

**REPUBLIKA SRPSKA
GOVERNMENT**

CRIMINAL ASSETS RECOVERY ACT

Banja Luka, January 2010

Published in OG #12/10, January 2010

CRIMINAL ASSETS RECOVERY ACT

I GENERAL PROVISIONS

Article 1.

This Act defines conditions, procedures and institutions authorized to detect, recover and manage the criminal assets.

Article 2.

- 1 Provisions of this Act are being applied to criminal offences defined in the Republika Srpska Penal Code („ Republika Srpska Official Gazette “,no 49/03, 108/04, 37/06 and 70/06):
 - a)crimes against sexual integrity (human trafficking for prostitution Article 198, Abuse of a child or juvenile for pornography Article 199 and Production and Broadcasting Child Pornography Article 200);
 - b) Crimes against public health: Illegal Production and Trafficking with Drugs, Article 224;
 - c) Crimes against economy and payment system (Counterfeiting or Destroying Business or Commercial Books or Documents, Article 275, Counterfeiting of Credit Cards and Other Non-cash Payment Cards Article 276, Counterfeiting Representations of Value Article 277, Money Laundering ,Article 280, Illegal Trade Article 281, Tax and Contribution Evasion Article 287);
 - d) Crimes Against Authority (abuse of powers or vested authorities Article 347, Embezzlement Article 348, Fraud Article 349, Receiving Bribe Article 351, Offering Bribe Article 352 and Illegal Mediation Article 353);
 - e)Organized crime (Article 383a)
 - f) crimes against public order (Manufacturing and Purchasing Weapons and Items to Committ Criminal Offence,Article 398 and Illegal Production and Trafficking with Weapons and Explosive Devices Article 399);
 - g) Crimes Against Humanity and Values Protected by the International Law.
- 2 Provisions of this Act shall be applicable to all criminal offences defined in the part 1 of this Article, as well as to other criminal offences defined in Republika Srpska Penal Code, and if the assets, that is the value of items that have been used or were aimed to or are a result to a criminal offence exceeds the amount of 50.000,00 convertible marks.

Article 3.

- 1 Certain terms used in this act have the following meaning:
 - a) Assets are collection of property rights and obligations of the holder of those rights over the real estate and chattels. A property is also considered to be the profit or any other gain that has been either direct or indirect result of the criminal offence, as well as any assets that it had been turned into or merged with.

b) The criminal assets are the assets of the offender, property owner, obtained prior to initiation of criminal proceedings defined in the Article 2 of this Act, that are in obvious discrepancy with his reported incomes. Reported incomes are all the available financial resources of the property owner that may provide its legal background.

c) Decedent is a person who has not been subject to criminal proceedings due to his death, or proceedings against that person have been discontinued, whereas the criminal proceedings against other individuals have established that the assets of the decedent have been proceeds of the criminal offence.

d) Legal successor is the heir of the convicted individual, decedent or their heirs.

e) A third person is a natural or legal entity to whom the criminal assets have been passed on.

f) Owner of the property is an offender or associated persons, decedent, legal successor or a third person.

g) Associated persons are: Family members: spouse, cousin once removed, siblings, adopted children and their descendants sharing the same household and cousins up to three times removed degree; Trustee or trustees, owning at least 50% of the property value or at least 50% of share in the shareholding company, directly or through one of more natural or legal entities and: Other natural and legal entities: offenders, accomplices, organizers in a criminal conspiracy, instigators and accomplices (hereinafter referred as: property owner).

e)The forfeiture is a temporary or permanent seizure of proceeds of crime.

Article 4.

Unless provisions of this Act stipulate otherwise, the detection and forfeiture of criminal assets procedure will apply the provisions of the Republika Srpska Criminal Proceedings Code(RS Official Gazette, 50/03, 115/04, 29/07, 68/07 and 119/08).

2 RELEVANT INSTITUTIONS

Article 5.

1. Institutions relevant to detect, forfeit and manage the criminal assets are prosecutor's offices, the court, the Republika Srpska Ministry of Interior (hereinafter referred to as: RS Mol) and an Asset Management Agency (hereinafter referred to as: the Agency).
2. Responsibilities of the prosecutor and the ruling court as stipulated in the paragraph 1 of this Article are to be derived according to the jurisdiction of the court over the proceeds of crime.

3. Ministry of Interior

Article 6.

- 1 Ministry of Interior shall establish a special unit (hereinafter referred to as: the Unit) authorized to detect proceeds of crime and perform other tasks in accordance with this Act.

- 2 Activities stipulated in the paragraph 1 of this Article are to be carried out by the Unit in the line of duty or upon the order issued by respective court or prosecutor's office.
- 3 All republic bodies, organizations and services are obliged to assist the Unit.

Article 7.

The Rulebook on Internal Organization and Systematization of positions within the RS MoI will establish the Unit defined in Article 6 of this Act.

1. Asset Management Agency

Article 8.

- 1 The tasks foreseen by this Act are to be carried out by the Assent Management Agency, as administrative unit within the Ministry of Justice of Republika Srpska (hereinafter referred to as: the Ministry).
- 2 The Agency is to carry out its tasks in the line of duty or upon the order issued by prosecutor's office or the court.
- 3 All the republic and other bodies, organizations and public services are obliged to assist the Agency.

Article 9.

- 1 The Agency:
 - a) Manages the criminal assets, proceeds of crime defined by the Article 62 of the RS Penal Code), proceeds of criminal offence defined by Articles 94 throughout 96 of the RS Penal Code and property provided as a guarantee in criminal proceedings;
 - b) Provides a professional assessment of proceeds of crime;
 - c) Stores, preserves and sells the seized criminal assets and manages funds obtained in such a manner;
 - e) Keeps records of property that it manages in terms of item a of this paragraph and of court proceedings deciding upon such assets;
 - f) Assists in providing legal aid;
 - g) Assists in training civil servants in relation to forfeiting of criminal assets and;
 - h) Performs other tasks in accordance with this Act.
- 2 The Agency also performs the tasks defined in paragraph 1 of this Article pertaining to assets that are proceeds of violation.

Article 10.

- 1 The Agency holds the role of a legal entity.
- 2 Agency's Home Office is in Banja Luka.
- 3 The Agency may have separated filed offices, located out of the home office.

Article 11.

- 1 The Agency is fronted by the Director appointed by the government to a five year mandate in accordance with the Law on Civil Servants (The RS Official Gazette, number 118/08);
- 2 The Director is responsible for his work and the work of the Agency and responds to the Minister.

Article 12.

- 1 The work, the internal organization and systematization of the Agency are defined by the regulations on civil service.
- 2 The rights and obligations of the Agency's employees are subject to regulations on civil servants and employees.

Article 13.

Agency's funds are secured from the Republika Srpska budget as well as from other funds, in accordance with the law.

Article 14.

The work of the Agency is being supervised by the Ministry.

3 PROCEDURE

1 Financial Investigation

Article 15.

- 1 Financial investigation is to be launched against the property owner once there are grounds for suspecting one is in possession of significant assets that are proceeds of crime.
- 2 Financial investigation collects evidence on assets and legal incomes acquired by the property owner, that is, attained prior to launching of criminal proceedings for criminal offence pursuant to the Article 2 of this Act, evidence of property inherited by a legal successor and evidence on property and fees of transfer of property to a third person.

Article 16.

- 1 It is the obligation of all bodies and individuals involved in financial investigation to act with utmost urgency.
- 2 Information regarding the financial investigation is secret and represents an official secret. Besides the authorized personnel, other individuals that get an access to that information are not authorized to release them. An authorized official is obliged to inform another person that such information is considered secret.

Article 17.

- 1 Financial investigation is launched upon the order issued by the prosecutor.
- 2 Financial investigation is handled by the prosecutor.
- 3 The evidence shall be collected by Unit pursuant to Article 15, paragraph 2 of this Law upon the request of prosecutor's or in the line of duty.

Article 18.

- 1 A search of apartment and search of other premises of the owner or other individuals may carried out in case that grounds for suspicion exist that it will result in obtaining of evidence pursuant to Article 15, paragraph 2 of this Law.
- 2 A search of the owner of the property or other individuals may take place in case there are grounds for suspicion that will result in obtaining of evidence defined in the paragraph 1 of this Article.

Article 19.

- 1 Items that may be used as evidence pursuant to Article 15 paragraph 2 of this Act, will be temporarily forfeited in accordance with regulations of the Republika Srpska Criminal Procedure, based on the court order and upon the proposal of the prosecutor.
- 2 Items defined in the paragraph 1 of this Article may, in accordance with Republika Srpska Criminal Procedure Code, be temporarily confiscated regardless the court order, if there is a risk of postponement.
- 3 RS institutions, and other relevant bodies, organizations and public services are obliged to enable the Unit to have the insight into information, documents and other items pursuant to the paragraph 1 of this Article.
- 4 The insight and the delivery defined in the paragraph 3 of this Article may not be restrained by appealing to the necessity of keeping the business, official, state, or military secret.

Article 20.

- 1 Upon the prosecutor's elaborate request, the court may issue an order to the banking or other financial organization to deliver the Unit the information regarding the business and private accounts and safety deposit boxes of the property owners, as well as enable the Unit to inspect the safe deposit boxes.
- 2 By issuing of an order defined in the paragraph 1 of this Article the court may grant the Unit the permission to perform automatic processing of the balance sheets of business and personal accounts and safe deposit boxes of the property owner.

2. Temporary assets forfeiture

Article 21.

- 1 The prosecutor may submit a proposal on temporary assets forfeiture if postponed forfeiture proceedings create the risk of hindering execution warrant.
- 2 The proposal defined in the paragraph 1 of this Article contains information over property owner, description and legal definition of the criminal offence, identification of forfeiture assets, property-tracking document, circumstances that resulted in grounds of

suspicion that the property has been acquired as a result of serious crime related activity and reasons that justify the necessity of temporary assets forfeiture.

- 3 The proposal defined in the paragraph 1 of this Article is to be decided upon by respective court based on the subject matter jurisdiction.

Article 22.

- 1 The prosecutor may issue a restraining order in accordance to Law on Civil procedure (The RS Official Gazette, number 58/03, 85/03 and 74/05) if there is a risk that the owner is to administer illegally acquired property, prior to the court's decision over the proposal defined in Article 21 paragraph 1 of this Act.
- 2 The decision on the restrain order is to be brought by the respective court in the line of duty and shall be delivered to respective institution for notification.
- 3 The measure proposed by the paragraph 1 of this Article, is effective until the court rules the decision over proposal of the prosecutor.
- 4 The prosecutor will deliver the order defined in paragraph 1 of this Article to the owner, the court and the Agency.

Article 23.

- 1 Prior to the decision on proposal of temporary assets forfeiture, the court will schedule the hearing and summon up the owner, his defense lawyer, respectively legal representative, (if there's one), and the prosecutor.
- 2 The summons is to be delivered to a known address respectively the location of the individual refers to paragraph 1 of this Article with a remark that the hearing will be held regardless to the potential failure to attend.

Article 24.

- 1 The hearing defined in the Article 23 paragraph 1 of this Act is to be held not later than five days as of the date of submission of proposal on temporary asset forfeiture. Once commenced, the hearing will be finalized without interruptions.
- 2 It is at the hearing that the prosecutor will provide evidence on the assets of the owner, circumstances regarding grounds of suspicion that assets have been the result of criminal activity and circumstances regarding the potential jeopardy of hindering execution warrant in case of postponed forfeiture proceedings. The owner and his defense lawyer, respectively legal representative are to present evidence on ungrounded allegations made by the prosecutor respectively the legal background of property in question.

Article 25.

- 1 Upon completion of the hearing, the court shall issue the decision that agrees with or rejects the proposal on temporary assets forfeiture.
- 2 The decision on temporary assets forfeiture should provide the following: information on the property owner, description and legal definition of the criminal offence, the identification of the property subject to forfeiture, evidence on grounds of suspicion implying that the property had been acquired by criminal activity, reasons that justify the necessity of temporary assets forfeiture and length of confiscation period.

- 3 The court may by decision defined in the paragraph 2 of this Article leave to the owner a part of his property if his incomes or the support of persons one is obliged to maintain in accordance to the Law on Executive Procedures (Republika Srpska Official Gazette number 59/03, 85/03, 64/05 i 118/07) .
 - 5 The court is to deliver the decision defined in paragraph 1 of this Article to the owner, his defense lawyer, respectively legal representative, prosecutor and the Agency.

Article 26.

- 1 The appeal against the decision defined in Article 25 paragraph 1 of this Act shall be lodged not later than eight days from the day of its delivery.
- 2 The appeal should not stay the execution of decision defined in Article 25 paragraph 2 of this Act.
- 3 The appeal against the decision is to be decided upon by the extraordinary panel of the relevant court.

Article 27.

- 1 Temporary assets forfeiture should last no longer than is the deadline prescribed for the completion of the proposed procedure. Every three months, the court would revise the justness of further prolonging of temporary assets forfeiture.
- 2 Unless the decision on proposal of permanent assets forfeiture is being brought within the deadline prescribed in the paragraph 1 of this Article the court, within its powers, is to cancel the temporary assets forfeiture decision and the property, in that case, is to be returned to the owner.

2. Permanent Assets Forfeiture

Article 28.

- 1 After confirmation of indictment and not later than one year after final completion of criminal proceedings, the prosecutor shall submit proposal on permanent assets forfeiture of proceeds of crime.
- 2 The proposal from paragraph 1 of this Article should provide: information on the indictee, description and legal definition of the criminal offence, the identification of the property subject to forfeiture, evidence on property in possession of indictee and legal assets, evidence that the property had been acquired prior to initiation of criminal proceedings, circumstances indicates obvious discrepancy between the assets and incomes and reasons that justify the necessity of permanent assets forfeiture. The proposal against the legal successor shall provide evidence that the proceeds of crime have been inherited, and the proposal against the third person should provide evidence that criminal assets have been transferred without any compensation or with the compensation that does not reflect its real value in order to hinder the execution of forfeiture process.
- 3 The proposal defined in the paragraph 1 of this Article shall be decided by the relevant court.

Article 29.

- 1 If proposal defined in Article 28 paragraph 1 of this Act has been submitted in course of first instance proceedings, the court shall summon the owner to contest the proposal at the main hearing. Shall the owner fail to attend the main hearing or plead over the proposal it will be considered that the proposal is not being contested.
- 2 Provided that the owner does not contest the proposal, the decision will be given in the verdict. The decision over the proposal is refutable by an appeal.
- 3 Shall the owner rebut the proposal; the decision shall be established in separate proceedings. These proceedings are to be completed no later than two years since finding the defendant guilty, or , in terms of the Article 3, point 3 of this Act, it has been established that the decedant is the owner of criminal assets.
- 4 Shall the court reject the indictment or drop the charges against the defendant, it is to deliver the Republika Srpska Taxation Office the information on defendant's property for further action.

Article 30.

- 1 Once the owner contests the proposal stipulated by Article 28 paragraph 1 of this Act, respectively if the owner did not respond in accordance with Article 29 paragraph 3 of this Act or if the request has been filed upon the completion of criminal proceedings, the court shall held a separate hearing to decide upon the request. The hearing is to be scheduled not later than thirty days upon reaching of the final decision stipulated by Article 29, paragraph 3 of this Act, respectively from the date when prosecutor filed his request.
- 2 The court shall summon the owner, his legal representative, if there is one, the prosecutor and other persons whose attendance is necessary for the course of the hearing as defined in the paragraph 1 of this Article. The summons shall be delivered to a valid address, respectively to the office of the person summoned up with a warning that the hearing is going to take place, regardless the potential failure to attend.
- 3 The owner is to be delivered the summons, provided that there is at least fifteen days pause between the date of delivery and date of the scheduled hearing.
- 4 If the owner fails to attend the hearing, and has no legal representative to speak on his behalf, the court will designate one to represent him.
- 5 Shall the prosecutor fail to attend, the hearing is to be postponed. The court is obliged to inform the respective prosecutor on such decision.

Article 31.

- 1 The hearing shall begin with presentation of contents of the prosecutor's request. Once commenced, the hearing is to be finalized without interruptions, if possible.
- 2 Shall the request refer to assets of the convicted person the prosecutor is to present evidence on assets in convict's possession, legal incomes, evidence proving that assets have been acquired prior to initiation of criminal proceedings and circumstances pointing out obvious discrepancy between the assets and incomes of the convict. The convicted person and his legal representative shall provide evidence that either prosecutor's request is ungrounded or that assets have been legally acquired.

- 3 Shall the request consider the property of legal successor or a third person, the prosecutor is to provide evidence that the legal successor inherited criminal assets, that is, that it had been transferred to the third person without any compensation or with the compensation that does not reflect its real value in order to hinder the execution of forfeiture process. The legal successor, or the third person and its legal representative shall provide evidence that either prosecutor's request is ungrounded or that assets of his legal successor have been acquired legally.

Article 32.

- 1 Upon completion of the hearing, the court is to decide upon approving or rejecting the request for permanent assets forfeiture.
- 2 The decision on permanent assets forfeiture should provide: information on the owner, description and legal definition of criminal offence, identification of the property subject to forfeiture, respectively the value being taken away from the owner provided that the owner managed criminal assets in order to hinder the execution of forfeiture process and decision on costs of management of temporary forfeited assets.
- 3 Provided that the incomes of the owner or incomes he need for support of persons he obliged to supports are under question the court may by its decision defined in the paragraph 2 of this Article and in accordance to provisions of the Law on Executive Procedures leave to the owner a part of his property.
- 4 The court is to deliver the decision defined in paragraph 1 of this Article to the owner, his defense lawyer, respectively, legal representative, prosecutor and the Agency.
- 5 Upon receiving of decision defined in the paragraph 2 of this Article the Agency shall take measures about keeping and maintaining of forfeited assets. The Agency shall rule over the forfeited assets until the end of assets forfeiture procedure.

Article 33.

- 1 The appeal against the decision stipulated in article 32, paragraph 1 of this Act, may be lodged by legal representatives no later than eight days from delivery of decision in question, directly to a higher instance.
- 2 The appeal shall not hinder the activities of the Agency, as provided by Article 32, paragraph 5 of this Act.

Article 34.

- 1 Deciding upon the appeal, the court may reject the appeal as not in time or unlawfully submitted, reject the appeal as ungrounded or accept the appeal and alter or abolish the decision and send it back for renewed procedure.
- 2 The decision on permanent assets forfeiture shall come into effect once the court finds the appeal against that decision ungrounded and rejects it or once the appeal procedure is not allowed.

Article 35.

- 1 The Agency is to act in accordance to article 9 of this Act and immediately upon receiving of the decision on temporary, respectively permanent assets.
- 2 The Agency shall manage the forfeited assets acting as “bonus pater familias”, respectively by applying of all reasonable and usual care skills and forethought until the cancellation of the temporarily decision or finalization of the procedure on permanent assets forfeiture.

Article 36.

1. Forfeited assets shall be supported by records providing: the information on the owner, information of forfeited assets and condition of the assets when taken over, information on the value being forfeited as stipulated in article 32, paragraph 2 of this Act, reference stating whether assets are being forfeited temporarily or permanently, information on whether the temporary forfeited assets have been left with the owner or confined to physical or legal person as stipulated in article 37, paragraphs 3 and 4 of this Act, as well as other information.
2. The Minister shall, upon the proposal of the Director, set out closer contents of the records defined in the paragraph 1 of this article and contents of business record keeping procedures that, in accordance with article 9, paragraph 1 of this Act, is to be managed by the Agency.

Article 37.

1. Temporary assets forfeiture is to be undertaken in compliance with provisions of the Law on Executive Procedures, unless otherwise prescribed by this Act.
2. Maintenance and management of costs of temporary forfeited assets shall be born by the Agency.
3. The director may bring a decision whether the temporary forfeited assets are to be left with the owner taking the responsibility of managing the assets with all reasonable and usual care skill and forethought. The owner is to bear the costs of managing and maintaining the assets.
4. If justified, the director may entrust the management of temporary forfeited assets to a physical or legal person on based upon a signed contract.

Article 38.

- 1 Temporary forfeited assets that have the historical, artistic or scientific value shall be handed over by the Agency to institutions authorized to preserve and keep such items until expiration of the deadline given for finalization of the procedure upon the request on permanent assets forfeiture.
- 2 Temporary confiscated foreign banknotes and effective foreign money, precious metals, gems and semi-precious stones and pearls shall be handed over by the Management Agency to Republika Srpska Treasury until expiration of the deadline defined in the paragraph 1 of this Article.

Article 39.

Once the owner's real and chattel estates have been confiscated temporarily, the Agency may cover up for necessary costs and preservation of real estates from funds obtained by sale of chattel estates.

Article 40.

- 1 In order to preserve the value of the temporary forfeited assets the Agency may, without delays sell the chattel estates, respectively confine it with a specific physical person or legal entity to make the sale.
- 2 Unless provisions of this Act define otherwise, the sale of the assets defined in the paragraph 1 of this Article shall be subject to provisions of the Law on Executive Procedures respectively.

Article 41.

- 1 Sale of the property stipulated in article 39, paragraph 1 and article 40, paragraph 1 of this Act will be done at an auction, advertised in the Republika Srpska Official Gazette or other public advertiser. Perishable goods and animals may be sold without auction.
- 2 Chattel estates are to be sold at identical or a price higher than that estimated, as defined by the Agency. Shall the property not be sold after two auctions, the sale may be made by reaching a bargain.
- 3 Real estates taken away upon final court verdict shall be registered in the land-registry books as property of Republika Srpska and should be handled with in accordance with the regulations pertaining to handling procedures prescribed for the real estates in possession of Republika Srpska.
- 4 Sale of securities and other valuable documents is to be made in accordance with regulations defining the transfer of securities procedure.
- 5 All funds acquired by sale are considered to be the Republika Srpska budgetary funds.

Article 42.

- 1 Chattel estate not sold within one year period of time may be donated to humanitarian funds or destroyed.
- 2 The decision on donation of the property refers to paragraph 1 of this Article shall be reached by the Government.
- 3 The decision on destruction of the property from paragraph 1 of this Article is to be reached by the director due to health related, veterinarian, sanitary, safety or other reasons as prescribed by the law. The property is to be destroyed under the supervision of the Agency, and in accordance to specific regulations.
- 4 Costs of destruction are to be covered by the Agency.

Article 43.

- 1 The funds obtained by the sale stipulated by Article 40, paragraph 1 of this Act shall be kept at Agency's separate bank account, until the abolishment of decision on temporary

assets forfeiture, respectively until the expiration of the deadline given for finalization of the procedure upon the request on permanent assets forfeiture.

- 2 Funds defined in paragraph 1 of this Article are to be used for assets recovery procedure and compensation of the damage and costs as defined in Article 42 paragraphs 3 and 4 of this Act. In case the funds are not sufficient, the difference shall be paid from Republika Srpska budget.

Article 44.

- 1 Provided that in accordance with this Act it had been proven that the property in question had not been proceeds of crime, all the funds obtained by sale, increased by average interest should be given back immediately to the Owner.
- 2 Funds defined in the paragraph 1 of this Article shall be given back by the Agency in accordance to official proceedings.

Article 45.

- 1 The owner who has been given back the funds in accordance to Article 44 paragraph 1 of this Act, may file with the Agency a request for compensation of the damage he suffered because of the temporary assets forfeiture, not later than thirty days as of the day of reimbursement.
- 2 Shall the damage compensation request not be adopted or the Agency does not reach a decision within 90 days as of the date of submission of the request, the owner may file a law suit to respective court requesting the damage compensation. Shall the law suit be only partly adopted the owner may lodge a law suit in reference to the rest of request.

Article 46.

- 21 Once the decision on temporary assets forfeiture becomes final, the property and funds acquired by sale of assets become the property of Republika Srpska.
- 22 Based upon the decision reached by respective ministry, permanently forfeited assets that have historical, artistic or scientific value, the Agency should hand over without compensation to institutions in charge of preservation of such items.

Article 47.

Upon the deduction of costs assets management, the funds acquired by sale of permanently forfeited assets will be paid to Republika Srpska budget and allocated in accordance to the decision reached by the Government.

5 INTERNATIONAL COOPERATION

Article 48.

- 1 The international cooperation in criminal assets recovery procedures is to be established upon the internationally reached agreement.

- 2 Provided that there is no internationally reached agreement or that some of the issues had not been defined by international agreement, international cooperation shall be reached in accordance to the provisions presented by this Act.

Article 49.

- 1 In terms of provisions of this Act, the international cooperation means providing assistance in criminal assets detection, restrain orders and temporary or permanent criminal assets forfeiture.
- 2 The authority of the local prosecutor's offices in international cooperation procedures as defined in the paragraph 1 of this Article shall be defined accordingly with application of adequate legal provisions on international legal aid and execution of international agreements on criminal matters.

Article 50.

- 1 Pre-requirements defining the assistance stipulated by the Article 49 of this act are as follows:
 - a) The requested measure should not be in conflict with basic principles of local legal system;
 - b) The execution of the request sent out by the international body should not harm the sovereignty, public order and other interests of Bosnia and Herzegovina and Republika Srpska;
 - c) The international procedure on permanent assets forfeiture should comply with standards of a fair trial.

Article 51.

- 1 In accordance to provisions of this Act, request for the assistance sent out by the international body shall be delivered to respective prosecutor's office through Bosnia and Herzegovina Department of Justice, respectively the Ministry. The request, respectively the order or the decision reached by the local prosecutor's office, respectively the court shall be delivered to the international bodies following the same procedure.
- 2 In cases of urgency and under condition of mutual respect, the request for detection of property, restrain order, respectively the temporary assets forfeiture may be delivered by mediation of the RS Mol.

Article 52.

- 1 In accordance with provisions of this Act, the assistance request shall contain:
 - a) name of institution that sends out the request;

- b) information on the individual that the request refers to (name, date and place of birth, citizenship and residence details), and if the request refers to the legal entity, it should also contain the information pertaining to its main office;
 - c) information on the assets that are subject of assistance request and its connection to the person defined in the item b of this paragraph;
 - d) specific actions suppose to be undertaken and list of legal provisions of the requesting country which represents the basis for application of specific restrain orders.
- 2 Besides the information provided in the paragraph 1 of this Article the request for detection of proceeds of crime shall also contain the description of circumstances that resulted in creating the grounds of suspicion that the property has been acquired as a result of criminal activity.
 - 3 Besides the information defined in paragraph 1 of this Article the restrain order, respectively the temporary assets forfeiture order, should also contain the decision on initiation of financial investigation or prosecutor's order for temporary forfeiture of criminal assets acquired by individuals defined in paragraph 1, item b of this Article.
 - 4 Besides the information defined in paragraph 1 of this Article, the permanent assets forfeiture order should also contain the decision of the court on permanent forfeiture of criminal assets acquired by individuals defined in paragraph 1 item b of this Article.

Article 53.

Upon receiving the request defined in the Article 52 of this Act the prosecutor, respectively the court, should examine whether the pre-requirements from Article 50 of this Act have been complied with.

Article 54.

- 1 Upon reaching a decision on taking into consideration the request on detection of criminal assets, the prosecutor shall send a request to the Unit to undertake necessary activities in order to detect and discover such property.
- 2 Acting upon the request defined in paragraph 1 of this Article and in accordance with the provisions of Article 15 throughout Article 20 of this Act, the Unit undertakes measures in order to collect provide and grant evidence on existence, location or movement, nature, legal status or value of criminal assets.

Article 55.

- 1 Provided that the restrain order, temporary or permanent assets forfeiture order contain all the elements as defined in the Article 52 of this Act, the decision shall be reached by respective court. The prosecutor and allocated defense lawyer, respectively legal representative shall be informed about the session.
- 2 If there is danger that a person defined in Article 52 paragraph 1, item b of this Act will dispose with criminal assets prior to the decision on the request defined in the paragraph 1 of this Article, the court may issue a restrain order. This order shall be effective until the final decision of the court should be ruled over the appeal.

Article 56.

- 1 The court may bring a decision to either comply with or reject request defined in Article 55 of this Act.
- 2 The decision on temporary assets forfeiture contains information defined in Article 25 paragraph 2 of this Act, and decision on permanent assets forfeiture contains information defined in Article 32, paragraph 2 of this Act.
- 3 The court shall deliver the decision defined in paragraph 2 of this Article to the assigned defense lawyer, respectively legal representative, the prosecutor and the Agency.

Article 57.

- 1 The appeal against the decision defined in Article 56 paragraph 1 of this Act may be filed and shall be decided upon the respective court.
- 2 The appeal against the decision ruled on the request for temporary assets forfeiture shall be filed not later than three days as of the date of delivery, and the appeal against the decision on the request for permanent assets forfeiture shall be filed not later than eight days as of the date of delivery.
- 3 The appeal does not stay execution of temporary assets forfeiture, respectively does not prevent the Agency to undertake measures regarding the management of permanently forfeited assets.

Article 58.

- 1 Temporary assets forfeiture measure shall last until the finalization of criminal proceedings, respectively the proceedings initiated upon the request on permanent assets forfeiture conducted in the requesting country. Every 90 days the foreign institution shall deliver to the local court an update on the course of proceedings.
- 2 Shall the proceedings defined in paragraph 1 of this Article not be finalized within the period of two years as of reaching decision on temporary assets forfeiture, the court will officially cancel the decision for temporary assets forfeiture.

Article 59.

- 1 The permanent assets forfeiture decision becomes effective once the court rejects as ungrounded the appeal filed against that decision or adopts the appeal filed against the decision that overruled the request for permanent assets forfeiture and reaches decision on permanent assets forfeiture.
- 2 Permanently forfeited criminal assets shall be managed in accordance with provisions of this Act, unless otherwise established by internationally reached agreement.

6 TRANSITIONAL AND FINAL PROVISIONS

Article 60.

- (1) The Minister of Interior shall harmonize the regulation on internal organization and systematization of positions within the RS Mol with the provisions of this Act within 60 days from the day of this Act entering into force.

- (2) The Minister of Justice shall enact the regulations referred to in Article 36 Paragraph 2 of this Act within 60 days from the day of this Act entering into force.
- (3) The Director of the Agency shall enact the regulation on internal organization and systematization of positions within the Agency within 60 days from the day that this Act entering into force.

Article 61

This Act shall be published in the "Official Gazette of the Republic of Srpska" and enter into force on July 01st 2010.

No: 01-103/10

S P E A K E R
of the NATIONAL ASSEMBLY

Date, 25th January 2010

Igor Radojčić, M. Sc.