

REPUBLIC OF SERBIA

**LAW
ON CONFISCATION OF PROPERTY
DERIVED FROM CRIMINAL
ACTIVITY**

Belgrade, 2019

LAW ON CONFISCATION OF PROPERTY DERIVED FROM CRIMINAL ACTIVITY

Note: This is a true translation of the original Law,
but it is not legally binding.

Original title:

ZAKON O ODUZIMANJU IMOVINE PROISTEKLE IZ KRIVIČNOG DELA

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LAW ON CONFISCATION OF PROPERTY DERIVED FROM CRIMINAL ACTIVITY *

I BASIC PROVISIONS

Article 1

This Law shall regulate the conditions, procedure and authorities in charge of detection, confiscation and management of the property of natural and legal persons from criminal activities.

Article 2

The provisions of this Law shall apply to the following criminal acts:

- 1) organised crime;
 - 1a) aggravated murder (Article 114, *paragraph 1*, * items 4) and 5) of the Criminal Code);
 - 2) abduction (Article 134 of the Criminal Code);
 - 3) showing, procuring and possession of pornographic materials and abuse of minors for pornography (Article 185, paragraphs 2 and 3 of the Criminal Code);
 - 3a) against intellectual property (Article 199, paragraph 3 and Article 201, paragraph 2 of the Criminal Code);
 - 4) against property (Article 204, paragraph 4, Article 205, paragraphs 2 and 3, Article 206, paragraph 2, Article 208, paragraph 4, * Article 208b, paragraph 3, Article 214, paragraphs 3 and 4 and Article 217, paragraph 3 of the Criminal Code);
 - 5) *against economy (Article 223 paragraph 3, Article 223a paragraph 4, Article 224 paragraph 3, Article 224a paragraph 3, Article 225 paras. 2 and 3, Article 227 paragraph 3, Article 228 paragraph 3, Article 228a paragraph 3, Art. 230. through 233, Article 235 paragraph 4, Article 236 paragraph 2, Article 238 paragraph 3, Article 241 paragraph 3, Article 242 paragraph 2, Article 243 paragraph 3, Article 244 paragraph 2, Article 244b and Article 245 paras. 2 through 4 of the Criminal Code);**
 - 6) unauthorised production, keeping and placing on the market of narcotics (Article 246, *paragraphs 1 through 4* * of the Criminal Code);

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7) against public order and peace (Article 348, paragraph 3 and Article 350, paragraphs 2 and 3 of the Criminal Code);

8) against official duty (Article 359, paragraph 3, Article 363, paragraph 3, Article 364, paragraph 3, Article 366, paragraph 5, Article 367, paragraphs 1 through 3 and paragraphs 5 and 6 and Article 368, paragraphs 1 through 3 and paragraph 5 of the Criminal Code);

9) against humanity and other resources protected by international law (Article 372, paragraph 1, Article 377, Article 378, paragraph 3, Article 379, paragraph 3, Articles 388 through 390 and Article 393 of the Criminal Code).

The provisions of this Law shall apply to cases of criminal acts referred to in *Article 114, paragraph 1, items 4) and 5),** Article 134, Article 185, paragraphs 2 and 3, Article 199, paragraph 3, Article 201, paragraph 2, Article 205, paragraph 3, Article 206, paragraph 2, Article 214, paragraph 4, Article 217, paragraph 3, *Article 228 paragraph 3, Art. 230 through 233, Article 235 paragraph 4, Article 236 paragraph 2, Article 238 paragraph 3, Article 244b, Article 245 paras. 3 and 4,** Article 348, paragraph 3, Article 350, paragraphs 2 and 3, Article 366, paragraph 5, Article 367, paragraphs 1 through 3 and paragraphs 5 and 6, Article 368, paragraphs 1 through 3 and paragraph 5, Article 372, paragraph 1, Article 377, Article 378, paragraph 3, Articles 388 through 390 and Article 393 of the Criminal Code where the material gain acquired through a criminal act, i.e. the value of the object of a criminal act exceeds the amount of one million and five hundred thousand dinars.

Article 3

Individual terms used in this Law shall have the following meanings:

1) property shall be considered to include the assets of all types in the Republic of Serbia or abroad, either material or non-material, movable or immovable, evaluable or of invaluable great value, shares in a legal entity and documents of any form whereby the title or interest relating to such assets is proven. Property shall also be considered to include income or other gain realised, either directly or indirectly, from a criminal act, as well as the assets in which it has been transformed or with which it has been mixed;

2) property derived from a criminal activity shall be considered to be the property of an owner that is obviously disproportionate to his/her legitimate income;

3) confiscation shall be considered to be temporary or permanent confiscation of the property derived from a criminal activity from its owner;

4) owner shall be considered to be the accused, the accused associate, a testator, a legal successor or a third person;

5) the accused shall be considered to be the suspect, a person against whom criminal proceedings are instituted or a person convicted for a criminal act referred to in Article 2 of this Law;

6) accused associate shall be considered to be a witness collaborator, accused associate and convicted associate;

7) testator shall be considered to be the person against whom criminal proceedings are not instituted or alternatively are suspended due to his/her death, and where it has been determined in the criminal proceedings against other persons that he/she committed a criminal act referred to in Article 2 of this Law jointly with such persons;

8) third party shall be considered to be a natural or legal person to whom the property derived from a criminal activity has been transferred;

9) legal successor shall be considered to be an inheritor of the convicted person, witness collaborator, testator, a third party or of their inheritors.

* Published in the *Službeni glasnik RS*, No. 35/19 of 21 May 2019.

Article 4

Parties in the procedure of confiscation of the property derived from a criminal activity shall be the public prosecutor and the owner.

In the procedure referred to in paragraph 1 of this Article, the evidence collected in the criminal proceedings may be used as well.

Where the confiscation of the property derived from a criminal activity is not possible, other property that is corresponding to the value of the property derived from a criminal activity shall be confiscated.

Unless prescribed otherwise by the provisions of this Law, the Code of Criminal Procedure shall apply *mutatis mutandis*.

II COMPETENT AUTHORITIES

Article 5

The authorities competent for detecting, confiscation and management of the property derived from a criminal activity shall be the public prosecutor, the court, the organisational unit of the Ministry of Interior in charge of financial investigation and the Directorate for Confiscated Property Management.

The competence of the public prosecutor and the court in the procedure referred to in paragraph 1 of this Article shall be determined in accordance with the court jurisdiction for the criminal activity from which the property is derived.

a) Organisational Unit in Charge of Financial Investigation

Article 6

The organisational unit in charge of financial investigation (hereinafter: the Unit) shall be the specialised organisational unit of the Ministry of Interior that detects the property derived from a criminal activity and conducts other tasks, in compliance with this Law.

Within the Unit, an Office for the restitution of property shall be established that shall process the applications received and sent within the international cooperation, for the detection and identification of the property derived from a criminal activity, with a view to the temporary or permanent confiscation thereof.

The Unit shall perform the tasks referred to in paragraph 1 of this Article *ex officio* or upon a decision of the public prosecutor or a court.

Article 7

State and other authorities, organisations and public services shall be obliged to deliver the required information to the Unit without any delay.

b) Directorate for Confiscated Property Management

Article 8

The Directorate for Confiscated Property Management (hereinafter: the Directorate) shall be an authority within the Ministry of Justice that performs the tasks prescribed by this Law.

The Directorate shall perform the tasks within its scope of competencies *ex officio* or upon a decision of the public prosecutor or a court.

State and other authorities, organisations and public services shall be obliged to act in compliance with the request of the Directorate without any delay.

Article 9

The Directorate shall:

1) manage the temporarily and permanently confiscated property derived from a criminal activity, property that is temporarily confiscated upon the order of the public prosecutor (Article 24), objects of the criminal act (Article 87 of the Criminal Code), material gain acquired through a criminal activity (Articles 91 and 92 of the Criminal Code), property provided as guarantee in the criminal proceedings and temporarily confiscated objects in the criminal proceedings, as well as property the disposal of which is restricted in compliance with the decisions of the United Nations and other international organisations of which the Republic of Serbia is a member;

2) conduct assessment of the value of the confiscated property derived from a criminal activity;

3) store, safeguard and sell the temporarily confiscated property derived from a criminal activity and manage the proceeds thus obtained in compliance with the law;

4) maintain records on the property managed and on the court proceedings in which decisions were made on the confiscation of property derived from a criminal activity;

5) participate in the provision of international legal assistance and manage the property derived from a criminal activity confiscated on the basis of a decision of a foreign authority;

6) participate in the training of civil servants relating to the confiscation of property derived from a criminal activity;

7) perform other tasks in compliance with the law.

The Directorate shall also perform the tasks referred to in paragraph 1 of this Article in relation to the material gain derived from an economic offence, i.e. a minor offence, in compliance with the law.

Article 10

The Directorate shall have the capacity of a legal person.

The seat of the Directorate shall be in Belgrade.

The Directorate may have separate organisational units outside its seat.

Article 11

The Directorate shall be managed by the Director, who shall be appointed and removed from the office by the Government, at the proposal of the Minister in charge of judiciary.

A person complying with the general conditions for work in the public administration authorities, holding a university degree in law or economics and has the minimum of nine years of professional experience may be appointed Director.

The Director shall have the status of a civil servant in compliance with the regulations governing civil servants.

The Director may not be a member of any body of a political party.

The provisions of the regulations governing the issues of conflict of interests shall apply to the Director.

The Director shall answer for his/her work and for the operations of the Directorate to the Minister in charge of judiciary.

Article 12

The regulations on public administration shall apply to the operations, internal organisation and job classification in the Directorate, whereas the regulations on general administrative procedure shall apply to decision-making in administrative matters.

The regulations on civil servants and appointees shall apply to the rights and obligations of the Directorate employees.

Article 13

The Director and the Directorate employees working on the enforcement tasks shall have the official badge and identification document, the contents and appearance of which shall be prescribed by the Minister in charge of judiciary.

Article 14

The funds for the operations of the Directorate shall be provided for in the budget of the Republic of Serbia and from other sources, in compliance with the law.

Article 15

Supervision of the operations of the Directorate shall be conducted by the Ministry in charge of judiciary.

III PROCEDURE

Article 16

In the procedure of confiscation of the property derived from a criminal activity, the competent authorities shall be obliged to take into account the honour and dignity of the owner.

Article 16a

Where the police files criminal charges to the public prosecutor for a criminal activity referred to in Article 2 of this Law, it shall be obliged to additionally deliver information on the property of the suspect and a third party collected in the pre-investigation procedure.

a) Financial Investigation

Article 17

A financial investigation shall be instituted against the owner where there are reasonable grounds for suspicion that he/she owns significant property derived from a criminal activity.

Evidence on the property, legitimate income, lifestyle and costs of life of the accused, accused associate or a testator, evidence of the property inherited by the legal successor, i.e. evidence of the property and fee for which the property has been transferred to a third party shall be collected during financial investigation.

For the purpose of conducting a financial investigation, the Unit may hire an expert person, employees with a state authority or an institution, with a view to providing expert assistance.

Article 18

Authorities and persons participating in a financial investigation shall be obliged to act in an urgent manner.

Information relating to the financial investigation shall be confidential and shall be secret information designated in compliance with the law regulating secrecy of information.

In addition to the officials, the information referred to in paragraph 2 of this Article may not be disclosed by any other person to whom such information has become available. The official shall be obliged to inform the other person that such information is secret information.

Article 19

A financial investigation shall be instituted upon an order of the public prosecutor.

The financial investigation shall be managed by the public prosecutor.

The Unit shall collect the evidence referred to in Article 17, paragraph 2 of this Law at the request of the public prosecutor or *ex officio*.

Article 20

A search of the apartment and other premises of the owner or other persons shall be undertaken based on the decision of the court of relevant jurisdiction, where it is probable that the evidence referred to in Article 17, paragraph 2 of this Law will be found.

A search of the owner or other persons shall be undertaken where it is probable that the evidence referred to in paragraph 1 of this Article will be found.

Article 21

Objects, records, documents and information that may serve as evidence referred to in Article 17, paragraph 2 of this Law shall be confiscated temporarily.

State and other authorities, organisations and public services shall be obliged to provide inspection, access to and downloading of data from their electronic databases for the Unit, as well as inspection and delivery of records, documents, information and other objects referred to in paragraph 1 of this Article.

Inspection and delivery of the objects, records, documents and information referred to in paragraph 2 of this Article may not be denied by invoking the obligation of secrecy.

At the request of the Unit, the natural and legal persons holding documents and evidence of the sources of income and property on any grounds whatsoever, shall be obliged to surrender them without delay, where it is probable that, based on them, the property derived from a criminal activity may be identified.

Article 22

The public prosecutor may order a banking or other financial organisation to provide the Unit with information on the balances in the business and personal accounts and safety deposit boxes of the owners.

By means of the order referred to in paragraph 1 of this Article, the public prosecutor shall order the Unit to perform automatic processing of data on the statements in the business and personal accounts and safety deposit boxes of the owners.

b) Temporary Confiscation of Property

Article 23

Where there is probability that confiscation of the property derived from a criminal activity would be made difficult or impossible at a later time, the public prosecutor shall file a motion for temporary confiscation of property.

The motion referred to in paragraph 1 of this Article shall include information on the owner, the legal name of the criminal activity, designation of the property that should be confiscated, evidence on the property, circumstances giving rise to reasonable doubt that the property has been derived from a criminal activity and reasons justifying the need for the temporary confiscation of property.

The motion referred to in paragraph 1 of this Article shall be delivered without delay to the owner with the instruction that a reply to the motion may be delivered to the court within 15 days enclosed with proof of the manner in which the property has been acquired.

Depending on the stage of the procedure, a judge for the preliminary proceedings, i.e. president of the council before which the main hearing is to be held shall decide on the motion referred to in paragraph 1 of this Article.

Article 24

Where there is a probability that the owner will dispose of the property derived from a criminal activity prior to passing of a decision by the court on the motion referred to in Article 23, paragraph 1 of this Law, the public prosecutor shall issue an order on prohibition of disposal of property and on temporary confiscation of movable property.

The measure referred to in paragraph 1 of this Article shall be in force until the court decision on the public prosecutor's motion is passed, and three months from the date of order passing at the maximum.

The order referred to in paragraph 1 of this Article shall be executed by the Unit.

The order on prohibition of disposal of immovable property shall be entered in the records of immovable property immediately upon receipt of the motion.

The order referred to in paragraph 1 of this Article shall be immediately delivered to the banks and other financial organisations with which the owner's financial means and securities are deposited.

The temporarily confiscated movable objects shall be entrusted for management to the Directorate, based on the order of the public prosecutor.

Article 25

The court shall, immediately upon receipt of the owner's reply to the motion referred to in Article 23, paragraph 1 of this Law, i.e. upon expiry of the time limit for the provision of reply, and within eight days at the latest, decide on the motion for temporary confiscation of property by means of an order.

The court shall impose temporary confiscation of property by means of an order where the following conditions are fulfilled:

- 1) there are reasonable grounds for suspicion that a natural or legal person has committed a criminal act referred to in Article 2 of this Law;
- 2) there are reasonable grounds for suspicion that the owner's property has been derived from a criminal activity;
- 3) the value of the property referred to in item 2) of this paragraph exceeds the amount of one million and five hundred thousand dinars;

4) there are reasons justifying the need for the temporary confiscation (Article 23, paragraph 1).

Where the conditions referred to in paragraph 2 of this Article have not been fulfilled, the court shall reject the motion filed by the public prosecutor by means of an order.

Article 26

The order on temporary confiscation of the property derived from a criminal activity shall include information on the owner, the legal name of the criminal act, information on the type and value of the property to be confiscated, the circumstances from which a reasonable doubt that the property has been derived from a criminal activity ensues, the reasons justifying the need for temporary confiscation of property, duration of confiscation and instruction on the right to objection against the order.

In the order referred to in paragraph 1 of this Article, the court may order that the temporary confiscation shall not pertain to the property that needs to be exempt by applying the rules of protection of a conscientious acquirer, and a part of the temporarily confiscated property may be left for use to the owner where the confiscation thereof would bring into question the maintenance of the owner or persons that he/she is legally obliged to support.

The court may not temporarily confiscate the property that is exempt from enforcement in compliance with the law regulating enforcement and security.

Article 27

The order referred to in Article 26, paragraph 1 of this Law shall be delivered by the court to the owner, his/her defender, i.e. attorney, public prosecutor, the Unit, Directorate and bank or another organisation in charge of payment transactions.

The order referred to in Article 25, paragraph 3 of this Law shall be delivered by the court to the public prosecutor, the Unit, the owner and his/her defender, i.e. attorney.

Article 28

On the opening date of the bankruptcy procedure for a legal entity for which an order on temporary confiscation of property referred to in Article 25, paragraph 2 of this Law has been issued, the value of the property derived from a criminal activity shall be considered to be the due amount on which the right to excluding settlement is instituted for the benefit of the Directorate.

Where an annotation on temporary confiscation is made in the business register, the authority maintaining the register shall be obliged, in case where the liquidation procedure has been initiated, to notify the Directorate of such a fact, as well as to deliver information on liquidation administrator.

Article 29

An appeal may be filed against the order referred to in Article 25 of this Law within eight days from the order delivery date.

Filing of an appeal shall not have a suspensory effect on the enforcement of the order referred to in Article 25, paragraph 2 of this Law.

With the appeal against the order referred to in Article 25, paragraph 2 of this Law, the owner may deliver proof of legitimate origin of the temporary confiscated property.

The competent second instance court shall decide on the appeal against the order referred to in Article 25 of this Law.

Article 30

The court shall schedule a hearing to decide on the appeal against the order referred to in Article 25 of this Law, to which the owner, his/her defender or attorney and the public prosecutor shall be summoned.

The summons and the appeal of the opposite party shall be delivered to the known address, i.e. seat of the person referred to in paragraph 1 of this Article with a warning that the hearing will take place even in the case of their failure to appear.

Article 31

The hearing referred to in Article 30, paragraph 1 of this Law shall take place within 15 days from the appeal filing date at the latest. A failure to appear by the duly notified parties shall not have a suspensory effect on the hearing.

An initiated hearing referred to in paragraph 1 of this Article shall be completed, as a rule, without intermissions or adjournments.

Article 32

The court shall dismiss the appeal if it is untimely, incomplete or presented by an unauthorised person.

The court shall dismiss the appeal by means of an order if it finds that it is ungrounded.

The court shall grant the appeal of the owner by means of an order or revoke the temporary confiscation of the property derived from a criminal activity in its entirety or in a part thereof, where:

- 1) there is no probability that the permanent confiscation of property will be prevented or made difficult;
- 2) there is no sufficient evidence on the grounds for suspicion that the temporarily confiscated property is derived from a criminal activity;
- 3) the owner has proven that he/she is not the owner of the entire or a part of the temporarily confiscated property;
- 4) the value of the property derived from a criminal activity does not exceed the amount of one million and five hundred thousand dinars.

The court shall grant the appeal of the public prosecutor by means of an order and impose temporary confiscation of the property derived from a criminal activity in its entirety or in a part thereof, where it has found that the conditions referred to in Article 25, paragraph 2 of this Law have been fulfilled.

The court shall pass a decision on the appeal within eight days from the conclusion date of the hearing referred to in Article 30, paragraph 1 of this Law.

Article 33

Where in the same case the order has already been revoked once, the court of second instance shall, in the meeting of the council or following the hearing, pass a decision, and the rebutted order may not be revoked or remanded for reconsideration to the court of first instance.

Article 34

The temporary confiscation of the property derived from a criminal activity shall cease where:

- 1) the public prosecutor does not file a motion for permanent confiscation within the time limit referred to in Article 38, paragraph 1 of this Law;

2) it is finally revoked prior to expiry of the time limit referred to in item 1) of this paragraph;

3) it is replaced by the measure of prohibition of disposal of the temporarily confiscated property.

The temporary confiscation of the property derived from a criminal activity shall continue until the court decides on the motion for permanent confiscation of the property at the maximum.

Until the filing of a motion for permanent confiscation of property, the court shall, at least once a year, ex officio review the decision on temporary confiscation of the property derived from a criminal activity and in justified cases it may revoke such a decision or replace it by the measure imposing prohibition of disposal of the temporarily confiscated property.

In case that the management of the temporarily confiscated property has been made difficult or that it incurs disproportionately high costs, the court may, at the duly justified motion of the Directorate, review the decision on temporary confiscation of the property derived from a criminal activity and replace it by the measure of prohibition of disposal of the temporarily confiscated property.

The supervision of the implementation of the measure of prohibition of disposal of the temporarily confiscated property shall be conducted by the Unit.

Article 35

The order on revoking of the temporary confiscation of property referred to in Article 34, paragraph 3 of this Law shall be passed by the judge for the preliminary proceedings, i.e. by the president of the council before which the main hearing of arguments is conducted where there are new circumstances indicating that further application of temporary confiscation of property is not justified.

The order on the measure imposing prohibition of disposal of the temporarily confiscated property referred to in Article 34, paragraph 3 of this Law shall be passed by the court where there are new circumstances indicating that such measure may also ensure permanent confiscation of property.

The order on the measure imposing prohibition of disposal of the temporarily confiscated property referred to in Article 34, paragraph 4 of this Law shall be passed by the court if it determines that the motion of the Directorate is justified and that such measure may ensure permanent confiscation of property.

Prior to passing of the order referred to in paragraphs 1 through 3 of this Article, the court may schedule a hearing in order to review the decision on imposition of temporary confiscation of the property derived from a criminal activity.

The persons referred to in Article 30, paragraph 1 of this Law, as well as a representative of the Directorate shall be summoned to appear in the hearing referred to in paragraph 4 of this Article. A failure to appear by the duly summoned persons shall not have a suspensory effect on the hearing.

Article 36

No appeal shall be permitted against the order on overruling or rejection of a motion of the Directorate for a review of the decision on temporary confiscation of the property derived from a criminal activity.

The Directorate may not file a new motion on the grounds of the same facts.

Article 37

An appeal may be filed against the order referred to in Article 35, paragraphs 1 through 3 of this Law within three days from the order delivery date.

The extra-procedural council shall decide on the appeal referred to in paragraph 1 of this Article.

The provisions of Articles 32 and 33 of this Law shall apply *mutatis mutandis* on deliberation on the appeal referred to in paragraph 1 of this Article.

c) Permanent Confiscation of Property

Article 38

The public prosecutor shall file a motion for permanent confiscation of the property derived from a criminal activity within six months from the date of delivery of the final judgement whereby it has been determined that a criminal act referred to in Article 2 of this Law has been committed.

The motion referred to in paragraph 1 of this Article shall include:

- 1) final judgement;
- 2) information on the accused, i.e. on the accused associate;
- 3) legal name of the criminal act;
- 4) designation of the property that is to be confiscated;
- 5) evidence on the property that the accused, i.e. the accused associate owns or owned and on the legitimate income;
- 6) circumstances indicating that the property has been derived from a criminal activity, i.e. circumstances indicative of an obvious disproportion between the property and the legitimate income;
- 7) reasons justifying the need for permanent confiscation of property.

A motion against the legal successor shall, in addition to the information referred to in paragraph 2 of this Article, include the evidence that the legal successor has inherited the property derived from a criminal activity, whereas a motion against a third party shall also include the evidence that the property derived from a criminal activity has been transferred with the aim of preventing confiscation.

The extra-procedural council shall decide on the motion referred to in paragraph 1 of this Article.

The proceedings for permanent confiscation shall be urgent.

Article 39

The court shall pass the decision on the motion for permanent confiscation of property in the main hearing.

Article 40

Prior to the main hearing referred to in Article 39 of this Law, the court shall, within 30 days from the date of filing of the motion by the public prosecutor, schedule the preliminary hearing with the aim of proposing the evidence.

The court shall summon the public prosecutor, the owner and his/her attorney to the preliminary hearing. The summons shall be delivered to the owner to the address imparted to the court, i.e. to the seat of the person summoned, with a warning that the hearing shall take place even in the case of his/her failure to appear.

Where the summons has been delivered directly to the owner or to the attorney, it shall be considered that the delivery to the owner has been duly performed thereby. In case that the summons cannot be delivered in this manner, the court shall appoint an attorney to the owner *ex officio* for the proceedings of permanent confiscation of property.

The summons shall be delivered to the owner in such a manner as to leave a minimum of eight days to pass between the summons delivery date and the preliminary hearing date.

In the summons, the court shall invite the persons referred to in paragraph 2 of this Article to present the facts and to propose evidence on which the motion of the public prosecutor is grounded or challenged in the preliminary hearing.

Article 41

The court shall conduct the main hearing within three months from the preliminary hearing date.

Where there are circumstances on the grounds of which it may be concluded that a piece of evidence may not be acquired within the time limit referred to in paragraph 1 of this Article or where a piece of evidence should be acquired from abroad, the main hearing date may be postponed for another three months at the maximum.

Upon the expiry of the time limit of six months from the preliminary hearing date, the main hearing shall be conducted irrespective of the fact that a certain piece of evidence has not been acquired.

Article 42

The court shall summon the public prosecutor, the owner and his/her attorney to the main hearing and, where necessary, other persons as well.

The summons shall be delivered to the owner, the attorney and to other persons to the addresses imparted to the court, i.e. to the seat of the legal entity summoned, with a warning that the hearing shall be conducted even in case of their failure to appear.

The summons shall be delivered to the owner in such a manner as to leave a minimum of 15 days to pass between the summons delivery date and the hearing date.

Article 43

The main hearing shall commence with presentation of the contents of the public prosecutor's motion. The hearing initiated shall, as a rule, be concluded without intermissions or adjournments.

Where the motion is focusing on the property of the accused, i.e. of the accused associate, the public prosecutor shall present the evidence on the property that the accused, i.e. the accused associate possesses, on their legitimate income and circumstances indicative of an obvious disproportion between the property and the legitimate income. The accused, accused associate, i.e. their attorneys shall reply to the statements of the public prosecutor.

Where the motion is focusing on the property of a legal successor or a third party, the public prosecutor shall present evidence of the legal successor's inheriting of the property derived from a criminal activity, i.e. of the transfer of the property to a third party without compensation or with a compensation that is obviously not corresponding to the actual value

thereof, with the aim of preventing confiscation. The legal successor, the third party, i.e. their attorneys shall reply to the statements of the public prosecutor.

Article 44

Upon completion of the main hearing, the court shall pass an order whereby it shall grant or reject the motion for permanent confiscation of property.

The order on permanent confiscation of property shall comprise information on the owner, the legal name of the criminal act from the judgement, information on the property to be confiscated, i.e. value that is to be confiscated from the owner if he/she has disposed of the property derived from a criminal activity with the aim of preventing the confiscation thereof and the decision on the management costs of the temporarily confiscated property, property-related claim of the injured person and costs of representation.

The order referred to in paragraph 1 of this Article shall be delivered by the court to the owner, his/her attorney, public prosecutor, the Directorate and the Unit.

Article 45

Where a decision on the property-related claim of an injured party is passed by means of a final judgement, the court shall exclude such an amount from the confiscated property in the order on permanent confiscation of property, and where such a decision is not passed, the court may exclude a part of the property by means of an order for the purpose of settlement of the property-related claim. By means of an order referred to in Article 44, paragraph 2 of this Law, the court may decide on a property-related claim of an injured party the existence of which is determined by means of the final judgement.

Where the decision on the costs of managing the temporarily confiscated property and *ex officio* attorney costs has been passed by means of an order referred to in Article 44, paragraph 2 of this Law, and where these cannot be collected from the owner, the court shall exclude such an amount from the confiscated property in the order on permanent confiscation of property.

In the order referred to in Article 44, paragraph 2 of this Law, the court shall leave to the owner a part of the property in order not to bring into question the supporting of the owner and persons which he/she is obliged to support in compliance with the provisions of the law regulating enforcement and security by confiscation thereof.

Article 46

Upon receipt of the order referred to in Article 44, paragraph 2 of this Law, the Directorate shall immediately take the measures to manage the confiscated property.

The Directorate shall manage the confiscated property referred to in paragraph 1 of this Article until the final completion of the proceedings for permanent confiscation of property.

Article 47

Authorised persons may file an appeal against the order referred to in Article 44, paragraph 1 of this Law within 15 days from the order delivery date.

The appeal shall not prevent the Directorate from acting in compliance with Article 46 of this Law.

The court of second instance of the relevant jurisdiction shall decide on the appeal against the order.

Article 48

While deciding on the appeal, the court may reject the appeal as untimely or impermissible, overrule the appeal as ungrounded or grant the appeal and reverse or revoke the order and remand the case for a renewed determination.

Where in the same case an order has already been revoked once, the second instance court shall schedule the hearing and decide on the appeal, and the order may not be revoked or the case remanded to a renewed determination to the court of first instance.

The provisions of Articles 30 and 31 of this Law shall apply *mutatis mutandis* to scheduling and conducting of the hearing referred to in paragraph 2 of this Article.

IV MANAGEMENT OF CONFISCATED PROPERTY

Article 49

Upon receipt of the order on temporary, i.e. permanent confiscation of property, the Directorate shall immediately act in accordance with the competencies referred to in Article 9 of this Law.

The Directorate shall manage the confiscated property referred to in paragraph 1 of this Article with due diligence of a prudent businessperson, i.e. good expert.

The Directorate shall manage the confiscated property in compliance with this Law and by-laws adopted under this Law.

The method of confiscated property management and return of the temporarily confiscated property shall be regulated in more detail by means of an act of the Minister in charge of judiciary.

Article 50

Records shall be made on the confiscated property, in which information about the owner (name and surname, address of domicile or residence, UPIN, and for a legal entity the address of the seat, TIN and company registration number), information on the property and condition thereof in which it was taken over, information on the value that is being confiscated (Article 44, paragraph 2), a note on whether the property is being confiscated temporarily or permanently, whether the temporarily confiscated property has remained with the owner or is being entrusted with another natural or legal person (Articles 52 and 53) and other pieces of information shall be entered.

The Minister in charge of judiciary shall prescribe in more detail the contents and method of compiling the records referred to in paragraph 1 of this Article, the procedure for the appraisal of value of the confiscated property and the contents and method of maintaining the records on the tasks performed by the Directorate within the meaning of Article 9, paragraph 1 of this Law.

In maintaining the records in compliance with this Law, the Directorate shall be obliged to act in compliance with the regulations governing personal data protection.

Article 51

The court decision on temporary confiscation of property (Article 26, paragraph 1) shall be enforceable. The enforcement of such a decision shall be implemented directly by the Directorate.

A temporary confiscation of property shall be implemented by *mutatis mutandis* application of the provisions of the law regulating enforcement and security, unless laid down otherwise by this Law.

The Directorate shall bear the costs of keeping, maintenance and management of the temporarily confiscated property from the implementation date of the enforcement of the order referred to in paragraph 1 of this Article.

The Minister in charge of judiciary shall prescribe the method of determining the costs of keeping, maintenance and management of the temporarily confiscated property in more detail.

Article 52

In some justified cases, the Director of the Directorate may decide that the temporarily confiscated property is to remain with the owner, with an obligation to take care of the property with the diligence of a prudent businessperson. The owner shall bear the costs of keeping and maintenance of the property.

In some justified cases, the Director of the Directorate may entrust another natural or legal person with the management of the temporarily confiscated property, on the basis of an agreement.

Article 52a

Where the immovable property is temporarily confiscated, the Directorate may conclude an agreement on the lease of such property.

The agreement referred to in paragraph 1 of this Article shall be concluded under market conditions with the existing tenants or with the owner of such property, where he/she submits a request.

In case that there are no tenants referred to in paragraph 2 of this Article, the Directorate may publicly announce the offer for rent of immovable property, and the agreement of lease shall be concluded with the best bidder.

In case of a termination of the agreement on lease of immovable property by the Directorate, the notice on agreement termination shall be delivered by the Directorate enclosed with the request to the tenant to move out and hand over the immovable property to the Directorate in the condition in which it was received.

In case that the tenant fails to act in compliance with the request of the Directorate referred to in paragraph 4 of this Article, the tenant shall be moved out by the Directorate directly, where necessary, with the police assistance, within 72 hours from the request delivery time at the latest.

At the request of a public authority, i.e. an authority of the autonomous province or a local self-government unit, the Director of the Directorate may provide the temporarily confiscated property for use without compensation, for conducting of community tasks.

The Directorate shall pay the tax on any income made based on the agreement referred to in paragraph 1 of this Article in compliance with the law regulating income tax.

Article 53

Where a legal entity is temporarily confiscated, the Directorate may transfer the management right to a natural or legal person on the basis of an agreement.

The person to which the management right in the management tasks is transferred shall have the authorisations, obligations and responsibilities as a representative of socially owned capital, in compliance with the law regulating privatization.

Article 54

The temporarily confiscated items of historical, artistic and scientific value shall be handed over for safekeeping by the Directorate to the institutions competent for safekeeping of such items until a decision on the motion for permanent confiscation of property is passed.

Temporarily confiscated foreign currency and foreign cash shall be transferred, i.e. paid into the special purpose account of the Directorate maintained with the National Bank of Serbia, on which an agreement shall be concluded, and the temporarily confiscated dinars shall be deposited into the special purpose account of the Directorate maintained with the Ministry in charge of finances and economy – Treasury Administration.

Items made of precious metals, precious and semiprecious stones and pearls shall be handed over by the Directorate for safekeeping to the National Bank of Serbia until the decision referred to in paragraph 1 of this Article is passed.

Temporarily confiscated arms shall be handed over for safekeeping to the Ministry in charge of interior, except for the collector and trophy pieces, which shall be entrusted for safekeeping to a museum.

The Directorate shall conclude agreements on safekeeping of the items referred to in paragraphs 1 through 4 of this Article with the competent institutions, i.e. with the National Bank of Serbia.

Article 55

Where the movable and immovable property is temporarily confiscated from the owner, the Directorate may settle the necessary costs of keeping and maintenance of immovable property from the monetary means, i.e. from the proceeds obtained through the sales of movable property.

Where the temporary confiscation of property is revoked, the Republic of Serbia shall bear the costs referred to in paragraph 1 of this Article.

Article 56

With a view to preserving the value of the temporarily confiscated property, the Directorate may sell the movable property and securities, either directly or through an appointed natural or legal person.

Unless otherwise prescribed by the provisions of this Law, the provisions of the law regulating enforcement and security shall apply *mutatis mutandis* in the procedure of property sales referred to in paragraph 1 of this Article.

The Minister in charge of judiciary shall regulate the method of sales of the property referred to in paragraph 1 of this Article in more detail by means of an act.

Article 57

Sales of the property referred to in Article 55, paragraph 1 and Article 56, paragraph 1 of this Law shall be conducted through oral public bidding that is announced in the Službeni glasnik Republike Srbije, i.e. in another public media.

Perishable goods and animals may be sold without oral public bidding.

Movable property shall be sold at the same or a higher price from the estimated value determined by the Directorate. If the property is not sold after two oral public biddings, the sales may be conducted through direct accord.

The sales of securities and other financial instruments shall be conducted in compliance with the regulations governing the transactions with securities.

Article 58

Movable property that is not sold within the time limit exceeding one year may be donated for humanitarian purposes or alternatively destroyed.

The decision on donation of the property referred to in paragraph 1 of this Article shall be rendered by the Government, at the proposal of the Director, upon acquiring the opinion of the Minister in charge of healthcare or social protection.

The Director shall also render the decision on destruction of the property referred to in paragraph 1 of this Article because of the health, veterinary, phytosanitary, safety or other reasons prescribed by the law.

The property shall be destroyed under supervision of the Directorate, in compliance with special regulations governing the destruction of certain types of objects.

The costs of destruction shall be borne by the Directorate.

Article 59

The proceeds from the management of the temporarily confiscated property and from the sales of the property referred to in Article 56, paragraph 1 of this Law shall be kept in the special accounts of the Directorate until revocation of the temporary confiscation of property.

The proceeds referred to in paragraph 1 of this Article shall be used for property restitution and compensation of damage and costs. Where such proceeds are not sufficient, the difference shall be paid from the budget of the Republic of Serbia.

With a view to preventing the decrease in the value of the temporarily confiscated property, the proceeds referred to in paragraph 1 of this Article may be temporarily used for business operations of the legal entity the property of which is managed by the Directorate.

Article 60

The confiscated monetary means or the proceeds from the sales of property shall be returned without any delay to the owner of the temporarily confiscated property which is, in compliance with this Law, determined not to have been derived from a criminal activity.

The Directorate shall return the monetary means referred to in paragraph 1 of this Article *ex officio* or at the request of the owner.

Article 61

Where the Directorate has not managed the temporarily confiscated property with the diligence of a prudent businessperson, the owner to whom the monetary means have been returned may submit a request for the compensation of damage incurred by the temporary confiscation of property to the Directorate, within 30 days from the date when the means are returned.

Where the request for damage compensation is not granted or where the Directorate has not rendered a decision thereon within three months from the request submission date, the owner may file an action for damage compensation to the court of relevant jurisdiction. Where the request has been adopted partially only, the owner may file an action as regards the remaining part of the request.

Article 62

Property and monetary means obtained through the sales of property shall become the property of the Republic of Serbia when the decision on permanent confiscation of property becomes final.

The permanently confiscated foreign currency and foreign cash shall be paid and maintained in a separate account with the National Bank of Serbia, and the permanently confiscated dinars shall be paid into the accounts prescribed for payments of public revenues.

On the basis of the decision of the Ministry in charge of science, i.e. culture, the permanently confiscated items of historical, artistic and scientific value shall be given by the Directorate without compensation to the institutions in charge of safekeeping of such goods.

The provisions of the customs law pertaining to the obligations of the public authorities relating to the customs goods and means of transportation shall not apply to the permanently confiscated movable property.

The decision on the treatment of the permanently confiscated items referred to in Article 54, paragraphs 3 and 4 of this Law shall be rendered by the Government.

The provisions of the law regulating public property shall apply to the permanently confiscated immovable property. The Government may determine the purpose of the permanently confiscated property with a view to conducting community tasks.

The property referred to in paragraph 6 of this Article shall be managed by the Directorate, until the decision of the Government on the disposal of such property has been reached.

Article 63

Upon deduction of the costs of management of the confiscated property and settlement of the property-related claim of the injured person, the monetary means obtained through the sales of the permanently confiscated property shall be paid in the budget of the Republic of Serbia.

The means referred to in paragraph 1 of this Article in the amount of 30% shall be used for financing of the social and health needs in compliance with the decision of the Government.

V INTERNATIONAL COOPERATION

Article 64

International cooperation with the aim of confiscation of the property derived from a criminal activity shall be realised on the basis of an international agreement.

Where there is no international agreement, or where certain issues have not been regulated by an international agreement, the international cooperation shall additionally be realised on the basis of the principle of reciprocity and the provisions of this Law.

The provisions of the laws regulating the international legal assistance in criminal matters shall apply *mutatis mutandis* on the issues of international cooperation that are not regulated by this Law.

Article 65

The international cooperation, within the meaning of the provisions of this Law, shall include the provision of assistance in tracing the property derived from a criminal activity, prohibition to dispose of and temporary or permanent confiscation of the property derived from a criminal activity.

The competence of the domestic public prosecutor's office, i.e. court in the procedure of international cooperation referred to in paragraph 1 of this Article shall be determined by *mutatis mutandis* application of the relevant legal provisions on international legal assistance and realisation of international agreements.

Article 66

The presumptions for the provision of assistance, within the meaning of Article 65 of this Law, shall be as follows:

- 1) that the measure requested is not contrary to the basic principles of the domestic legal order;
- 2) that the realisation of the application of the foreign authority would not be damaging to the sovereignty, public order or other interests of the Republic of Serbia;
- 3) that the standards of fair trial have been complied with in the foreign proceedings for rendering of the decision on permanent confiscation of property;
- 4) that there is reciprocity between the Republic of Serbia and the foreign state.

Article 67

An application for cooperation of a foreign authority, within the meaning of the provisions of this Law, shall be delivered to the domestic competent authority through the Ministry in charge for judiciary. An application, i.e. a decision of the domestic authorities shall be delivered in the same manner to a foreign authority.

In urgent cases, under condition of reciprocity, an application for tracing, prohibition of disposal, i.e. temporary confiscation of property may be delivered through the Unit.

Article 68

An application for cooperation, within the provisions of this Law, shall include:

- 1) name of the authority submitting the application;
- 2) information on the person to whom the application pertains (name, date and place of birth, nationality and the place of residence), and in case of a legal person, information on the seat of the legal person as well;
- 3) information on the property in relation to which the cooperation is being requested and the connection thereof with the person referred to in item 2) of this Article;
- 4) concrete activities that should be carried out and the legal provisions of the requesting state providing the basis for the implementation of the constraint measures determined.

Article 69

In addition to the information referred to in Article 68 of this Law, the application for tracing of the property derived from a criminal activity shall include the circumstances providing grounds for suspicion that the property has been derived from a criminal activity.

Article 70

In addition to the information referred to in Article 68 of this Law, the application for prohibition of disposal, i.e. temporary confiscation of the property derived from a criminal activity shall include the decision to institute criminal proceedings or a request to institute the proceedings for permanent confiscation of the property derived from a criminal activity from the persons referred to in Article 68, item 2) of this Law.

Article 71

In addition to the information referred to in Article 68 of this Law, the application for permanent confiscation of the property derived from a criminal activity shall include the decision on permanent confiscation of the property derived from a criminal activity from the persons referred to in Article 68, item 2) of this Law.

Article 72

Upon receipt of the application referred to in Articles 68 through 71 of this Law, the public prosecutor, i.e. the court shall examine whether the presumptions referred to in Article 66 of this Law have been met.

Where the application does not include all the prescribed elements, the foreign authority shall be asked to supplement the application within a time limit that may not exceed one month.

Article 73

Following the passing of an order on granting the application for tracing of the property derived from a criminal activity, the public prosecutor shall send a request to the Unit to take the necessary actions, with the aim of detecting and tracing the property.

Acting upon the request referred to in paragraph 1 of this Article, the Unit shall take measures in compliance with the provisions of Articles 17 through 22 of this Law with the aim of finding and securing the evidence on the existence, location or movement, type, legal status or the value of the property derived from a criminal activity.

Article 74

If the application to prohibit the disposal, temporary, i.e. permanent confiscation of property comprises all the elements prescribed in Articles 68 through 71 of this Law, the decision shall be rendered by the non-hearing council of the court of relevant jurisdiction. The public prosecutor and the appointed defender, i.e. attorney shall be informed about the meeting of the council.

Where there is a danger that the person referred to in Article 68, item 2) of this Law shall dispose of the property derived from a criminal activity prior to a decision on the application referred to in paragraph 1 of this Article, the court may pass an order on prohibition of disposal of the property. Such prohibition shall continue until rendering of a court decision on the application.

Article 75

The court may grant or reject the application referred to in Article 74, paragraph 1 of this Law by means of an order.

An order on temporary confiscation of property shall comprise the information referred to in Article 26, paragraph 1 of this Law, and an order on permanent confiscation of property shall comprise the information referred to in Article 44, paragraph 2 of this Law.

The order referred to in paragraph 2 of this Article shall be delivered by the court to the appointed defender, i.e. attorney, to the public prosecutor, Directorate and the Unit.

Article 76

An appeal may be filed against the order referred to in Article 75, paragraph 1 of this Law, about which the second instance court of relevant jurisdiction shall decide.

The appeal against the order where a decision on the application for temporary confiscation of property is passed shall be filed within three days from the order delivery date, and the appeal against the order on the application for permanent confiscation of property shall be filed within eight days from the order delivery date.

An appeal shall not have a suspensory effect on the enforcement of the order on temporary confiscation of property.

Article 77

Temporary confiscation of property shall continue until the completion of the criminal proceedings, i.e. of the proceedings instituted at the request for permanent confiscation of property in the requesting state.

If the proceedings referred to in paragraph 1 of this Article are not completed within two years from passing of the order on temporary confiscation of property, the court shall revoke the temporary confiscation of property *ex officio*.

Six months prior to the expiry of the time limit referred to in paragraph 2 of this Article, the court shall notify the foreign authority of the consequences of the expiry of the time limit. In some exceptional cases, where the foreign authority delivers the required evidence prior to the expiry of the time limit, the court may decide that the temporary confiscation of property shall last for another two years at the maximum.

The costs of keeping and maintenance of the temporarily confiscated property shall be borne by the requesting state.

Article 78

An order on permanent confiscation of property shall become final when the court rejects the appeal filed against such an order as ungrounded or when it grants the appeal filed against the order whereby the request for permanent confiscation of property is rejected and passes a decision on permanent confiscation of property.

The permanently confiscated property derived from a criminal activity shall be disposed of in compliance with the provisions of this Law, unless where laid down otherwise by an international agreement.

VI TRANSITIONAL AND FINAL PROVISIONS

Article 79

The specialised organisational unit of the Ministry of Interior in charge of the financial investigation and the Directorate for Management of Confiscated Property that are formed, i.e. established in compliance with the Law on Confiscation of Property Derived from a Criminal Activity (Službeni glasnik RS, No. 97/08) shall continue their operations in compliance with this Law.

Article 80

The implementing by-laws to this Law shall be adopted within three months from the date of entry into force of this Law.

Until the adoption of the by-laws referred to in paragraph 1 of this Article, the by-laws adopted in compliance with the Law on Confiscation of Property Derived from a Criminal Activity (Službeni glasnik RS, No. 97/08) shall apply, providing that they are not contrary to this Law.

Article 81

The provisions of this Law shall apply to the criminal acts referred to in Article 2 of this Law, as prescribed by the Criminal Code (Službeni glasnik RS, Nos. 85/05, 88/05, 107/05, 72/09, 111/09 and 121/12), i.e. prior to that by the Basic Criminal Law (Službeni list SFRJ, Nos. 44/76, 36/77, 34/84, 37/84, 74/87, 57/89, 3/90, 38/90, 45/90 and 54/90, Službeni list SRJ, Nos. 35/92, 16/93, 31/93, 37/93, 41/93, 50/93, 24/94 and 61/01 and Službeni glasnik RS, No. 39/03) and by the Criminal Law of the Republic of Serbia (Službeni glasnik SRS, Nos. 26/77, 28/77, 43/77, 20/79, 24/84, 39/86, 51/87, 6/89 and 42/89 and Službeni glasnik RS, Nos. 16/90,

21/90, 26/91, 75/91, 9/92, 49/92, 51/92, 23/93, 67/93, 47/94, 17/95, 44/98, 10/02, 11/02, 80/02, 39/03 and 67/03).

Article 82

The proceedings on the confiscation of the property derived from a criminal activity instituted prior to the date of entry into force of this Law, in compliance with the provisions of the Law on Confiscation of Property Derived from a Criminal Activity (Službeni glasnik RS, No. 97/08) shall be completed in compliance with the provisions of this Law.

Article 83

The Law on Confiscation of Property Derived from a Criminal Activity (Službeni glasnik RS, No. 97/08) shall cease to be in force following the entry into force of this Law, except for Article 2 of that Law that shall cease to be in force on 15 April 2013.

Article 84

This Law shall enter into force on the eighth day from the date of its publication in the Službeni glasnik Republike Srbije, except for Article 2 that shall enter into force on 15 April 2013.

ARTICLES NOT INCLUDED IN THE FINAL TEXT
LAW ON AMENDMENTS AND ADDITIONS TO THE LAW ON
CONFISCATION OF PROPERTY DERIVED FROM A CRIMINAL ACTIVITY
(Službeni glasnik RS, No. 94/2016)

Article 33

The by-laws referred to in Articles 25 through 27 and Article 29 of this Law shall be adopted within three months from the date of entry into force of this Law.

Article 34

The proceedings in which an objection was presented, i.e. in which the time limit for presentation of objections to the order referred to in Article 25 of the Law on Confiscation of Property Derived from a Criminal Activity (Službeni glasnik RS, No. 32/13) has not expired prior to the date of entry into force of this Law, shall be concluded in compliance with that Law.

Article 35

This Law shall enter into force on the eighth day from the date of its publication in the Službeni glasnik Republike Srbije.

*ARTICLES NOT INCLUDED IN THE FINAL TEXT
LAW ON AMENDMENTS AND ADDITION TO THE LAW ON CONFISCATION OF
PROPERTY DERIVED FROM A CRIMINAL ACTIVITY
(Službeni glasnik RS, No. 35/2019)*

Article 2

This Law shall enter into force on the eighth day from the date of its publication in the Službeni glasnik Republike Srbije.