



(published in Official Gazette of Brčko district of BiH No. 29/16)

Pursuant to Article 22 of the Brčko District of B&H Statute – consolidated text (Official Gazette of the BD of B&H no. 2/10), the Assembly of the BD B&H on its 80th regular session held on July 27, 2016 adopted

THE LAW ON FORFEITURE OF ILLEGALLY ACQUIRED ASSETS

PART ONE – INITIAL PROVISIONS

Article 1 (Objectives)

This Law shall enact conditions and method for determination and confiscation of assets acquired through committing an offence or illegal activity which bears objective elements of a criminal act (hereinafter: illegally acquired assets), securing of illegally acquired assets, execution of decisions on confiscation of illegally acquired assets and management of illegally acquired assets and assets in the process of determination of legality in the Brčko District of B&H (hereinafter: the District).

Article 2 (Definition of Terms)

Terms used herein shall have the following meanings:

- a) **Assets** shall mean items and rights acquired by a perpetrator of criminal act or related party, and encompass all items and rights which may be objects of its execution, particularly immovable or movable property, claims, business shares, securities, money, works of art, precious metals and gems owned, possessed or controlled by a criminal act perpetrator or related party;
- b) **Illegally acquired assets**, in accordance with this law, shall mean any increase or prevention of decrease of assets originating from criminal activities;
- c) **Owners** shall be considered perpetrators of unlawful acts or parties related with them;
- d) **Related party** shall be considered: an instigator or accomplice in a crime; legal successor of the perpetrator and an accomplice in a crime, or other natural or legal persons for which the Court finds that assets or rights, that are illegally gained assets, have been transferred to and that the transfer has not been done in good faith;
- e) **Third party** shall mean a person who claims that, with respect to assets that are the subject of a legal action in accordance with this Law, has the right to prevent its implementation and require securing or execution to be declared disallowed;
- f) **Competent prosecutor** shall mean a holder of prosecution function in the District Prosecutor's Office;
- g) **Court** shall mean the District Basic Court;
- h) **Security proposer** shall mean the competent prosecutor;
- i) **Security opponent** shall mean the accused and related party;

- j) **Forfeiture** shall mean a temporary or permanent confiscation of illegally acquired assets;
- k) **Office for Public Property Management of the District** (hereinafter: the Office) shall mean a body competent to preserve and manage permanently forfeited assets;
- l) **Permanently forfeited assets** shall mean assets in accordance with final judgment pursuant to the provisions of this law;
- m) **Temporarily forfeited assets** shall mean assets forfeited through imposition of provisional measures under Article 17 of this Law whose preservation and management, in accordance with law, is delegated to the Court;
- n) **Special procedure for forfeiture of illegally acquired** assets shall mean the procedure described in Articles 5, 6 and 7 of this Law and it shall be carried out in exceptional cases prescribed by this Law;
- o) **Parties in the illegally acquired assets forfeiture procedure** shall mean, in procedural situations of conducting a special proceeding, prosecutor and owner under this Law;
- p) Other terms used in this Law are defined in the Law on Criminal Procedure, the Law on Civil Procedure, the Law on Bankruptcy and Law on Enforcement Procedure of the District.

Article 3 (Principles)

- (1) No person shall keep the illegally acquired assets.
- (2) All property which is permanently forfeited under the provisions of this Law shall become the property of the District.
- (3) When acting under the provisions of this Law, the Court and other bodies that apply this Law shall be required, during the entire duration of the procedure of illegally acquired assets forfeiture, to take into account the rights of persons damaged by the offense, and to take care of protection of rights of third parties.
- (4) Provisions of the Law on Criminal Procedure of the District (hereinafter: the Law on Criminal Procedure) and the Criminal Code of the District (hereinafter: the Criminal Code) which pertain to a filed property claim, which excludes illegally acquired assets forfeiture, shall be fully applied when competent institutions act pursuant to this Law.
- (5) Pursuant to this Law actions shall be undertaken on the basis of the Prosecutor's motion.
- (6) In the event that the Prosecutor in the proceedings conducted under this Law does not submit a proposal for forfeiture of illegally acquired property, the Court shall pass an official decision on forfeiture of such property.

Article 4 (Application of Law)

- (1) The provisions of this Law shall be applied to the proceedings of forfeiture of assets illegally acquired through criminal acts prescribed by the Criminal Code for which imprisonment for three years is prescribed as special minimum.
- (2) Provisions of other laws which prescribe establishment, securing, forfeiture, execution of decisions on forfeiture and management of illegally acquired assets shall be applied unless otherwise proved by this Law.

**PART TWO – PROCEDURE FOR FORFEITURE OF ILLEGALLY ACQUIRED ASSETS.
CHAPTER ONE – INITIATING A SPECIAL PROCEDURE FOR FORFEITURE OF
ILLEGALLY ACQUIRED ASSETS**

**Article 5
(Special procedure)**

- (1) Special procedure for forfeiture of illegally acquired assets pursuant to the provisions of this Law shall be conducted when reasonable doubt exists that illegally acquired assets were obtained through a criminal act and conditions for conducting a criminal procedure have not been fulfilled due to the following reasons:
- a) death of the suspect or accused,
 - b) escape of the suspect or accused, and there is a threat of statute of limitation of criminal prosecution; or
 - c) other circumstances which exclude criminal prosecution.
- (2) In cases under paragraph 1 of this Article the prosecutor shall file a request for instituting a special procedure for forfeiture of illegally acquired assets at the competent court.
- (3) The request mentioned under paragraph 2 of this Article shall contain an explanation of existence of procedural obstacles whose nature prevents carrying out of a regular procedure for forfeiture of illegally acquired assets.
- (4) The court competent to try criminal cases through which assets were illegally acquired shall pass a court decision about the request of the prosecutor mentioned under paragraph 2 of this Article.
- (5) The parties shall be entitled to file an appeal against the decision referred to in paragraph 4 of this Article and a court panel of three judges, coming from the same court, shall decide about it.
- (6) After finality of the decision mentioned under paragraph 4 of this Article by which a special procedure for forfeiture of illegally acquired assets was initiated, the prosecutor shall file a proposal for forfeiture of illegally acquired assets to that Court.
- (7) The proposal mentioned under paragraph 6 of this Article shall contain: information about the person from whom illegally acquired assets are forfeited, description and legal definition of the crime, information or description of the property to be forfeited, proof of property subject to confiscation which was acquired by carrying out financial investigations, evidence of lawful incomes of that person, circumstances that indicate obvious disproportion between the assets and incomes of such a person and the reasons justifying the need for forfeiture.
- (8) Proposals filed against related parties shall contain evidence that they inherited the illegally acquired assets, and the proposals filed against the third parties shall contain evidence that the illegally acquired assets were transferred with or without compensation which does not correspond the real value in order to disable forfeiture.
- (9) Unless otherwise prescribed by this Law, during the special procedure described under paragraph 1 of this Article, the Court shall accordingly apply provisions of the Law on Criminal Procedure.
- (10) In case the suspects or accused, who were at large and against whom the special procedure mentioned under paragraph 1 of this Article has been instituted, become accessible before valid termination of the procedure, the Court shall subpoena them in order to be questioned and to present evidence in their favor.

**Article 6
(Hearing Dates)**

- (1) After the decision mentioned under Article 5 paragraph 4 of this Law, in which it has been decided that a special procedure for forfeiture of illegally acquired assets will be

conducted, becomes valid, the Court may upon filing the proposal mentioned under Article 5 paragraph 7 of this Law hold a pretrial hearing in order to consider the issues important for the main hearing for forfeiture of illegally acquired assets pursuant to the provisions of this Law.

(2) At the main hearing of the special procedure the Court shall present evidence and, if necessary, interrogate the related party in order to establish involvement of illegally acquired assets and what makes these assets.

(3) Upon completion of the evidence hearing the Court shall:

a) pass a judgment in which it establishes that illegally acquired assets are involved which were acquired through unlawful acts which contain the legal elements of a crime;

b) determine the composition i.e. the value of illegally acquired assets, namely which items and rights represent the assets illegally acquired through unlawful acts and their monetary equivalent;

c) ensure that such items or rights become the property or assets of the District;

d) order related persons to hand over certain items to the District i.e. to transfer certain rights to the District if they have not already been transferred to the District, or to pay the amount of money that is commensurate with the illegally acquired property within fifteen days from the date of the finality of the judgment;

e) decide that registration of property rights for the benefit of the District in public records or registers kept by the competent authorities is carried out.

(4) The procedure mentioned under paragraphs 1 and 2 of this Article shall be carried out in accordance with the appropriate criminal procedure rules.

(5) If the suspects or accused persons mentioned under paragraph 2 of this Article, i.e. related persons, do not hire defense lawyers themselves, then a court shall appoint them ex officio, i.e. appoint guardian to supervise the assets in case of death of the suspects or accused.

(6) Should the Court not establish that the suspects and accused persons committed an illegal act and acquired assets illegally, or that the illegally acquired assets have been covered by the property claim, the Court shall act in accordance with the provisions from Article 11 paragraphs 2 and 3 of this Law.

(7) Against the judgment referred to in paragraph 3 of this Article, the parties have the right to appeal to the District Court of Appeals.

(8) After the judgment referred to in paragraph 3 of this Article became final, the Court shall submit it to the Office for further proceedings.

Article 7 (Request for Instituting a Special Procedure)

(1) The Prosecutor's request for initiation of a special procedure referred to in Article 5 paragraph 3 of this Law may be filed before the expiration of the limitation period for initiation of criminal procedure, regulated by the provisions of the Criminal Code.

(2) Pursuant to this Law limitation period for submission of request and conducting a procedure cannot begin before the expiry of five years from the date of the offense.

(4) If before the confirmation of the indictment or during the criminal procedure, the procedure gets suspended or terminated due to death or escape of the suspect or accused, and if there is a reasonable doubt that the assets were illegally acquired, a special procedure for forfeiture of such property under this Law will be implemented at the prosecutor's request.

(5) The prosecutor is obliged to submit a request under paragraph 1 of this Article and to collect evidence and examine the circumstances that are important for determining the illegally acquired property.

(6) By submitting a request for initiating a procedure in accordance with this Law the period of limitation is suspended.

CHAPTER TWO - FINANCIAL INVESTIGATION

Article 8 (Order to Institute a Financial Investigation)

- (1) The competent prosecutor may issue an order to conduct a financial investigation, if required for a comprehensive determination of the real origin, value and structure of illegally acquired property.
- (2) Unless otherwise provided by this Law, the provisions of the Criminal Procedure Code, which regulate the conditions and ways of carrying out certain actions which in their purpose and content represent the acts of financial investigations shall be applied.
- (3) All authorities and institutions in the District shall, within their jurisdiction comply with the orders of the prosecutor who issued an order on conducting financial investigations pursuant to the Law.

Article 9 (Results of Investigation)

- (1) The goal of the financial investigation is to collect all pieces of evidence which prove the scope, amount, type, real value and other circumstances related to the legal incomes of the suspect or accused, i.e. related party, their costs of living and realistic possibilities to legally acquire assets for which reasonable doubt exists were illegally acquired.
- (2) Institution which received the prosecutor's order mentioned under Article 8 paragraph 3 shall make a report about the results of conducted measures and actions. All data and information obtained during the financial investigation shall be mentioned in the report, and all the collected evidence, documents, official notes and other materials which can serve as a source of information to the prosecutor shall be attached to the report.
- (3) The report mentioned under paragraph 2 above shall be submitted to the prosecutor, who issued the order mentioned under Article 8 of this Law, not later than three months from the day of submission of the order to take action, providing that the deadline can be prolonged by the prosecutor's order in justified situations, but cannot exceed one year.
- (4) If for the sake of implementation of the order to carry out a financial investigation it is necessary to undertake evidence gathering procedure, appropriate provisions of the Law on Criminal Procedure shall be applied.
- (5) All the pieces of evidence gathered during the financial investigation may be used by the prosecutor during regular or special procedure for forfeiture of illegally acquired assets.
- (6) Prosecutor shall issue an order to suspend the financial investigation in case it is established that there are no sufficient pieces of evidence that the suspect or accused, i.e. related party, acquired assets illegally.
- (7) Against the decision mentioned in this paragraph of this Article it is possible to file a complaint with the prosecutor's office.
- (8) Prosecutor may open another financial investigation in case new facts and circumstances develop and indicate that reasonable doubt exists that the suspect and accused, i.e. related party, acquired assets illegally.
- (9) Prosecutor shall finalize the financial investigation upon establishing that the state of affairs is sufficiently clarified in order to file a proposal for confiscation of illegally acquired assets pursuant to the provisions of this Law.

PART THREE - COURT ACTIONS UNDERTAKEN DURING REGULAR PROCEDURE FOR FORFEITURE OF ILLEGALLY ACQUIRED ASSETS

Article 10 (Court Procedure)

- (1) Illegally acquired assets shall be determined by the Court in its judgment according to which the accused is found guilty.
- (2) The judgment mentioned under paragraph 1 of this Article shall be passed pursuant to the proposal for forfeiture of illegally acquired assets filed by the prosecutor when the indictment was filed.
- (3) The proposal mentioned under paragraph 2 of this Article shall consist of: information about person illegally acquired assets are forfeited from, description and legal title of the criminal act, information or description of property to be forfeited, proofs of property which is subject of forfeiture which were collected during financial investigation, proofs of legal incomes of that person and circumstances which prove the existence of obvious disproportion between property and incomes of that person.
- (4) Proposals against related parties contains proofs that they inherited illegally acquired assets, and proposal against third parties contain evidence that the illegally acquired assets were transferred with or without compensation which does not correspond the actual value with the aim of preventing the forfeiture.
- (5) Proposals against related persons shall contain evidence that they inherited illegally acquired assets, and the Court shall in the judgment mentioned under paragraph 1 of this Article forfeit the illegally acquired assets for which the prosecutor provides enough evidence to reasonably believe was illegally acquired and for which the Prosecutor has not provided evidence it was legally acquired.
- (6) Against the judgment referred to in paragraph 1 of this Article, the parties have the right to appeal to the District Court of Appeals.
- (7) After the judgment under paragraph 1 of this Article becomes final the Court shall submit it to the Office to act accordingly.

Article 11 (Contents of Judgment)

- (1) The Court's judgment which declares the accused guilty shall establish the following, too:
 - a) which items and rights represent the illegally acquired assets and their monetary equivalent,
 - b) that those items and rights become ownership i.e. property of the District,
 - c) that the accused or related parties have to immediately hand over certain items to the District i.e. transfer certain rights if they have not already been transferred to the District, or to pay their value which is commensurate with illegally acquired assets not later than fifteen days for the day of finality of the judgment,
 - d) that registration of property rights in favor of the District is carried out in public books or registers held by the competent authorities.
- (2) If the Court rejects the Prosecutor's motion for forfeiture of illegally acquired assets, the data from the file will be submitted to the Directorate of Finance - District Tax Administration.
- (3) If the defendant is not acquitted, a property claim has been awarded, the appropriate relevant provisions of the Criminal Procedure Code and the Criminal Code shall be applied.

Article 12
(Consequences of Bankruptcy Procedure)

- (1) If legal consequences of instituting a bankruptcy procedure take place that shall not influence the provisions of this Law.
- (2) In case of instituting a bankruptcy procedure the District shall be:
 - a) a creditor with separate satisfaction right in terms of realization of monetary claims from the decisions passed in accordance with the provisions of this Law which were insured in accordance with the provisions of this Law, if that insurance has been determined for items or rights entered into public book or register,
 - b) a creditor with an exclusion right in terms of items which are their property pursuant to the provisions of this Law.

Article 13
(Order to Submit Data)

- (1) During the procedure for forfeiture of illegally acquired assets pursuant to this Law, the Court may order to the state bodies, banks, financial institutions and other legal and private entities to submit data and information necessary for passing decisions in accordance with this Law.
- (2) If necessary, the Court may order the legal and private entities, referred to in paragraph 1 of this Article, to submit reports in relation to establishment of facts necessary to pass decision pursuant to this Law.
- (3) All legal and private entities to which the Court has issued the order, referred to in paragraph 1 of this Article, to act, shall act with particular urgency.
- (4) Failure to execute orders referred to in paragraph 1 of this Article within the set deadline or for incomplete execution of the order, the Court may in its decision punish the legal entity with a fine of up to 200,000 KM, the private entity and responsible person in the legal entity or state authority with a fine of 2,000 KM to 15,000 KM, if the private entity and the responsible person in the legal entity, who is subject to this fine, does not comply with the Court's order, may be sentenced to a maximum of three months in prison until execution of the order.
- (5) The decision referred to in paragraph 5 of this Article may be appealed to the Appellate Court, which does not delay its execution.
- (6) The suspect and accused cannot be punished if they fail to execute the order of the Court referred to in paragraph 1 of this Article.

Article 14
(Decision on Seizure of Items)

- (1) If the Court finds in the course of proceedings conducted under the provisions of this Law that illegally obtained items, which must be forfeited in accordance with the Criminal Code, it shall pass a decision on the forfeiture of these items.
- (2) Unless otherwise prescribed by the Law, the Court, before which the procedure was held, shall pass the solution mentioned under paragraph 1 of this Article, after the proceedings has been completed or suspended.
- (3) A complaint may be filed against the decision mentioned under paragraph 2 of this Article and the decision may be appealed to the Appellate Court.

Article 15
(Unacknowledged Costs)

When passing judgments on forfeiture of illegally acquired assets under this Law, the expenses invested in preparation, committal, complicity or concealment of an offense shall not be recognized as expenses by the Court.

PART FOUR – ENABLING FORFEITURE OF ILLEGALLY ACQUIRED ASSETS

Article 16
(Securing Procedure)

- 1) In accordance with this Law, in the procedure of securing with an interim measure, the existence of a risk that the claims of the District in terms of forfeiture of illegally acquired assets will not be realized is being assumed, or that their realization will be difficult if the interim measure is not determined.
- 2) Security mentioned under paragraph 1 of this Article may be defined before the suspect, accused or related party is given an opportunity to make a statement about the Prosecutor's motion to define security measures.

Article 17
(Securing of Illegally Acquired Assets)

- (1) In order to secure illegally acquired assets the Prosecutor may, during or after finalization of criminal proceeding or in case when conditions for conducting a criminal proceeding have not been met due to the circumstances mentioned under Article 5 paragraph 1 of this Law, propose any security measure
- (2) Securing of illegally acquired assets mentioned under paragraph 1 of this Article may be determined by:
 - a) ban on alienation and encumbrance of real estate or right in rem registered on the real estate, with a ban noted down in land books;
 - b) ban imposed on the suspect, accused or related party to abalienate, conceal, encumber or dispose of movable property, by forfeiture of movable property only in cases where the prevention of abalienation cannot be implemented in any other way (due to lack of registry of the concerned property etc.),
 - c) forfeiture of cash and securities and their handover to a court deposit,
 - d) ban imposed on the person indebted to the suspect, accused or related party to voluntarily fulfill his/her obligation, and ban imposed on the suspect, accused or related party to agree to fulfill those obligations, i.e. to dispose with their claims,
 - e) order to the bank or other legal entity to deny the suspect, accused or related party to pay out funds, the value of which is determined by an interim measure, from their account on the basis of their instruction,
 - f) ban on abalienation or encumbrance of shares, securities, investment fund units, interest or participating interest with noting down ban at the District Commission for securities, Register of companies, ban on use or disposal of rights arising from such shares, securities, investment fund units, interest or participating interest, setting an interim administration in the company,
 - g) ban on the debtor of the suspect, accused or a related entity to hand them over items, transfer rights or carry out other financial transactions.

- (3) The Prosecutor's motion for ordering the temporary measures referred to in paragraph 1 of this Article shall be decided by decision of the District Basic Court which would be competent for trial in criminal proceedings for the criminal offense from which the assets, which is subject to insurance, is illegally acquired.
- (4) The decision referred to in paragraph 3 of this Article shall also include the period for which a provisional measure is determined, after which the Court, depending on the outcome of criminal proceedings for the confiscation of illegally acquired assets, shall issue a decision on extension of temporary measures or a decision on termination of temporary measures.
- (5) The decision to determine the security measures till the issuance of indictment by the judge for preliminary proceedings, after issuance of indictment till its confirmation the preliminary hearing judge, and after an indictment is confirmed, a single judge or a panel of the Criminal Division of the Court in accordance with the Law on Criminal Procedure, at the latest within seven working days from the date of submission of the proposal of the Prosecutor under paragraph 1 of this Article.
- (6) When it comes to a motion for securing the confiscation of illegally acquired assets to be submitted in a separate procedure under Article 5 of this law, it is decided by the Municipal Court of District.
- (7) The decision referred to in paragraph 4 of this Article may be appealed to the Appellate Court within three days of its delivery, provided that the appeal does not stay the execution of the decision.
- (8) Execution of the decision referred to in paragraph 3 of this Article shall be carried out by the responsible authority of the Court or other authority provided by law.
- (9) The decision referred to in paragraph 3 of this Article shall be submitted immediately to the competent authority of the Court or other authority responsible for its execution, and not later than the next working day after the date of issuance.
- (10) The procedure for implementation of the decision referred to in paragraph 3 of this Article shall be considered urgent.

Article 18 (Temporary measures)

- (1) If it is necessary to enter a temporary measure into public books, public registers or registers, the Court's decision shall include an order for registration of temporary measures in the public books, public records or registers.
- (2) If it is necessary to remove a temporary measure from the public books, public registers or registers, the court's decision will include orders for deleting temporary measures in the public record, public registries or registries.
- (3) In the procedure referred to in paragraphs 1 and 2 of this article a fee shall not be charged, except in cases where the registration and deletion of a temporary measure is done in the registry, for which, from the funds collected from the sale of forfeited assets under the provisions of this law, a compensation determined by separate regulations is paid.

Article 19 (Legal Effects of Opponent's Legal Affair)

Legal affair by which opponent of security dispose of things or right that is the subject of security, after registration of temporary measure in a public book or register, has no legal effect.

Article 20
(Abolition of Temporary Measure)

- (1) If the proposal referred to in Article 17 paragraph 1 is submitted in cases where conditions have not been met for the criminal proceedings because of the circumstances referred to in Article 5 paragraph 1 of this law, security by temporary measure shall be terminated if, within two years from the date on which this measure is determined, hearing to decide on property claims is not determined or a request under Article 5 paragraph 2 of this law submitted.
- (2) Temporary measures may be abolished or replaced by another before the expiration of the period for which it is prescribed, or before the deadline referred to in paragraph 1 of this Article, if the Court at the proposal of the security opponent, determines that it is not necessary or that the security can be achieved by other temporary measure and if the security opponent or third party deposit a guarantee.
- (3) The guarantee referred to in paragraph 2 of this Article shall always be given in cash, especially in items or rights which, in the opinion of the Court, may be cashed in the short term.
- (4) If a temporary measure is determined by the time that is shorter than the period specified in paragraph 1 of this Article, the security proposer may propose to extend the duration of the temporary measure.
- (5) Provisions of Article 17 of this Law shall be applied appropriately to the process of abolition, extension, replacement or determining additional temporary measure.

Article 21
(Duration of Security Through Temporary Measures)

- (1) The security through temporary measure may not exceed sixty (60) days after the Court delivers notification to the security proposer, which the judgment under articles 6, 10 and 11 of this law entered into force.
- (2) If the judgment from articles 6, 10 and 11 of this law is contested by the appeal, the period referred to in paragraph 1 of this Article shall run from the date on which the security proposer gained the security decision of the Appeals Court, which confirmed it.

Article 22
(Liability for Damage)

- (1) District shall be liable for damage resulted from temporary measure due to security of forfeiture of the illegally acquired assets.
- (2) The security opponent may initiate civil proceedings for damage before the competent court within one year from the final judgment by which the accused is acquitted or the charge or the proposal for reaching judgment under Article 6 of this Law is rejected.
- (3) In the case referred to in paragraph 1 of this Article security opponent may initiate civil proceedings within 30 days from the day of rejection of the request for mediation.

CHAPTER V PROTECTION OF THE THIRD PARTY RIGHTS AND EXECUTION

Article 23
(Complaint)

- (1) A third party has the right to lodge a complaint till the decision on the execution and seek to revoke the temporary measure.

- (2) The Court who brought decision on securing through temporary measure shall decide on a complaint referred to in paragraph 1 of this Article.
- (3) The decision referred to in paragraph 2 of this Article may be appealed to the Appellate Court within 3 days of its submission, provided that the appeal does not stay the execution of a securing determined under this Law.
- (4) If third parties prove their right by a public document or the existence of that right may be determined on the basis of rules on legal requirements, the appeal stays enforcement of the decision on the security of temporary measure.

Article 24
(Enforcement proceedings)

- (1) If this Law does not provide otherwise, execution due to forfeiture of the illegally acquired assets shall be determined and carried out at the proposal of the District Public Defender, in accordance with the Law on Execution Procedure of District.
- (2) The District Basic Court, which rendered the judgment under articles 6 and 10 hereof, shall be competent for making decision on the basis of the judgment by which illegally acquired assets are forfeited and for making other decisions in that procedure.
- (3) Court shall be competent to carry out the enforcement on the basis of decision referred to in paragraph 2 of this Article.

PART THREE – FORFEITED ASSETS MANAGEMENT
CHAPTER I. COMPETENCE OF THE OFFICE

Article 25
(Competence)

- (1) Keeping and managing the forfeited assets, which is defined by the final court decision as assets of the District, shall be entrusted to the Office in accordance with this Law. The Office shall be responsible for:
 - a) managing the permanently forfeited assets in accordance of the provisions of this as well as other laws,
 - b) carrying out other activities prescribed by this Law.
- (2) The Office does not have operational competence for conducting financial investigations and forfeiture of the illegally acquired assets.

Article 26
(Types of Activities Performed by the Office)

Office in the exercise of its competence, shall:

- a) store, keep, vend, lease the permanently confiscate assets, and if there is a justified need these assets may be entrusted by the Office to another institution to guard them, which will enter into separate contract, upon agreement with the Mayor;
- b) entrust the expert assessment of the value of the permanently confiscated assets to the District Directorate of Finance, other body or professional person under this and other laws;
- c) keep records of its assets and manage them, as well as judicial proceedings in deciding on such property;
- d) collect data from relevant institutions, statistical reports and other information from the final completed procedures for the confiscation of illegally acquired assets in accordance with this Law, with the aim of processing and analyzing of these data

- and information, identifying trends of committing crimes from which material gain is obtained;
- e) collect information from court registers, tax administration, the register of securities and other public registers relating to ownership of the assets;
 - f) perform analysis and risk assessment to identify the factors and conditions that are conducive to obtaining illegally acquired assets;
 - g) publish regular and annual reports on the state of forfeiture of the illegally acquired assets, and submit them to the Government and the District Assembly;
 - h) notify the Government and the Assembly on the results of analyzes in the field of law enforcement or other regulations on financial investigations and the forfeiture of the illegally acquired assets;
 - i) initiate and make recommendations for improvement of legislation in the field of financial investigations and forfeiture of the illegally acquired assets;
 - j) constitute a draft strategy for the forfeiture of illegally acquired assets of the District and action plan for its enforcement and submit it to the Government and the District Assembly for adoption;
 - k) coordinate and monitor the implementation of strategy for the forfeiture of illegally acquired assets of the District and the action plan and provide opinions and recommendations for their effective implementation;
 - l) in cooperation with other relevant institutions involved in the training of civil and police officers and judicial office holders in connection with financial investigations and forfeiture of the illegally acquired assets.

CHAPTER II. FORFEITED PROPERTY MANAGEMENT

Article 27 (Sale of Forfeited Assets)

- (1) Sale of assets, which according to this law are managed and disposed of by the Office, shall be conducted through a public auction to be published in the Official Gazette of the Brcko District of Bosnia and Herzegovina and in at least three daily newspapers that are distributed throughout Bosnia and Herzegovina.
- (2) The assets shall be sold at the same or higher price than the appraised value set by the Office.
- (3) The District Government shall, at the proposal of the District Directorate of Finance, adopt a special regulation to prescribe the criteria for assessing assets values.
- (4) In the event that the assets are not sold after a public tender, the sale may be carried out on the second public auction, but for a price that may not be lower than 50% of the appraised assets.
- (5) If within one year the assets are not sold, assets may be donated or destroyed.
- (6) The decision to present the assets and the decision on destruction of assets referred to in paragraph 1 of this Article shall be issued by the District Government at the proposal of the Director of the Office, and the costs of destruction of assets shall be born by the Office.
- (7) Sale of shares and other securities shall be made in accordance with the laws governing the securities market.
- (8) The District Government will, at the proposal of the District Directorate of Finance, prescribe the procedure for the sale, lease, storage and maintenance of seized assets by special regulations.

Article 28
(Selling Without a Public Tender)

- (1) The Office may, without prior publication of a public tender, make a decision on the sale of forfeited tangible assets:
 - a) if their keeping is dangerous or
 - b) if in case of immediate danger of their deterioration or substantial loss of value or
 - c) if the ownership may not be reliably determined.
- (2) The Mayor of the District at the proposal of the Director of the Office may decide to present or rent the forfeited assets to the appropriate entities working in the public interest, and in accordance with their intended purpose.
- (3) The sale of the temporary forfeited tangible assets referred to in paragraph 1 of this Article shall be decided by the Court.

Article 29
(Funds Obtained by Selling)

- (1) In the case of the temporary forfeited assets, funds obtained from the sale of assets under Article 28 Paragraph 1 of this Act shall be kept in the court deposit until the final decision of the Court on its origin.
- (2) The funds obtained from the sale of the temporary forfeited assets, where it is established in accordance with this Law that they do not have criminal origin, shall be immediately returned to the owner, with accrued interest on demand.
- (3) The owner, who believes that by payment of the funds from the previous paragraph adequate value of assets is not paid out, may initiate civil proceedings for damages in accordance with Article 22 of this Law.

Article 30
(Art Objects)

Paintings, artifacts and other objects of cultural and historical significance permanently forfeited in accordance with this Law may be ceded to the keeping or use by art galleries, museums and cultural institutions on a decision of the District Government, at the proposal of the Office for public property management.

Article 31
(Sales Revenue)

Revenues derived from the sale of forfeited assets shall be paid to the budget account the District.

Article 32
(Cooperation with Other Authorities)

- (1) In its work the Office will pursue necessary cooperation with the competent authorities in Bosnia and Herzegovina in the procedures for international legal assistance with a view to forfeiture of the illegally acquired assets.
- (2) The decisions of the competent authorities in Bosnia and Herzegovina, adopted on the basis of the Law on international legal assistance in criminal matters, ordering the temporary forfeiture of items or material gain and their handover to foreign judicial authorities, if necessary, shall be submitted optionally to the Office for execution.

- (3) The provision of paragraph 2 of this Article shall be properly applied to decisions of the competent authorities in Bosnia and Herzegovina by which foreign judgments are recognized and enforced, if these decisions contain a measure of forfeiture of the illegally acquired assets.

PART FOUR – TRANSITIONAL AND FINAL PROVISIONS

Article 33 (Application of the Law)

- (1) Procedures in the cases of forfeiture of the illegally acquired assets, in which up to the date of the beginning of application of this Law first instance decision was made, will be continued under the provisions of the regulations that were in force at the time of institution of these proceedings.
- (2) If on the day of application of this law decision on the forfeiture of illegally acquired assets was not made, or if the first instance decision referred to in paragraph 1 of this Article was abolished and the case was sent to the first instance court for retrial, provisions of this Law shall be applied.

Article 34 (Enforcement of Final Decision)

The enforcement of final decisions on the forfeiture of illegally acquired assets based on the regulations that were in force prior to the implementation of this law shall be carried out according to the regulations that were in force prior to the beginning of the implementation.

Article 35 (Adoption of Bylaws)

- (1) The Office for Public Property Management shall, till the day of application of this Law, provide personnel and organizational prerequisites for assuming the tasks of the Office defined by this Law.
- (2) The Judicial Commission shall, till the day of application of this Law, provide personnel and organizational conditions for the keeping and management of the temporary forfeited assets stipulated by this Law.
- (3) The District Government shall, within 90 days from the date of entry into force of this Law, adopt bylaws necessary for the implementation of this Law.

Article 36 (Entry into Force)

This Law shall enter into force eight days after its publication in the Official Gazette of the Brčko District of B&H, and its application will start on January 1, 2017.

Vol: 01-02-692/16

Brčko

July 27, 2016

BRČKO DISTRICT OF B&H
ASSEMBLY SPEAKER
Đorđa Kojić

