necessary to delete the temporary measure from public records or registries, the decision of the court shall also contain the order for deletion of a temporary measure from public records or registries.
- 3) No fees shall be charged in the procedure referred to in paragraphs (1) and (2) of this Article, except in cases where the entry and deletion of temporary measures is done in the registry for which remuneration determined by separate regulations shall be paid from the funds collected from the sale of forfeited property under the provisions of this Law.

Article 19

Legal doings by which the opponent of the security upon the entry of a temporary measure in public records or registries disposes of items or rights which were the subject of securing shall not have any legal effect.

Article 20

- 1) If the motion as referred to in Article 17 (1) had been filed in cases where requirements had not been met to conduct criminal proceedings due to circumstances referred to in Article 5 (1) of this Law, the temporary security measure shall be terminated if within the deadline of two years from the day of such measure being issued no hearing for deciding upon the property-legal claim has been scheduled, or the motion as referred to in Article 5 (2) of this Law filed.
- 2) The temporary measure may be cancelled or replaced by another measure prior to the expiration of the period for which it was issued or prior to the expiration of the deadline as referred to in paragraph 1 of this Article, should the Court, upon the motion of the opponent of the security, find that the measure is not required or that the security may be

accomplished by another temporary measure, or if the opponent of the security or the third person deposits a warranty. Warranty shall be paid in currency at all times, and exceptionally in items or rights which, based on estimates of the court, may be cashed in a short period of time.

- 3) If the temporary measure has been issued for a period of time shorter than the deadline as referred to in paragraph 1 of this Article, the proponent of the security may propose the extension of the duration of the temporary measure.
- 4) Provisions of the Article 17 of this Law shall be accordingly applied to the procedure on termination, extension, replacement or issuance of additional temporary measure.

Article 21

- 1) Temporary security measures may not exceed sixty (60) days after the court notifies the proponent of the security of the validity of the verdict as referred to in Articles 6, 10 and 11 of this Law.
- 2) If the verdict as referred to in Articles 6, 10 and 11 of this Law has been contested in the appeal, the deadline as referred to in paragraph 1 of this Article shall commence from the day when the decision of the second instance court upholding the verdict has been forwarded to the proponent of the security.

Article 22

- 1) The Federation of BiH shall be responsible for any damage caused as a result of a temporary measure of security of forfeited criminal proceeds.
- 2) The opponent of the security may initiate civil proceedings for compensation of damages before the authorised court within the deadline of one year starting from the day of the validity of the verdict of acquittal of the defendant or rejected charges, or the motion for rendering a verdict as referred to in Article 6 of this Law was refused. In case as referred to in paragraph 1 of this Article the opponent of security may initiate civil proceedings within 30 days from the day when the request for mediation was rejected.

E. Protection of Third Party's Rights

Article 23

- 1) A third party is entitled to submit a complaint pending the issuance of the decision on execution and seek for the temporary measure to be terminated.
- 2) The court that had made a decision on the temporary security measure shall decide upon the complaint as referred to in paragraph 1 of this Article. The appeal against such decision may be filed within three (3) days from the day it was forwarded. The appeal shall not stay the execution of the security ordered in accordance with this Law. Immediate higher court shall rule on the appeal.
- 3) In case where the third party proves its rights with a public document or the existence of such right can be determined based on the rules of legal assumptions, the appeal shall stay enforcement of the decision on security through a temporary measure.

IV. EXECUTION

Article 24

- 1) Unless prescribed otherwise by this Law, the execution for the purpose of forfeiting criminal proceeds shall be decided and conducted upon the motion of the FBIH Public Attorney's Office in accordance with the Law on Executive Procedure in the Federation of BiH.
- 2) Municipal court with territorial jurisdiction in the seat of the court that had rendered the verdict referred to in Articles 6 and 10 of this Law shall be competent to issue decisions on execution based on the verdict to forfeit criminal proceeds and issue other decisions in such proceeding.
- 3) The court shall have the competence to carry out execution referred to in paragraph 2 of this Article.
- 4) The court shall fully or partially entrust the Agency to carry out the execution as referred to in paragraph 2 of this Article.

V. MANAGEMENT OF FORFEITED ASSETS

A. Organisation and Competencies of the Agency

Article 25

- 1) For the purpose of carrying out tasks and measures specified by this Law, the Federal Agency for Management of Forfeited Assets (hereinafter: the Agency) shall be established.
- 2) The seat of the Agency shall be in Sarajevo, and it may also have separate organisational units outside its official seat, which shall be regulated by the Book of Rules on Internal Organisation.
- 3) The funds required for the functioning of the Agency shall be allocated in the budget of the Federation of BiH, and may also be allocated from other sources in accordance with the Law.
- 4) State and other bodies, public services and organisations shall be required to assist the Agency in its work.

Article 26

- 1) The Agency shall be an independent, federal administrative organisation with the capacity of a legal entity.
- 2) The Agency shall be headed and managed by the Director, to be appointed by the Government of the Federation of BiH upon completed vacancy procedure pursuant to the Civil Service Law in the Federation of Bosnia and Herzegovina.
- 3) The Director shall have the status of managerial-level civil servant.

- 4) The Director of the Agency shall be appointed no later than 60 days after this Law coming into effect. The Government of the Federation of BiH shall appoint the acting director in case the Director is not appointed during this period.
- 5) The Director shall not be a member of bodies of a political party. The Director of the Agency shall be appointed for a term of four years, with a possibility of re-appointment of not more than two consecutive terms.

Article 27

Legal and labour status of all employees of the Agency shall be regulated by the provisions of the FBiH Civil Service Law and the FBiH Civil Service Employees.

Article 28

The Director shall manage the Agency, represent the Agency, and be responsible for the legality of its work, and adequate and lawful material and financial operations of the Agency.

Article 29

Every six months The Director shall submit the report on activities and financial and material operations of the Agency to the Government of the Federation of BiH. The Government of the Federation of BiH shall pass the report to the Parliament of the Federation of BiH for adoption. In case the report is not adopted, the Government of the Federation of BiH shall initiate procedure to dismiss the Director of the Agency.

Article 30

- 1) The Agency shall be competent to:
 - a) Manage temporary forfeited and assets forfeited in accordance with provisions of this and other laws,
 - b) Conduct analysis in the field of forfeiture of criminal proceeds,
 - c) Professional training on financial investigations and forfeiture of criminal proceeds,
 - d) Performing other tasks as prescribed by this Law.

Article 31

- 1) While enforcing its competences, the Agency shall perform the following tasks:
 - a) Store, safeguard, sell and lease the assets forfeited in accordance with the Law. In case of a justified need, the Agency may entrust assets to other institutions for the purpose of safeguarding, which would be regulated under a special agreement.
 - b) Conduct professional assessment of the value of temporary forfeited and forfeited assets in accordance with provisions of this and other laws.
 - c) Maintain records on assets which the Agency manages and disposes of, and court proceeding deciding on such assets.
 - d) Collect data, statistical reports and other information from finalised proceedings for forfeiture of criminal proceeds in accordance with this Law from relevant institutions,

- for the purpose of processing and analysing such data and information, observing trends in perpetration of criminal offences from which criminal proceeds were gained.
- e) Collect information from court registries, tax administration, registry of securities, and other public registries pertinent to the ownership over the assets.
 - f) Conduct analysis and risk assessments for the purpose of identifying factors and circumstances which favour acquiring criminal proceeds.
 - g) Publish regular and annual reports on the situation pertinent to forfeiture of criminal proceeds, and forward these to the Government of FBiH and the Parliament of FBiH.
 - h) Inform the Government of the Federation of BiH and the Parliament of the Federation of BiH on the results of strategic analysis pertinent to enforcement of the law or other regulations on financial investigations and forfeiture of criminal proceeds.
 - i) Initiate and provide recommendations for improvement of legal regulations pertinent to financial investigations and forfeiture of criminal proceeds.
 - j) Draft the proposal of the Strategy on Forfeiture of Proceeds of Criminal Offence in the FBiH and the Action Plan for implementation of the Strategy, and forward these to the Government of the Federation of BiH and the Parliament of the Federation of BiH for adoption.
 - k) Coordinate and monitor implementation of the Strategy on Forfeiture of Proceeds of Criminal Offences in the FBiH and the Action Plan, and provide opinions and recommendations for their more effective implementation.
 - l) In cooperation with other relevant institutions take part in training for civil servants, law enforcement officials and holders of judicial functions in relation to financial investigations and forfeiture of criminal proceeds.

B. Management of temporary forfeited and forfeited assets

Article 32

- 1) The sale of assets managed and disposed of by the Agency in terms of this Law shall be done in public auctions published in the FBiH Official Gazette and no less than two dailies distributed across the entire country.
- 2) The assets shall be sold at the same or higher price than the estimated value established by the Agency. The FBiH Government shall adopt special regulation on the criteria for evaluating the value of assets.
- 3) In the event the assets have not been sold after a single public auction, the sale may be conducted at the second public auction, however, at the price that shall not be lower than 50% of the estimated value of assets.
- 4) In case the assets have not been sold during the period of one year, it can be donated to an institution primarily funded from the budget of the Federation of BiH or for charity or destroyed.
- 5) The decision on donation of the assets and the decision on destroying the assets as referred to in paragraph 1 of this Article shall be made by the Government of the Federation of BiH upon the proposal of the Director of the Agency. The costs of destroying the assets shall be borne by the Agency.
- 6) The sale of stocks and other securities shall be conducted in accordance with laws regulating the securities market.

- 7) At the proposal of the Federal Minister of Justice, the Government of the Federation of BiH shall regulate the procedure for sale, lease, safeguarding and maintenance of forfeited assets under a special regulation or ordinance.

Article 33

- 1) The Agency may, without a prior notification of public auction, render the decision on the sale of temporary forfeited movables in case that:
 - a) safeguarding of such assets represents a danger, or
 - b) there is a direct risk of assets being destroyed or significantly losing their value, or
 - c) inconclusive ownership.
- 2) The Director of the Agency may issue the decision to rent or lease temporary forfeited items in accordance with their intended purpose.
- 3) Provisions of the Public Procurement Law, due to the urgency of proceedings, shall not apply to the procedure on sale, lease, safeguarding and maintenance of forfeited assets.
- 4) The Agency shall inform the court that had ordered security measures over such assets about the sale of assets referred to in paragraph 1 of this Article.

Article 34

- 1) The funds collected from the sale of assets referred to in Article 33 (1) of this Law shall be kept by the Agency at the special account pending the final court's decision on the origin of such assets. These funds can be placed on time deposits only with banks in majority ownership of the Federation of BiH. The interest shall be accredited to the Agency.
- 2) The funds collected from the sale of assets, along with calculated interest paid on deposits, shall be immediately returned to the owner of temporary forfeited assets which, in accordance with this Law, were not found to be had been gained from the commission of the criminal offence.
- 3) The owner who believes that the payment referred to in the preceding paragraph does not correspond to the payment of adequate value of assets may submit to the Agency the request for reimbursement of damage caused by temporary forfeiture of assets.
- 4) If the request for reimbursement of damage is not approved or the Agency fails to decide on such request within the deadline of three (3) months from the day of submission of such request, the owner of assets may file a lawsuit with the competent court for reimbursement of damage against the Federation of BiH.
- 5) If the request has been partially approved, the owner may file a lawsuit in relation to the remaining part of the request.

Article 35

Under the decision of the Government of the Federation of BiH, temporarily or permanently forfeited items of cultural, historical, artistic and scientific value may be assigned for storage or use by specialised institutions that are primarily funded by the state, federal or cantonal budget.

Article 36

Revenue received from the sale of temporary or permanently forfeited assets shall be accredited towards the Budget of FBiH.

Article 37

- 1) In its work, the Agency shall establish necessary cooperation with relevant bodies in Bosnia and Herzegovina in proceedings involving mutual legal assistance for the purpose of temporary or permanent forfeiture of criminal proceeds.
- 2) Decisions made by relevant institutions in Bosnia and Herzegovina pursuant to the Law on Mutual Legal Assistance in Criminal Matters, ordering temporary forfeiture of items or proceeds and its handover to international judicial bodies, shall be forwarded to the Agency for execution, as required.
- 3) The provision as referred to in paragraph 2 of this Article shall also be applied accordingly to decision of relevant bodies in Bosnia and Herzegovina which recognise and execute international court decisions, unless such decisions contain the measure on forfeiture of criminal proceeds.

VI. TRANSITIONAL AND FINAL PROVISIONS

Article 38

- 1) Proceedings in cases on securing forfeiture and making decisions on forfeiture of criminal proceeds, for which the first instance decision was made by the day when this Law came into force, shall be continued in accordance with provisions effective at the time of initiation of these proceeding.
- 2) Provisions of this Law shall apply if on the day of this Law entering into force no decision was made on securing the forfeiture or forfeiting the criminal proceeds, or if the first instance decision as referred to in paragraph 1 of this Article were revised and the case forwarded to the first instance court for retrial.

Article 39

- 1) Execution of first instance decisions on forfeiture of criminal proceeds issued based on regulations which had been in force prior to this Law coming into effect shall be done in accordance with regulations which were in force prior to the start of its application.

Article 40

- 1) The Government of the Federation of BiH shall appoint the Committee to conduct the procedure for selection of the Director within the deadline of 15 days after the Law enters into force.
- 2) The Director shall enact the Book of Rules on Internal Organisation and Systematisation of Posts with the approval of the FBiH Government within 30 days following his/her appointment.

- 3) The FBiH Government shall adopt the document referred to in Article 32 (7) of this Law within 60 days after the Law enters into force.

Article 41

This Law shall enter into force on the eight day after its publication in the Official Gazette of the Federation of BiH, while its implementation shall start six months after the day it came into effect.

Speaker
House of Peoples
Parliament of the Federation of BiH
Tomislav Martinovic, signed in own hand

Speaker
House of Representatives
Parliament of the Federation of BiH
Safet Softic, signed in own hand

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